of pests, diseases, disease-carrying organisms or disease-causing organisms;

(b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or foodstuffs;

(c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or

(d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.

Under the Agreement, a procedure will be developed to monitor the process of international harmonization and the use of international standards, guidelines or recommendations in this area. Members are required to cooperate in the Committee on Sanitary and Phyto-sanitary measures to develop guidelines for the implementation of the concept of an appropriate level of sanitary and phyto-sanitary protection against risks to human life or health or to animal and plant life and health.

Agreement on Textiles and Clothing—This Agreement is of a particular importance to developing countries as this sector has served as the engine of growth for them. It accounts for nearly 45 per cent of the developed countries' imports from the developing countries. For over three decades trade in this area of critical export interest to developing countries had been subject to a derogation from the disciplines of GATT, which permitted developed 'importing' countries to impose discriminatory restrictions against 'low cost' developing country suppliers. These restrictions first took the form of the Short-Term Cotton Textile Arrangement in 1962, and eventually the Multi-Fibre Arrangement (MFA) in 1974, which expanded in country and product coverage at each renewal. For the first time, during the Uruguay Round, efforts were made to negotiate the termination of this long-standing derogation in a sector in which the developing countries have traditionally enjoyed comparative advantage and their exports have been discriminated against. *The Agreement on Textiles and Clothing provides for the progressive phasing out of all MFA restrictions as well as other restrictions and the integration of this sector into GATT 1994 in four stages over a non-renewable transition period of 10 years.* Since each importing member will select the products it wishes to be integrated into GATT unilaterally, it is difficult to foresee which of the MFA restrictions will be phased out in the early stages, although it may be expected that most sensitive products, where the growth rates are lowest and quota levels filled, will be liberalized at the final stage. Thus, many developing countries will derive meaningful

benefit in this sector only in the tenth year. However, the Agreement continues to allow MFA-type selective safeguard actions (imposition of quotas and the negotiation and implementation of bilateral agreements) to be applied during the transition period under the so called "transitional safeguards". A new Textiles Monitoring Board has been put in place to replace the existing Textiles Surveillance Body.

Agreement on Technical Barriers to Trade—This Agreement known as the Standards Code, clarifies the existing Tokyo Round Agreement thereby seeking to ensure that technical regulations and standards, including packaging, marking and labelling requirements as well as testing and certification procedures under technical regulations and standards do not create unnecessary obstacles to international trade. It, however, recognizes the right of the countries to establish environmental protection standards appropriate to protect human, animal or plant life and to take measures that those standards are met. The Agreement is not, however, applicable to sanitary and phyto-sanitary measures as defined in the Agreement on that subject-matter nor to purchasing specifications prepared by governmental bodies for their own production or consumption requirements. The Agreement is applicable to all products, including industrial and agricultural products. The terms 'technical regulations', 'standards' and 'conformity assessment procedures' have been defined in Annex 1 to this Agreement. *Since developing countries may face difficulties in the application of the technical regulations and standards, other Members, in the formulation and application of their technical regulations and standards, have been required to take into account the special development, financial and trade needs of the developing country members, with a view to ensuring that such technical regulations and standards do not create unnecessary obstacles to exports from developing country members.* The Agreement establishes a Committee on Technical Barriers to Trade for holding periodic consultations related to the operation of the Agreement or the furtherance of its objectives.

Agreement on Trade-Related Investment Measures (TRIMs): The TRIMs Agreement establishes the extent to which multilateral trade obligations cover investment measures. It prohibits those measures which are prohibited by Articles III and XI of GATT 1994. The developing countries were thus successful in preventing the extension of trade obligations into the field of investment, and the incorporation of principles such as 'right of establishment' and 'national treatment' for investors into the trading system. *Countries maintain their sovereign rights to regulate foreign direct investment so long as the TRIMs Agreement is not infringed.* The Preamble of the TRIMs Agreement recognizes that certain investment measures can cause trade-restrictive and distorting effects. The scope and coverage of the

Agreement is circumscribed by Article 1 which stipulates that it relates to trade in goods only. Article 2 on National Treatment and Quantitative Restrictions in the TRIMs Agreement limits the prohibited TRIMs to those inconsistent with the provisions of GATT Article III on National Treatment on Internal Taxation and Regulation and Article XI on General Elimination of QRs. The Agreement, therefore, recognizes that certain measures do violate GATT Articles but does not expand on the existing disciplines. The Annex to the Agreement contains an illustrative list of such TRIMs which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage (an 'advantage' is not defined in the Agreement) as follows : (i) under the national treatment obligation TRIMs include those that require : (a) the purchase or use by an enterprise of products of domestic origin or from any domestic source' i.e. local content requirement; or (b) that an enterprise's purchases or use of the imported products be limited to an amount related to the volume or value of local products that it exports (trade balancing requirement); TRIMs that are inconsistent with the obligation of Article XI : 1 are those which restrict (a) the importation of products to an amount related to the quantity or value of local products exported (i.e. trade balancing); (b) the importation of products by restricting an enterprise's access to foreign exchange to the amount of foreign exchange inflows attributable to the enterprise (i.e. exchange restrictions); or (c) the exportation of products specified in terms of volume or value of local production (i.e. domestic sales requirement).

The TRIMs Agreement doesn't give a definition of a TRIM or an objective test for identifying such measures. It seems, therefore, that it is for the notifying country to judge which of its TRIMs are illegal under the Agreement.

Agreement on Implementation of Article VI of GATT 1994 (The Anti-Dumping Agreement) : Since the decade of 1960 efforts have been made to control the use of anti-dumping duties. During the Kennedy Round, a code was negotiated which embodied detailed procedures, limited the use of preliminary measures and of retroactive application of anti-dumping duties and required a test of injury to domestic industry. Despite these improvements, anti-dumping duties have continued to be used frequently and rigorously by major industrial countries partly because the test of injury to domestic industry was not difficult to meet. *The 1994 Agreement represents an attempt to improve on the imprecise formulations in the 1979 Code. In several instances, some rules have been clarified or made precise through the inclusion of numerical standards, e.g. the 5 per cent rule for the determination of dumping, quantitative criteria for immediate dismissal of anti-dumping cases through the use of de minimis dumping margins and import volumes,*[6] *and a 'sun-set clause' to terminate anti-dumping duties on a date not later than five years from their imposition, unless a determination is made that, in the event of termination of those measures, dumping and injury would be likely to continue or recur.* Procedural requirements are amplified and made more detailed for initiation of investigations, evidence and transparency. Attempts to control some controversial national practices have succeeded to a certain extent but at the price of codifying them into the Agreement (e.g. cumulative injury assessment). The Agreement also provides for the redefinition of dumping—price discrimination—to include below cost of production dumping (Articles 2.1 and 2.2). Nevertheless, it has left some important questions unanswered such as circumvention of anti-dumping duties and the relevance of anti-dumping measures in the context of domestic competition policies for future negotiations. The standards of review on dispute settlement, which require greater deference to decisions by national administering authorities under Article 17.6 constitute a controversial feature of the Agreement. Whether they will unduly insulate the national regulations of all WTO members from successful challenges will have to be weighed against complaints that panels have increasingly penetrated areas that governments would wish to reserve exclusively for themselves. The meaningfulness of the provisions of the Agreement will reside in their application in national laws and administrative practices.

Agreement on Implementation of Article VII of GATT 1994 (The Customs Valuation Code) : This Agreement is the revised version of the Tokyo Round Code done on 12 April 1979. It responds to the need for the establishment of a unified system for the valuation of goods based on objective criteria for customs purposes. The primary basis for customs value under the Agreement is the "transaction value" of the imported goods as defined in Article 1. Articles 1 to 6 provide the various modalities for ascertaining the transaction value based on information provided by or in consultation with the importer. If the transaction value cannot be ascertained through any of these methods, under Article 7, it is to be determined on the basis of data available in the country of importation. *The Agreement obligates the WTO members to publicise their laws and regulations giving effect to the Agreement.* It establishes a Committee on Customs Valuation for

6. The margin of dumping is *de minimis*, i.e. less than 2 per cent expressed as a percentage of the export price; or the volume of dumped imports from a particular country accounts for less than 3 per cent of imports of the like product in the importing member. This rule will not be applicable when countries with less than 3 per cent of the imports of the like product in the importing country collectively account for more than 7 per cent of imports of the like product in the importing country; or where the injury is negligible.

holding consultations amongst the Members on matters related to administration of the customs evaluation system instituted by them. *The Agreement provides for special and differential treatment for developing country members in that those of them which were not parties to the 1979 Agreement can delay the application of the 1994 Agreement for a period not exceeding five years. Developed country members have been obligated to furnish technical assistance to such developing countries in this context.*

Agreement on Preshipment Inspection (PSI): This is a new Agreement and it extends the application of GATT principles to the practice of employing specialist private companies or agencies to check shipment details, i.e. price, quantity, quality of goods ordered overseas, including currency exchange rate and financial terms, and/or the customs classification of goods to be exported, prior to despatch and which is common in most of the developing countries in order to safeguard against commercial fraud, capital flight, customs duty evasion etc. Henceforth, PSI-user governments must ensure that such inspections are non-discriminatory, transparent, protect confidential business information and avoid unreasonable delay. The Agreement stipulates that the Ministerial Conference may amend its provisions as the result of a review to be conducted at the end of the second year from the entry into force of the WTO Agreement and every three years thereafter.

Agreement on Rules of Origin : This is also a new agreement and aims at the long-term harmonization of rules of origin, other than those related to the granting of trade preferences, to facilitate the flow of international trade. Article 1 of the Agreement defines the 'Rules of Origin' as "laws, regulations and administrative determinations applied by any Member to determine the country of origin of goods". The Agreement sets out a harmonization plan to be set up within a period of three years after the completion of the Uruguay Round to be carried out by a Committee on Rules of Origin and a Technical Committee under the auspices of the Customs Cooperation Council on the basis of the following principles:

(a) rules of origin should be applied equally for all purposes as set out in Article 1;

(b) rules of origin should provide for the country to be determined as the origin of a particular good to be either the country where the goods has been wholly obtained or, when more than one country is concerned in the production of the goods, the country where the last substantial transformation has been carried out;

(c) rules of origin should be objective, understandable and predictable;

(d) notwithstanding the measure or instrument to which they may be linked, rules of origin should not be used as instruments to pursue

trade objectives directly or indirectly. They should not themselves create restrictive, distorting or disruptive effects on international trade. They should not pose unduly strict requirements or require the fulfilment of a certain condition not relating to manufacturing or processing as a prerequisite for the determination of the country of origin. However, costs not directly related to manufacturing or processing may be included for purposes of the application of an *ad valorem* percentage criterion;

(e) rules of origin should be administrable in a consistent, uniform, impartial and reasonable manner;

(f) rules of origin should be coherent;

(g) rules of origin should be based on a positive standard. Negative standards may be used to clarify a positive standard.

Agreement on Import Licensing Procedures : The revised Agreement strengthens the disciplines set out in the Tokyo Round Agreement for users of import licensing systems. Emphasis is now on greater transparency and predictability where such import licensing systems are still used, e.g. publication of sufficient information to traders to know on what basis licences are granted. On automatic licensing procedures, the Agreement sets out criteria under which they are assumed not to have trade restrictive effects, unless, *inter alia* :

(i) Any person, firm or institution which fulfils the legal requirements of the importing Member for engaging in import operations involving products subject to automatic licensing is equally eligible to apply for and to obtain import licences;

(ii) applications for licences may be submitted on any working day prior to the customs clearance of the goods;

(iii) applications for licences when submitted in appropriate and complete form are approved immediately on receipt, to the extent administratively feasible, but within a maximum of 10 working days.

Agreement on Subsidies and Countervailing Measures—This Agreement establishes, for the first time, a definition of subsidies as involving a financial contribution by a government or any public body which thereby confers a benefit. Subsidies are now classified into prohibited, actionable and non-actionable, which reflects an international consensus as to the appropriate role for governments in supporting production and exports. Specificity is a key concept in the Agreement in that remedies provided against prohibited subsidies in Part II, or against actionable subsidies in Part III, or

countervailing measures in Part V, can be applied only if a subsidy is specific to an enterprise or industry or a group of enterprises or industries. *Members will have three years to bring their existing programmes into conformity with the provisions of the Agreement, with flexibility given to developing countries and least developed countries.*

The 'prohibited subsidies' are those which are contingent, either solely, or as one of several other conditions, upon export performance or upon the use of domestic over-imported goods. New dispute settlement procedures are designed to expedite the handling of action on such prohibited subsidies by the Dispute Settlement Body. The 'actionable subsidies' are those which create adverse effects to the interests of their signatories, i.e. injury to domestic industry of another signatories, i.e. injury to domestic industry of another signatory, nullification or impairment of benefits accruing, directly or indirectly, to other signatories under the GATT 1994 (in particular, benefits under bound tariff concessions) and which cause serious prejudice to the interest of another. 'Non-actionable subsidies', either specific or non-specific subsidies, which involve assistance to industrial research and pre-competitive development activity, assistance to disadvantaged regions (regional subsidies or aids) or certain types of assistance for adapting existing facilities to new environmental requirements imposed by law or regulation.

The Agreement will provide a degree of predictability in international trade as regards the use by governments of clearly prohibited subsidies and the fact that other subsidies have been categorized as permissible but actionable, with comprehensive guidance or determination of adverse effects and serious prejudice, alongwith detailed remedies. Some of the contentious issues in relation to prohibited and actionable subsidies (e.g. adverse effects, serious prejudice and the remedies to deal with such subsidies) may perhaps be negotiated outside the bounds of this agreement, in particular with respect to steel and civil aircraft. The Agreement in general does not apply to subsidies on agricultural products, which have been dealt with in the Agreement on Agriculture, through the negotiation of quantitative limits on domestic and export subsidies.

Agreement on Safeguards : This Agreement contains detailed rules to ensure that WTO members make proper use of Article XIX safeguard actions to put an end to the proliferation of 'grey area' measures, e.g. voluntary export restraints (VERs), orderly marketing arrangements (OMAs) and price monitoring which have been threatening the credibility of multilateral trade disciplines. The Agreement provides for more transparent national procedures for the initiation of safeguard action, and the determination of serious injury and the threat thereof, clearly prohibits voluntary export restraints and confirms the MFN principle. *Any such measures in effect at the time of*

entry into force of the WTO must be brought into conformity with the Agreement or phased out over a four-year period. It also includes so-called 'sunset clauses' on all safeguard actions whereby all existing safeguard measures taken under Article XIX of GATT 1947 will be terminated not later than eight years after the date of entry into force of the WTO Agreement whichever comes later. A measure of flexibility is permitted, however, in certain circumstances, when quotas are being allocated under the so-called 'quota-modulation system' and this could lead to a certain selectivity although such departures would be subject to specific disciplines and surveillance.[7] The achievement of an effective and efficient multilateral safeguard system for the application of GATT Article XIX is of paramount importance for strengthening trade disciplines and improving security of access to markets, particularly for developing countries and weaker trading partners. *Moreover, the Agreement grants differential and more favourable treatment for developing countries by means of a threshold clause under which safeguard measures will not be applied to a product of a developing country with an import share of less than 3 per cent, and the period of application of safeguard measures will be extended.*

I/B. General Agreement on Trade in Services (GATS)

This is the next major agreement set out in Annex 1B to the WTO Agreement which brings services within the multilateral discipline. The unique feature of this agreement is the extension of the scope of multilateral trade rights and obligations to cover such measures as those relating to foreign direct investment, movement of persons, and of electronic data across national frontiers, as well as professional qualifications, thus making these legitimate subject-matters for inclusion in future trade negotiations. It contains the first agreed definition of 'trade in services' which can be accomplished through the four 'modes of supply' of cross-border movement of consumers, commercial presence, and the presence of natural persons. The main body of GATS rests on three pillars. First, a Framework Agreement which contains basic obligations, definitions and scope of services in Part I. This is followed in Part II by application of general obligations and disciplines, such as MFN, transparency, provision for increased participation of developing countries in international trade in services, the administration of domestic regulations pertaining to services in a reasonable, objective and impartial manner, obligations with respect to recruitment in services area, the use of limited restrictions on international transfers and payments

7. Quota modulation provides that members may deviate from the MFN provisions when an overall import quota is imposed by an importing country against all sources of suppliers, in that the share allocated to countries found to be contributing more to global injury could be lower than the share allocated to them on the basis of recent trade patterns.

in the event of balance of payments difficulties and the application of general and special exceptions, where permitted. Part III sets out provisions on market access and national treatment—not drafted as general obligations but rather specific commitments to be included in national schedules. *Developing countries are required to liberalize, but to a lesser degree, and market access granted by them is conditional upon measures to assist them to strengthen their services sectors through access to information networks and distribution channels.* Part IV establishes the basis for progressive liberalization of services through further trade negotiations rounds including the withdrawal and modification of commitments in national schedules after three years. Part V contains the institutional provisions including the establishment of a GATS Council and dispute settlement procedures. The second pillar is the national schedules of commitments containing specific further national commitments which will be the subject of a continuing process of liberalization, just like tariff concessions in the goods sphere. The third is a number of Annexes which is a compromise to the agreed position to leave specific services sectors outside the framework Agreement.[8]

I/C. Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods (TRIPS)

This Agreement set out in Annex 1C to the WTO Agreement, opens up a new field to the application of substantive GATT rules. The Agreement introduces profound changes in the traditional standards of intellectual property rights, which will influence competition in the world economy, as well as the generation and diffusion of technological innovations, and, ultimately, the technological prospects of developing countries. Through the Agreement, the basic GATT principles of national treatment and MFN treatment are applied to intellectual property rights, the provision of effective enforcement measures for those rights, multilateral dispute settlement and transitional arrangements. The Agreement establishes minimum standards on patents, copyrights, trademarks, industrial designs, geographical indications, layout designs for integrated circuits and protection of undisclosed information, which are enforced through a comprehensive set of provisions, building upon, and, in certain, cases, going beyond the provisions of existing international instruments in this area. It establishes that all products or

8. Four Negotiation Groups—on Financial Services, Basic Telecommunications, Maritime Transport and Movement of Persons—have been at work since May 1994. Their objective is to extend and improve the commitments undertaken by governments on these subjects during the Uruguay Round. The Negotiations on Financial Services and on Movement of Persons were to be completed in June 1995 and those on basic telecommunications and maritime transport are expected to be completed in the first half of 1996.

processes in all fields of technology are patentable. The 'General Obligations' (part III, section 1) calls on countries to make available, under their laws, enforcement procedures and remedies to enable right holders to take action against any infringement of intellectual property rights. One of the most significant provisions is that the judicial authorities should be empowered to order, without hearing the alleged infringer, provisional measures, *inter alia,* to prevent infringement and to preserve evidence. In respect of each category of intellectual property, the Agreement builds upon the existing international conventions and specifies a number of higher and additional safeguards of protection. (The Paris Convention on the Protection of Industrial property (revised in 1967 and amended in 1979); the Berne Convention for the Protection of Literary and Artistic Works, 1896 (revised in 1971 and amended in 1979); the Universal Copyright Convention (revised in 1971 and 1974); the Washington Treaty on Intellectual Property Rights in respect of Integrated Circuits, 1989; and the International Convention for the Protection of new Plant Varieties, 1993 (UPOV Convention). Countries may, however, adopt measures to protect public health and nutrition and to promote public interest in sectors of vital importance to their socio-economic and technological development. It is also envisaged that appropriate measures may be needed to prevent the abuse of intellectual property rights or practices that unreasonably restrain trade or adversely affect the international transfer of technology in accordance with certain established criteria. *The Agreement provides, for the first time, in an internationally binding instrument, a number of rules on restrictive practices in licensing contracts. Countries are thus free to specify in their legislation, licensing practices or conditions that may constitute an abuse of intellectual property rights and have an adverse effect on competition in the market concerned.*

One of the controversial issues which the Agreement provides for is compulsory licensing under the patent system, which requires a patent to be worked in the territory where the patent has been granted, within a specified period of grant. The Agreement sets forth conditions under which compulsory licensing may be granted, such as public health, nutrition, national emergency and extreme urgency, public non-commercial use, anti-competitive practices such as monopolistic pricing and the exploitation of a dependent patent.

As to actual implementation, *there are various transitional arrangements, including a one-year transition period for developed countries whilst developing countries and countries in transition would have a five-year transition period during which to bring their laws and practices in conformity with the Agreement. However, LDCs will have 11 years in which to do so. Developing countries which do not at present provide product patent*

protection in any area of technology would have up to 10 years to introduce such protection, although in the case of pharmaceutical, agricultural and chemical products, they must accept the filing of patent applications from the beginning of the transitional period although the patent need not be granted until the end of the period.

Annex - 2: Understanding on Rules and Procedures Governing the Settlement of Disputes

A major innovation introduced in the WTO is the inclusion of Annex 2 which is the Understanding on Rules and Procedures Governing the Settlement of Disputes which provides for an integrated dispute settlement mechanism linking goods, services and intellectual property. This Understanding was negotiated to give confidence to all participants that they would have the means to assure the proper fulfilment by other WTO members of the obligations contained in the Final Act and to provide a solid safeguard against unilateral action by any member. The Dispute Settlement Body, which is entrusted with the administration of the Understanding and with consultation and dispute settlement provisions of the covered agreements, has the authority to establish panels, adopt panel and appellate body reports, maintain surveillance of implementation of rules and recommendations and authorize suspension of concessions and other obligations under the "covered agreements". The "covered agreements" include the WTO Agreement itself, the Multilateral Agreements on Trade in Goods, the General Agreement on Trade in Services and the Agreement on Trade-Related Aspects of Intellectual Property Rights. The PTAs are also included, subject to the adoption of the appropriate decision by the signatories of each of those Agreements. Its decisions will be taken by consensus, which should facilitate the adoption of panel reports. Moreover, the Understanding provides for a time-frame for the entire dispute settlement procedure, which establishes the automatic nature of the Understanding, and would ensure permanent monitoring of the implementation of adopted recommendations or rulings. There is also provision for particular attention to be paid to matters affecting the interests of developing country members with respect to measures that have been subject to dispute settlement. The commitment exists to provide developing countries with the means both to press for the early removal of third-country measures that are harmful to their export trade, and to claim leeway in terms of their own import measures that have been found to be inconsistent with their obligations.

Annex - 3: Trade Policy Review Mechanism (TPRM)

The Trade Policy Review Mechanism (TPRM) set out in Annex 3 to the WTO Agreement is intended to provide a mechanism for multilateral

review of the WTO members' trade policies or practices through a non-legally binding, reporting and discussion process. The prime purpose of this mechanism "is to contribute to improved adherence by all Members to rules, disciplines and commitments made under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of the trade policies and practices of Members". It establishes a Trade Policy Review Body to periodically carry out Members' trade policy and practices.

Annex - 4: Plurilateral Trade Agreements (PTAs)

The PTAs referred to in Annex 4 are the Agreement on Trade in Civil Aircraft; Agreement on Government Procurement; International Dairy Agreement; and International Bovine Meat Agreement. These are among the nine Agreements which had been negotiated during the Tokyo Round. Five of these Agreements were renegotiated during the Uruguay Round and are included in Annex 1A of the WTO Agreement while the remaining four have been included in Annex 4. Since these agreements are not part of the Uruguay Round, they are binding only on those WTO Members which have accepted them.[9]

Impact on Developing Countries

The establishment of the WTO is most likely to result in an overall increase in the scope of obligations for all its members, but developing country members, in particular, will be faced with a dramatic increase in the level of their obligations. This is because they are required to accept all MTAs incorporated in Annexes 1, 2 and 3 of the WTO Agreement without any exceptions or reservations, as well as to submit their schedules of concessions on goods and concessions with respect to market access and national treatment for trade in services. They are also required to accept new obligations in the area of trade in services, and, in particular, intellectual property rights. Prior to WTO, few developing countries were parties to the Tokyo Round Codes,[10] but under the revised codes they are required to assume new obligations flowing from them. The very strict conditions

9. The Agreement on Government Procurement was renegotiated in the GATT Committee on Government during 1984-85; the final text of this Agreement was opened for signature at Marrakesh on 15 April 1994. The International Dairy Agreement and the International Bovine Meat Agreement were also opened for signature at Marrakesh. The Agreement on Civil Aircraft was not revised prior to Marrakesh and therefore the reference in Annex 4 provides for incorporation of the 1979 text as subsequently modified, rectified or amended.
10. As of May 1994, 15 developing countries were parties to the agreement on Technical Barriers to Trade; 2 to the Agreement on Government Procurement; 13 to the Subsidies Code; 11 to the Anti-Dumping Code; 12 to the Customs Valuation Code; 12 to the agreement on Import Licensing.

for accession to the WTO thus pose a serious challenge to the developing countries.

The process of accession will also be much more difficult, for those developing countries and economies in transition that now negotiating their terms of accession to GATT, as they will need to adopt the new agreements negotiated in the Uruguay Round. For example they will have to negotiate an 'entry fee' on both goods and services, accept a variety of Agreements that until now had been optional (i.e. most Tokyo Round Codes as revised), and commit themselves to a set of new multilateral rules and disciplines in the areas of agriculture, subsidies and intellectual property rights, among others.

The setting up of the WTO, effective from 1 January 1995, represents a significant step towards the full integration of all countries irrespective of their levels of economic development into a global trading system of shared commitments, shared rules and shared opportunities. Unlike the case of the two Bretton Woods institutions, viz. the World Bank and the IMF, in the case of the WTO, developing countries have had a role in its evolution and establishment. More than two-thirds of its over 100 members are developing or transition economies, as are the great majority of those in the process of becoming its members.[11] These prospective members include China and Russia whose inclusion in the multilateral system and its rules is vital not only to the completion of the global market but to global stability.

However, membership of the WTO system requires unequivocal commitment to, and enforcement of, the multilateral rules; no country can be exempt therefrom. The WTO Agreement itself imposes a general obligation on each of its Members to ensure "the conformity of its laws, regulations and administrative procedures with the obligations as provided in the annexed Agreements". Many countries, including the developing countries in Asia and Africa and elsewhere, have already brought their domestic legislation into line with the aforesaid general obligation, or are in the process of doing so before the expiry of the relevant transition periods.

Compliance with this general obligation is particularly emergent in the case of the Agreements on Services, TRIPs and TRIMs as they call for not only restructuring of existing legislation, but also the building up of

11. Twenty-one governments are now negotiating accession to GATT on resumption of contracting party status: Albania, Algeria, Armenia, Belarus, Bulgaria, China, Croatia, Ecuador, Estonia, Jordan, Latvia, Lithuania, Moldova, Mongolia, Nepal, Panama, Russian Federation, Saudi Arabia, Slovenia, Taiwan, and Ukraine. Fourteen governments can succeed to contracting party status under Article XXVI: 5(c) (GATT 1947) upon request: Angola, Bahamas, Cambodia, Cape Verde, Equatorial Guinea, Kiribati, Papua New Guinea, Qatar, Sao Tome and Principe, Seychelles, Solomon Islands, Tonga, Tuvalu, and Yemen.

requisite infrastructure and operative mechanisms in the national domain. The Agreement on Services obligates the Members of the WTO to enact domestic regulations for the administration of services in a reasonable and objective manner (MFN, transparency). The Agreement on TRIPs obligates the Members of the WTO to establish procedures and remedies in their domestic laws to ensure effective enforcement of IPRs through civil and administrative procedures which include provisions on evidence of proof, injunction, damages and other remedies, including the right of the judicial authorities to order the disposal or destruction of infringing goods. The developing countries and countries in transition have been given a five-year transition period, and the LDCs 11 years, during which they have to bring their laws and practices into conformity with the Agreement. Further, developing countries which do not presently provide product patent protection have been given 10 years to introduce such protection, although in case of pharmaceutical, agricultural and chemical products, the patent need not be granted until the end of the 10 year period. The TRIMs Agreement has prohibited investment measures which cause trade restrictions and distorting effects and requires mandatory notification of such measures and their disposal within two years. Thus, the existing legislation would need to be brought into line with the stipulations contained in the aforesaid Agreements.

Conclusion

Notwithstanding the transitional agreements provided in the various WTO Agreements, some of the issues involved definitely need further substantive and specific elaboration from the developing countries' standpoint before undertaking the revision of the relevant national legislation. The Secretariat of the AALCC, which is a major forum of Afro-Asian cooperation in the area of law and economic relations, can certainly assist its Member States in enacting or revising legislation so as to meet their obligations under the WTO system but before embarking on that exercise it would be useful to have a general discussion in the AALCC focussing on the problems and difficulties being faced by them in enacting the WTO obligations in the national domain.