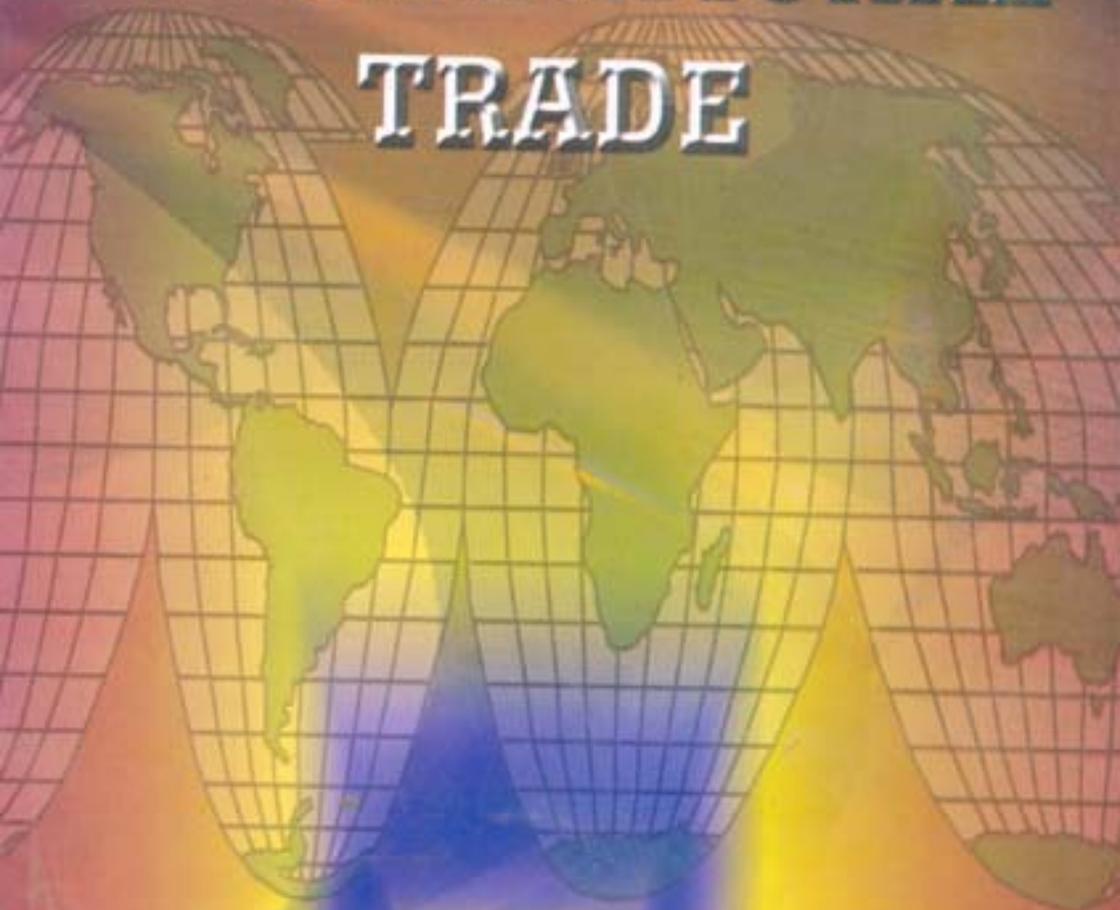




WTO
and

INTERNATIONAL
TRADE



M B Rao
Manjula Guru

WTO and International Trade

Second Edition

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Preface

Since the publication of the first edition of this book, much activity has gone holding the Millennium Round of Trade Negotiations. The Fourth Ministerial Meeting on Multilateral Trade Negotiations ultimately took place during 9-14 November 2001 at Doha. There were wide divergences between the developed and developing countries on the agenda and these groups tried to push through their agenda—the developed countries trying to rope in the ‘Singapore issues,’ while the developing countries resisting the same, laying emphasis on the ‘implementation issues’ arising out of the Uruguay Round Agreements. Even amongst the developed countries, there were divergences in approach—the U.S. wanted to include labor standards and retention of the existing IPR regime, while the E.U. vehemently opposing the phasing out of subsidies in agriculture. Ultimately, after fierce discussions, the Ministerial Meeting issued the Doha Declaration containing a compromise on issues widely debated. There was also a Declaration on the TRIPS Agreement and public health which are of immense importance to the developing countries. Then there was the Doha Ministerial Declaration and Decisions on the ‘Implementation related issues and concerns’—addressing the various issues arising out of the Uruguay Round Multilateral Trade Agreements.

Further, in a period of roughly two years since the publication of first edition of the book, there were valuable additions made by scholars on various issues—in the form of cases and decisions made by panel/appellate body of the DSB—mainly on the interpretation of the various earlier agreements. These were brought to my notice by my daughter who has co-authored this edition.

Except for introductory chapters—mainly dealing with the GATT leading to the establishment of the WTO—the chapters dealing with the main agreements under the Uruguay Round, from the Agreement on Agriculture to the Agreement on Safeguards, the GATS, the TRIPS, the Understanding on the Dispute Settlement Procedures, etc. have been thoroughly revised. A new chapter, which discusses the various issues as well as the outcome of the Doha Ministerial

Conference, has been added at the end of the book. It is a matter of satisfaction to the authors that the first edition of book has been well received by the readers. It is our earnest hope that this edition of the book will inform the readers of the further development on the issues facing the world at large as a result of globalization of the economy and trade and the expanding role of the WTO.

M B Rao
Manjula Guru

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Introduction

The World Trade Organization (WTO) provides the basic framework for conduct of international trade and sets up the norms for the conduct of such trade. That is why this study begins with explaining the principles of private international trade. International trade is the product of the twentieth century. Principles of international trade are as much relevant now as in the earlier times. It is the conduct of international trade that WTO lays the framework and the norms for its conduct.

Theoretically all countries shall be able to produce all goods required in the country but they may not be able to produce all goods with equal facility. America will not be able to produce oriental rugs as it does the latest technological goods. America will be able to produce oriental rugs but not at the same quality and price as India. Likewise India will be able to produce the latest technological goods but not in the same way America produces them. That is why, even in earlier times, goods produced cheaply in another country are imported, while goods produced locally and not available at such a price or quality are exported to another country. Initially trade was in private hands. State trading in a big way is a product of the recent times.

However, as the newly independent countries attempt to industrialize, provide employment and raise the standard of living of the poor and their economies surge forward, they find themselves lacking in the necessary resources, including foreign exchange resources. So, the state tries to control the situation with regulation of private trade and imposition of controls.

In this study, we have begun by noticing the basic principles in the law of private international trade—solely between private parties in different countries on their own volition. Goods are sold and dispatched under CIF or FOB contract, i.e. by documentary sale; by way of drawing up a bill of lading and a Bill of exchange. Payment mostly is ensured through a confirmed letter of credit. In this context we shall notice the basic principles of CIF or FOB contract, the nature of bill of lading, the bill of exchange and the letter of credit, the basic

assumption is that all goods should conform to the quality and quantity of goods contracted and if they do not so conform, when and how the buyer can refuse to take delivery of goods. To ensure payment on presentation, the seller may ask for a letter of credit from a banker. We then notice the law on issue of letters of credit (i.e.) when bill of exchange should be honoured and how Bankers take upon themselves to honour the Bill of exchange.

Once the bill of exchange is honoured and goods taken possession of from the carrier, the sale is complete. In this context we shall notice the obligations interse between the parties and of their agents, the carrier and the bankers.

In course of time the state has begun to intervene by imposing barriers on private international trade. Such barriers—tariff barriers and non tariff barriers—have been imposed due a variety of reasons but mainly to encourage local industry development and provision of employment amongst its own population. We have, in Chapter 2 dealt with State controls on private international trade.

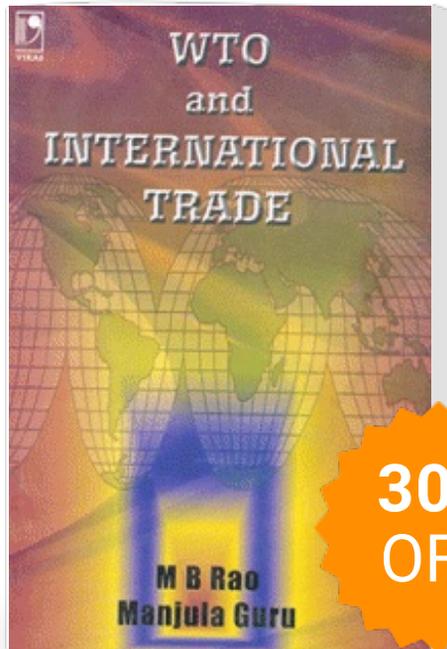
To overcome such barriers, and to allow free flow of goods, some countries, to start with, have entered into bilateral agreements to facilitate the trade. As time elapsed, and especially after World War II, steps have been taken to set up an international institution, the International Trade Organization (ITO) on the lines of IMF and IBRD. However due to political reasons, ITO could not come into existence. In chapter 3 we have, after noticing the above, seen the formation of GATT 1947, by the adoption of an agreement basically containing the common elements of the bilateral agreements entered into between states.

As time elapsed, more and more countries attained independence and joined the multilateral trading system (GATT). Eight rounds of trade talks ending with the Uruguay Round were held. More articles to GATT 1947 were added and amended.

Chapter 4 deals with the various Articles of the GATT, its modus operandi, and the merits and demerits of the its working.

Chapter 5 deals with transformation of GATT 1947 to GATT 1994. Fifteen Multilateral trade agreements, were entered into. International trade ceased to deal only in goods. Non goods like trade in services, Intellectual property Rights were roped into the system. GATT which originally started as a contract between contracting parties gave place to the World Trade Organization, by the Final Act embodying the results of the Uruguay Round of Multilateral trade

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