


Multilateral trading arrangement

Ratnakar Adhikari

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Presentation outline

- Historical background
 - WTO in a nutshell
 - Major agreements of the WTO
 - 17 years of WTO
 - Recent developments of interest to Nepal
 - Way forward
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Historical background

- ▶ **Bretton Woods Conference**
 - International Trade Organization as the third pillar
 - Eventual formation of General Agreement on Tariffs and Trade (GATT) in 1948
- ▶ **Main principles of GATT**
 - Rules-based trading system
 - Reciprocity of concessions (mainly tariff reductions)
 - Non-discrimination
- ▶ **Achievements of GATT**
 - Reduction in tariff
 - Incorporation of “development dimension” in the system
 - Launching of comprehensive negotiations (Uruguay Round)

WTO in a nutshell


- ▶ As a result of the conclusion of the Uruguay Round, WTO came into being on 01 January 1995
 - ▶ It has 153 members (note: three membership approved by 8th Ministerial Conference in December 2011)
 - ▶ More than 98 percent of the global trade takes place within the members of the WTO
 - ▶ Decisions are made through consensus following a multilateral approach – scope for unilateralism is curtailed
 - ▶ It is based on five pillars (Figure 1)
 - ▶ It is responsible to enforce the WTO Agreements (Figure 2)
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Figure 1: Five pillars of WTO

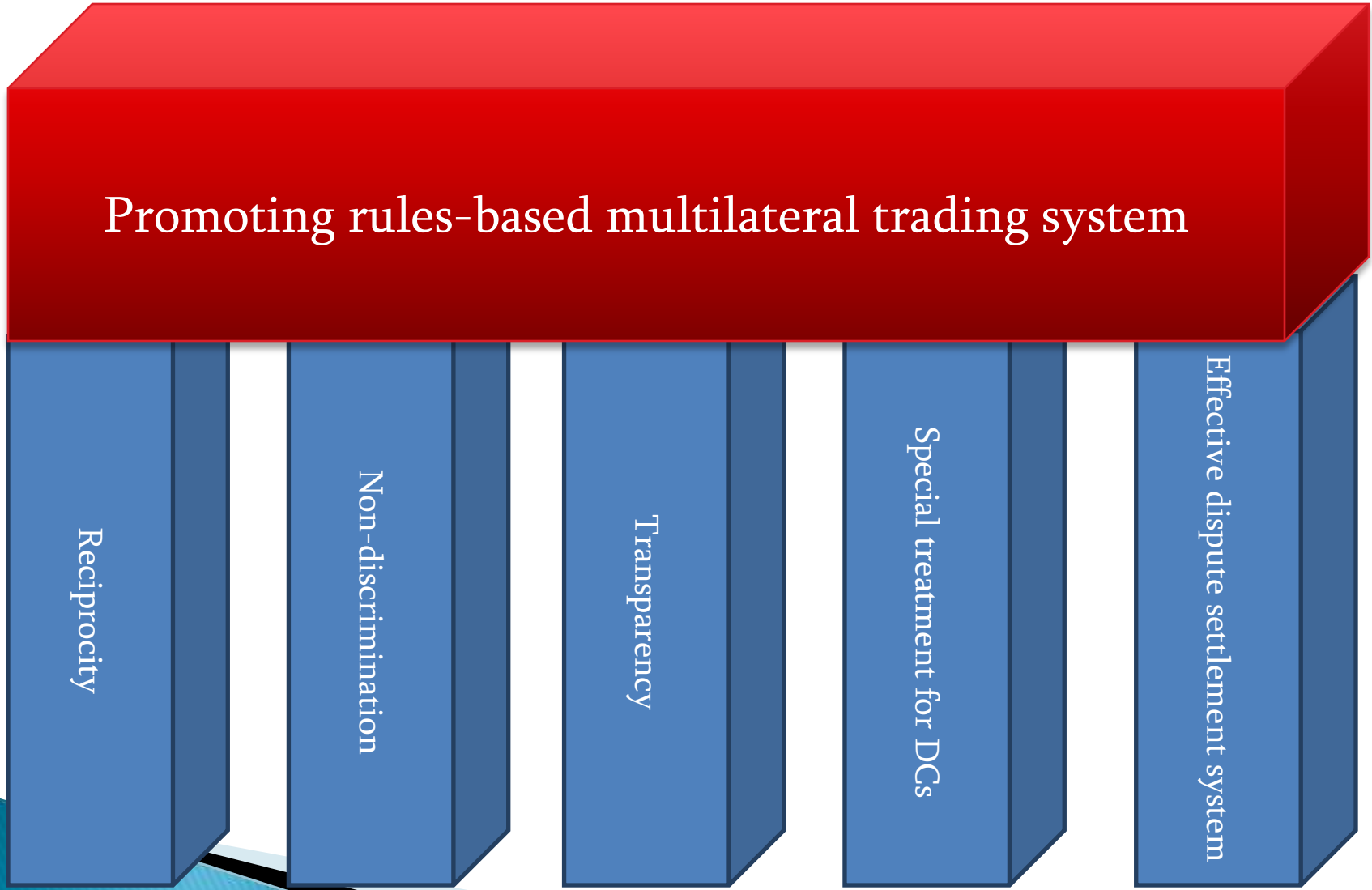
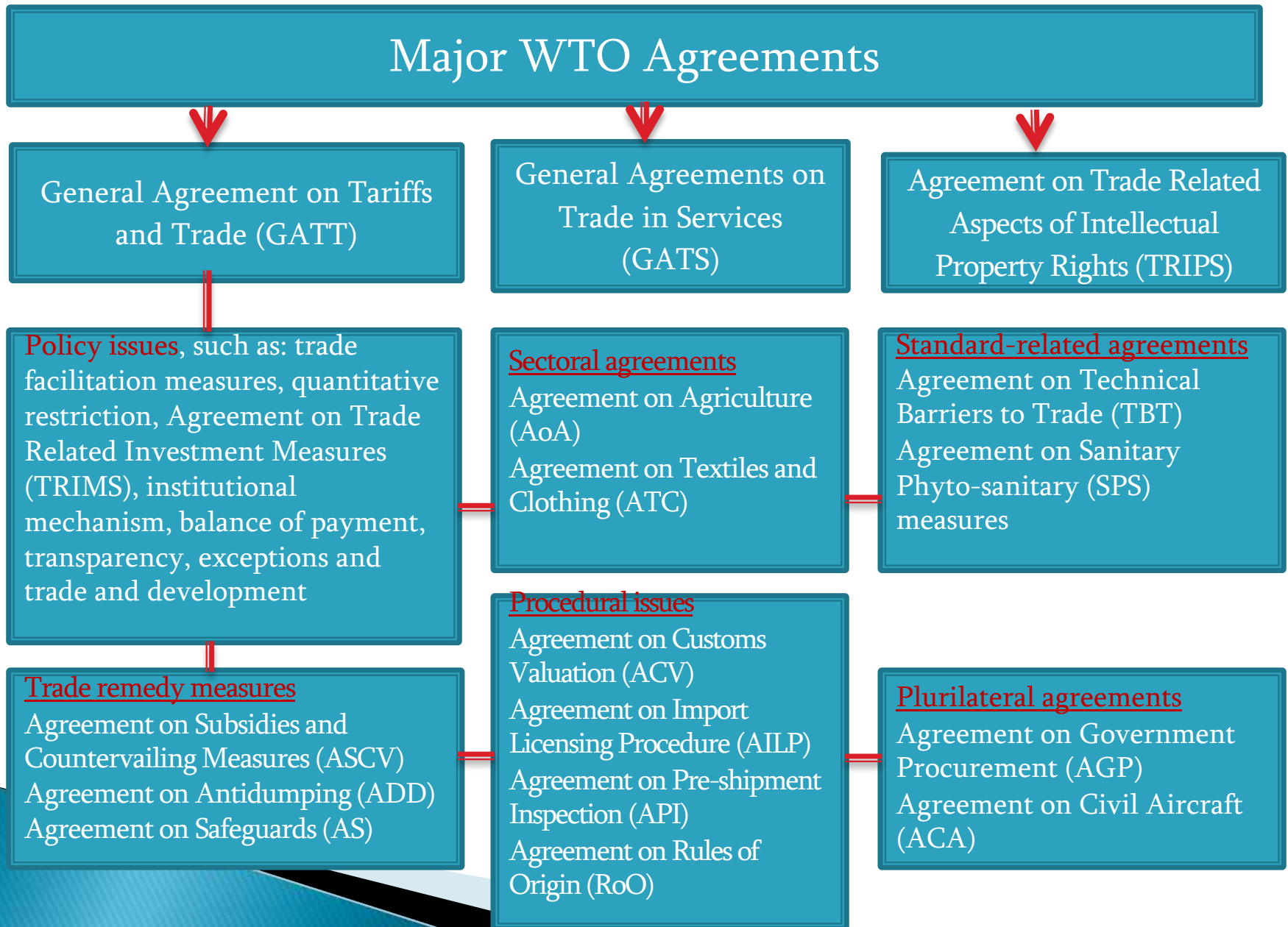


Figure 2: WTO agreements



Brief discussions on the major agreements



General Agreement on Tariffs and Trade (GATT)

- ▶ Provides the legal framework for trade in goods among WTO members
- ▶ The GATT 1994 is the basic set of trade rules as provided in GATT 1947 plus 12 agreements contained in Annex 1A to the WTO Agreement
- ▶ Core elements – apart from 5 pillars listed in Figure 1, they include:
 - Tariff bindings
 - Prohibition of quantitative restriction
 - Creation of level playing field
 - Exceptions and exemptions

Agreement on Agriculture (AoA)

- ▶ Introduced during the UR to bring agriculture sector under the multilateral trade disciplines under three areas:
 - Market access
 - Tariffication
 - Tariff reduction (36 and 24 percent)
 - Minimum access commitment (upto 5 percent)
 - Domestic support
 - Classification of domestic support into 3 boxes
 - Amber box (trade distorting, actionable)
 - Green box (non trade distorting, non-actionable)
 - Blue box (set aside payments)
 - Reduction of support (20 and 13 percent)
 - Export competition: Reduction of trade distorting support
 - 36 and 24 percent in value
 - 21 and 14 percent in value

Agreement on Technical Barriers to Trade (TBT)

- ▶ Starting with Tokyo Round Code, the UR gave birth to a full-fledged TBT Agreement
- ▶ Aimed at protecting domestic policy objectives, such as:
 - Protecting health, safety and preventing consumer deception
 - Protecting environment and national security (see Fig. 7.4, p. 179)
- ▶ Deals with three major issues:
 - Technical regulations:
 - Mandatory measures – trade restriction is possible
 - Need to respect non-discrimination principle and fulfil non-trade restricting criteria
 - Standards
 - Voluntary measures - trade restriction is not possible
 - Provide assurance to buyers/consumers
 - Conformity assessment procedure
 - Procedure to determine whether a particular product conforms to technical regulations on standards
 - International standards, such as ISO are generally considered reference standards

Agreement on Sanitary and Phytosanitary (SPS) Measures

- ▶ Finalized during the UR to elaborate the general exception relating to protecting human, plant and animal health [Art. XX (b) of the GATT]
- ▶ Exclusively related to food and agricultural products
- ▶ Measures could include all relevant laws, decrees, regulations, requirements and procedures
- ▶ To prevent risks relating to spread of pest, disease, contaminated and toxic food products and other damages
- ▶ Limitations on the use of SPS measures
 - Necessity test
 - Scientific principles
 - Sensitivity to international trade concerns
 - MFN principles as a rule
 - Least-trade restrictiveness rule [see Box 7.10, p. 183]

Agreement on Trade-Related Investment Measures (TRIMs)

- ▶ Some investment measures adopted by the government can have trade-restrictive and distorting effects
- ▶ The Agreement states that no member shall apply a measure that is prohibited by the provisions of GATT Article III or Article XI
- ▶ Example of TRIMs violating Article III (dealing with national treatment) includes [see Table 7.3, p. 186 for more examples]:
 - Specifying that particular products of domestic origin must be purchased or used by an enterprise
- ▶ Example of TRIMs violating Article IX (dealing with quantitative restriction) includes [see Table 7.4, p. 187 for more examples]:
 - Restricting the foreign exchange for the import of inputs by an enterprise to an amount related to the foreign exchange inflow attributable to the enterprise
- ▶ LDCs in general should have eliminated all TRIMS by 2001, but Hong Kong Ministerial Conference of the WTO has provided an extension till 2020

General Agreement on Trade in Services (GATS)

- ▶ Services trade were largely ignored in the GATT discussion until the course was corrected during the UR
- ▶ Growing value of trade in services coupled with increased market contestability due to economic reform measures led to pressure to introduce services trade in the multilateral trade discipline
- ▶ Positive list approach as opposed to negative list approach of the GATT
 - Limitations on market access and national treatment possible
 - Horizontal limitations and sector specific limitations
- ▶ 12 sectors and 155 sub-sectors
- ▶ Supply through four modes of service delivery
 - Mode 1: Cross border supply
 - Mode 2: Consumption abroad
 - Mode 3: Commercial presence
 - Mode 4: Movement of natural persons

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

- ▶ Intellectual property rights was historically outside the ambit of the multilateral trading system
- ▶ Attempt to introduce “draft counterfeit code” during the Tokyo Round was thwarted, but TRIPS found its way into the system during the UR
- ▶ Provides protection mainly to seven areas of intellectual properties (Table 1)
- ▶ Major features of the Agreement include:
 - Standard
 - Domestic enforcement
 - Dispute settlement
 - Special and differential treatment (e.g., transition period, technology transfer, technical cooperation)

Table 1: Seven areas of protection under TRIPS

Area/type	Description	Term of protection
Patent	Providing exclusive rights to the holder of scientific and technological invention provided the “invention” is found to be: a) noble; b) non-obvious; and c) capable of industrial application	20 years from the date of first filing of application
Copyright and related rights	Protecting rights of the author/creator of expressions (but not ideas), whether in written form (e.g., books), digital form (e.g., music, computer programme) or other forms (e.g., photographs)	25 years from the date of making of work to 50 years after the death of the author/creator depending on the nature of work
Trademark	Protecting any sign that distinguishes goods, services, image and reputation of one undertaking from those of others	Initially for seven years, but term can be renewed indefinitely for the same period
Industrial design	Protecting the look of an article (e.g., shape, ornamentation, pattern, configuration), but different from the designs related to the functional utility of products (e.g., an improvement in machinery) which are protected in some jurisdiction as “utility models” (which are minor innovations)	At least 10 years. Term can be divided into, for example, two periods of five years
Geographical indication	Protecting identity of product as originating in a particular place to which its quality, reputation or other characteristics are attributable (e.g., Scotch whisky, Champagne)	10 years but may be renewed from time to time for an unlimited period by payment of renewal fees
Layout design of integrated circuits	Protection of original layout-designs, which are the result of creators’ own intellectual effort and are not commonplace among creators of layout-designs and manufacturers of integrated circuits at the time of their creation	10 years
Undisclosed information	Protection to information that is secret, that has commercial value because it is secret and that has been subject to reasonable steps to keep it secret	Protected as long as the information is kept secret

17 years of WTO – I

- ▶ WTO has not had smooth sailing ever since it came into being
- ▶ After acrimonious discussions Doha Development Agenda (DDA) was eventually launched in November 2001
- ▶ Cancun Ministerial Conference of the WTO (September 2003), which was supposed to be the mid-term evaluation of the DDA, failed
- ▶ The DDA was salvaged through July Framework, which decided to launch negotiations on the following five issues:
 - Agriculture
 - Non-agriculture market access
 - Services
 - Trade facilitation
 - Development dimension

17 years of WTO – II

- ▶ Sixth Ministerial Conference (Hong Kong, December 2005)
 - LDC specific decisions
 - Duty free quota free (DFQF) market access
 - TRIMS
 - Waiver
 - Coherence
 - Non-compliance with GATT obligations
 - Aid for trade (AfT)
 - Enhanced IF (EIF)
- Eighth Ministerial Conference (Geneva, December 2011)
 - Services waiver for LDCs
 - Extension of implementation deadline for the TRIPS Agreement

Recent developments of interest to Nepal



Duty-free quota free market access

- ▶ LDCs have been demanding DFQF since 1997
- ▶ European Union has provided DFQF since 2001
- ▶ US provides highly preferential market access to African and Caribbean countries, but not to Asian LDCs
- ▶ Finally, the call was heard during the Hong Kong Ministerial Conference of the WTO, which decided that:
 - Developed countries “shall” and developing countries “should” provide DFQF to all the LDCs
 - Those not in a position to do so can provide at least QFQF market access on at least 97 percent of their tariff line
- ▶ Current status: USA has not provided any additional preference so far, while countries such as Brazil, China and India have already done their bit

Aid for Trade – I

- ▶ Realization on two fronts led to adoption of Aid for Trade initiative during the Hong Kong Ministerial Conference:
 - First, developing countries, in particular LDCs, face severe supply-side constraints to benefit from a liberal trade regime
 - Second, assistance provided so far have failed to build trade-related “hardware” because of their excessive focus on “software”
- ▶ According to the WTO and Organization for Economic Cooperation and Development (OECD) – the twin agencies responsible for monitoring the effectiveness of AfT – the initiative has been effective because:
 - AfT commitment is growing due to “spotlight” effect
 - There is additionality in “commitment”
 - Countries are increasingly mainstreaming trade into their national development strategies
 - In some case, AfT is “showing results” (WTO and OECD 2011)

Aid for Trade – II

- ▶ However, independent studies conducted by SAWTEE and ICTSD show that AfT have been only moderately effective because of the following problems:
 - There is no additionality in “disbursement”
 - Principles of Paris Declaration particularly in the areas of ownership, alignment and harmonization are not adhered to
 - Donors use AfT to achieve their foreign policy and commercial objectives and there is massive duplication of AfT
 - Partner countries have not properly identified their needs and there is limited coordination at the national level
 - There is a serious lack of absorptive capacity within the partner country governments

The way forward

- ▶ Despite the problems faced by the multilateral trading system of late, it is the best system for a small country like Nepal
- There are several windows of opportunities for the LDCs like Nepal, which should be tactfully utilized. They include:
 - Using the WTO forum for increased market access on goods as well as services
 - Properly utilizing aid for trade to overcome supply-side constraints faced by the country
 - Making a collective push for early harvest in the WTO and/or “Doha lite” could bear fruit

Thank you

