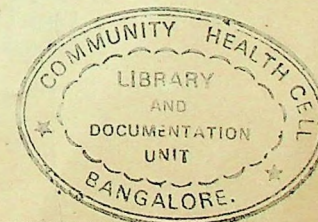


GATTASTROPHE



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GLOSSARY

Glossary of abbreviations, acronyms and technical words used in this booklet.

Bind	Tariffs which are frozen or fixed in GATT schedules and cannot be increased without the negotiation of compensation elsewhere.
BOP	Balance of payments.
EEC/EC	European Economic Community, a customs union formed under the Treaty of Rome.
Free Trade Area	Similar to the customs union, but with each member-state maintaining its own individual commercial policy.
GATS	General Agreement on Trade in Services — one of the items on the agenda of Uruguay Round.
National Treatment	Concept requiring that imported goods, once they have passed customs, be treated no less favourably than domestically produced goods. They are not to be subject to higher internal taxes or more demanding regulations, standards etc., than domestic goods. Developed countries are now trying to extend the application of this concept to services, foreign suppliers (firms or individuals) and foreign capital even before they cross the border and come into a country.
OECD	Organisation for Economic Cooperation and Development whose members are developed market economy countries.
Sanitary and phytosanitary measures	Health regulations relating, respectively, to animals and plants.
Special 301	A clause in the United States Omnibus Trade and Competitiveness Act, 1988, under which its trading partners are threatened with 'retaliatory' action, if they do not amend their patent laws to suit US interests.
TRIMs	Trade-related Investment Measures — one of the items on the agenda of the Uruguay Round.
TRIPs	Trade-related Intellectual Property Rights including trade in counterfeit goods — an issue on the agenda of the Uruguay Round.
UNCTAD	UN Conference on Trade and Development.
VER	Voluntary Export Restraint — a bilateral arrangement of dubious GATT validity in which the exporting country undertakes to limit exports of a particular product to a particular market.

What is GATT?

International trade in goods has, for more than four decades, been conducted on the basis of a set of rules contained in the General Agreement on Tariffs and Trade (GATT). Set up at the end of the Second World War, the GATT was originally part of an institutional arrangement to emerge from the Bretton Woods Conference of 1944. Charters of the World Bank and the International Monetary Fund (IMF) to promote monetary stability and provide resources for post-war reconstruction, were established at the Conference. At the same time the Conference recognised the need for another institution, comparable to the IMF and WB, to oversee the liberalisation of world trade. It was at that time believed that uncontrolled and arbitrary protectionism of the inter-war years was responsible for the economic chaos, leading eventually to war. It was in this context that liberalisation of trade through a multilateral framework was seen as crucial in preventing recurrence of another war.

Origins

The thinking that free flow of trade is the best chance for global prosperity and peace emerged in the US in early 30s. It was in pursuance of this ideology that the US entered into bilateral agreements with 29 countries before the outbreak of war to bring about mutual reduction of tariffs. The ideas of a multilateral institution to oversee the world trade was embedded in the US initiatives after the war. For the US, which had clearly emerged as a supreme economic (and military) power, a liberalised trade regime was indeed the mechanism for maintaining its dominant position.

Thus in 1947, when the General Agreement was signed, it was then envisaged as the first of a number of agreements that were to be negotiated under the proposed International Trade Organisation.

The Havana Charter for setting up the ITO came in 1948, but it was not ratified by the US Congress. It saw in a permanent structure a threat to its legislative powers to influence the future of world trade to meet national needs—a role that the US had set for itself in the post-war era.

Modelled largely on the US bilateral agreements, the GATT thus continues to this day, to be the only multilateral forum for discussion of trade policy issues and settlement of disputes. It is an adhoc treaty among nations which calls upon them to negotiate reduction of tariffs (duties) for promotion of free trade. Signatories to the treaty are called contracting parties. Although GATT is technically a treaty, it has over the years, assumed a commercial policy role originally planned for ITO without incorporating those elements of Havana Charter which called for curbing unfair business practices, commodity agreements, largely areas of concern to developing countries. Reduction of tariffs on trade in manufactures was retained as the limited role of GATT.

Membership

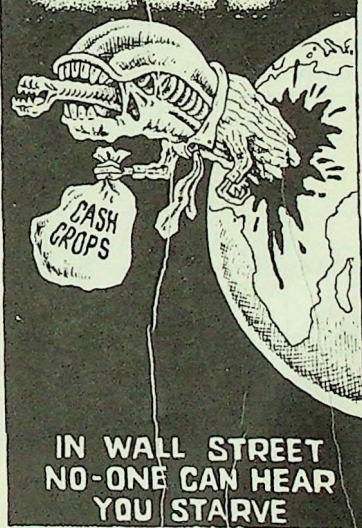
Twenty-three countries, which includes India, were the original signatories of the General Agreement. Hundred and nine countries are members today, accounting for 90 percent of world trade. Majority of the countries are from the Third World. Included among the members are former socialist countries like Hungary, Poland, Romania. With the break-up of the Soviet Union a number of membership applications are in the pipeline. Accession of new members requires a two-thirds majority. No country has the power of veto. Thus majority rule was preferred over unanimity to prevent a situation in which accession of a new member could be stalled by a country with no interest in its market. But the Agreement does not force any country to grant equal

THREE TIMES
THE HUNGER...

THREE TIMES
THE POVERTY...

THREE TIMES
THE PROFIT...

GATT?



treatment to a new member to whose induction it has not assented. This provision (Article XXXV) was used most extensively at the time of Japanese accession by a number of countries to retain restrictions on imports from Japan.

Principles and Operational Mechanism

The key principle of the General Agreement en-joins each signatory to commit itself to treat all other signatories according to the most favoured nation (MFN) standard. MFN clause contained in Article I of Part I is the essence of GATT. It imposes on the contracting parties obligation to grant each other equality of treatment. This means, that preferential treatment like lowered tariffs to the product of one country has to be extended to the like products of other countries. The idea behind this principle was to outlaw the practice of discrimination and retaliation characterising trade in the interwar period. The only deviation from MFN permitted under GATT concerns customs unions and free trade areas. Thus European Community's common external tariff and single European Market Union; the North American Free Trade Area pact and other



Plante, *The Chattanooga Times*

regional trade agreements are not seen as violations of GATT principles. The implications of the world getting divided along three trading blocks around the US, EC and Japan as central powers are a subject debate. Fears are now being voiced about the challenge posed by such agreements to the very concept of multilateralism.

Reciprocity

Reciprocity is the basis on which members negotiate tariffs. This means if one country lowers its tariffs on another's exports, it can expect the other to lower its tariffs in return. The MFN principle would then require the same concession to be passed on to the other GATT members, setting in motion a 'virtuous circle' of liberalisation.

Although non-tariff measures like import quotas, were in practice, the GATT recognised tariff as the sole legal device and the only negotiable item. The reason was that tariff, being a price-based measure was more objective, its trade distorting effects were more transparent and could be relatively easily monitored.

It required, therefore, a replacement of NTBs with tariffs, binding the tariff to fix ceilings, which then are negotiated downwards. Non-tariff Measures such as import quotas or quantitative restrictions are banned except in carefully defined cases. These can be used when countries face acute BOP difficulties or to protect their infant industries from competition with foreign goods.

Decision-making

In contrast to the IMF and the World Bank, where a system of weighted voting operates, in GATT the smallest of the country is entitled to one vote. Voting rules differ according to the subject under discussion. For instance, amendment of certain provisions like Articles I (the MFN clause) can only be passed if unanimously agreed. Amendments on other parts

NEGOTIATION ROUNDS		
Year	Venue	Outcome
1947	Geneva	First GATT Agreement signed
1949	Annecy	Tariffs on specific products reduced Cut tariffs average by 20 percent, European community (EC) negotiated first time as a unit
1950-51	Torquay	
1956	Geneva	
1960-62	Dillon	
1964-67	Kennedy	Achieved 1/3 reduction of barriers on manufactured goods
1973-79	Tokyo	Signed 11 agreements covering non-tariff barriers, subsidised exports, tropical products
1986	Uruguay	Agriculture included in the agenda for the first time along with new themes on trade in services, protection of intellectual property rights, and deregulation of controls over foreign investments

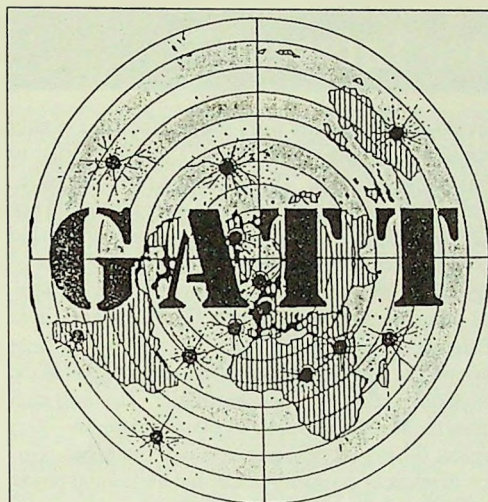
become effective if these have been accepted by a two-thirds majority. A two thirds majority is also essential for grant of waiver to governments wanting to take measures which are inconsistent with its obligations under GATT.

The seemingly democratic structure of GATT, however, hides the real power relations which influence the course of negotiations. Much of the bargaining that influences the GATT negotiations occurs between the three powerful trading partners—the US, EC and Japan in the meetings of the Group of Seven (G-7) industrial

countries. Views of developing countries rarely determine the course of events.

Decisions during the negotiations get taken largely through consensus, than voting, as the former allows scope for convincing trading partners to one's point of view and obviates later difficulties in implementation. The consensus decisions are arrived at in the Green Room, a chamber where the Secretariat helps members to iron out differences. Invitation to the Green Room is selectively extended and negotiations are held behind closed doors.

It is also widely believed that those outside the Green Room get to see the draft agreements at the eleventh hour. Thus, despite its seemingly democratic structure GATT has, as we shall see, served as a tool in the hands of the industrial countries to capture larger shares of world trade. ■

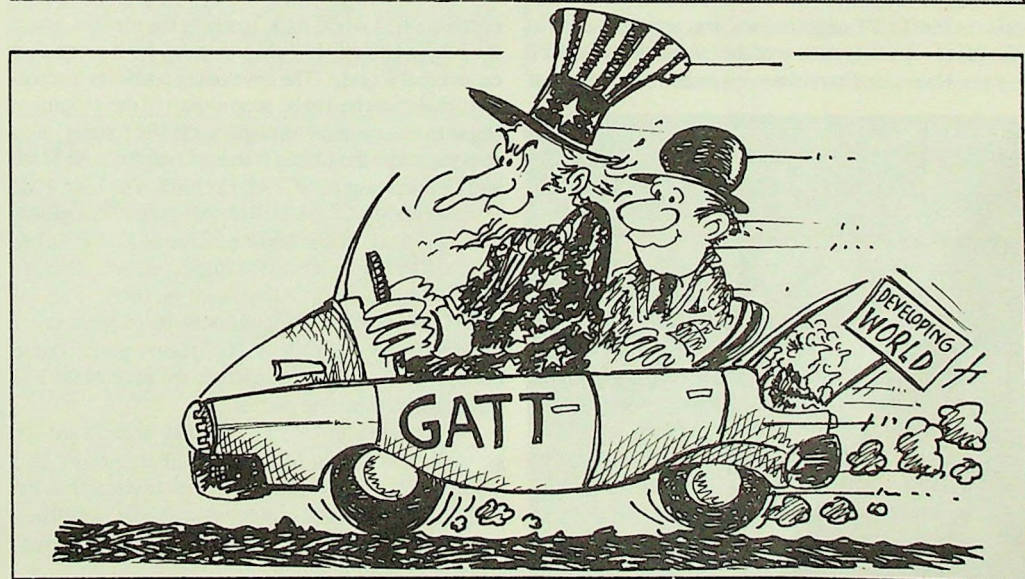


Courtesy : BIJA

'From a Southern perspective, GATT is an undemocratic and closed institution, dominated by a small number of developed countries which promote the interests of Northern multinational corporations.'

Belinda Coote, The Trade Trap, 1992

The seemingly democratic structure of GATT, however, hides the real power relations which influence the course of negotiations. Much of the bargaining that influences the GATT negotiations occurs between the three powerful trading partners—the US, EC and Japan in the meetings of the Group of Seven (G-7) industrial countries.



GATT : In Whose Interest ?

A look into the origins and functioning of GATT, both, in its early days and now, establishes the domination of the US thinking and interests in particular, and that of the developed countries in general. It was the US which mooted the idea of an International Trade Organisation, and yet, fearing a restriction on its ability to effect tariff adjustments in tune with the needs of its economy, it stalled the emergence of ITO. As an adhoc treaty GATT was preferred as it gave the US the leeway to amend it from time to time to accommodate the changing perceptions and needs of its economy. Interestingly, every round of trade negotiation has been so closely linked to amendments in the US trade Act that the GATT has been seen as an international extension of US tariff policy.

The domination of the US and the developed countries in the GATT negotiations, was apparent even in the fifties. An early review of the functioning of GATT by the Haberler Committee endorsed the view that

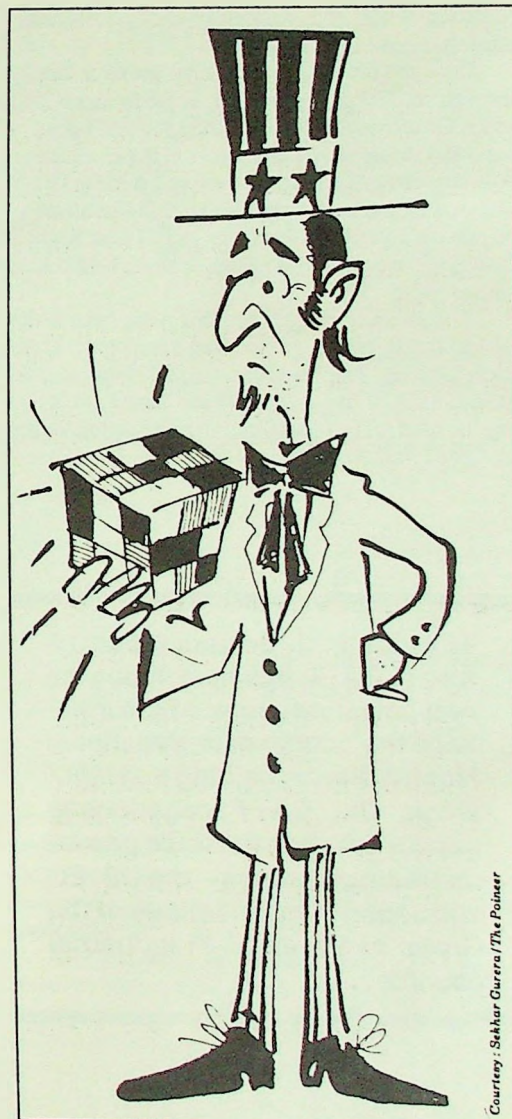
GATT Negotiations and Changes in the US Trade Act

- ❑ The first five rounds were accompanied by amendments in the Reciprocal Trade Agreement Act of 1934.
- ❑ The Sixth Round, the Kennedy Round, 1964-67 followed the Trade Expansion Act of 1962.
- ❑ The Trade Act of 1974 was preceded by the launching of the Tokyo Round.
- ❑ The Omnibus Trade and Competitiveness Act of 1988 was enacted when the Uruguay Round negotiations were in progress. The Act gives unlimited powers to the US Trade Representative to force open the markets of its trading partners.

developing countries were indeed facing a highly inequitable system and that GATT had done little to change the situation. The follow up committees revealed that developed countries were hindering not only the traditional exports of developing countries but also export of their manufactures through the use of high tariffs, quantitative restrictions and various internal taxes in stark violation of GATT rules. Later reviews confirmed these facts. The findings of these reviews lent considerable strength to the struggle of the developing countries to demand reform. The obligation under the MFN principle—of equal treatment—they argued, did not recognise their disadvantageous position in terms of competitiveness and bargaining power in international markets.

GATT was advocating the principle of non-discrimination in world trade ignoring the realities where the weakest members were prevented from competing on an equal footing. The developing countries perspective, that trade had to be seen as part of development began to emerge more strongly at the UN forums. As a response came the United Nations Conference on Trade and Development (UNCTAD) in 1964. The UNCTAD reviews endorsed the earlier critiques of the global trading system. It was under pressure of such criticism from different quarters that a fourth part was incorporated in the General Agreement in 1965. Part IV specified that the developed countries did not expect reciprocity for commitments in trade negotiations to remove tariff and other barriers to the trade of the less developed contracting parties.

Incorporation of Part IV was significant—it set aside the notion of 'equality of treatment' in a world where some countries were more equal than the others. It recognised that different countries at different stages of development needed to be treated differentially.



Courtesy : Sakhar Gurera / The Pointer

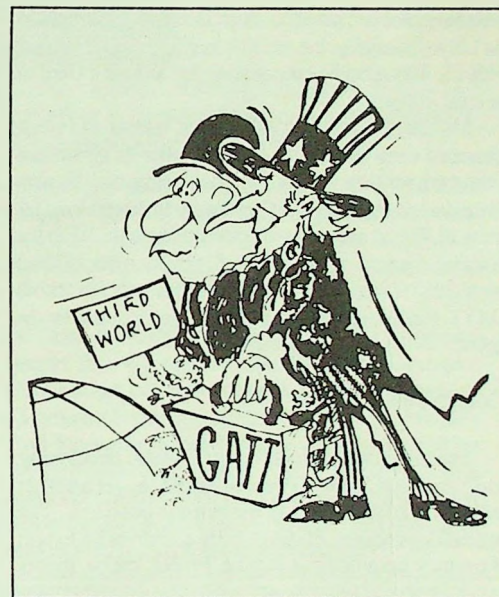
Post-1965 Trade Scene

The reform of GATT did not, however, change the international trade relations and it continued to be, in reality, the rich nations club. The US, the EC and Japan who are the three powerful members of this club have used GATT as an instrument to secure ever larger shares of the world markets. The presence of GATT for last four decades has not disturbed the overwhelming dominance of developed countries in international economy and the perspective with which negotiations are conducted remain largely developed country-centred.

In addition to the generally unfavourable tariffs and other barriers faced by developing countries exports, two sectors that have deliberately been kept outside GATT discipline are textiles and agriculture. Textiles and clothing trade has been governed since 1974 by a separate agreement, officially recognised by GATT—the Multi-Fibre Arrangement (MFA). The MFA which replaced previous arrangements (Short Term and Long Term) stretching back to the early 1960s, fixes quotas for developing countries wishing to export tex-

tiles to industrialised country markets. It represents the most flagrant violation of the GATT principles. Envisaged as a temporary departure, the MFA has acquired a semi-permanent status which the developed countries until the Uruguay Round have consistently refused to withdraw. It is a classic example of double standards practised by developed countries to restrict trade in an area where many developing countries have a competitive edge. The successive extensions of MFA have brought more and more textile items and countries within its jurisdiction.

The other significant exclusion from GATT rules has been agriculture. The waiver demanded by the US in 1955, allowing it to impose import controls to protect its agriculture in the name of maintaining food self-sufficiency, is yet another proof of how GATT rules were moulded around the interests of the United States. This waiver has been flagrantly abused by the US and later by the EC to build huge stocks through liberal subsidies, and then dump these on to world markets, again with the help of subsidies, undermining in the process traditional food producers in developing countries. It is



Multi-Fibre Arrangement

Practice of fixing quotas on textiles trade was originally targeted at Japan. The discriminatory character of this practice revealed itself when it was extended to textiles exports of developing countries through a separate agreement in 1961 called the Short Term Arrangement. Then came Long Term Arrangement, finally giving way in 1974 to the Multi-fibre Arrangement (MFA). The MFA allows developed countries to impose bilateral quotas on individual developing countries for hundreds of categories of textiles covering the entire 30 billion dollars trade in textiles exported from developing countries to developed countries. Even the poorest and small countries like Bangladesh have not been allowed to escape the crippling effects of this agreement. In 1985-86 the US, France and Britain imposed quotas on shirts from Bangladesh claiming that its textile exports threatened their local industries. The facts expose the fallacy of these claims. Bangladesh's share of clothing exports was just 0.25 percent of the developing countries exports of clothing compared to 60 percent for countries like South Korea and Hong Kong. Even then it was forced to accept import quotas which restricted its share of the UK shirt market to a 4 percent ceiling. What did these quotas mean for the economy of a poor country like Bangladesh? Half the country's shirt factories were closed, some 1,50,000 jobs, mainly held by women, were lost.

Free Trade in an Unequal World

Loss of Developing Countries

Because of	US billion \$
1. Unequal partnership in global economy	
-Higher Interest Rates	120
-Negative capital transfer	50
-Unequal competition in international services	20
2. Restricted access to markets	
-Labour	250
-Manufactures	35
-Agricultural, tropical commodities	5
-Technology	20
Total	500

Source : Human Development Report, UNDP, 1992

these subsidies and not efficient production which enabled the US to emerge as the world's largest cereals supplier, with PL 480 subsidies accounting for around a third of its total exports.

Similarly variable import levies, quotas and other measures were used by the EC to insulate its agriculture from competition. Hefty export subsidies made possible the emergence of EC in the early 70s as a major force in World agricultural trade posing a threat to the dominant position of the US. Since then the US had been demanding incorporation of farm policies within GATT which explains appearance of agriculture on the agenda of the Uruguay Round.

Commodity Trade

International commodity trade, where developing countries had major export interests, is yet another reflection of their highly inequitable position. The critical dependence of developing countries on export of primary commodities (coffee, timber, cocoa, rubber

etc.) symbolises the continuation of their position in colonial days where their economies supplied cheap raw materials to serve the interests of their colonial rulers. Only the actors have changed—today their exports serve the interests of handful of Transnational Corporations which control prices in the world markets. High tariffs in developed countries on processed goods prevent the developing countries from graduating out of this dependence on raw commodities. For instance, half of all countries in Sub-Sahara depend on just one or two commodities making them highly vulnerable to policy changes and price fluctuations. World sugar prices have experienced the worst fall under the impact of EC export dumping and competition from corn-based substitutes and reduction by US of its sugar imports in the 80s causing untold hardship to sugar producers. Steep fall in prices of other commodities like cocoa, coffee, tin, rubber resulted in loss of export earnings for a number of developing countries. This also meant a worsening balance of payments situation pushing them further into debt crisis. Paradoxically,



"I pledge allegiance to the flag of the country that gives me the best deal."

GATT and the World Trade

(Far from leading to a free and fair trade the amended GATT has continued to work to the advantage of developed countries)

- Share of developing countries' manufactured exports stood at 11.2 percent in 1966; in 1988 it increased to merely 13.8 percent.
- Three quarters of international trade and investment flows still take place between the developed countries which account for just 15 percent of world's population.
- Within the industrial countries, the US still enjoys a dominant position accounting for some 45 percent of the combined GDP of OECD countries and 18 percent of world's manufactured exports.
- Malaysian exports of unrefined palm oil to EC attract less than two percent tariff, if same oil were to be processed into high value-added margarine the tariff would jump to 25 percent.
- Developing country exporters of coffee and tea receive less than 20 percent of the market price of their products.
- Six unprocessed timber-exporting developing countries receive on average only 9 percent of the final product price.
- Commodity prices declined at the rate of 6.7 percent per annum during 1980-89 following two decades of moderate decline. In 1990 the prices for Third World's ten core commodities were about 25 percent lower than they were in 1980.
- Pursuing the IMF-WB prescription of increasing exports for meeting debt service obligations, Sub-Saharan cocoa output increased by 26 percent between 1985-89, but 15 countries dependent on cocoa as major export lost over 3 billion dollars. In Ghana, 50 percent increase in cocoa production, at the cost of food crop production, was accompanied by a reduction in foreign exchange earnings.
- Debt servicing now absorbs a third of the foreign exchange generated by American and Latin American exports.

mounting pressure on developing countries to repay debts, were responded to by stepping up commodities exports in an effort to earn more foreign exchange, leading to a glut in global markets. These issues, although of vital concern to developing countries, have not been dealt with at GATT with any seriousness.

GATT and the TNCs

And lastly, the expanding influence of Transnational Corporations and their nefarious role in distorting world trade has been ignored by the GATT, which does not even recognise their existence. There are no provisions in the GATT for dealing with the restrictive business practices characteristic of the TNCs. These range from price fixing cartels in sectors like electronics, computing and pharmaceuticals, to efforts to restrict access to technologies, transfer pricing or manipulating of prices in intra-firm trade to minimise tax liability in the host country and transfer profits to the parent company. For example, in the timber industry cases have been reported of logs being exported from Indonesia at prices under valued by as much as 40 percent. Recently the World Bank accused a UK company of charging Kenyan Government five times the normal price for consultancy services on a contract backed by the British government. Such examples can be endless. Even though, between a quarter and a half of world trade is being conducted within TNCs of the developed countries, GATT has failed to make them accountable to any multilateral discipline. And when at last the TNCs appear on the GATT agenda in the Uruguay Round, it is only to give them unrestricted freedom to penetrate further into the third World markets in ever new sectors of their economy. ■

"For them (the MNCs) all countries are just markets to be exploited, all laws are but obstacles to be circumvented through bribery where it works and through the delays in the legal process itself where it doesn't."

Vishvjit P. Singh, Member of Parliament

NTBs: A Flagrant Abuse

Recent decades have seen a rise in Non-Tariff Barriers (NTBs) affecting key products in which developing countries' have large export interest. According to the World Bank, 31 percent of developing countries exports face NTBs compared to developed countries' 18 percent.

Different kinds of measures are resorted to by developed countries to insulate their industries from competition. Eg. variable levy systems operate in the United States (for sugar); in Sweden, Switzerland and Austria (for vegetable oils, fruits, nuts, cut flowers). Japan uses quantitative restrictions to protect its peanut farmers from competition from exporters in Latin America and West Africa.

Voluntary Exports Restraints (VERs), one of the most commonly used NTBs, is an agreement under which countries are invited to 'voluntarily' restrict their exports. Of the 284 Export Restraint Arrangements instituted by GATT members by 1990, a large number concerned products where developing countries were substantial exporters. These included agricultural products, textiles and clothing, steel and steel products, electronics and footwear. Mostly the developing countries are compelled to do so under fear of retaliation. The US Administration in 1984 negotiated VERs on Steel imports with 19 countries including Brazil, Mexico, South Korea with a view to cut the level of Steel import from 25 percent to 18 percent of its domestic consumption. The EC did the same when it imposed VERs on Brazilian Steel, Thai Cassava and South Korean teddy bears.

Who is Financing Whom?

Since the mid-1980s, the Third World has been financing the living standards and the deficits of the industrialised world by net transfers of interest and repayment, amounting to Rs. 10,000 crore (\$ 40 billion) per year. Not only the commercial banks, but also the IMF, World Bank and bilateral donors have been appropriating net transfers from the developing countries.

The net transfer is the difference between capital inflows in the form of new loans and out flows of debt service due on previous borrowing. Debt-service is composed of interest repayment of principal. When debt service exceeds new borrowing, net transfers are negative, resulting in a cash flow from debtor to creditor countries. In this way, the negative net transfer to the industrialised world is Rs. 55,000 crore (\$ 227 billion) since the 1983. The transfer of real resources from debtor to creditor countries have been effected by painful adjustment with IMF structural adjustment programmes. However, the stock of debt is increasing.

The Politics of Uruguay Round

Not long after the Tokyo Round concluded, call for launching another round of GATT negotiations had begun to be made by the industrial countries, particularly the US. As a result of their sustained efforts, the Uruguay Round was launched on September 20, 1986 at Punta del Este in Uruguay.

Towards Recolonisation

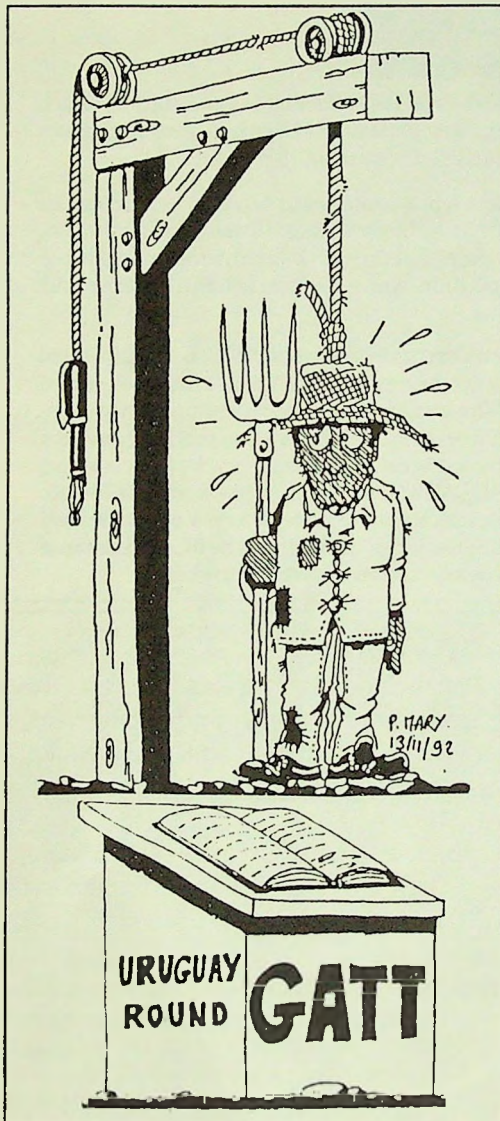
The Uruguay Round has been the most controversial of all the rounds. The negotiations have dragged on for more than six years. The aim of this Round distinguishes it from all the previous rounds which were generally aimed at promotion and regulation of trade in goods across the borders of countries. The developed countries have forced an agenda, on initially

reluctant developing countries, which covers wide-ranging issues, going far beyond trade in goods. Aimed in this Round are the domestic socio-economic policies of countries, on the specious plea that these distort trade.

In effect, the agenda of the Eighth Round is only a part of the globalisation and a new world order that the developed countries are promoting. The real actors, on whose behalf, this is being done are the TNCs, whose global expansion can only take place by limiting the sovereignty of nations. The Uruguay Round aims at a comprehensive opening up of the global markets for the benefit of TNCs. The removal of all restrictions in developing countries is being demanded which hitherto enabled them to pursue a path of self-reliant development in various sectors of their economy. The inter-

TNCs and the Uruguay Round

The powerful corporations located in the developed countries particularly in the US, lobbied intensively first for the launch of the Uruguay Round and then for ensuring the protection of their interests in all the areas of negotiations. All through the protracted negotiations, they have been able to dictate priorities to their governments. In the US, even before the launch of the Uruguay Round, financial and agrochemical companies and their associations had taken the lead in forming the Multilateral Trade Negotiations Coalition—an alliance of over 200 companies led by American Express, Citibank and IBM to lobby the Government in taking appropriate stands. Leading corporations were invited to chair a series of panels set by President Reagan to advise him on the negotiations. European TNCs have, by and large, backed the MTN Coalition and its demand. Citibank and American Express have been in the forefront as far as the US negotiating stance on financial services is concerned. The Intellectual Property Coalition, whose members include agro-chemical giants like Pfizer, Monsanto and Du Pont have been aggressively pressing the US Administration into demanding a GATT-based global patenting system enforceable in developing countries. In agriculture, Cargill Corporation, the world's largest grain trader had assumed responsibility for preparing the United States negotiating papers—the twin objective of their stand has been to reduce food import restrictions in the developed and developing countries and phasing out market-based price support. Thus the agenda of the Uruguay Round is in fact the agenda of the TNCs which has been imposed on the developing countries.



Courtesy : P. Mary / BIJA

est of leading industrial countries, particularly, the US and their TNCs, in the Uruguay Round has been intensified because of increasing competitive pressures on the World economy. Large-scale trade deficits of the US throughout the 80s, emergence of competitive strength of Japanese TNCs, rise of the newly industrialised countries (Korea, Singapore, Hong Kong, Taiwan), threat to the US agriculture from EC, possibilities of full economic integration of Europe, rapid technological advances in the field of macro-electronics and computer technology and emergence of biotechnology have been some of the forces leading to a scramble for shares in shrinking global markets.

It is in the above context, that the agenda of the Uruguay Round, largely the agenda of the developed countries, seeks to extend the area under GATT regulation and to restructure GATT by investing it with sweeping powers to enforce compliance with new rules. Under attack, is the 'Special and Differential' treatment principle of GATT which allowed developing countries to impose controls on imports in keeping with the developmental needs of their economies. The Uruguay Round, if concluded, in the way developed countries desire, would create an even more unequal world economic order than the one exists today.

New Themes

Traditionally, GATT dealt largely with trade in manufactured goods. The attempt in the Uruguay Round is to bring under GATT, trade in services and agriculture and seek removal of all existing barriers to investment and stronger protection from the laws of the Third World countries to help the TNCs tighten their grip over technology. The agenda is geared towards securing unrestricted freedom for the TNCs, not just in manufacturing and agriculture, but also in sectors like banking, transport, telecommunications. Eighty percent of American exports are generated by American TNCs alone. While the US had an overriding interest in seeing removal of subsidies in agriculture,

The Power of the TNCs

- Seventy percent of world trade is now controlled by just 500 corporations, which also control 80 percent of foreign investment and 30 percent of world GDP.
- Shell Oil's 1990 gross income (\$132 billion) was more than the total GNP of Tanzania, Ethiopia, Nepal, Bangladesh, Zaire, Uganda, Nigeria, Kenya and Pakistan combined. Five hundred million people inhabit these countries, nearly a tenth of the world's population.
- Cargill, the Canadian grain giant, alone controls 60 percent of the world trade in cereals. Its turnover in 1990 was the same as Pakistan's Gross National Product.
- Just 13 corporations supply 80 percent of all automobiles: five of them (General Motors, Ford, Toyota, Nissan and Peugeot) sell half of all the vehicles manufactured each year.
- US corporations spend more than one billion dollars yearly on advertising. The average US citizen views 21,000 television commercials every year.

the industrial countries in general are attaching special importance to the new themes of trade in services, investment and intellectual property rights.

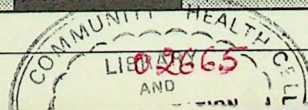
While including the new themes on the agenda the developed countries' arguments completely ignored the realities of the world trading system which is heavily set against the developing countries.

i. Trade In Service

In the world of trade, services are among the fastest growing sector—a quarter of world trade flows, is now accounted for by services such as banking, insurance and telecommunication. The export of services has become increasingly significant for the rich countries where the service sector accounts, on an average, for over half of national incomes—70 percent in the case of the US, which is the world's largest service exporter. The 90 billion dollars that trade in services generates partially offsets its trade deficit in goods. Naturally then, TNCs like the American Express and Citibank have a major stake in expanding world trade in services. In this, the various investment regulations in the developing countries, are seen as causing distortions in free trade. Service companies, therefore, pressed their governments to call for removal of all existing curbs so that foreign firms have a 'right of establishment' in other countries and are treated at par with the local firms.

Not only that, their home countries should intervene on their behalf, if their interests are perceived violated in the host country, by retaliating against the companies of the offending country. The violating country could also face what is known as 'cross retaliation' i.e. the offended country can retaliate not only against service firms of the offending country but also against its companies involved in goods trade.

Such demands, if accepted, would empower GATT to sanction measures which would allow developed countries to hit the interests of developing



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countries where it would hurt them most—either in tropical products or in selected manufactured goods where they have gained competitive strength.

ii. Trade Related Investment Measures

Most developing countries impose certain conditions on foreign investors referred to as 'investment measures'. These impose obligations like use of specified percentage of locally produced raw material or components, local equity requirements, export performance and control on imports requiring foreign investors to use domestic supplies. Eg. in India, over 90 percent of collaboration agreements involving foreign investment are subject to such measures. The main idea behind these measures is to regulate the operations of foreign investors and to protect local industries from unfair competition, to safeguard coun-

tries balance of payments condition and to curb unethical TNC practices like transfer pricing. Developed countries argued that these measures are not less than protective tariffs as they deny market access to a service industry wanting to invest in another country and should therefore be removed.

iii. Trade Related Intellectual Property Rights

The Uruguay Round negotiations on intellectual property are concerned with securing more protection for the TNCs. The US based Intellectual Property Coalition—a grouping of 13 major companies, persuaded their governments to press for intellectual property protection to be brought under GATT rules with the threat of trade sanctions for strengthening patent protection.

"Intellectual Property" refers to an invention of

a design, technology or a product by a person or a corporation and 'right' means recognition that the investor be rewarded by granting it the exclusive right to use it or earn royalties by renting its use to others. Various rights awarded include—patents, copyright or trademarks. Presently, countries have framed their own laws concerning IPRs in keeping with their own national interests. While laws in developing countries are geared towards granting limited rights to the inventor or investor, most developed countries laws today confer exclusive rights for longer time frames giving them market monopoly. Developed countries argued that laws governing patents in the developing countries did not adequately protect the investors interest, thus served as disincentive to research and innovation. They maintained that inadequate protection of IPRs of investors had resulted in huge losses (US claims a loss of \$ 60 billion annually) to the firms of developed countries because of piracy and trade in counterfeit goods. The laws should therefore be suitably modified to remedy the distortions in trade.

It is well-known that the sole aim of TNCs in registering patents in Third World is not to transfer technology but to prevent local firms/individuals from adapting or inventing new technology. The purpose is to capture the Third World markets for products manufactured elsewhere and therefore, they are seeking longer time frame and removal of legal obligations like using the patent in the country granting patent.

iv. Agriculture

By and large, agriculture was outside the GATT regulated trading system, except for trade in tropical products. It had been brought onto the agenda, not because of the serious problems in agriculture caused by the aggressive agricultural policies pursued by the US and its rival, the EC countries. Dumping of surplus agricultural grains onto the international markets at prices many times below the cost of production have



Courtesy: Suresh Sawant / Patent Folly

spelled ruin for a large number of small farmers in third world countries. Once again, the agri-business firms have their eyes on the third world markets and in a bid to capture largest shares for themselves the US had been resorting to price cutting in the export markets. And now the US finds payment of subsidies by EC for agricultural exports as trade distorting, arguing for inclusion of agriculture within the purview of GATT by phasing out of all subsidies. The EC while agreeing to the US at broader level, did not agree on the modalities and extent of reduction of subsidies. It is this difference among the US & the EC over the issue of subsidies which had been at the centre stage of the negotiations for five years. While the two trading giants were busy sorting out differences, they were both agreed that developing countries should also phase out all subsidies ignoring completely the difference in the subsidies for exports of the surpluses in developed countries and subsidies paid to ensure food security for the people in the Third World countries.

The most striking feature of the Uruguay Round Agenda is the interconnectedness of the new themes. All the new themes converge in their common concern to help the TNCs expand their present operations and protect their interests in Third World countries. While TRIMs would allow TNCs to operate without any controls imposed by the host countries, TRIPs would tighten their existing control on technology through a rigid patentee-biased IPR regime holding the technology diffusion for longer time. Entry into services sector would allow them access to most critical and sensitive sectors of economies and liberalised agriculture would assure huge markets for expansion of agriculture corporations who already dominate world agriculture trade scene.

Position of Developing Countries

At the very outset the developing countries op-

Trade Liberalisation : Who Pays ?

What would be the effect of trade liberalisation in the west on developing countries like India ? According to a study, by the year 2000 there would be 5.6 percent more hungry people in India than would be the case if the current trade policies were continued and no liberalisation takes place. There would be a reduction in the amount of calories and proteins available per capita and reduction of 26.2 percent in the human consumption of agricultural produce. For the developing countries, as a whole, increase in the number of hungry people will be 3.6 percent with disastrous prediction for African nations, some of whom are already in the grip of chronic hunger and malnutrition.

Falling Economic and Welfare Standards

(In percentage)

Indicator	1990	2000
1. GDP	0.2	0.1
2. GDP Agriculture	0.1	0.1
3. Human consumption of agricultural products	+0	-26.2
4. Net Calories produced	0.2	0.7
5. Calories/Capita	-0.7	-0.9
6. Protein/Capita	-0.8	-1.0
7. Number of Hungry	3.1	5.6

Source : Frolberg et al (1990)

posed the idea of a new round and insisted that GATT should concentrate on the unfinished commitments undertaken at Tokyo round. When the Uruguay Round was launched they resisted the inclusion of new themes, particularly, IPR as being outside the purview of GATT. Countries like India and Brazil played a particularly key role in leading such opposition. But gradually this resistance against the efforts to impose an agenda extremely hostile to the interests of developing countries became weakened. It must be remembered that when the Uruguay Round was launched more than half the developing countries had already gone in for loans from IMF and the World Bank and were deep in debt. The collapse of the Soviet Union, and ineffectiveness of the forums of developing countries weakened their negotiating position. With India coming under the net of IMF-World Bank, it became easier for the developed countries to have their way. The unity of the countries of the Third World also broke because of bilateral pressures especially from the US under Super and Special 301, which it continued to use all along. For instance, when negotiations were on in Brussels (December 1990), India was on Super 301 for not opening its economy to US firms in the area of insurance. This was enough to blunt the stand taken by the Indian representative during the negotiations.

Today, the Third World countries stand disunited for want of an effective leadership. And yet the need for developing countries to put up a common front to resist imposition of a highly unequal world order is greatest now than ever. It is unfortunate that while US and the EC withheld the negotiations for one full year, there was hardly any attempt by the developing countries to come together on issues of common concern. Unfortunately, Indian Government, of late, have adopted a defeatist attitude and have been busy in an exercise to convince the nation that the package offered by Dunkel is the best that the country could hope for.

Status of Uruguay Round

It was earlier envisaged that this round would be concluded by the end of 1990. The rich nations club, as GATT is, negotiations remained stalled primarily because of the differences among the US and EC on the issue of farm subsidy reduction. When till the end of 1991 no agreement seemed to be in sight on important issues, Arthur Dunkel, GATT Director General, presented a Draft Final Act with the sole aim of bringing the Uruguay round to 'successful' conclusion. He offered the draft as a single package on a "take it or leave it" basis leaving little room for countries to disagree in any substantive ways. The Draft did not reflect the spirit of the negotiations, completely ignoring the views of developing countries. It was in effect, only a compromise position among developed countries. The compromise proposals on removal of farm subsidies were still a bone of contention between the EC and the US who managed to keep the negotiations suspended for the whole of 1992. It was only in November 1992 that they struck a deal and were

India and the Uruguay Round

India was in the forefront of leading the third world to oppose the attempts by the developed countries to seek sweeping concessions entailing irreversible changes in domestic laws and policies. But its silence at the 1989 Geneva meeting on the question of inclusion of IPR norms as part of the negotiations marked the starting point of the great surrender to the demands of the developed countries. This also was seen as a betrayal of the faith that developing countries had been placing in India's ability to lead. Since then the country's leadership, supported by vested interests in industry, trade organisations and bureaucracy has been moving in the direction of accepting the Dunkel proposals in the 'national interest.' If it has gone slow, it is because of the strength of popular opinion against the Dunkel proposals. The expert groups and networks opposing the proposals feel that the government is not serious about dealing with the concerns being raised. "If it were indeed serious, it would not have allowed four Parliament sessions to have gone without the controversial draft being debated. If the government was serious about seeking the opinion of all political parties on the draft why has it waited for a year losing valuable negotiating time. The Government has been making bland assertions that the proposals will not affect us adversely but it not ready for a debate?" The paper for discussion prepared by the Commerce Ministry on the basis of which it was hoping to initiate a debate, itself came in for sharp criticism. While appearing to answer some popular concerns, the paper took recourse to half truths, distortions and omitted vital facts about the draft and the negotiations. A paper which conceals more than it reveals cannot be the starting point for a debate. The expert groups which have made a thorough examination of the proposals clearly establish how these will mean subversion of India's laws and its Parliament to multilateral discipline. Should the people of India allow themselves to be misled by their leaders, and should the state governments see open infringement of their policy making prerogative in subjects such as agriculture?



"Right through, developing countries were marginalised as participants. In the green room consultations on TRIPS, only after protest, Egypt was allowed to join on behalf of the African world"

ready to resume the negotiations. The negotiations are likely to resume in February, but with France, particularly the French farmers opposed to the US-EC deal, the tough positions being taken by the new US Administration toward trade with EC and Japan, and a host of other unsettled issues, the fate of Uruguay round remains uncertain. ■

"Patents are a paradise for parasites"

J Geigy-Merian, Geigy Firms (later Ciba Geigy) in 1883.

"It is Ciba Geigy's position that legal protection of intellectual property serves the public interest by stimulating continuing investment in technological innovation."

John H Ducsing, Ciba-Geigy in 1989.

IMF-WB - GATT : THE UNHOLY TRINITY

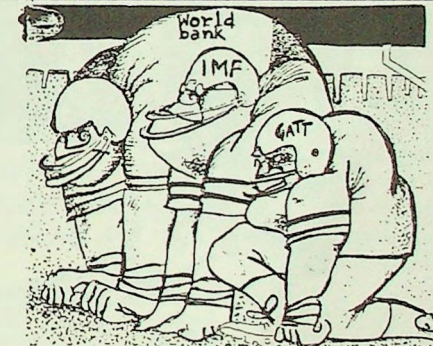
Why are developed countries so eager to see the successful conclusion of the Uruguay Round ? It can be argued that many of the proposals being put forth by them through the GATT are so similar to the reforms being imposed on Third World economies as part of the structural adjustment programme of the Bank-IMF. An important thrust of the standard package of structural reforms is liberalisation and opening up of the borrowing countries economies. 'Free trade' with emphasis on export - led growth constitutes a key strategy in the economic recovery being sought through the reforms. Now if the developing countries can be made to give concessions to foreign investors via the WB-IMF route why should then there be so much concern for pushing similar changes through GATT ? The reasons are strategic and not far to seek and linkages are clear. Trade in the present world scenario constitutes an important aspect of the economies of the countries, especially so for a number of developing countries which are precariously dependent on foreign markets for earning precious foreign exchange with which to import necessities like food and other goods. Thus it is a reality no country, particularly developing countries, can ignore even if the terms of trade are against them. And while it may still be possible for countries to avoid influence of WB-IMF by deciding not to go in for loans, a trading system backed by retaliation provisions can compel countries into submission irrespective of who heads the government. The effect of the agreements countries would enter into under the Uruguay Round would be much more final and irreversible than a decision to implement structural adjustment programme. Together, the World Bank-IMF-GATT trinity is facilitating the recolonisation of Third World through a new conquest of their markets. This takeover of Third World markets for the benefit of TNCs would take the process of Third World subjugation in a Transnational World Order closer towards completion.

Standard Menu

IMF-WB	GATT
Reduction of budgetary subsidies	Reduction of subsidies
Removal of subsidies for agricultural inputs	Reduction of support for domestic agriculture
Removal of food subsidies	Removal of PDS
Pursuance of 'liberal' economic policies by developing countries	Pursuance of 'free trade' by developing countries
Promotion of foreign investment	Removal of restrictions on TNCs
Import liberalisation	Removal of barriers on imports
Privatisation of utilities	Removal of restrictions on the entry of TNCs in utilities
Privatisation of the banking sector	Lifting restrictions on entry of foreign investors in services including banking

The US, GATT and Agriculture

Agriculture was brought on to the GATT agenda because the US suddenly found itself in competition with the EEC countries in the international agricultural trade. As long as the US controlled a very large proportion of the market, agriculture was kept out of GATT. The moment it realised that its supremacy was threatened, it started demanding that a set of rules should be evolved under GATT to protect its interests.



"We have to establish some common rules"

Dunkel Draft and the Developing Countries

The controversial draft agreement was tabled by Arthur Dunkel, Director General of GATT on December 20, 1991. Negotiations based on the Dunkel Draft Text (DDT) extended upto mid-April in 1992 with the hope of arriving at a compromise, so that the new multilateral trade regime could become effective

from 1st January, 1993. However, the negotiations broke, once again, for the inability of the developed countries to settle their differences.

The 436 page text, largely takes care of the economic interests of the developed countries, while neglecting completely the interests of the developing

countries.

The Dunkel proposals divide the Third World countries by distinguishing between "least developed" and "developing countries" with the purpose of rendering ineffective, the application of the provision for Special and Differential Treatment which was till now available to developing countries.

These provisions, especially XVIII B, had allowed developing countries to use quota restrictions and other measures to contain BOP problems.

The draft text goes far beyond the original mandate agreed at Punta del Este, and makes inroads into the domestic policies. And this is evident from the rules sought to be framed in the new areas that have come under the purview of GATT-agriculture, TRIPs, TRIMS, and Textiles.

On Agriculture

The draft text on Agriculture sets out elaborate rules for managing domestic agriculture. The conditions under which agriculture can be supported have been laid out in strict terms.

Direct Price support, according to the Dunkel Draft, cannot be provided to producers, in other words subsidies to agricultural producers cannot be given.

As part of this, the norms for government intervention in agriculture have been laid down, with equal rigidity. Governments cannot intervene in the market by way of providing subsidies to the consumers as is normally done in countries like India.

Providing food aid to certain sections of the population has been permitted subject to "clearly defined criteria related to nutritional objectives". An added condition laid down in the text, in this regard, is that "financing and administration of the aid shall be



Courtesy: Sekhar Gurera / The Poiner

transparent". This means that the respective governments would remain under scrutiny of the world trading system, even while deciding the sections of the population they consider eligible for coverage under the "safety net" of food aid.

While allowing governments to provide support for public stock holding for food security purposes, the acquiring and disposal of the commodities can be done only at the ruling market prices.

The only freedom that governments have been allowed under the proposed rules is in providing support facilities like infrastructure, environmental checks and marketing assistance which are strictly in the nature of advisory service.

The draft allows some kind of domestic support which can easily be used by the developed countries to continue to support their agriculture. Included here, are provisions for regional assistance (assistance for backward areas). Thus in the UK, since 1986, 52.5 percent of the agricultural land has been designated as less favoured area to become eligible for government support. These support systems will allow farmers to continue to export below cost of production and hence distort trade.

Dunkel Draft does not protect the developing countries from such subsidised imports since Article 7.3 states that these subsidies shall be considered non-actionable for purposes of counter-veiling measures.

The negotiations leave the MNCs untouched even though it is they who have been largely responsible for trade distorting practices. Cargill Inc. which has 25 percent share of world grain trade was a target of investigations in various countries, including the US, for trade malpractices. Today, MNCs like Cargill are using Dunkel Draft on agriculture to restructure the world agricultural market according to their needs.

It is being argued that liberalised agricultural trade could also benefit countries like India though these have not been exporting on a sustained basis. Even if developing countries are able to generate exportable surplus, it does not imply that markets for these prod-

Patents were originally meant for promoting diffusion of technological innovations having potential for industrial application. Plant and living organisms were never meant to be covered by such protection. The MNCs want the strongest monopolies for their products and technology with world-wide application.

The extension of the concept of ownership of property to agriculture represents a potent tool in their hands to extract profits in perpetuity from farmer, without actually controlling the land. MNCs are suppliers of key agricultural inputs in a number of countries and of all these the most critical input is the seed. With the advent of biotechnology plant breeding activity for production of high yielding hybrid seeds

Patents and Agriculture

holds out great promises for MNCs.

It is no accident that the recent years have seen the largest number of take-overs of smaller bio-tech firms by multinationals. While 30 pesticides manufacturers existed in the mid, 1970s in the US, only 10 exist now, controlling three quarters of global markets. A large number of chemical and pharmaceutical companies are now going into the seeds business. Once that is in their control, the markets for their other products—fertilisers, pesticides will be guaranteed. A number of them are engaged in or supporting research for development of hybrid seeds which respond to their specific brand of the chemical. Ciba-Geigy has already developed a seed which is resistant to its chemicals.



Courtesy : Suresh Sawant / Patent Pally

Unbridled Piracy

The demand to extend the scope of IPR to all living matter is backed by agri-business corporations. Under the new IPR regime entire species of crops, animals (their seeds and offspring) can be patented as private property of companies. Thus royalty payments on cloned varieties of commercial crops like palm oil, cotton, rubber, exported by developing countries, will be increased. Coupled with removal of export subsidies, the strength of these countries as exporters will be further eroded. These demands represent nothing but an unbridled piracy as overwhelming bulk of genetic resources used in the labs of developed countries firms are derived from plants and crops in the Third World.

Genes from Ethiopian Sorghum, African cowpea and Bolivian potatoes have been transplanted to improve crop resistance to disease in the developed countries. Because these resources have never been subjected to IPR rights in developing countries, companies have been gaining access to them free of charge. Once incorporated into a patentable invention they become the property of the company which can claim royalty payments and restrict access to them even when these are imported to countries of their origin. In contrast, the farmers who selected and evolved the crops over generations of hardwork and intelligence will not be compensated for or entitled to royalties. Leaving aside the ethical, moral and cultural considerations, the technical basis of extending IPR to plants and other life forms is very weak. For example, the genetic material is not invented in the manner required for patenting. Moreover, these discoveries do not belong to any one single scientist or country. Can these then be removed from public domain to be owned as private property?

ucts would automatically be found, especially in the developed countries. This is because the Dunkel Draft indicates that 'sanitary and phyto-sanitary standards' would have to be improved. These standards relate to the use of toxins and other agro-chemicals which are seen to affect human and animal health. In the past, developed countries have raised the issue of sanitary and phyto-sanitary standards while rejecting exports of primary commodities from several developing countries. Their main contention being that developing countries do not use the right proportion of pesticides and other agro-chemicals thus creating health hazards. These standards, as proposed in the Dunkel Draft, can be used as important non-tariff barriers against exports of developing countries. While there would be real constraints for developing countries to find market for their exports, they would be compelled to open their markets to imports, if the Dunkel proposals are accepted in their present form. The proposals provide for a minimum access opportunity for imports by every country. For developing countries the minimum market access would have to be 2 percent of the total consumption in the first year of implementation of the proposals and would have to go upto 3.33 percent in ten years. In countries like India where the consumption is large, the extent of imports would be correspondingly large. Apart from the financial implications of spending precious foreign exchange, the compulsory imports would be inimical to the objective of achieving self-reliance in food and would, therefore, have serious food security implications for developing countries. For many countries, dependence on food imports, does not bring happy memories and it is with this concern that Dunkel proposals in agriculture must be viewed.

On Intellectual Property Rights

The major problem in case of the agreement on TRIPs arises in the area of patent rights. Patents are generally considered as an intrinsic part of the process

of generation of technology. It has been argued that an innovator undertakes risk in carrying out advances in technology which benefit the society at large. To ensure that he gets some return from the investment he has made, the society must assure him a certain period of exclusive rights over the market for the product he has developed. These exclusive rights were provided by the patent system. A temporary monopoly was thus assured by the patent system and the period for which this monopoly was valid was decided by individual countries.

The patent system, by providing incentive to the innovator in the form of monopoly control over the market, encouraged the innovator to disclose his innovation. It has been argued that in the absence of patent system the innovator may like to keep his innovation as a trade secret and the advance made by him may ultimately die with him. The patent system, thus, provides a mechanism through which any advance made by an individual in technology gets into the pool of knowledge for society to use for all times to come.

But along with the rights conferred on the patentees, the patent system also imposed some obligations on them. The most important of which was that the patent had to be used for commercial production in any country granting the patentee the rights.

Historically, there has been an attempt to balance the rights and the obligations of the patentee. This balance has been substantially removed in the Dunkel proposals. While the rights of the patentees have been increased, their obligations have been watered down.

The rights have been increased in a number of ways. The first, is an increase in the coverage of areas under the patent system. In the past, no country was compulsorily required to give a patent or a patent-like protection for advances made in agriculture. Countries were free to decide if they wanted to cover agriculture by the patent system. This freedom has been taken away by the Dunkel proposals. The beneficiaries of this change in the patent system would be the large

companies in the developed countries which have a substantial hold over the global agri-business. But as many analysts have argued, most of the agriculture in developed countries has, in essence, evolved with the help of the plant genetic resources from the developing countries which, in turn, have been maintained by the farmers in the latter over the millennium. Based on the genetic resources of the developing countries, thus, the developed countries have been able to develop the new varieties of plants. In the present situation, however, the developing countries would have to pay a heavy price for buying any technology from the West if patent protection is extended to plant varieties.

The duration of patent right is sought to be increased to 20 years. This period of grant is more than that existing in any country. As stated above, a patent grant was intended to be a temporary monopoly for the patentee. In other words, a patentee was allowed to enjoy the monopoly over a part of the entire useful life of the product. In recent decades, the useful life of a product has decreased steadily. The rate of technological obsolescence has gone up and newer products have been introduced in the market with greater rapidity. Under such circumstances the term of patent should have been shorter in order that the principle of "temporary monopoly" was adhered to. Instead, by extending the period of grant, Dunkel proposals have aimed at providing absolute monopoly rights through the patent system. The obligations on the patentee have been made less stringent by making the conditions under which a patentee was required to use his patent for commercial use in the country granting him the rights, more favorable to the patentee.

The provisions in the Dunkel draft do not make it absolutely binding on the patentee to use the patent in the countries of patent grant. In fact, a suggestion has been made that instead of setting up production facilities, the patentee should be allowed to import the product in the countries granting him patent and this should be treated at par with his obligations to use the patent for production in the country of grant.

The implications of enhancing the rights of the patentee and minimising the obligations should be viewed in the light of the fact that an overwhelming majority of the patentees belong to the developed countries, while developing countries are only countries that grant patent protection to these patentees. Given this fact, strengthening of the rights of patentee implies that developing countries access to technology covered by the patent would become more difficult. These countries were dependent on the developed countries for access to modern technology for their industrialisation, but with such proposals as Mr. Dunkel has laid out, the process of industrialisation of developing countries may be truncated.

On Foreign Investment

Domestic control over foreign investment was regarded as one of the imperatives of the development process in developing countries. The development priorities each country had set for itself, was considered as the bench-mark for foreign investment to operate in these countries. Such channelisation of investment was considered essential because the sole aim was to ensure that investment was put to the best possible use. Further, in view of the low foreign exchange earning capacity of the developing countries it was generally accepted that foreign capital should be utilised to enhance their export earnings. For this, a two-pronged strategy was adopted. While export targets were set for the foreign companies on the one hand, progressive decrease in the use of imported raw materials was insisted, on the other.

From the point of view of protecting their domestic interests, control over foreign investment was, therefore, essential. These policies would, however, not be possible to follow, if the Dunkel proposals on TRIMS are accepted. The proposals presented by the GATT Director General insist on total freedom to be given to foreign capital.

Limiting the extent to which Governments, par-

ticularly in the developing world, can control foreign capital and use them for furthering their development needs has been the main objective of TRIMS on which Dunkel has proposed a very broad-based framework. Particular emphasis is laid in the draft on the removal of all restrictions that the developing country Governments were imposing in the past on foreign capital to prevent them from importing excessively even under situations where domestic suppliers were available. The right of the Government to prevent deterioration of balance of payments position through avoidable imports would, thus, cease to exist when the new GATT rules come into operation. Governments would not be allowed to monitor the activities of foreign companies in any manner. Investment decisions by foreign companies would thus depend on their commercial interests, the development priori-

Farmers Against Free Trade

Sweeping changes being attempted through GATT have met with widespread opposition especially from the farmers worldwide. The Asian women peasants; Korean farmers; cultivators in Japan; French farmers, and American people's networks feel alarmed at the designs to take away control of all agricultural inputs—land, seeds, etc.—from the hands of small farmers by the powerful agribusiness firms. Collectively they are voicing their concern over the attempts to control agriculture and the lives of those dependent on it, by the corporate interests through seeds. In Korea farmers have launched an anti-GATT campaign to resist further opening of Korean markets to rice imports. They feel Korea have already given enough space to imports and will not allow any further liberalisation.

ties of developing countries in which these companies may invest would become a secondary consideration.

On Textiles

The area of textiles was left out of the GATT framework till the Uruguay Round. The GATT rules of free trade were not made applicable to this sector in which the developing countries had a large trading interest. The exclusion of textiles was brought about as the developed countries were keen to protect their domestic textile industries, and towards safeguarding their interests they adopted a framework by which quota restrictions were imposed on developing countries exports. Devised as a purely temporary arrangement in 1961 under the Short-Term Arrangement (STA), the quota regime was extended by a decade in 1964 under the Long-Term Arrangement (LTA). In 1974, a further lease was given to this system under the Multi-Fibre Arrangement (MFA). Despite demands made by the developing countries to integrate textiles in the GATT framework of free trade, MFA was continued through the eighties.

The Uruguay Round negotiating mandate had suggested ending the restrictions on textile trade and bring about the final integration of textiles into GATT. The negotiations, however, indicated that the developed countries were not keen to open up their markets for imports of textiles. MFA, whose latest term had expired in 1991, was given a fresh lease as a result of the pressures brought about by the developed countries.

Progress towards integration of textiles in the GATT would not be easy as the Dunkel draft suggests. A three-phase framework of integration has been suggested by the GATT Director-General spanning ten years from the date of entry of the Uruguay Round agreement. In the first phase i.e., the first three years after the coming into force of the Dunkel proposals, 16 percent of the products would have to be integrated. In the second phase, in the following four years, another

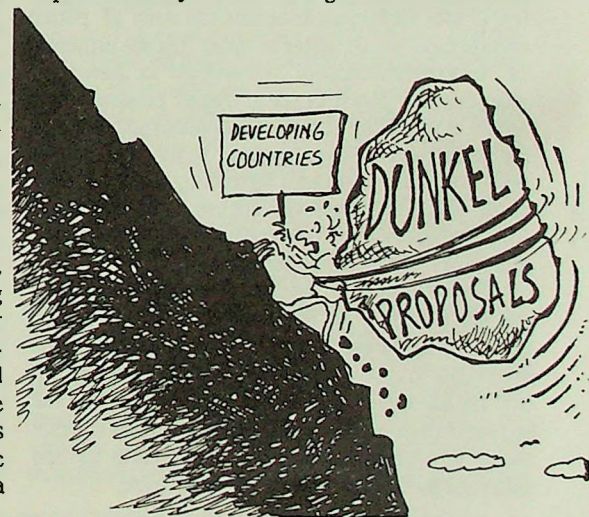
17 percent would have to be integrated. In the next two years, a further 18 percent of textiles would be freed from import controls. On 1st January of the tenth year of implementation the remaining 49 percent of the products of the textile industry would be finally integrated, according to the Dunkel time-schedule.

There are, however, several clauses to this integration time-schedule suggested by Dunkel which would not allow the integration to take place in the manner stated in the first instance. The more important of these is the proposed increase of growth rates of quota restrictions as they exist at present. In the first phase, the Dunkel draft states, restrictions on imports are to be increased by 16 percent. This implies that while the integration process would reduce the barriers on imports by 16 percent, the restrictions would increase by a like amount. Thus, given the increase in restrictions, instead of a 16 percent liberalisation, the effective opening up of textile trade would be less than 3 percent. Like-wise, in the second phase, the growth of restrictions would increase by 25 percent. This implies that by the end of second phase just more than 26 percent of textiles can be freely traded. In the third phase, restriction would be up by 27 percent, and this would result in integration of about 34 percent of the textile trade. The slow pace and the end-loaded manner of integration is, therefore, a critical factor to be taken into consideration from the developing countries point of view.

Reversal of Development Path

The Dunkel proposals, if accepted would thus, affect the development objectives of the developing countries in a fundamental manner. In the earlier decades the major item on the agenda in all international fora was to evolve mechanisms for a rapid development of all the poorer nations of the world. The United Nations had adopted the 1960s and the 1970s as the development decades with the same basic objective. Sectorial initiatives were taken by a

number of international organisations. The UNCTAD had, since its inception towards the mid 1960s, tried to devise means to help developing countries get access to modern technology at reasonable terms. As an adjunct to this, the UNCTAD focused its attention on the mechanisms of technology transfer, particularly the role of Multinational Corporations, in the process. A draft code of conduct for technology transfer was developed by the UNCTAD in order to ensure that the developing countries did not face exploitation in the global market place. This code has remained unratified and developing countries face an ever deteriorating inequity in the global system. At a time when the initiative should have been to find ways to alleviate the problems of the developing countries, Mr. Arthur Dunkel, has proposed a new set of rules such that GATT may now impose policies which would make the developing countries incapable of pursuing their larger development objectives. Fundamental changes in the economic management can thus be expected after the Uruguay Round agreement is reached. As nations become subordinated to the GATT order the implications may be far reaching. ■



Growing Opposition to the Dunkel Proposals

Opposition to the Dunkel proposals in India has come from economists, lawyers, scientists, activists, journalists, parliamentarians and now the farmers. The National Working Group on Patent Laws was set up in August 1988 in the wake of the intense pressure on India to change its patent laws. The Working Group through studies, seminars, meetings with Parliamentarians has generated a lot of public awareness of the issues in GATT and created an informed opinion against the Dunkel proposals. In early 1992 came the Gene Campaign, a network of individuals and organisations, launched to protect the Third World's genetic resources. The Gene Campaign organised actions to protest government's weak negotiating position on Dunkel proposals. In a short span the Campaign's efforts gave further visibility to the adverse implications of extending patents to life forms.

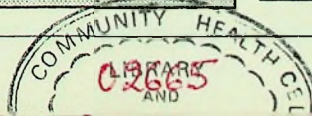
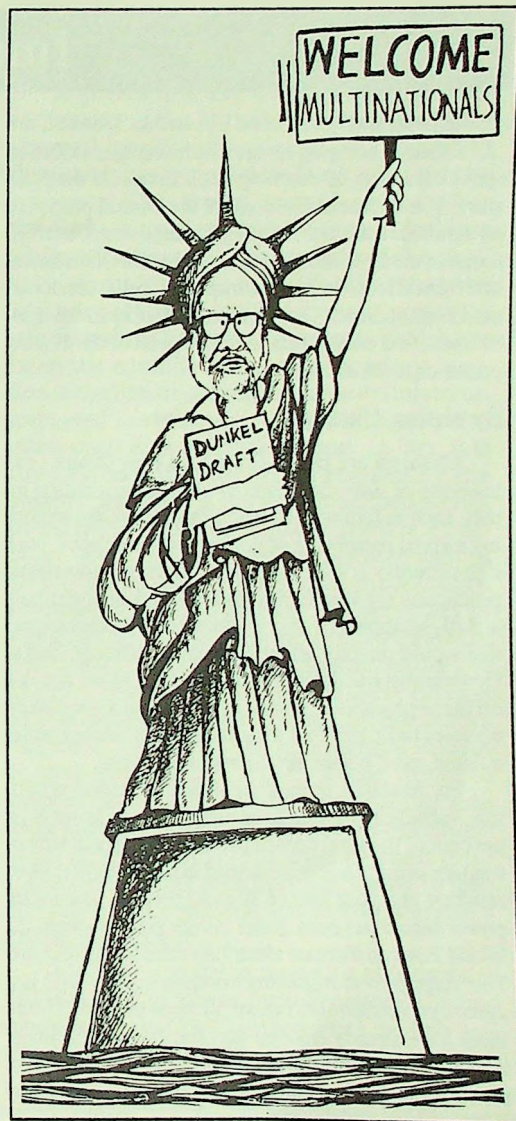
The growing opposition in India has also drawn attention to the vulnerability of Indian Constitutional Structure from the possibility of Indian Government deciding to sign Dunkel proposals. The proposals touch almost every aspect of the economy from agriculture, to medicines, issue of agricultural subsidies, industry and all of these are state subjects, which would come under international discipline. Can the Union Government or for that matter the Union legislature assume all the powers to totally disempower the state legislature in areas of their jurisdiction? In one stroke the federal structure of the Indian Constitution would collapse, these are the kind of concerns being voiced in different quarters.

The most recent effort has been the 'Seeds Satyagraha' launched by the farmers of Karnataka Rajya Raita Sangha when they served quit notices to 11 multinationals in Karnataka warning them to keep their hands off Indian agriculture. The farmers from all over the country are joining in the movement. The resistance from these and several other concerned individuals and groups has made its impact. But for such public pressure, Government would have long given in on the Dunkel Proposals. In fact, within a fortnight of receiving the Dunkel Proposals it is understood that the Ministry of Commerce was then preparing the Government to accept the package.

Together the mounting opposition has led to an increased awareness of the sinister designs being fabricated at little-known forums like GATT. Efforts are being made to closely monitor the developments so that vital interests of the people are not sacrificed.

In Defence of Sovereignty

In September 1991, more than 250 Members of Parliament besides many eminent citizens issued a joint statement urging the Government to resist foreign (US) pressures on India to amend its patent laws. The statement voiced the concerns of Parliamentarians across all political parties. They warned that not only our self-reliance and competitiveness was at stake, but also our parliamentary and democratic institutions. "If the GATT framework dictated by the US was adopted, foreign monopolies through MNCs would get entrenched in the country both in production and trading....." The MPs sought a full scale debate in Parliament to arrive at a comprehensive and unambiguous approach to the issues.



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Impact on Indian Agriculture

The proposals presented by Arthur Dunkel, are aimed at bringing about major changes in Indian agriculture, with far-reaching implications for the peasantry. The declared objectives of the Dunkel proposals on agriculture are to free the agricultural sector from all forms of controls and interventions by the Government and from all restrictions on imports, so that the dominant Multinational Corporations (MNCs) in the agribusiness find easy access to the markets of developing countries, such as India.

Sweeping Changes

Changes are being sought on four fronts : (a) lowering of subsidies given to various agricultural inputs, such as fertiliser, electricity and water, (b) importing a given percentage of domestic consumption, even if the country is able to meet its needs from domestic production (c) introducing patent rights in agriculture and (d) scrapping of priority sector credit programmes that would directly affect agriculture. Though Indian Government has declared that it has not as yet decided on these proposals, a look at the recent agricultural policies indicates that they are already being implemented, even before any formal acceptance.

For example, in keeping with the Dunkel proposals, subsidies to agricultural inputs were reduced to 10 percent of the total cost of production. Reduction of fertiliser subsidy had been slashed in the 1992-93 budget, resulting in a price hike of 30 to 40 percent. The Indian power sector has been under severe pressure from the World Bank to increase electricity rates for agriculture. The state power ministers conference in April last agreed on a minimum rate of 50 paise per unit. Some states have already effected the hike. Increased costs of inputs would put severe strains on the poorer sections of the agriculture community and would eventually lead to greater degree of pauperisation.

Global Farms to Supermarket

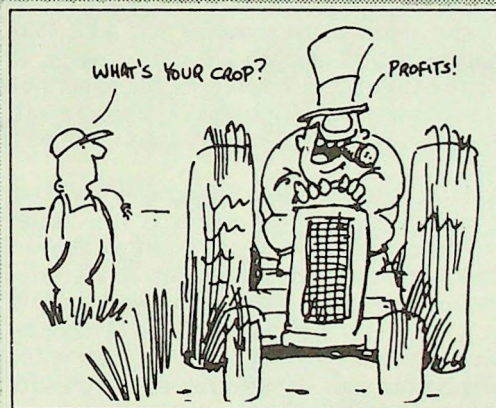
Agribusiness companies are busy integrating farms in underdeveloped countries to one global food market managed by giants like Kellogg, Del Monte and others. The global farms, occupying prime land, would serve the global markets which will have every item priced at a level determined by what the elites in the first and the third world can pay. What kind of foods would be produced on these farms? Certainly not the staples needed by the poor—beans, millet, rice or ragi. But luxury crops, fruits and even flowers desired by the rich. Thus plantations in Philippines had been growing bananas to cater to the Japanese tastes, pineapple plantation in Kenya were destined for British consumers. Increasingly, production activity would be shifted to locations with availability of cheap labour. Thus before 1975, 'asparagus' a luxury food, was grown in Central California, later a good part of the production shifted to Mexico. Two firms controlled 90 percent of this production, one of

which was the US Del Monte.

While such operations mean bigger profit margins for the MNC, for the poor, their activities have largely meant destitution and hunger. For instance, land that was contracted by Del Monte on highly concessional terms once grew

corn, wheat and sunflower seeds for local consumption in Mexico. Crops for the elite cornered funds and services of government agricultural programmes—all in the name of increasing exports. In Costa Rica a 92 percent increase in its beef exports to North America were accompanied by a 26 percent decline in local beef consumption.

Introduction of Soya cultivation in Brazil led to deterioration in the quality of local diet as large tracts of formerly food producing land were taken up for such cultivation. And yet more and more, developing countries are today being advised to open up their agriculture to agri-business interests in the name of free trade.



The Controversial Wheat

The Government's decision to import 3 million tonnes of wheat — 1.05 million tonnes from Canada, 1 million tonnes from Australia and .9 million tonne from the US — came in for sharp criticism in and outside the Parliament. The controversy was sparked off because of several reasons. For instance, it was not clear what really compelled the Government to buy wheat from international market at a higher price (Rs. 517/- per quintal) to be paid in foreign exchange, when it could have procured it from Indian market at a lower price. Indian farmers, who were demanding a remunerative price, were prepared to sell to the Government at Rs. 350 a quintal. Why did the government choose to spend precious foreign exchange worth Rs. 1500 crores, built mainly through borrowings when a severe foreign exchange crisis was cited as the reason for going to the IMF-WB? In November '92 farmers organisations and political leaders protested the decision by attempting to disrupt the unloading of the wheat at port of embarkation. They protested that inspite of a bumper crop the government had decided to invite international tenders for wheat. Later in a symbolic defiance of the ban on free movement of grain, wheat was brought to Delhi and sold.

The winter session of the Parliament was rocked by the controversy with almost all opposition parties staging a walk-out on not getting a satisfactory explanation. Was the decision, a demonstration to the world farm superpowers, of India's willingness to liberalise trade in agriculture? Such fears cannot be baseless especially in view of the unusual

haste with which government is moving to throw the Indian agriculture into competition with powerful multinationals — all in the name of free trade and modernisation. The Prime Minister is very eager to free the Indian farmers from the "artificial crutches" like subsidies and to make Indian agriculture more



UTTER LIES! OF COURSE WE GIVE
REMUNERATIVE PROCUREMENT PRICE
TO FARMERS. ASK THE AMERICAN
FARMERS. WE GAVE IT TO THEM!

Courtesy : Laxman / The Times of India

profitable. What he is forgetting is that it is these crutches which the EC and the US have relied heavily upon for establishing their supremacy in world agricultural markets. And even now, inspite of the so-called cuts, their products would continue to be heavily subsidised.

Expressing grave concern over the consequences of the import of wheat, opposition charged that the government had taken this decision under pressure from multilateral agencies. This theory gained weight when the Agriculture Minister, Mr. Balram Jharkhar, while admitting the impropriety of the decision, in an internal note, clarified that the Ministry of Commerce was instrumental in the decision to import. Whatever may have been the consideration, the decision signifies a dangerous drift towards reliance on imported foodgrains in a world where food is often used as a political weapon. In fact, it is understood, that an earlier request by the government to the US for subsidised wheat in early 1992 had been turned down, allegedly, because India was exporting rice to Cuba. There were reports that some Indian representative had met the US Secretary of Agriculture in Washington to convince him that India had in fact suspended export to Cuba. There was much hue and cry on this in the budget session of the Lok Sabha on March 4, 1992 with the government unable to give convincing reply. If the trend to import continues cultivation of foodgrains may soon become an unviable proposition with farmers switching over to cash crop production. And with this, our ability to feed ourselves with self-respect would become a thing of the past.

According to latest reports a shipment of 50,000 tons of wheat from Houston, US has been detained by Bombay Port health authorities on suspicion that it is infested!

Severe Curbs on PDS

The Dunkel draft also places strict restrictions on the subsidisation of food, as in India's public distribution system (PDS). According to Dunkel subsidised rations may be given to only those fitting certain "clearly defined criteria related to nutritional objectives". The World Bank, in various reports, has been demanding precisely the same. In line with these demands, the 1992-93 budget has severely slashed the food subsidy (A 12 per cent cut in nominal terms i.e. after accounting for inflation, a cut of over 22 percent). This will result in a curb on the PDS itself. Moreover, the central Government and various state governments have been asserting that many of the beneficiaries of the PDS are well-off, therefore, should be excluded from various sectors from the rationing system. And accordingly, the Central Government has chosen 1,700 blocks in backward areas to be the special focus of the rationing system an indication of plans to curb or shut down the rationing system in other areas - all in line with the Dunkel proposals!

In order to prove somehow that the proposals spell no harm to India's agriculture, the Commerce Ministry is resorting to different ploys. At times maintaining that assurances by the GATT secretariat given in informal conversations, convince that the proposals will not have damaging impact and that these really do not apply to India. Is the government so naive not to know that it is not verbal assurances that are important, what will ultimately remain is the document which certainly will place severe limits on our ability to run our food production system and public distribution system. Whom to cover by public distribution will no longer be our prerogative to decide and crucial areas of sovereign space will be taken up by international discipline.

The Government has also been arriving at its own calculations in an attempt to prove its point e.g. while calculating the existing level of subsidy to agriculture, government figures relate to 1987 and since then fertiliser subsidies alone have gone up considerably. Further,

WB Recipe for Indian Agriculture

The Government has been denying pressures from multilateral sources as a consideration in the wheat import deal. But this is not true. In fact, the World Bank in the 1986 World Development Report expressed concern over the huge operational costs, in terms of cash subsidies, of running one of the largest food distribution systems in the world. The operational costs of holding large buffer stocks, which in recent years have increased dramatically, are causing particular concern, according to the Report. An alternative approach is then indicated by quoting from a study by International Food Policy Research Institute favouring greater reliance on international trade in preference to building large cost-ineffective buffer stocks. "A more liberal import policy would have allowed drastic reductions in the size of the buffer stock needed to meet the same (price) stabilisation objectives." The point seems to have been taken well by the Indian Government. However, adherence to the World Bank approach reinforced by the new GATT rules would mean a return to the 'ship-to-mouth' agricultural economy.

some vital subsidies are not included in the government's method of calculating but which are considered by the Dunkel proposals. And even if today our level of support does not exceed 10 percent, what would happen if it does at some point in future? Will such proposals not limit our policy making powers to provide support to agriculture according to our priorities? What is not clear in all this, is why Government has so easily given up articulating the nation's vital interests and negotiating to project these. Why is it going over-board to convince about the innocuous nature of the Dunkel proposals to the Parliament, placing only half truths?

Dunkel proposals require the countries to maintain the public distribution system only through purchase at market price. This means the government cannot interfere with the price settlement mechanism, like it can do now. The consequences of buying at market price may not be so apparent in times of plenty, but in times of shortages, compulsion to buy at market prices can mean suicidal for the country's ability to procure and stock food and release for consumption at subsidised rates. This in itself would be enough to push us into a dependence on imports. The buffer stocks have been critical in stabilising the prices of essential foodgrains.

Threat from Cheap Imports

The second threat for the agricultural sector would come from the open competition with the cheap imports, largely from the granaries of the Western countries. The Dunkel proposals stipulate minimum market access for imports to be provided by the countries which do not import foodgrains. India being only an occasional importer of food grains, would have to allow imports. In the first year of implementation of the Dunkel proposals two per cent of the country's domestic consumption would have to be imported and this figure has to go up to 3.33 percent at the end of ten years. The implications of such compulsory imports are two-fold (a) domestic production would face competition

from the cheap imports provided by MNCs engaged in agri-business, and (b) attempts by the country to achieve self-sufficiency in food would be thwarted.

The penetration of cheap imports could lead to a diversion of consumption from local products, resulting in a greater dependence on imports. This would cause (a) the uncertainty that comes with dependence on imports and (b) the scarcity of foreign exchange required to pay for imports. It is alarming that for various reasons, the Indian Government has already entered into agreements for imports of around three million tonnes of wheat i.e. almost two percent of domestic foodgrains consumption.

Patenting of Life-forms

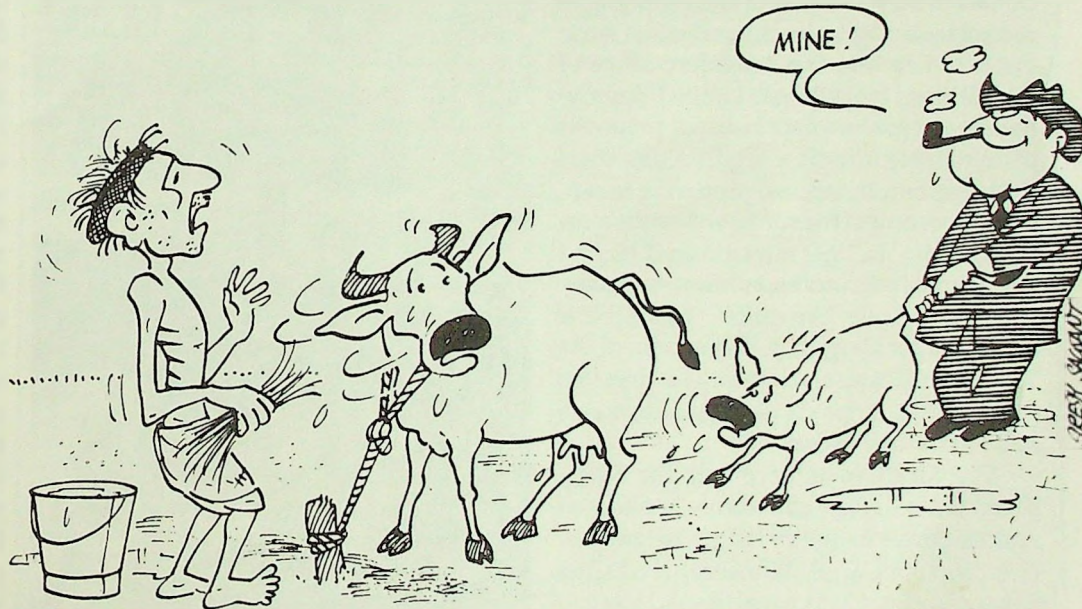
Introducing intellectual property rights (patents) in agriculture would have far-reaching consequences. In the developing countries any improvement brought about in the plant varieties are not considered as an exclusive private property of the individual or organisation undertaking this activity. Developed countries on the other hand give exclusive rights to anyone developing new varieties of plants or seeds for a definite period during which he/she can use the monopoly rights to exploit the market. This system, as prevailing in the developed countries, is now sought to be forced on the developing countries. If this system is adopted by the developing countries, the farmers would get into a serious problem as agriculture would be based on imported varieties as under the Green Revolution in India. The use of seeds over which a patent holder may have an exclusive patent right would create a permanent dependency. Indeed the rights enjoyed by the owner of the patented seeds are such that they do not allow the harvested seeds to be sown for the subsequent years production - every year the farmer has to approach the company supplying the seeds to meet the requirements for sowing. The inimical consequences for the farmer can be better appreciated when one remembers that all

major seeds companies in the World today are MNCs who trade not only in patented seeds but also in the patented chemicals that would have to be used to obtain best results.

The advent of biotechnology and the pressures on developing countries like India to patent biotechnological innovations has given rise to the possibility that domestic agriculture in these countries would be facing dependency syndrome. Biotechnology has been presented as the future technology for agriculture and is being developed in the laboratories of the MNCs. Claims have been made (which are largely unsubstantiated) that biotechnology has the potential of bringing about

Taxing Agriculture

Between 1982-87, Japan extended 72.5 percent subsidy to its farmers, European Community 37 percent and the US 26.17 percent. Whereas, India extended a negative subsidy of 2.23 percent — i.e. India taxed its agriculture.



*THE CALF BORN OF A PATENTED COW WOULD BELONG NOT TO THE FARMER
BUT TO THE COMPANY THAT BRED THE COW*

Courtesy: Suresh Sawant / Patent Folly

Seeds Satyagraha

Farmers the world-wide are apprehensive about the manner in which free trade will threaten their livelihood and the food security in their countries. In December 1992, the Karnataka Rajya Raitha Sangha (KRRS) launched what it calls 'Seeds Satyagraha' to protect the farmers right to 'produce, multiply and sell' seeds. Warning the multinationals to stay away from their designs to control Indian agriculture, hundreds of farmers, stormed into the Bangalore office of Cargill Seeds India Private Limited, destroying the records and approvals for proposals of investment in India. Cargill Seeds India is the largest multinational preparing to capture 25 percent of the sunflower seeds market in India. In 1992 it introduced its first commercial product i.e. sunflower seed by the brand name 'Advance'. This seed is marketed for Cargill by Rallis India of the Tatas. Cargill's research in India is targetted at three other crops viz. — Sorghum, maize and pearl millet (bajra).

The KRRS, in alliance with the Delhi-based Gene Campaign, have asked eleven multinationals to quit or face consequences. These include Cargill, Pioneer Hibred, Ciba Geigy, Sandoz, Continental Seeds, Hoechst, Merck. The farmers are stiffly opposed to the entry of multinationals in the seeds sector and demanding that the Indian Patent Act of

1970 be left untouched. The Dunkel proposals will open up unlimited possibilities for MNCs to market everything that can be produced in



their labs, from seeds to bio-fertilizers and bio-pesticides. Cargill has been making tall claims on the yield from its seed. These claims have been falsified by the experience of KRRS activists in 8-10 districts of Karnataka. While the multinational claims a yield of 16 quintals per acre, no where the actual experience suggested that it is more than 5 quintals and that too with greater inputs of fertiliser. Fearing that the Dunkel proposals, if accepted would mean an end to self-reliance in food and agriculture, the farmers have urged all state legislatures to initiate debate on the implications, for agriculture, which is a state subject. 'India has an unparalleled infrastructure in agricultural research and it is to the credit of our scientists and farmers that the country could come out of the humiliation of having to beg for food. At no cost would the country's food security be allowed to be surrendered. The Government of India would be guilty of grave Constitutional misconduct if it signs any international treaty which impinges on the rights of the states to legislate', warns Prof. N.D. Nanjundaswamy, President, KRRS. With various other farmers' associations joining in the struggle, the message of the well-orchestrated moves behind the new trade rules, appears to have already reached the grass-roots.

rapid increases in productivity in agriculture. But the adoption of this technology would lead to permanent strings of dependency on the MNCs.

Banking for Profits

The Dunkel proposals have yet another dangerous implication for agriculture. The priorities of the financial sector (banking and insurance) are being altered through the new rules for trade in services which the Dunkel proposals are seeking to introduce. Priority sector lending, a policy in banking which many countries like India have claimed to follow, would have to be discontinued. The agricultural sector, one of the major beneficiaries of priority sector lending would be deprived of funds. The initial suggestion for decrease in priority sector lending leading to its ultimate discontinuation has come from the World Bank in its recent report on the restructuring of India's financial sector. The Dunkel proposals have tried to reinforce the World Bank recommendations. In order to project the World Bank recommendations, as its own, the Government appointed the Narasimham Committee on the Financial System in its report submitted in November 1991 it called for phasing out of the priority sector with an immediate reduction from the present 40 percent of lending to just 10 percent. It is a matter of concern that priority sector lending by banks for agriculture has been much below target in 1989-90 and 1990-91.

The Dunkel proposals are thus a broader articulation of the changes that are already afoot to change the inherent character of Indian agriculture. Demands have been made for quite sometime that agriculture should be given the status of an industry. This demand may be fulfilled with the advent of the "corporate" Indian agriculture, the consequences of which on the rural populace may be catastrophic. ■

"While they (developed countries) are telling us that in Africa you cannot subsidise the farmer, there is no country in the western world that does not subsidise agriculture."
Ghana's Ambassador to the UN, 1991

Cadburys' Vs. Farmers' Cooperative

The multinationals cannot stand competition and they use every means, foul and fair, to eliminate obstacles in the way of their one and only one goal of maximising profits. The pursuit of this goal may well entail destruction of indigenous enterprises and loss of livelihood for poor farmers as is illustrated in this case. More than 70 per cent of the chocolate market in India is controlled by Cadbury's India, renamed Hindustan Cocoa Products, a subsidiary of the London-based multinational Cadbury. Among the only two cooperatives that have attempted to enter the chocolate market is the Campco in Karnataka (Central Arecanut and Cocoa Marketing and Processing Cooperative). The aggressive measures used by the Cadburys to undercut Campco have jeopardised the very existence of this cooperative. First, the Cadbury's went in for all kinds of incentives for farmers to take to wide spread cultivation of cocoa in the mid 60s. These included distribution of hundreds of thousands of cocoa seedlings to farmers in Karnataka and Kerala, supply of subsidised fertiliser and above all attractive procurement price for the crop. In just one year time the price of wet beans (which stood at Rs. 5.50 per kg. in 1976) was more than doubled and fixed at around Rs. 12/- in 1977 then to Rs. 14 in 1978. The aim was to ensure availability of Cocoa for its factory in Bombay. Forty procurement centres were opened all over South India and promotion campaigns undertaken. The result was, phenomenal increase in the area under Cocoa cultivation — from 1927 hectares in 1970-71 to 6,980 in 1975-76 to 29,000 in 1980-81. This increased cultivation, however, was at the cost of staples such as tapioca. Having achieved its immediate goal Cadburys' slashed the procurement price by more than half in 1980—from Rs 14 per kg to Rs. 6.

The farmers instead of selling their produce at the ridiculously low price set by the multinational, they cut down their crops, some fed their cattle on cocoa pods. Nearly 30 percent of the total cocoa plants had been uprooted by mid-80s

in Kerala. At this point the Campco stepped in by enrolling cocoa growers. Soon it became one of the largest farmers cooperatives in India with more than 42,000 members. Campco set up procurement centres and later a chocolate factory at Puthur in Karnataka to avoid its dependence on export to international market which was dominated by multinationals. Campco was able to make a mark with a higher production capacity than Cadburys'. With its product selling at a lower price than Cadburys, it successfully challenged latter's monopoly in the cocoa and chocolate market.

Cadburys responded by bringing down its product prices at par with that of Campco. It also raised its retail commission to match Campco's 15 percent. Finally, it spent crores of Rupees to step up its advertising. However, when all these efforts did not displace Campco from the chocolate market it hit upon a novel scheme.

The Cadburys' latest strategy for regaining its control over cocoa market is the most aggressive. It started by raising the price of cocoa and opened up more collection centres. Next it launched an elaborate scheme with the help of the State Bank of Hyderabad. Under the scheme, targeted at the farmers in Kerala and Karnataka, who sell to Campco, the farmers hand over their produce every week at a Cadburys' collection centre for which they are paid. But the farmers also sign papers authorising Cadburys' to take loans in their name. This loan, which runs into lakhs, is collected by Cadbury's from the Bank. Cadburys' claim that this scheme is necessary to raise finances to meet expenses of cocoa collection at an assured rate. This, however, is not true. In 1987 Cadburys' profits of Rs. 10.27 crores was double its profit in 1980. The strategy really is to snare the peasants into a debt trap and put Campco out of business. Efforts to expose the multinational's hypocritical concerns for local farmers and its manoeuvres have not evoked much response from the authorities in Kerala.

Crisis in Global Agriculture

The victims of subsidy battles between US and EC were the developing countries who lost their shares in world agricultural markets, while the shares of developed countries increased. Slump in world sugar markets resulted from an aggressive farm support policy pursued in the EC. Till late 1970s, EC was less than self-sufficient in sugar. Today, massive subsidy payments, have enabled it to become world's largest exporter dumping 4 million tons of sugar annually. It continues a policy of overproduction and dumping, causing severe hardship to sugar farmers and labourers from the Caribbean Islands to the Philippines. In country after country, the devastating impact of the dumping practices of the US and EC were experienced. Most seriously affected were Argentinian exports of cereals and oilseeds, accounting for half the country's earnings, when their prices fell by 40 percent between 1980 and 1987 wiping an estimated 30 billion dollars from its foreign exchange.

Falling shares of Developing Countries in Agricultural Trade

(Percentage)

Country	1970-74	1980-84
Beef Trade		
OECD	40	60
Developing Countries	52	27
Sugar Trade		
Industrialised Countries	17	28
Developing Countries	73	67

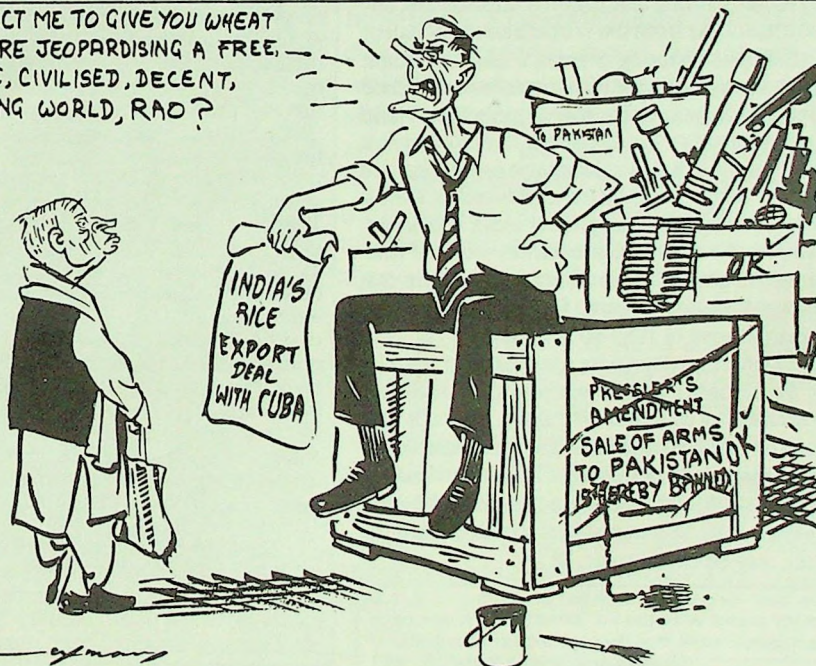
EC pays its farmers 180 dollars a ton to produce wheat which it sells on the world market at 80 dollars a ton. In three years US farm spending jumped from 5 billion dollars in 1982 to 22 billion dollars in 1985. By 1990, half of EC farm income was accounted for by subsidies.

Cuts in Subsidies - Boon or Curse ?

Implications of a cut in subsidies in the EC whose subsidy on agriculture amounts to something like 200 billion dollars are being interpreted by the Commerce Ministry as a great benefit. A twenty percent cut in EC would mean roughly 40 billion dollars subsidy less in the EC. This cut will get expressed in the increase in prices of internationally traded goods produced and exported through subsidies. This would mean a rise in prices of temperate crops and not tropical crops which constitute India's export interests. The temperate crops include edible oil, wheat, sugar, meat and milk product, fruits and vegetables. In edible oil we are not self-sufficient and still import a large part of our consumption.

The market access compulsion and higher world prices will increase our import bill. So also for sugar, importing at the 1986-88 level would mean importing significant amounts of sugar. As for wheat, rice and major cereals, we are just about self-sufficient. And depending upon, whether it has been a good crop or bad we still are on the threshold of importing. So in signing the GATT our negotiating position would be not only not as net exporters but with the stagnant growth of foodgrains after a period of 15 years, we may even become net importers. Thus higher world prices of these commodities will be to our disadvantage and not advantage.

YOU EXPECT ME TO GIVE YOU WHEAT
WHEN YOU ARE JEOPARDISING A FREE,
DEMOCRATIC, CIVILISED, DECENT,
PEACE-LOVING WORLD, RAO?



Courtesy: Laxman/The Times of India

Impact on Pharmaceutical Industry

Acceptance of Dunkel proposals on TRIMs, TRIPs and GATS would mean gifting away the control over vital sectors of our economy to the TNCs of the developed countries. Almost every aspect of our lives would be adversely affected. One of the sectors that would be most severely affected is the Indian pharmaceutical industry. The eighties have witnessed the beginning of a reversal of the policy of self-reliance in the field of pharmaceuticals. In 1985 Rajiv Gandhi Government made a major and dangerous shift in the economic policy. The policy favoured dismantling of public sector, making entry of multinationals easier by initiating a process of delicensing, decontrol and deregulation. Drug policy of 1987 was bonanza for MNCs. It announced that there would be no more public sector units in the drugs and pharmaceutical sector, as India had already acquired self-reliance. Indian Drugs and Pharmaceuticals Limited (IDPL) was thrown into competition with giant MNC firms. With import liberalisation even intermediaries were allowed to be imported, making IDPL and its different units go in the red because of under-utilisation of their plant capacities at different levels. Now the Narshimha Rao Government, with its firm conviction in further liberalisation is opening the flood gates to the entry of MNCs in a big way. In this context, Dunkel proposals on TRIPs will cast the final nail in the coffin of the Indian drug industry.

Indian Drug Industry

Drugs and pharmaceuticals is one area where India has made remarkable progress. From being importer of medicines in the first few decades after independence, we are today able to meet a good part of our essential requirement through indigenous production. Over the

years, we have entered the international market. India is today more or less self-sufficient in formulation production, except for a few recently introduced life-saving drugs, which are imported. Around 65-70 per cent of the bulk drugs are manufactured in the country. New drugs introduced in the world markets are produced locally at affordable prices within 3-4 years of their introduction. Prices of drugs of India, once among the highest, are today the lowest in the world. Eg. Zantac, a drug used in the treatment of ulcers, is made by Glaxo. In India, the drug is sold for Rs. 29/- per ten tablets, whereas in Pakistan ten tablets cost Rs. 220, in the US \$ 24 and UK £ 9. Similarly, Volatarn produced by Ciba Geigy is an anti-rheumatic drug which costs Rs. 5.67 for ten tablets in India. The same drug in Pakistan is available for Rs. 47, in US for \$ 7.76 and UK £ 1.85.

There are many new drugs whose patents have yet to expire in the world but have been produced in India through innovative and cost-effective processes. The share of national companies in production has increased substantially compared to the multinationals operating in India. Over the years, India has started exporting drugs to both developed and developing countries and these are steadily rising. From Rs. 165 crores in 1983-84, the exports rose to Rs. 640 crores in 1989-90 and are expected to go up to Rs. 1000 crores in next few years. Developed countries to whom we export include the USA, France, UK, Japan and the former Soviet Union.

Contribution of Indian Patent Act, 1970

The above achievements are impressive indeed. An important impetus for the growth of the pharmaceuticals industry came from the Indian Patents Act of 1970. The earlier Act was reviewed for its impact on the growth of industry, by expert committees. These

Myth of Strong Patents

The developed countries argue that inadequate intellectual property protection is a disincentive for free flow of technology and consequently for growth in industry. However, a study on the Turkish pharmaceutical industry showed that the abolition of product patents for pharmaceuticals in that country in 1961 did not adversely affect inflows of technology or foreign capital. Indeed such inflows increased at a much faster rate in that industry compared to other sectors where patent protection was provided. Abolition of patents on pharmaceuticals had no adverse impact on technology licensing arrangements or on introduction of new drugs. Moreover, 82 per cent of all the products introduced following the abolition of patents have been produced by the locally-owned firms through access to non-patented technology.

Comparative Drug Prices (1988)
(Rs. Per pack of 10's)

Drug	Dosage	India	U.K.
Allopurinol	100 mg	5.84	30.3
Atenolol	100 mg	11.29	61.15
Cimetidine	200 mg	6.77	36.40
Captopril	25 mg	15.45	58.56
Diltiazem	60 mg	15.26	40.89
Haloperidol	5 mg	13.58	41.16
Mebendazole	6 x 100 mg	4.88	37.92
Naproxen	250 mg	12.76	31.07
Nifedipine	10 mg	3.82	29.90
Piroxicam	6 x 20 mg	7.20	184.75
Ranitidine	150 mg	16.15	121.67

reviews produced evidence of the misuse of patent protection by foreign companies to monopolise the markets. It was found that more than 90 percent of the patents in India, registered by foreigners, were not being used in production within the country, thus denying us access to the latest technology. The committees recommended the urgent need to reframe patent laws to make them subserve the goal of self-reliance in different fields that independent India had set out for itself. The law was changed in 1970 and new Act came into force in 1972. The main thrust of the Act was to ensure that patents do not lead to monopolies for importation and that these are granted to ensure that inventions do get absorbed in the production process on a commercial scale without undue delay.

Health being a vital aspect of life, drugs and chemicals were kept outside the scope of product patents (which confer near total monopolies), only process patents were granted. This exclusion has been critically important in giving our scientists and entrepreneurs the freedom to develop alternative processes for producing cheaper versions of life-saving and essential drugs within a short span of their introduction in the world market. It has been possible for our drug industry to produce above 100 bulk drugs precisely because of this freedom. Thus the Act was fully in tune with our national needs and balanced adequately the right of the patent holder with national and consumer interests. Safeguards were built into the Act by keeping the terms of patent short to enable faster diffusion of technology, by ensuring that patents registered in India were actually used in production in the country. The Government can grant license for local manufacture to any interested party if the patent holder refuses to work the patent or goes against public interest by unduly raising the prices.

Attacks on Self-reliance

It is provisions like these that enabled adaptation of a number of drugs and led to the industry becoming



Courtesy : Keshav / The Hindu

"Without adequate explanation, one can only conclude that what is going on in this (the pharmaceuticals) industry is greed on a massive scale. This is an industry that insists on increasing its profits at the expense of the sick, the poor and the elderly."

—U.S. Congressman

Patents and Drug Prices

Top 500 companies ranked by Fortune magazine had fat profits in big business. Between 1981 and 1988 pharmaceutical prices in the US "rose an average of 8.6 percent a year more than twice the average increase in the consumer price index".

Fortune magazine also found that the giant drug MNCs "spend up to twice as much on sales and marketing" as they do on research and development. It noted that some of them had the "poorest records of innovation" despite having virtual monopolies with their product patents.

An American Senate Committee on Ageing revealed that several drug companies had not brought a new drug to market in six years and one was still recovering 'investment on research' on a drug that had entered the market in 1938!

Hoechst in India

Responding to a charge of over pricing, Hoechst, a German multinational, in an advertisement in the Times of India asserted its commitment to the country and its people pledging to follow the Government policies (28th April 1986)

The claims were subsequently falsified when Supreme Court ruled that the multinational was actually "profiteering.... in life saving drugs".

Hoechst was charging Rs. 24,735/- a tonne for Baraligan Ketone produced by it, while the price fixed by Government was Rs. 1,810/- a tonne, thus making a mockery of Drug Prices Control Order! Such commitment of the MNCs like Hoechst to the country must have "impoverished us by hundreds, if not thousands, of crores of Rupees."

Source : Asking the Earth, Winin Pereira & Jeremy Seabrook.

competitive as reflected in the low prices of drugs. This competitiveness of the Indian drug industry has now become a target of attack as evidenced in the pressures on us to change our Patent Act. The Dunkel proposals will mean a fundamental change in the patent law and will take away the Government's right to exclude essential areas of life—health and food security—from the scope of patentability, its authority to enforce working of patents and make it, instead, the instrument for protection of the rights of the patentees against the interests of the nation and its people. The effect of the changed law would be to secure exclusive reservation of markets for patented products by TNCs. The US, on behalf of its TNCs, has been in the forefront of this move, as it wishes to secure transfer of some 100 billion dollars from countries like ours, as what it calls unpaid royalties, to set its current trade deficit right. India was placed under Special 301 on the priority watch list for failing to protect intellectual property rights of US firms. India is its largest trade partner in the third world with a surplus of export of drugs and pharmaceuticals to the US. While swearing by multilateralism, the US has all along resorted to bilateral pressure for securing its trade interests.

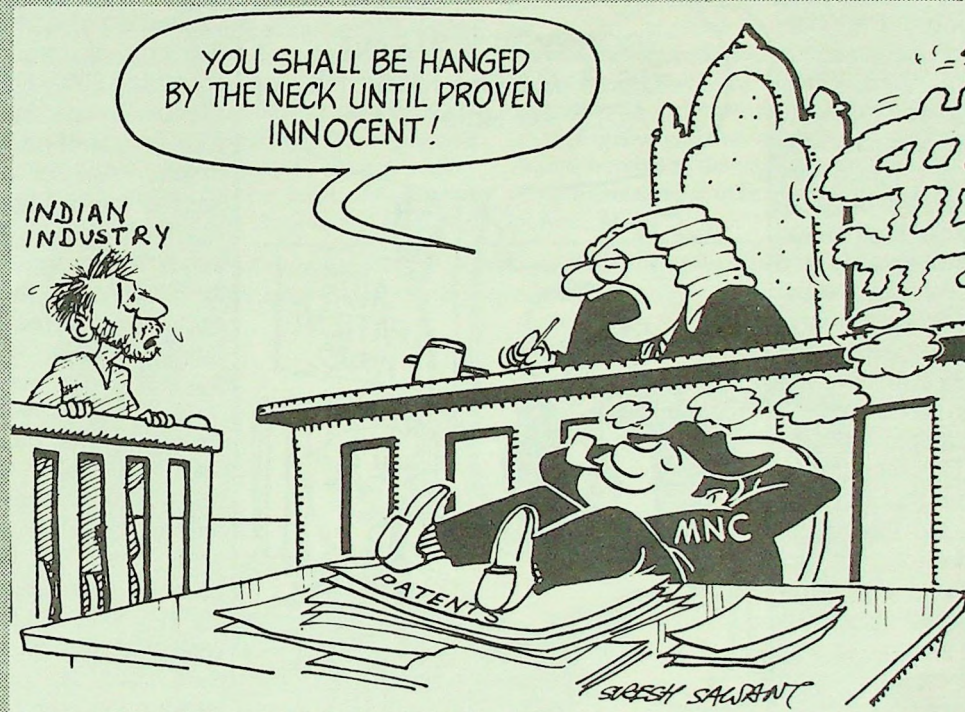
Dunkel Proposals Predict Disaster

What would be the implications of change in the Patents Act for the drug industry?

- All indigenous research activity for development of new drugs and chemicals would come to a standstill because of the increased royalties to be paid to the patent holders, most of whom would be multinationals. Longer terms for patents would mean that research would have to be confined to only patent—expired products which in any case would have become technologically outdated.
- The incentive for Indian manufacturers to undertake production of new drugs would not be there, as huge royalties would have to be paid to the foreign

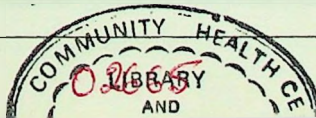
The Burden will be Crushing

If the burden of proving innocence in case of infringement is shifted to the accused, it will be inimical to the very spirit of our system of justice. Quite aside from this, it will have catastrophic consequences for the Indian Industry. Say, If an Indian drug company is accused by an MNC of a violation of a process patent, it would be the Indian company's headache to prove it is innocent.



Courtesy: Suresh Sawant / Patent Folly

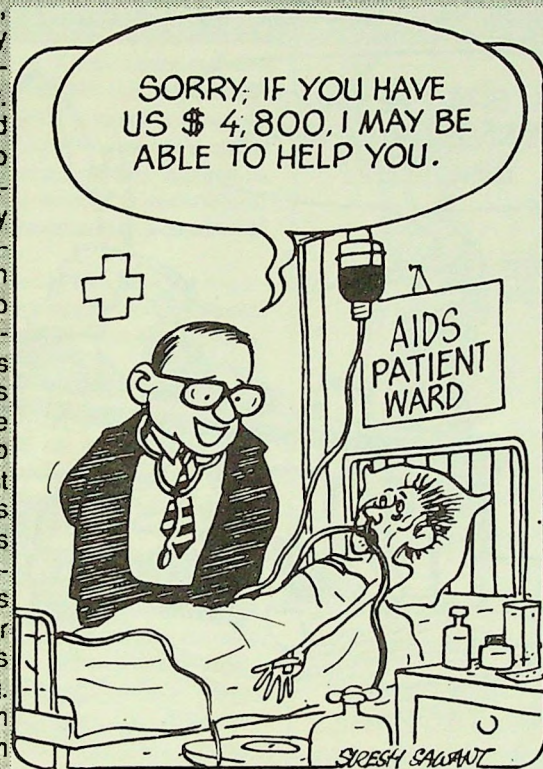
Imagine the plight of the companies if they constantly have to operate under the threat of being accused. Imagine further, that the foreign companies with millions to throw on litigation, would be able to buy the 'services' of the best of our lawyers to fight on their side. This has happened in the past and today there would be no dearth of such patriotic Indians wanting to spin money at the cost of their own country-fellows. This was so when Union Carbide hired the top-most lawyers to appear against hapless victims of Bhopal gas leak, culminating in the most treacherous out-of-court settlement—a mere \$ 470 million for thousands of lives lost and many more wasted.



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Reality of Patents

The battle for patent power is, today, particularly strong in the pharmaceutical sector. Many third World countries refuse to allow product patenting of drugs. They regard the development of their nation in this area as too important. Intellectual Property Rights are regarded as more of an obstacle than an incentive to development. Most OECD countries once thought this way too. Patent protection for drugs was allowed only after national industries had become strong. France only began patenting drugs in 1958, West Germany a decade later, and Switzerland, bastion of the world's leading pharmaceutical corporations, in 1977. Japan started



THE NEW REGIME WOULD CONFER PRODUCT PATENTS AND MONOPOLY OF IMPORTATION ON THE PATENT HOLDER.

Courtesy : Suresh Sawant / Patent Folly

patenting pharmaceutical products only when it already ranked second in world production of drugs and controlled 80% of its market. Those industries could not have developed without access to the technology. Only when local industrial strength in the field was certain and control of technology had been already acquired, were patents allowed. With export as the next step, patents were then viewed as desirable to capitalise on what had been achieved. By insisting on TRIPs in GATT yesterday's industrializing countries are seeking to deny the same route to development for the industrializing countries of today.

-Source : GATT Briefings on IPR.

patentees and that too if licensing for such production is permitted by the patentee. A number of firms would have to close shop, also for fear of being sued by the patent holding companies, worsening the unemployment situation.

- The country will return to the pre-1970 days and worse, when it would be dependent on imports not just for patented raw materials but also for patented finished formulations and drugs. The foreign patent holding companies in pursuit of maximum profits would favour delaying indigenisation of production for as long a period as possible. The monopoly resulting from the situation would push the prices high, to be dictated by the patent holders.
- With the minimisation of government control over the operations of TNCs, the production of medicines would bear no relationship with the disease pattern. The companies would target their products at those who would have the capacity to pay. Increased production of products like complan for the rich, instead of anti-malarial drugs, needed by the poor, would be the priority.
- Lack of government control would also make the Indian consumers vulnerable to banned, spurious and hazardous formulations and drugs.
- With the slow down of indigenous drug industry export of drugs would receive a major blow, worsening the balance of payment position further. On the other hand, greater imports would mean more outflow of foreign exchange.
- Some one third of total pharmaceutical products in India are purchased by Government and government-aided health programmes. Due to sizeable increase in drug prices the budgets of these institutions would go up several times. However, with the axe of austerity already falling on such public services, the out-reach of medicines through these programmes would be severely limited. Already the 1992-93 budget saw cuts in allocations for government sponsored health care programmes.
- A slow down of research and development in the

pharmaceuticals and chemical field would also mean loss of opportunities for highly qualified scientists, exacerbating the phenomenon of brain-drain.

The strong lobby of drug multinationals — Organisation of Pharmaceutical Producers of India (OPPI) along with the Indian monopoly sectors under ASSO-CHAM and FICCI are pressurising the Government hard to accept the Dunkel proposals as India's last chance to board the train of liberalisation. It is precisely these interests which had earlier fought hard to stall the changes in the patents law.

The Indian Drug Manufacturers Association (IDMA) representing the indigenous industry is opposed to any attempts to change the Indian Patent Act, which it feels would be a catastrophe for the industry.

Government in a Mood to Give in

But the Government already seems to be giving in to the pressures of foreign firms and their Indian collaborators. Prices of almost all the life-saving drugs have recorded steep hike during last one year of the liberalisation policies. The new drug policy being shaped by experts has recommended sweeping delicensing, de-control and deregulation and suggested increase in the prices of drugs.

Reservation of certain drugs for production in public sector units are being removed. Discrimination between the Indian companies and foreign companies will be removed to satisfy the demand for 'equal treatment' of foreign firms. FERA has also been dismantled. Compulsory quota of basic bulk drug production is being removed. The change in patent laws will deal the final blow.

Myth of Isolation

Indian Government and the votaries of liberalisation have been creating a scare that if India tries to

reopen negotiations it would stand isolated. Rejecting the Dunkel proposals, which the Government sees as the best it can hope for, is being seen as the end of everything. The isolation theory does not stand the test of reality. If India takes the lead, a number of developing countries would also be able to assert. On the issue of IPR alone, there was and is massive support that India could have cashed on both within and outside the Third World. It could have mobilised this support, especially in European countries, to bring pressure on the US and other developed countries within GATT. If NGOs with insignificant resources at their command could build cross-country and continent alliances on the issue of threatened subjugation of the people to a Transnational order, why

could the Indian Government not have pressed its diplomatic missions into the job of mobilising support for the concerns of Third World in GATT? This question is being raised.

Is the Government aware of the dangerous implications of projecting its utter helplessness? Is it seriously concerned about impact of Dunkel proposals?

Now the negotiations at GATT are in the last stages of conclusion, this is the only opportunity left for the country to resist any attempts to interfere with our prerogative to frame laws tailored to our needs. The seriousness of the implications of the changes being demanded has to be grasped fully before it is too late. ■

While denouncing Dunkel proposals on the one hand, the former Union Commerce Minister P. Chidambaram was engaged in putting up a Cabinet note advising their acceptance!



Courtesy : Rajendra Pari/Indian Express

Opting for Unemployment and Chaos ?

'Working' of a patent means using it in local manufacturing which implies jobs for local people, creation of related industries, utilisation of indigenous materials and most importantly, acquisition of technical know-how over time. An idea of what would happen if the 'unjust' demands equating importation with working of patent are accepted, can be gained from this case (quoted in 'Patent Folly' by P. Sainath).

In 1960, Bajaj Scooters entered into collaborative arrangement with Piaggio of Italy to manufacture Vespa in India till 1971. As part of the agreement Bajaj could continue manufacturing and even export scooters after the expiry of collaboration.

When Bajaj this. Piaggio accused Bajaj of imitating their design but because of Indian system of intellectual property protection it could do nothing. Later Bajaj entered the then West German market. Taking advantage of West German patent system Piaggio filed suit in German court. A technical committee set up by the court could not establish Piaggio's charge against Bajaj, and yet the German Court fined Bajaj 50,000 Deutsche Mark. Bajaj was forced to settle the matter out-of-court wasting time and money. Would the Indian firms have such money and resources to survive long drawn out litigation? In the proposed changes in IPR the Government would lose the right to compel foreign firms to manufacture locally, preventing Indian companies from using their capacities. Not just that, charges of violation could be brought against Indian companies who may then be forced out of competition and close their shop. This would mean loss of several jobs, setback to export earnings, compulsion to import the patented product for a longer time draining thereby the foreign exchange. Can a country with 35 million un-employed afford to opt for such grim possibilities?

Dangerous Stance

The views aired by our ministers endorsed by some over zealous bureaucrats are indeed pathetic. "... You and your Secretary in the Commerce Ministry have been at pains to explain to all and sundry that the US authorities had to act in accordance with its laws. But you have to appreciate that we have to similarly act in accordance with Indian laws, if they come into conflict with the laws of the US or other powerful countries. We should not be ever ready to adjust Indian laws to conform to foreign laws and subserve their interest".

Excerpt from open letter to P. Chidambaram from National Working Group on Patent Laws, 1991



Courtesy : Suresh Sawant / Patent Folly

Trivialising the Implications

In an effort to project the innocuous nature of Dunkel proposals, the Ministry of Commerce, argues that price increase in drugs will not last more than 10 years in most cases. However, a longer-term view of the situation is more unsettling. Experts who have examined the issue in depth point out that the effective lives of drug patents would be extended and the expiry of a patent would not lead to a fall in prices as hoped by the Ministry. The loss of market share for many brand name drugs, even after the expiry of patents is small. This is because, brand loyalties created by trademark laws operate so as to confer a patentee with monopoly rights even longer than the patent term. Moreover, it is not easy to introduce competition in a market where monopoly has been enjoyed for 20 years or more by a single firm. A study indicates that in the US the effective life of patents on 1-3 billion dollars worth of drug products ranges up to 26 years of market protection.

The Ministry, while allaying popular concerns on impact of TRIPS, says that the number of drugs sold in India, which are on patent, are only in the range of 10-15 percent. The reality is different. An Operations Research Group Survey shows the correct market shares of approved drugs of major therapeutic groups, which are still on patents in the US, but sold in India. These are 42 percent for anti-biotics, 98 percent for anti-bacterials, 70 percent for anti-leptotics, 66 percent for anti-ulcer drugs, 42 percent for anti-asthmatics, 51 percent for cardio-vascular drugs and 89 percent for contraceptive hormones. The Ministry is, therefore, seeming to comfort itself by taking a very myopic view of the drug situation.

Impact on Environment

Massive expansion in the scope of the GATT, under Uruguay Round, could radically undermine the commitment of the international community to environmentally sustainable development. Deregulation of trade in countless items, including timber, will thwart national as well as global efforts to save natural resources like rainforests and protect the rights of the native peoples. Despite a strong environment protection movement, the GATT has not shown any serious concern for the ecological consequences of proposals for freeing world trade. The effect of unrestrained trade could be far more disastrous in countries like ours which do not as yet, have a very strong awareness about environment nor the resources to promote environment-friendly technologies.

Depleting Natural Resources

India, like most developing countries, has a natural resource based economy. Last forty years of 'development' have seen an excessive use of these, resulting in their depletion to dangerous levels. Mindless pursuit of economic activity and unplanned industrialisation has already taken its toll on the environment. The competing demands of the economy have made our cities unliveable with industries emitting smoke and discharging dangerous effluents into the water systems. The environmental costs of the Green Revolution are now becoming apparent with vast tracts of land rendered unfit for cultivation because of waterlogging and salinity. Out of the 75 million hectares classified as forest land, less than half is actually under forest cover and as much as 20 million hectares is affected by erosion. No more than 12 percent of the country's land is under tree cover. Every year, deforestation renders sensitive catchment areas in Himalayan and river valley systems vulnerable to erosion, threatening the very

An Unwanted Guest

The efforts of Dupont, a US multinational, abetted by its Indian partner—the Thapar Group to seek backdoor entry for an outdated and polluting Nylon 6.6 technology have succeeded, demonstrating once again the immense clout of TNCs. The approval of the Dupont-Thapar project in Goa after a long persevering effort since mid-1970s, has come even when there was massive opposition from the Goans and a Goa House Committee Report recommending rejection of the project in view of its threat to the fragile ecology of the region. In more than a decade till early 1992, the US multinational used every means at its disposal, to get the project approved. The House Committee Report held Dupont guilty of irregularities in land deals requisitioned for the project, of exaggerating the benefits from the project and for not including the environmental costs. The project then involved sending to India machines that were first installed in Richmond, USA in 1938! In pushing its case, the Company decided to use an Indian public sector organisation, the Economic Development Corporation, which helped not only in getting licenses speedily but compelled Indian authorities to commit infrastructural support more readily than if Dupont went alone. Dupont chose the Thapar-owned Ballarpur Industries Ltd. to set up the project. The Thapars are an industrial house which has a reputation of helping MNCs to import second-hand machinery and passing it off as state-of-the-art technology. An agreement which the Thapar-Dupont Ltd. had signed on August 1988 for transfer of technology with Dupont contained some very disturbing features. Taking a cue from the then litigations against the Union Carbide in the wake of Bhopal disaster, Dupont inserted a series of clauses that indemnified it absolutely from any liability that may arise from the plant. These included clauses stating that TDL "shall hold Dupont and its representatives or assignees harmless from any claims made in the Republic of India... alleging bodily harm or death." Yet another clause stated that "Dupont shall not be liable in any manner, whatsoever, to TDL or to any third parties for any loss or damage caused to person or property including the members of the public..."

As a black-mailing tactic in October 1991, Dupont issued an announcement from its US headquarters that it was shifting a proposed Dupont unit to Singapore, which had only a week ago, received Union Government's approval. The final approval of the TDL project in 1992 by the Government of India has proved that the efforts of the multinational have indeed yielded results.

THE NICKEL CONTROVERSY

It all began in September 1992 with leading newspapers reporting the findings of an analysis by Lucknow-based Environmental Research Laboratory (ERL), citing Indian chocolates as unsafe due to the presence of Nickel. High content of nickel was attributed to the process of manufacture in which hydrogenated vegetable oil (popularly called vanaspati) is used as a substitute for cocoa butter to resist the tropical climate of the country.

While the findings of ERL did send the chocolate industry into a turmoil initially, its sympathisers, within and outside the Government, did not lose time to come to their rescue.

Included among the chocolate manufacturers were the Cadburys and Nestle. Within a week after the ERL findings were published, the Health Ministry (Directorate General of Health services) swung into action, declaring that the popular brands of Indian chocolates were safe. This declaration was, curiously at variance with an earlier action initiated by the Directorate to request Central Committee on Food Standards to examine the issue. The DGHS did not wait for the outcome of its own directive.

Nor is the reaction of the Government too unfamiliar. Some six years ago, it had bailed out the vanaspati lobby by not acting to include nickel in the list of toxic substances under the Prevention of Food Adulteration Act. This, in spite of the confirmation, that a number of brands of vanaspati did contain nickel beyond the safe limit. This time a more powerful lobby is at work to ensure that it comes out unscathed out of the controversy. And considering the desperation with which Government is wooing foreign investors, such a reaction seems understandable. The reaction of the chocolate makers, especially the Cadburys was typical. Denials through advertisement blitz and press conferences!

The controversy would have died, but for the sustained efforts of Mahila Dakshata Samiti, as part of its programme to watch consumer interests. Under pressure, Government, convened a meeting of experts on November 3, 1992 to settle the issue. Apart from the fact that this meeting was dominated by non-toxicologists, it ended up by passing on the task to an expert committee with six months given to it to submit its report. What it will do is to standardise the methodology of estimation of nickel and establish the issue of its toxicity. The admission by the experts at this meeting that the country's apex institution does not yet have a standardised methodology, calls into question the earlier assertions of Health Ministry on the safety of chocolates. Does the Government really want to find the truth is the key question?

GATT Ruling Portends Dangers

In August 1991, the GATT panel ruled the US Marine Mammal Protection Act a violation of GATT. The US courts had used this Act to ban the sale or import of tuna caught by a method (purse seine nets) which resulted in slaughter of tens of thousands of dolphins every year. GATT considered the US law as an "illegal barrier to trade". This decision raises very vital questions on the relationship of trade and environment. It also undermines the sovereignty of nations to frame laws designed to protect the environment and well-being of their citizens.

The GATT ruling will now make it possible for any country to challenge the laws of another country pleading that these are barriers to trade. Nor can the products of a country be discriminated against because of the particular method of its production even though the method may entail irreversible ecological costs. A number of developing countries had hailed this decision as a victory over a powerful economy. But a more dispassionate analysis of the ruling would make it clear that it represents victory only for the profit-seeking companies over the survival interests of the people the world over.

By extension of this ruling, various laws for protection and reservation of rainforests, genetic resources would be pronounced GATT-illegal. The strengthened trade dispute resolution mechanism under the new GATT rules would give immense powers to a secret panel of three GATT officials to rule the laws enjoying popular mandate as unfair trade barriers. That is, GATT would become a supra-national body empowered to force harmonisation of all laws with GATT rules.

existence of millions. For the poor in India, environment is not a luxury but a necessary survival base. Forests, grasslands, rivers have been the source of life and livelihood for tribals, nomads and fisherfolk. The turn-around in the economy towards free market and free trade will lead to a final assault on the already stressed eco-system of the country threatening the survival of millions.

Export-Led Devastation

While we have yet to ratify Dunkel proposals, the steps taken in the wake of liberalisation, indicate the line our Government is likely to take on the proposals. The mounting debt burden and widening trade deficit are being given as reasons for recent cuts in tariffs, easing of curbs on foreign investors, removal of restrictions on imports and removal of subsidies. 'Export or perish' is the message that Government has been repeating from all fora. "The world is not going to wait till we meet our domestic demand and produce surplus for exports. If the economics of the deals permit there is nothing wrong in exporting even the same good we may be importing". These were the words of wisdom from Mr. Pranab Mukherjee soon after taking charge of commerce portfolio justifying the wheat import.

The boost to export for earning foreign exchange will mean an even greater pressure on our natural resources. More and more of these resources would be directed to tradeable items rather than for local consumption. Already, more than 60 percent of our exports are natural resource based. These depend heavily on primary commodities such as coffee, jute, timber, marine products, ores and minerals. Since the social and environmental costs are not covered in the price of exports, such tilt towards liberalised trade will push the country to an indiscriminate exploitation of these resources.

With the Dunkel proposals taking effect, global competition for agricultural output would intensify,

Trading the Environment

Third World countries would be obliged to remove or seriously reduce restrictions on investments by foreign companies. The liberalised trade rules would enable relocation of hazardous industries in the Third World countries where labour is cheap and environmental laws are lax. The possibilities of industrial disasters like Bhopal would multiply many times and chances of bringing the multinationals like Union Carbide to book, reduced even further. Relocation of hazardous and polluting industries is indeed an important agenda of the New World Order where the TNCs reign supreme. This agenda is being pushed through GATT by seeking more and more freedom for TNCs and through the World Bank by multilateral assistance for ecologically unsound mega projects. And for the World Bank this agenda was not even so hidden when its former Chief Economist Lawrence Summers in fact suggested to senior World Bank staff ".... should not the World Bank be encouraging more migration of the dirty industries to the less developed countries?" Embarrassed about this, the Bank did apologise for Mr. Summers remarks, but the fact remains that it is already into the business of financing relocation of polluting industries to the Third World. It is this thinking, says Dr. Vandana Shiva, which supports the "emergence of an environmental apartheid in which the resources of the poor are taken over by the rich and the lives of the poor are considered dispensable through poisoning and pollution."

forcing us to bring more and more prime land under cultivation to step up production for exports. Increasing production would mean greater use of chemicals, pesticides, clearing more forests and opening up hitherto protected stretches of land for enhancing exports. With farmers being called upon to earn foreign exchange, massive shift to cash crop production is certain, drastically reducing areas for staple food cultivation. Small and marginal farmers, lacking resources to take to export-oriented production, would be pushed out of agriculture losing out to agri-business interests. Among the several proposals cleared for foreign investments recently, a large number of these relate to food processing. The elevation of agriculture to the status of industry would displace small farmers, many of whom would be compelled to encroach forest areas leading to further deforestation. Export-oriented agriculture, being capital intensive, will not be able to absorb the new entrants to labour force, many of whom would then swell the ranks of the poor in urban slums.

Dumping of Hazardous Technologies

Removal of TRIMs will throw open all areas of economy to MNCs. There is enough evidence to show that hazardous technologies and processes of production will be increasingly shifted to countries like ours to evade stiffer environmental regulations in the developed countries. Weak environmental laws, their tardy implementation and cheap labour force are among the most attractive inducements for MNCs to carry out without hindrance their dangerous, but money-making operations. "US chemical firms spend 44 percent less on pollution control at their overseas plants than at those inside the country" reports US trade magazine Chemical Week. While the people affected by the Bhopal disaster are still awaiting dispensation of justice and continue to suffer, the likes of Union Carbide wait eagerly to set up industries. Unchecked entry of MNCs in the name of liberalised trade will mean many

more Bhopals. The restricted space for intervention by the State would give greater freedom for the MNCs to endanger public health and environment without having to fuss about any liability. In fact, even in the case of Union Carbide, it was entirely because of the continuous pressure from citizen's groups and not the Government, which led to a Supreme Court judgment directing criminal proceedings against Union Carbide.

Threat to Genetic Resources

Removal of import controls, coupled with strong patent laws, will make it easier for MNCs to dump all

kinds of products banned in developed countries. Strengthened patents regime would particularly help them to monopolise the Indian markets, especially for products based on bio-technological research. A large number of them are already poised to take control over the Indian seeds market and with that the entire agriculture. Their expensive hybrids would replace the indigenous varieties, making our agriculture even more dependent on fertilisers and chemicals with their damaging effects on soil. The patenting of life forms and processes would lead to a faster erosion of our diverse genetic resources for development of plant-based marketable products, like foods, medicines etc.

CIRCLE OF POISON

The world pesticide business is controlled by the few multinationals of developed countries. A number of US companies are manufacturing highly dangerous chemicals which under the US environmental laws, are prohibited for use domestically. And yet these companies are in the business of producing these in the US for export to a number of countries, largely in the Third World. These pesticides then return to the US in the form of residues on imported foods, thus completing the circle. For instance, heptachlor and chlordane are two insecticides (produced by Velsicol Chemical Corporation) banned for use in agriculture in the US due to their proven hazards to health; yet these are exported to other countries. The poison thus affects the health and lives of people all over the globe. The WHO figures show a million poisonings and 20,000 deaths a year due to pesticide exposure.

In March 1990 the US Congress, introduced a bill to end this circle of poison which starts with production in the US. This truly is a welcome development aimed at the root of the problem i.e. the Multinational chemical companies. There are, however, some issues that remain a source of concern in the context of the current efforts by developed countries to liberalise trade, giving more and more freedom to MNCs to operate any where in the world.

There is also a misplaced euphoria among the Indian Government about the increased export opportunities that a liberalised trade regime would unleash. It is misplaced, because, application of stiffer sanitary and phyto-sanitary standards, on the exports from countries like ours, will in all likelihood mean that it will not be as easy for our exports to enter developed country markets, on the grounds that these contain dangerous levels of residues of hazardous chemicals. Thus the kind of concern for public health and environment as is reflected in stiffer standards can only be termed as half-hearted. There are no rules being framed to check the activities of chemical companies in Third World countries like India, which have made agriculture acutely dependent on the use of their highly dangerous products. Global health standards will no doubt strengthen more protectionism in the developed countries.

The Indian government have been projecting that the acceptance of Dunkel proposals in agriculture would bring enhanced opportunities for export to developed country markets. While seemingly opening up the markets of developed countries, the proposals would cleverly make this possibility increasingly difficult because of the inclusion of Sanitary and Phyto-Sanitary standards that will be monitored by the reformed GATT. Thus in the case of edible exports from developing countries, environmental concerns could very well be used as non-tariff barriers.

Tourism is one industry where foreign service companies are particularly interested. Environment will receive a severe blow because of the indiscriminate expansion of tourism and hotel industry with 51 percent equity from MNCs. In Goa alone, 35 luxury resorts have been given clearance in just last two years which include projects of big multinational hoteliers like Hyatt Regency, Holiday Inn, Kampinski Ramda. Tourism getting the status of industry means Government can take over land in 'national interest' from local fisherfolk. The effect of the luxury hotels on the surrounding environment will be disastrous. With massive consumption of water each day to fill the swimming pools of these hotels, wells of the local people in the coastal villages will run dry.

Trading Environment for Dubious Gains

The new GATT agreement places trade over and above national laws to protect environment. All our environmental regulations, whatever worth these are, would come to a knot.

Thus what we would be surrendering is the power of the state to legislate for greater protection and conservation of our forests and natural resources and protection and safety of health and life of nation.

Will our leaders, in their current euphoric mood favouring wholesale liberalisation, stop to look at some of these pernicious implications of liberalised trade before signing on the dotted lines? ■

Downgrading Health Standards

The Uruguay Round final text section on technical barriers and Sanitary and Phyto-Sanitary standards (SPS) would require nations to harmonise their standards with international standards. Harmonisation, it is argued, by environmentalists in the developed countries, is only a euphemism for levelling off — generally downward — of differing standards. What is causing concern is that the GATT has named *Codex Alimentarius* as the legitimate international agency to set standards of food safety. Yet many standards that this agency sets are much lower than consumer and environment standards in several countries. Eg. certain residues such as DDT, long since banned in many countries, are allowed by Codex standards. Codex standards also allow greater concentration of other pesticides.

The environment and citizens groups are also gravely concerned that environmental policy making and norm setting is being handed over to an unelected body heavily dominated by corporate interests. The US delegates to Codex include representatives of Nestle, Coca Cola, Pepsi, American Association of Cereal Chemists and others. No consumer groups or environmental groups are represented. The pesticide committee of Codex has 197 participants. Of those who attended a meeting in April 1991, 50 were from agrochemical companies, 14 from food and just two were consumer representatives.

Export-led Destruction

- Forests in Thailand have shrunk from upto three-quarters to barely 15 percent of the land area, all in a matter of few decades of "Modernisation" and export-oriented economy.
- Modern livestock breeds have replaced many village races and export cropping has come to replace traditional rice and mixed agriculture with its variety of local food plants.
- Increased demands for pesticides and fertilizers have driven fish out of Thai paddies as a result of massive expansion of cultivation in recent decades. More than one quarter of the land is affected by severe soil erosion.
- Following World Bank and the US Missions to Thailand in 1950s, a huge increase in agricultural clearance for non-rice cash crops, grown almost exclusively for export, led to this invasion of natural resources.
- Between 1950 and 1978, cultivation of cassava, maize, sugarcane and other crops, overwhelmingly for export to Japan, EEC etc. increased 618 percent at the expense of around 50,000 Sq. km of upland forest.
- Tiger prawn ponds have replaced almost half of Thailand's rich mangrove forests in a decade for growing a single species. Purpose—catering to luxury seafood markets abroad with crippling effects on local fisheries.

Sadly enough, this is not the fate of Thailand alone, countries after countries in the Third World are falling in this trap of export-led growth as part of the current globalisation and liberalisation drive.

Abuse of Corporate Power

The Methyl-Iso-Cyanate, the deadly gas escaping from the Union Carbide Bhopal plant on December 2-3, 1984 killed 5000 people, and left some 80,000 men, women and children permanently disabled. By all accounts, the Bhopal tragedy was not an accident, but a disaster waiting to happen. It represents the most shameful abuse of corporate power by a multinational to escape responsibility for its omissions and commissions. After all kinds of delaying tactics to tire the victims in their fight for justice, the February 1989 out-of-court settlement between the Government of India and the Union Carbide was a victory for the multinational. It was let off in just \$470 million dollars as the cost for thousands of lives and livelihoods lost. The settlement showed the powerlessness of 'State' before the mighty power of the company. The settlement also precluded any further criminal proceedings against the Union Carbide. However, the resolve of the numerous citizens groups to continue to fight the cause of the defenseless poor, has over the years, yielded some results. Recently the Supreme Court, while upholding the payment of \$470 million, directed that criminal proceedings against the Carbide may continue. It was also ruled that children born with genetic deformities to women exposed to the deadly gas should be included in the definition of victims. However, even nine years after the disaster the victims continue to suffer and run from pillar to post awaiting dispensation of justice. And yet open invitation to multinationals with lesser regulatory mechanism, can only mean invitation to more such disasters.

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Resources

A number of NGOs, citizens groups and networks have been actively building awareness and campaigning against the attempts at GATT to restructure world trade rules in favour of TNCs. Some useful addresses include :

1. National Working Group on Patent Laws,
79, Nehru Place, New Delhi-110 019,
INDIA
Phone : (91) - (011) - 6415089
Contact : Mr. B.K. Keayla, Convenor
2. Gene Campaign, F-31, Green Park Main,
New Delhi-110 016, INDIA
Phone : (91)-(011)-655961
Contact : Dr. Suman Sahai, Convenor
3. Seeds Action Network Asia,
105, Rajpur Road,
Deharadun - 248 001, INDIA
Phone: (91) - (135) - 23374
Contact: Ms. Vandana Shiva
4. Karnataka Rajya Raitha Sangha
2111, 7A Cross, III Main Vijayanagar
II Stage, Bangalore - 560040, INDIA
Phone: (91) - (0812) - 302171, 300965
Contact: Prof. M.D. Nanjundaswamy, President
5. Third World Network
87, Cantonment Road, 10250 Penang,
MALAYSIA
Contact: Martin Khor Kok Peng
6. Consumer Interpol, International Organisation of
Consumers Unions (IOCU)
P.O. Box 1045, 10830 Penang,
MALAYSIA
Contact: Dr. Martin Abraham

7. Genetic Resources Action International
Apartado 23398, 08080
Barcelona
SPAIN
Phone: (34) - (3)-302-64-95
Contact: Mr. Henk Hobbelink
8. The Council on International and Public Affairs
777, United Nations Plaza, New York
NY 10017, USA
Phone: (1)-(212)-972-98-77
Contact: Mr. Ward Morehouse
9. European NGO Network on Agriculture and
Development (RONGEAD),
14, Rue A Dumont
69372 Lyon Cedex 08 France
Phone : (78)-61-32-23
10. Institute for Agriculture and Trade Policy
1313 Fifth Street SE Suite 303
Minneapolis, MN 55414 US
Phone : 612-379-5980
Contact: Mark Ritchie

Material of Interest

1. *BIJA*—the news monitor of the national Campaign
on bio-diversity, bio-technology and patenting of
life forms
Contact: Bija, Research Foundation for Science,
Technology and Natural Resources Policy, Dehradun.
2. Publications of Third World Network
 - *The Uruguay Round and Third World
Sovereignty*—by Martin Khor Kok Peng (1990)
 - *Dossiers on the Uruguay Round*—(reports
and analyses on the negotiations)
 - *Third World Economics*—a fortnightly maga-
zine on the Uruguay Round and other
economic and financial issues.
3. Publications of National Working Group on Patent
Laws

- *A Commitment in Defence of Indian Patent
Regime*
 - *GATT Negotiations: Economic Sovereignty
in Jeopardy*
 - *Dunkel's Draft Text: Indian Agriculture*
 - *Patent System and Related Issues at a Glance*
 - *The Real Face of Dunkel: Issues before Par-
liament*
4. *World Focus*—Monthly Discussion Journal, No.
150, June 1992 - On Dunkel Proposals: Questions
of Economic Sovereignty.
Contact : M-13, South Extension, Part II
New Delhi-110 049, India
 5. *Patent Folly: Behind the Jargon on Intellectual
Property Rights*—by P. Sainath
Contact : The Indian School of Social Sciences,
Bombay, 5-E ENSA Hutments, Mahanagar Palika
Marg (Near Azad Maidan), Fort, Bombay-400001.
India
 6. *Multinationals and the Environment*—Indian edi-
tion of a paper written for Greenpeace Interna-
tional
Contact: Third World Network, A 60, Hauz Khas
New Delhi - 110 016, India
 7. *Fixing the Rules: North-South Issues in Interna-
tional Trade and the GATT Uruguay Round*—
Kevin Watkins
Contact: Catholic Institute for International Rela-
tions,
New North Road, Unit 3, Canonbury Yard, 190 a,
London N1 7BJ, U K
 8. *GATT Briefings*—(Agriculture, Environment,
Trade in Services, TRIPs, etc.) published by the
European NGO Network on Agriculture and De-
velopment (RONGEAD)
 9. *World Rainforest Report*—the quarterly magazine
brought out by the Rainforest Information Centre
Contact : The Rainforest Information Centre,
P.O. Box 368 Lismore 2480, N.S.W., Australia

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| <p>3. ENOUGH IS ENOUGH
<i>by Davison L. Budhoo</i></p> | Rs. 50 | <p>A popular booklet on the recent financial scam and its fallout, in Hindi
by Abhay Kumar Dubey</p> | Rs. 15 |
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<i>Report of Independent Mission</i></p> | Rs. 60 | <p>11. FOR YOUR EYES ONLY</p> | |
| <p>5. THIN BLACK LINES
<i>(A Compilation of nearly 90 cartoons on the Indian Economy, IMF, Globalisation, etc.)</i></p> | Rs. 15 | <p>A Compilation of cartoons on Ayodhya crisis, published by Media Watch</p> | Rs. 5 |
| <p>6. OCCASIONAL PAPERS</p> | Rs. 5 | <p>12. THE PROTEST MARCH</p> | |
| <p>(i) FINANCIAL SCAM : WAGES OF DEREGULATION
<i>by Arun Kumar</i></p> | Rs. 5 | <p>An action-alert on the workers' march to Parliament in November '92</p> | Rs. 2 |
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<i>by Dalip Swamy</i></p> | Rs. 5 | <p>13. THE CONTROVERSIAL WHEAT</p> | |
| <p>(iii) DISINVESTMENT OF PUBLIC SECTOR : A COLONISATION WITHOUT OCCUPATION
<i>by Ashok Rao</i></p> | Rs. 5 | <p>An update on the impact of wheat import on Indian agriculture</p> | Rs. 2 |
| <p>7. BEYOND THE JARGON
Glossary of terms such as MNCs, IMF, GATT, TRIPs, etc., in English and Hindi</p> | Rs. 10 | <p>14. SEEDS OF PROTEST</p> | |
| <p>8. POSTERS ON IMF, WORLD BANK AND INDIA</p> | Rs. 5 | <p>A booklet on the recent attack by the farmers at Cargill office in India</p> | Rs. 3 |
| <p>(i) JUST SAY WHAT YOU MEAN</p> | Rs. 5 | <p><i>Please send payments by Money Orders or Bank Drafts.</i></p> | |
| <p>(ii) NURSERY RHYMES OF OUR TIMES</p> | Rs. 5 | <p><i>No cheques please. Postage charges are extra</i></p> | |
| <p>(iii) NEW 'WORDS' ORDER</p> | Rs. 5 | <p><i>Send your orders to :</i></p> | |
| <p>(iv) THE BIBLE OF DEBT</p> | Rs. 5 | <p>Public Interest Research Group
142, Maitri Apartments, Plot No. 28,
Indraprastha Extension, Delhi - 110 092, INDIA
Phone : (91)-(011)-2224233</p> | |





Public Interest Research Group is a research
and lobbying group working on structural
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