



SECTION - 12

CONTEMPORARY DEVELOPMENTS

This Section includes

- **WTO, GATT, Corporate Governance, TRIPS, TRIMS, SEBI regulations**

12.1 WTO, GATT, CORPORATE GOVERNANCE, TRIPS, TRIMS, SEBI REGULATIONS

In 1947, 23 countries signed the General Agreement on Tariffs and Trade (GATT) in Geneva. To join GATT, countries must adhere to Most Favored Nation (MFN) clause, which requires that if a country grants a tariff reduction to one country; it must grant the same concession to all other countries. This clause applies to quotas also.

12.1.1 The new organization, known as the World Trade Organization (WTO), has replaced the GATT since the Uruguay Round accord became effective on January 1, 1995. Today, WTO's 135 members account for more than 95% of world trade. The five major functions of WTO are:

- Administering its trade agreements
- Being a forum for trade negotiations
- Monitoring national trade policies
- Providing technical assistance and training for developing countries
- Cooperating with other international organizations

Under the WTO, there is a powerful dispute-resolution system, with three-person arbitration panel. Some of the major features of WTO and GATT are:

- World Trade Organization (WTO), was formed in 1995, head quartered at Geneva, Switzerland
- It has 152 member states
- It is an international organization designed to supervise and liberalize international trade
- It succeeds the General Agreement on Tariffs and Trade
- It deals with the rules of trade between nations at a global level
- It is responsible for negotiating and implementing new trade agreements, and is in charge of policing member countries' adherence to all the WTO agreements, signed by the bulk of the world's trading nations and ratified in their parliaments.
- Most of the WTO's current work comes from the 1986-94 negotiations called the Uruguay Round, and earlier negotiations under the GATT. The organization is



currently the host to new negotiations, under the Doha Development Agenda (DDA) launched in 2001.

- Governed by a Ministerial Conference, which meets every two years; a General Council, which implements the conference's policy decisions and is responsible for day-to-day administration; and a director-general, who is appointed by the Ministerial Conference.

12.1.2 The General Agreement on Tariffs and Trade (GATT)

- GATT was a treaty, not an organization.
- Main objective of GATT was the reduction of barriers to international trade through the reduction of tariff barriers, quantitative restrictions and subsidies on trade through a series of agreements.
- It is the outcome of the failure of negotiating governments to create the International Trade Organization (ITO).
- The Bretton Woods Conference had introduced the idea for an organization to regulate trade as part of a larger plan for economic recovery after World War II. As governments negotiated the ITO, 15 negotiating states began parallel negotiations for the GATT as a way to attain early tariff reductions. Once the ITO failed in 1950, only the GATT agreement was left.
- The functions of the GATT were taken over by the World Trade Organization which was established during the final round of negotiations in early 1990s

12.1.3 Trade-Related Investment Measures (TRIMs)

- TRIMs are the rules a country applies to the domestic regulations to promote foreign investment, often as part of an industrial policy.
- It is one of the four principal legal agreements of the WTO trade treaty.
- It enables international firms to operate more easily within foreign markets.
- In the late 1980's, there was a significant increase in foreign direct investment throughout the world. However, some of the countries receiving foreign investment imposed numerous restrictions on that investment designed to protect and foster domestic industries, and to prevent the outflow of foreign exchange reserves.
- Examples of these restrictions include local content requirements (which require that locally-produced goods be purchased or used), manufacturing requirements (which require the domestic manufacturing of certain components), trade balancing requirements, domestic sales requirements, technology transfer requirements, export performance requirements (which require the export of a specified percentage of production volume), local equity restrictions, foreign exchange restrictions, remittance restrictions, licensing requirements, and employment restrictions. These measures can also be used in connection with fiscal incentives. Some of these investment measures distort trade in violation of GATT Article III and XI, and are therefore prohibited.



12.1.4. Trade Related Aspects of Intellectual Property Rights (TRIPS)

- **TRIPS** is an international agreement administered for the first time by the World Trade Organization (WTO) into the international trading system
- It sets down minimum standards for many forms of intellectual property (IP) regulation.
- Till date, it remains the most comprehensive international agreement on intellectual property
- It was negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994.
- TRIPS contains requirements that nations' laws must meet for: copyright rights, including the rights of performers, producers of sound recordings and broadcasting organizations; geographical indications, including appellations of origin; industrial designs; integrated circuit layout-designs; patents; monopolies for the developers of new plant varieties; trademarks; trade dress; and undisclosed or confidential information. TRIPS also specify enforcement procedures, remedies, and dispute resolution procedures.
- In 2001, developing countries were concerned that developed countries were insisting on an overly-narrow reading of TRIPS, initiated a round of talks that resulted in the Doha Declaration: a WTO statement that clarifies the scope of TRIPS; stating for example that TRIPS can and should be interpreted in light of the goal "to promote access to medicines for all."

Securities and Exchange Board of India (SEBI)

The burgeoning growth of the stock markets in India has necessitated the establishment of a separate regulating agency for the securities market. Accordingly, Indian Government has passed the Securities & Exchange Board of India Act, 1992 to provide the establishment of the Securities & Exchange Board of India on the lines of Securities Exchange Commission of USA to protect the interests of investors in securities and to promote the development of and to regulate the securities market.

- SEBI is an autonomous body created by the Government of India in 1988 and given statutory form in 1992 with the SEBI Act 1992.
- Its Head office is in Mumbai and has regional offices in Chennai, Kolkata, and Delhi.
- SEBI is the regulator of Securities markets in India.
- SEBI has to be responsive to the needs of three groups, which constitute the market:
 - the issuers of securities
 - the investors
 - the market intermediaries.
- SEBI has three functions rolled into one body quasi-legislative, quasi-judicial and quasi-executive.



- It drafts regulations in its legislative capacity, it conducts investigation and enforcement action in its executive function and it passes rulings and orders in its judicial capacity.
- Though this makes it very powerful, there is an appeal process to create accountability. There is a Securities Appellate Tribunal which is a three member.
- A second appeal lies directly to the Supreme Court.

SEBI's functions also include:

- promoting investors' education;
- training of intermediaries of securities markets,
- prohibiting fraudulent and unfair trade practices relating to dealings in securities,
- prohibiting insider trading in securities,
- regulating substantial acquisition of shares and take-overs of companies etc.

In pursuance of its powers SEBI has formulated guidelines and regulations relating to:

- merchant bankers,
- bankers to an issue,
- registrars to issue,
- share transfer agents,
- debentures trustees,
- underwriters,
- FIIs,
- insider trading,
- registration of brokers,
- guidelines of portfolio management services,
- capital adequacy guidelines,
- guidelines for mutual funds,
- guidelines for asset management companies,
- guidelines relating to disclosure and investor protection,
- book building,
- substantial acquisition of shares and takeovers,
- depositories and participants etc.

Students may go through the relevant websites for latest information on SEBI.