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TRADE AGREEMENTS AND FOREIGN INVESTMENT: CONTEMPORARY ISSUES IN THE INDIAN ECONOMY

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ABSTRACT

In economy , trade agreements and foreign investment approach helps in the country to upgrade capital formation and encourage employment opportunities .Trade agreements through , the World Trade Organization(WTO) was established with motive of enhancing the free and fair trade, improve growth rate of world trade by encouraging members to reduce trade barriers and to increase the overall prosperity in the global economies. The WTO Administers Trade agreements ; Trade negotiations; Settles trade disputes; Monitors and reviews national trade policies ; Provides technical assistance and training for developing countries; Co-operates with other International organization . The developing countries favored the legalistic model on the grounds that , it offered more effective protection of their rights than the pragmatic model that could be more easily dominated by the more powerful countries . The agreements of WTO cover everything from trade in goods, services and agricultural products. These agreements are based on the principles non-discrimination , reciprocity, transparency. The another issue is ,India opened its market to foreign investors after the liberalization of the economy in 1991. FDI in India facilitate economic growth through overseas direct investment by bridging the gap between foreign investors and investing opportunities in India. FDI also helps bring in more job opportunities, new technology, managerial expertise and improved infrastructure. In this article , the focus remain on trade agreement and foreign investment on economy .

Key Words: Negotiations, Foreign Investment , Foreign Trade, Technology.

INTRODUCTION

The World Trade Organization (WTO) is a Multi-lateral organization , facilitates the free flow of goods and services across the world and encourages fair trade among nations. It is a 149-member organization that represents all the trading nations of the world, who import-export goods & services. The focus is on to increase the global income as a result of increased trade and the overall enhancement of the prosperity levels of the member nations. WTO came into formal existence on January 1st 1995, as an organization it has vast powers and functions than its predecessor GATT (General Agreement on Tariffs and Trade) . GATT came into existence in the year 1948 , immediately after the Second World War with 23 countries became the founder members. GATT provided platform for 8 trade negotiations until 1994 , the last trade negotiations – the Uruguay Round, resulted in the creation of WTO.

Purpose:

The WTO Administers trade agreements; a forum for trade negotiations; Settles trade disputes; Monitors and reviews national trade policies; Assists the member in trade policies through technical assistance and training programmes ; Provides technical assistance and training for developing countries; Co-operates with other international organization. The developing countries favored the legalistic model on the grounds that it offered more effective protection of their rights than the pragmatic model that could be more easily dominated by the more powerful countries (The developing countries may have to do with the potential of the dispute settlement system to impact directly on national sovereignty , the director General may, without the complaining countries' approval, appoint the three-member panel to review their complaint).

Objective

WTO aims to extend the market model of high volume production, standardized production and aggressive expansive marketing techniques across the globe . WTO will be able to this apparently without regard for national social and economic and environmental priorities, WTO has far reaching implications for the domestic and international labor markets, social policies and environmental protection. The objective of the World Trade Organization becomes to help trade flow smoothly, freely, fairly and predictably in order to meet the objective. This presents a number of critical areas of concern for women's groups, labor organizers , environmentalists and civil society in general .

Principles

The principles are designed to serve the purpose of freer and fair trade and also to encourage competitive environment in the global market. The agreements of WTO cover everything from trade in goods, services and agricultural products , based on these principles ,

Non-Discrimination

Every member country must treat all its trading partners equally without any discrimination , a country offers any special concession to one trading partner, such concessions need to be extended to its other trading partners and effectively gets translated into the Most Favored Nation (MFN).

Reciprocity

Reciprocity reflects that any concession extended by one country to another , need to be reciprocated with an equal concession such that there is not a big difference in the countries payments situation . It further relaxed for developing countries facing severe Balance of

Payments(BOP) crisis. Non-Discrimination and Reciprocity both principle would actually result in more and more liberalization of the world trade as any country relaxing its trade barriers, need to extend it to all other members .

Transparency:

Transparency in the domestic trade policies of member countries are required to sequentially phase out the tariff barriers and non-tariff barriers through negotiations.

Implications of WTO on Members Countries:

(i) . The implication of WTO promote the peace in the world trade as the disputes are handled at WTO forum constructively.

(ii) . The Freer trade reduces the costs of living and wider choice of products and services.

(iii) The increased trade promotes economic growth and encourages efficiency .

WTO and India : Trade Agreement

India is a founder member of World Trade Organization , treated as the part of developing countries group for accessing the concessions granted by the organization and there are several implications for India for the various agreements that are signed under WTO.

(i) Reduction of Tariff and Non-Tariff Barriers: The agreement involves an overall reduction of peak and average tariffs on manufactured products and , phasing out the quantitative restrictions over a period . The important implication is that the firms that have competitive advantage would be able to survive in the long run.

(ii) Trade Related Investment Measures (TRIMS) : The agreement prohibits the host country to discriminate the investment from abroad with domestic investment i.e. agreement requires investment to be freely allowed by nations.

(iii)Trade Related Intellectual Property Rights (TRIPS) : An intellectual property right seeks to protect and provide legal recognition . This agreement includes several categories of property such as Patents, Copyrights, Trademarks, Geographical indications, Designs, Industrial circuits and Trade secrets. Since the law for these intangibles vastly varied between countries, goods and services traded between countries which incorporated these intangibles faced severe risk of infringement. Thus , the agreement stipulated some basic uniformity of law among all trading partners . It required suitable amendment in the domestic International Property Rights (IPR) laws of each country over a period of time . As a result Patents Act, Trade and Merchandise Mark Act and the Copyright Right Act were amended in India . The main impact of this is on industries such as pharmaceutical and bio-technology. Moreover , the technology transfer from abroad is expected to become costly and difficult.

(iv)Agreement on Agriculture (AOA) : The agreement on agriculture broadly deals with providing market access, reduction of export subsidies and government subsidies on agriculture products by member countries. The reduction of tariffs and subsidy in export and import items would open up competition and provide a better access to Indian products abroad.

(v) Agreement on Sanitary measures : This agreement refers to restricting exports of a country, that do not comply with the international standards of germs/bacteria etc. , such products spread disease and pest in the importing country. Thus, there is an urgent need to educate the exporters in the changing scenario and standards at the international arena especially in food processing, marine food and other packed food industries.

(vi). Multi-Fiber Agreement (MFA) : This agreement is dismantled with effect from 1 January 2005 , that is removal of quantitative restrictions (QRs) on the textile imports in several European countries . As a consequence a huge textile market is opened up for developing countries like India . In order to take advantage of opening up better aspect , required in terms of modernization , standardization , cost efficiency, and customization to meet challenges of foreign customers.

(vii). **Specific Agreement**

There are several other agreements such as agreement on, **Market Access** , which propagates free market access to products and reduction of tariff and non-tariff barriers ; agreement to have **Safeguard Measures** if there is an import surge and it is liable to affect the domestic industries in the transition economies . These measures include imposing Quantitative Restrictions (QRs) for a certain period and also imposing tariffs on the concerned products, **Agreement on Counter-Veiling Duties (CVD), Anti-Dumping Duty (ADD)** against imported products if the charges of Dumping are proved against the exporting country.

Pharmaceutical and Biodiversity: Key Areas affected

(i) *Pharmaceutical* : Most less developed countries(LDCs) , such as India , do not require patenting of drugs or allow short term patent laws and exclude vital sectors such as food and health from monopoly control. It will change drastically with the IPR (Intellectual Property Right) of the WTO, leaving developing nations at a great disadvantage. Historically ,OECD countries only began drug patenting after their industries were strong: France (1958); West Germany (1968); Switzerland (1977) and Japan(1978) when it ranked 2nd in world production and controlled 8O% of its market, developing countries will be forced to restrain local technological initiative that might infringe on WTO/IPR rules. Hence with these new laws, LDCs will be locked out of this field even as their resources are exploited (inadequate) or no compensation for the use of the tropical plant and the biological material used in the production of the drugs.

(b) *Biodiversity:* Multinational Corporations (MNCs) now hold patents on hybrid seeds as well as seeds that are indigenous to the third world and charge the nations from which the seeds originated for the right to use them. Thus, farmers will have to pay royalties to Transnational Corporations (TNCs) . Life forms and genetic material from the third world can be owned and marketed by biotechnology and pharmaceutical corporations under current US laws. Major oil companies are now involved in the patenting of seeds, they are also gaining much of the world's agriculture through the ownership of land and genetic engineering of crops. LDC farmers will be forced to purchase seeds and chemicals. For example, some EEC laws prohibit farmers from using non-patented seeds .

Mechanisms : WTO and the Dispute Settlement

The WTO and the dispute settlement, set out in 27 sections and 143 paragraphs plus 4 appendices, is more comprehensive and more far reaching than under the old GATT. The dispute settlement of the old GATT (Articles XXII and XXIII) was very fragmented. It required no consensus. Its decisions could be blocked or avoided by a party to the dispute in question. Though the foundation of the present dispute settlement is based on the principles of GATT Article XXIII, it is a much stronger and potentially more effective dispute settlement mechanism. This is so for two reasons. (i) there is now a specific procedure for considering complaints (Annex 2 of WTO); the Dispute Settlement Understanding of 1994 establishes a dispute settlement body (the WTO General Council). (ii) unlike the previous dispute settlement that tended to waver between a legalistic (adjudicative) model and an anti legalistic (pragmatic or negotiated) model, the WTO dispute settlement has more of a judicial emphasis and is automatic.

FOREIGN DIRECT INVESTMENT

Foreign direct investment (FDI) a major source of non-debt financial resource for the economic development of India which contribute in economic growth also . India has become the most attractive emerging market for global partners (GP) investment , Foreign companies invest in India to take advantage of relatively lower wages, special investment privileges such as tax exemptions, etc. Foreign investments achieving technical know-how and generating employment where Foreign investment made. (i) Foreign Direct Investments (FDIs) are commonly made in open economies with skilled workforce and growth prospect. FDIs not only bring money with them but also skills, technology and knowledge. (ii)FDI is an important monetary source for India's economic development. (iii)Economic liberalization started in India in the wake of the 1991 crisis and since then, FDI has steadily increased in the country. India, today is a part of top 100-club on Ease of Doing Business (EoDB) and globally ranks number 1 in the Greenfield FDI ranking. (iv) The Indian government’s favorable policy regime and active business environment have ensured that foreign capital keeps flowing into the country. (v) The government has taken many initiatives in recent years such as relaxing FDI norms across sectors such as Defense, PSU oil refineries, telecom, power exchanges, and stock exchanges, among others . (vi) Foreign direct investment (FDI) is an investment made by a foreign entity (an individual or a company) into a business based in another country.(vii) FDI is characterized by a notion of direct control and is not simply the transfer of monetary funds. (viii) The interest becomes to differentiate foreign direct investment(FDI) from foreign portfolio investment (FPI).(ix) FPI consists of securities and other financial assets held by investors in another country,a technique to improve economic slowdown.

Methods:

There are many ways by which a foreign investor can make a foreign direct investment.

a. Mergers and Acquisitions

b. Getting voting stocks in a business based in another country

c. Joint ventures with firms based overseas

d. Starting a subsidiary of a domestic firm in a foreign country

Types:

There are mainly two types of FDI- Horizontal and Vertical . However, two other types of foreign direct investments have emerged- conglomerate and platform FDI .

- **(I)** **HORIZONTAL FDI:** a business expands its inland operations to another country. The business undertakes the same activities but in a foreign country.
- **(II)** **VERTICAL FDI:** a business expands into another country by moving to a different level of the supply chain and undertakes different activities overseas but these activities are related to the main business.
- **(III)** **CONGLOMERATE FDI:** a business undertakes unrelated business activities in a foreign country. This type is uncommon as in involves the difficulty of penetrating a new country and an entirely new market.
- **(IV)** **PLATFORM FDI:** a business expands into another country but the output from the business is then exported to a third country.

Routes through which India gets FDI

(a)Automatic route: The non-resident or Indian company does not require prior nod of the RBI or Government of India for FDI.

(1)Sectors which come under the ' 100% Automatic Route' category are

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(i)Agriculture & Animal Husbandry, (ii) Air-Transport Services (non-scheduled and other services under civil aviation sector), Airports (Greenfield + Brownfield),(iii) Asset Reconstruction Companies, (iv) Auto-components, Automobiles, (v) Biotechnology (Greenfield), (vi) Broadcast Content Services (Up-linking & down-linking of TV channels, Broadcasting Carriage Services, (vii) Capital Goods, Cash & Carry Wholesale Trading (including sourcing from MSEs), Chemicals, Coal & Lignite,(viii) Construction Development, Construction of Hospitals, (ix) Credit Information Companies,(x) Duty Free Shops, (xi) E-commerce Activities, Electronic Systems, (xii) Food Processing, (xiii) Gems & Jewellary , Healthcare, Industrial Parks, IT & BPM, Leather, Manufacturing, Mining & Exploration of metals & non-metal ores,(xiv) Other Financial Services, (a)Services under Civil Aviation Services such as Maintenance & Repair Organizations, (b)Petroleum & Natural gas, (c)Pharmaceuticals, (d)Plantation sector, (e)Ports & Shipping, (f)Railway,(g) Infrastructure, Renewable Energy, Roads & Highways, (h)Single Brand Retail Trading, (i)Textiles & Garments, (j)Thermal Power, (k)Tourism & Hospitality, (l) White Label ATM Operations.

(2) Sectors which come under up to 100% Automatic Route' category are
(i) Infrastructure Company in the Securities Market (49%)

(ii) Insurance (up to 49%)

(iii) Medical Device (up to 100%)

(iv) Pension (49%)

(v) Petroleum Refining (By PSUs) (49%)

(vi) Power Exchanges (49%)

B Government route

The government's approval is mandatory. The company will have to file an application through Foreign Investment Facilitation Portal, which facilitates single-window clearance. The application is then forwarded to the respective ministry, which will approve/reject the application in consultation with the Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce. DPIIT will issue the Standard Operating Procedure (SOP) for processing of applications under the existing FDI policy.

Sectors which come under 'up to 100% Government Route' category are

(i) Banking & Public sector (20%)
(ii) Broadcasting Content Services (49%)
(iii) Core Investment Company (100%)

(iv) Food Products Retail Trading (100%)
(v) Mining & Minerals separations of titanium bearing minerals and ores (100%)
(vi) Multi-Brand Retail Trading (51%)
(vii) Print Media (publications/ printing of scientific and technical magazines/ specialty journals/ periodicals and facsimile edition of foreign newspapers) (100%)
(viii) Print Media (publishing of newspaper, periodicals and Indian editions of foreign magazines dealing with news & current affairs) (26%)
(ix) Satellite (Establishment and operations) (100%)

FDI Prohibition

There are a few industries where FDI is strictly prohibited under any route. These industries are

(i) Atomic Energy Generation
(ii) Any Gambling or Betting businesses
(iii) Lotteries (online, private, government, etc)
(iv) Investment in Chit Funds
(v) Nidhi Company
(vi) Agricultural or Plantation Activities (although there are many exceptions like horticulture, fisheries, tea plantations, Pisces culture, animal husbandry, etc)
(vii) Housing and Real Estate (except townships, commercial projects, etc)
(viii) Trading in TDR's
(ix) Cigars, Cigarettes, or any related tobacco industry

Market size

According to the Department for Promotion of Industry and Internal Trade (DPIIT), FDI equity inflows in India stood at US$ 456.79 billion during April 2000 to December 2019, indicating that Government's effort to improve ease of doing business and relaxation in FDI norms is yielding results. During 2019-20, India received the maximum FDI equity inflows from Singapore (US$ 11.65 billion), followed by Mauritius (US$ 7.45 billion), Netherlands (US$ 3.53 billion), Japan (US$ 2.80 billion) and USA (US$ 2.79 billion).

Investments/ developments

Some of the recent significant FDI anouncements

1. In January 2020, Amazon India announced investment of US$ 1 billion for digitalizing , small and medium businesses and creating one million jobs by 2025.

2. In January 2020, Mastercard announced its plans to invest up to US$ 1 billion in India over next five years to double-up its research and development efforts for the Indian market.

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3. In October 2019, French oil and gas giant Total S.A. have acquired a 37.4 per cent stake in Adani Gas Ltd for (US$ 810 million) making it the largest Foreign Direct Investment (FDI) in India's City Gas Distribution (CGD) sector.

4. In August 2019, Reliance Industries (RIL) announced one of India's biggest FDI deals, as Saudi Aramco will buy a 20 per cent stake in Reliance's oil-to-chemicals (OTC) business at an enterprise value of US$ 75 billion.

5. In October 2018, VMware, a leading software innovating enterprise of US has announced investment of US$ 2 billion in India between by 2023.

6. In August 2018, Bharti Airtel received approval of the Government of India for sale of 20 per cent stake in its DTH arm to an America based private equity firm, Warburg Pincus , for around $350 million.

7. In June 2018, Idea's appeal for 100 per cent FDI was approved by Department of Telecommunication (DoT) followed by its Indian merger with Vodafone making Vodafone Idea the largest telecom operator in India

8. In May 2018, Walmart acquired a 77 per cent stake in Flipkart for a consideration of US$ 16 billion.

Government Initiatives

(i) In March 2020, government permitted non-resident Indians (NRIs) to acquire up to 100 per cent stake in Air India.

(ii) In December 2019, government permitted 26 per cent FDI in digital sectors.

(iii) In August 2019, government permitted 100 per cent FDI under the automatic route in coal mining for open sale.

(iv) In Union Budget 2019-20, the government of India proposed opening of FDI in aviation, media (animation , AVGC) and insurance sectors in consultation with all stakeholders .

(v) 100 per cent FDI is permitted for insurance intermediaries.

(vi) As of February 2019, the Government of India is working on a road map to achieve its goal of US$ 100 billion worth of FDI inflows.

(vii) In February 2019, the Government of India released the Draft National E-Commerce Policy which encourages FDI in the marketplace model of e-commerce. Further, it states that the FDI policy for e-commerce sector has been developed to ensure a level playing field for all participants.

(viii) Government of India is planning to consider 100 per cent FDI in Insurance intermediaries in India to give a boost to the sector and attracting more funds.

(ix) In December 2018, the Government of India revised FDI rules related to e-commerce. As per the rules 100 per cent FDI is allowed in the marketplace-based model of e-commerce. Also, sales of any vendor through an e-commerce marketplace entity or its group companies have been limited to 25 per cent of the total sales of such vendor.

(x) In September 2018, the Government of India released the National Digital Communications Policy, 2018 which envisages increasing FDI inflows in the telecommunications sector to US$ 100 billion by 2022.

(xi) In January 2018, Government of India allowed foreign airlines to invest in Air India up to 49 per cent with government approval. The investment cannot exceed 49 per cent directly or indirectly.

(xii) No government approval will be required for FDI up to an extent of 100 per cent in Real Estate Broking Services.

(xiii) The Government of India is in talks with stakeholders to further ease foreign direct investment (FDI) in Defence under the automatic route to 51 per cent from the current 49 per cent, in order to give a boost to the Make in India initiative and to generate employment.

(xiv) During the fiscal ended March 2019, India received the highest-ever FDI inflow of $64.37 billion. The FDI inflows were $45.14 billion during 2014-15 and $55.55 billion in the following year.

CONCLUSION:

The WTO (since 1995) Administers trade agreements provides technical assistance and training for developing countries and co-operates with other international organization. The developing countries favored the legalistic model and offered more effective protection . The nature of the WTO for developing countries may have to do with the potential of the dispute settlement system to impact directly on national sovereignty . Three broader areas of concern a social clause and WTO, the link between the environment and trade, and the link between free trade and growth. Simultaneously , India opened its market to foreign investors after the liberalization of the economy in 1991 . For the development of different sectors of the country, the Government liberalize the economy to a considerable extent by minimizing the hurdles and obstacles .It improves the productivity of different productive sectors. During the liberalized regime, the entry of right kind of foreign capital and technical know-how will become possible to a considerable extent leading to modernization of industrial, infrastructural and other sectors of the country . It lead the economy attaining higher level of national income in specified time period . Thus , to raise the size and

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growth rate of national income of the country, an attempt both public and private sector to undertake developmental activities and also to liberalize and globalize the economy for the best interest of the nation as a whole . FDI a major monetary source for economic development in India and favorable trade agreement encourage growth in economy.

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