NOTES & COMMENTS

WTO DISPUTE SETTLEMENT MECHANISM AND DEVELOPING COUNTRIES

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I. INTRODUCTION

The GATT, 1947 in the legal technical sense did not conceive of a specific procedure for the settlement of disputes nor did it provide legal norms as to when a breach or breaches would amount to violations of a rule to give rise to a dispute. Nor was there any provision in the GATT, 1947 for the establishment of an internal tribunal to resolve actual disputes or to promulgate authoritative interpretations on questions of interpretations, yet over the years the disputes with regard to breaches of substantive norms of GATT and its articles as well as questions of interpretations have been a recurring phenomena and surprisingly enough GATT, 1947 has resolved many more disputes and evolved umpteen interpretations and interpretative techniques to make run the international trade smoothly.[1] However, Professor Jackson, notes that there are nineteen clauses in the GATT which obligates GATT contracting parties to cousult in specific instances including the instances of customs valuation, and invocation of escape clauses.[2]

The main task of the GATT, 1947 settlement of disputes is the reduction of tariffs in the various rounds of tariff negotiations which should not be diluted by the actions of other contracting parties. The contracting parties are under an obligation to observe whatever commitments they have made under the GATT counter as well as the contracting parties must observe the substantive norms of international trade. Accordingly, Article X in the GATT, 1947 conceived an important obligation towards achieving the abovesaid obligations by mandating that the contracting parties must publish laws, regulations, periodical decisions and administrative rulings of general application pertaining to the treatment of products for customs duties.[3] Such instruments are to be published promptly in such a manner that the governments and traders are acquainted with them. Similarly, 'agreements-affecting international trade policy' in force between the government or a governmental agency of one contracting party and another contracting party, were also to be published. Certain types of measures of general application such as changes in a rate of duty or the imposition of a restriction on imports, were not to be enforced before such measures had been officially published.[4]

Articles XXII and XXIII have been described as conceiving formal mechanism of settlement of disputes. Article XXII concerns with the consultation and ordains that every contracting party shall accord sympathetic consideration to and shall afford adequate opportunity for consultation regarding such representation as may be made by another contracting party with respect to any matter affecting the operation of GATT. Also, the contracting parties may, at the request of a contracting party, consult with any contracting party or parties in respect of any matter for which it has not been possible to find a satisfactory solution through consultation. Article XXIII not only provides last resort in any dispute but its gamut delimits and defines the true scope of all the substantial provisions of the GATT. Article XXIII has been expressly incorporated in various WTO agreements, as a standard for dispute settlement or a very similar provision is contained in other agreements.

In 1964, Part IV to the GATT, 1947 added Articles XXXVI, XXXVII and XXXVIII[5] although it was an attempt to give legal recognition to the special status of the developing countries in GATT, yet on balance it was the first step towards providing some dispute settlement mechanism for developing countries, howsoever rudimentary it may mean. In 1966, certain procedures were incorporated in Article XXIII of GATT[6] for settlement of disputes in keeping in view the special needs of developing countries by providing (*a*) utilisation of the good offices of the Director-General of the GATT when the bilateral negotiations fail[7]; (*b*) time frame to establish panel, submit its report[8] and comply with its decision[9]; and (c) the provision for suspension of concessions in case of non-compliance with the recommendations.[10] However, the 1966 procedures proved only symbolic for the developing countries.[11] In 1979 after the Tokyo Round of Tariff Negotiations, Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance[12] set out the commitment of contracting parties to notify such measures to the maximum extent possible notwithstanding whether those measures are consistent with the rights and obligations of the contracting parties under the GATT. From the developing countries' perspective, the 1979 understanding did not yield much to the developing countries except to conduct a regular and systematic review of the developments in the trading system with regard to matters affecting the interests of developing countries and recognised the need for appointing a panelist from developing countries when the dispute was between a developed and a developing member country.

With the establishment of the World Trade Organisation (WTO), the dispute settlement mechanism in international trade has become not only rule oriented but more innovative with the entry into force of the Understanding of Rules and Procedures Governing Disputes (DSU) annexed to the WTO.[13]

In the overall structural design of the WTO dispute settlement system, it is important to underpin how and in what respects the less-developing countries are arranged as the basic premise of the WTO recognises that, "there is a need for positive efforts designed to ensure that developing countries especially the least developed among them, [should] secure a share in the growth of international trade commensurate with the needs of their economic development".[14] It is all the more important to underscore how the developing countries have been integrated in the WTO dispute settlement system. Accordingly, this article is developed firstly, to describe GATT/WTO dispute settlement system from the perspective of developing countries and secondly, whether the developing countries could make use of the WTO dispute settlement system more effectively and finally in what respects developing countries fears of weak bargaining power and disparity would reinforce confidence of the developing countries in the WTO dispute settlement mechanism.

II. WTO Dispute Settlement Procedures

A. WTO in General

The WTO essentially is geared for the development of a rule of law whose main purpose should be liberalisation of trade and non-discrimination of member states. The WTO and its robust dispute settlement mechanism and surveillance are binding on all member states. The richness and revolutionary character of WTO can be catalogued as under;

- WTO is now established as a permanent international institution, headed by a Director-General of a stature equivalent to the Heads of the IMF and World Bank and similarly endowed with an independent secretariat and a regular, ministerial-level conference to provide policy directions.

- The ambit of global trade rules now extends to many more countries : 130 countries are now members of the WTO and more countries are likely to gain and by the next decade WTO will be regulating all of world trade and investment.

- The patchwork of previous GATT obligations has been replaced with an integrated, single undertaking that applies to all members. Obligations covering the full array of GATT disciplines have been substantially deepened through a series of binding agreements and understandings.

- GATT-like principles, rules and procedures have been extended to cover trade in services and the protection of intellectual property, while disciplines to govern trade in agriculture and trade in textiles and clothing have been strengthened and integrated in the GATT.

- The trade and trade related policies and practices of WTO members are steadily converging, providing traders and investors with increasing stability and confidence in their ability to do business on a global basis. All WTO members have now bound their regimes for trade in goods in schedules attached to the main Agreement, and indicated the extent of their commitments on services in schedules attached to GATS.

- Special and differential treatment for developing countries has been curtailed as a permanent feature of international trade obligations; instead there is growing recognition by developed and developing countries alike that developing countries need to be full and active members of the WTO, with no more than time-limited departures and technical assistance programmes marking the difference between them and developed members.

- The protocol of provisional application for the 23 original members, and its echo in the protocols of susequent acceding members, have disappeared. Instead each member has accepted the positive obligation "to ensure the formity of its laws, regulations and administrative procedures with its obligations as provided in the annexed agreements."[15] In effect members have agreed to the superior claim of their WTO obligations over domestic law. As well, 'waivers' as political escape value for the members troubled by the bite of an obligation have been made exceedingly difficult, further consolidating members' obligations.

- Members have agreed to subject their trade laws, policies and practices to periodic public scrutiny and review.

- The possibility of the further extension of GATT-like principles, rules and procedures to competition issues, to investment, and to labour and environmental standards has become steadily more plausible. It is now possible to forsee WTO members gradually developing a seamless code of conduct governing the full contestability of global markets.[16]

B. Dispute Settlement Mechanism

The Understanding on Dispute settlement embeds a number of critically important principles and procedures in the WTO besides formally accepting adherence to Articles XXII and XXIII of the GATT, 1947. The Understanding on Rules and Procedures Governing the Settlement of Disputes, 1994 (DSU)[17] came into being only after the WTO Agreements came into force.[18] The rules and procedures of the DSU are applicable to the Agreements establishing the WTO; Agreement on Trade in Goods; Agreement on Trade in Services (GATS); Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) and Dispute Settlement Understanding (DSU).[19] DSU shall also apply to Agreement on Trade in Civil Aircraft; Agreement on Government Procurement; International Dairy Agreement; and Arrangement Regarding Bovine

Meat provided the signatories to each Agreement decide for accepting the terms of the DSU application.

The rules of DSU with special modification have been applicable to other Agreements such as Anti-dumping; Technical Barriers to Trade; Subsidies and Countervailing Measures; Customs Valuation; Sanitary and Phytosanitary Regulations; Textiles; General Agreement on Trade in Services (GATS); Financial Services; Air Transport Services; and Ministerial Decisions on Services Disputes.[20]

The main features of Dispute Settlement of WTO can broadly be characterised as (*a*) the right of every member to have its complaint addressed by a panel of experts; (*b*) the promise that the panel will act expeditiously and independently on the basis of clear rules and procedures; (*c*) the commitment that panel reports will be adopted by the WTO unless an objecting member can successfully organise a consensus to block adoption; (*d*) the right to have decisions and reasoning of panels subjected to review by a permanent appellate body; (*e*) the obligations of members to implement adopted panel findings by taking action to remove the basis of complaint; the right to compensation or to authorized retaliation while possible in order to give teeth to this obligation, does not let a member off the hook; (*f*) the confidence that panels will have the assistance of a qualified, capable, independent group of officials with legal training in analysing the issues and reaching decisions; and (*g*) the promise that decisions will accumulate into a body of precedent that will further strengthen the rule of law in international trade and trade-related activities.[21]

III. WTO/GATT Disputes and The Participation of Developing Countries

A statistical analysis of the level of participation of developing countries in the GATT and WTO[22] shows that out of a total of 236 GATT dispute settlement matters, developing countries had initiated only 35 of them against the developed countries, i.e. about only 14.83 per cent of the total. But the corresponding percentage in the WTO is already as high as 31.08 per cent i.e. 16.25 per cent increase. The numerical participation of developing countries in the WTO dispute settlement system based on dispute settlement matters brought by them has increased by 28.50 per cent in the WTO, compared to the GATT. Correspondingly, there is also an increase in the number of disputes against developing countries in the WTO, an increase of 14.15 per cent.[23]

Between 1961 to 1977, in a span of 16 years there were only three complaints brought by the developing countries before GATT and in 1978-79, the number increased to four. Since 1979 there has been a gradual increase of complaints of developing countries between 1980-1990. Since the coming into

force of WTO in 1995 up to march 1998 the disputes brought before the WTO has gone to more than 100 just in a short span of two years. The nature of the disputes is quite varied. Some of the disputes involved import prohibition, quantitative restrictions, subsidies etc. The commodities that are involved in the developing country complaints in the WTO are primary commodities which can be explained that agriculture has been included in the WTO. Also the complaints concerning textiles has also increased as textile regime has been integrated into WTO and many of the restrictions envisaged in the Agreement on Textiles and Clothing are no longer present.[24] It is also interesting to note that cases against developing countries involve the new issues such as Agreement on Trade-related Investment Measures, Trade Related Aspects of Intellectual Property Rights (TRIPs) and the General Agreement on Tariffs and Trade.[25]

A. GATT Cases

A brief summary of cases brought by the developed countries before the GATT since 1962 to 1995 with the establishment of WTO reveals a pattern that although developing countries' trading interests and their status of special and differential treatment was harmed yet the developing countries had no courage to challenge the developed countries for fear of reprisals and economic loss. In 1962 Uruguay filed a complaint against 576 trade restrictions in 15 developed countries affecting Uruguan exports.[26] The first panel set up for this case declined to consider the overall imbalance on the ground that it fell outside Article XXIII. The panel declined to decide the claim because the claim was not supported with information and arguments. The complaint was viewed more as an attempt to call attention to the problems of developing countries than an attempt to obtain specific relief for Uruguay. The case also demonstrated that small countries have basic problems in trying to invoke the dispute settlement system, particularly when they need to collect exclusive information to support complicated legal arguments.[27]

With respect to part IV of the GATT, four complaints such as *Brazil* v. *EU* (1978)[28] *Chile* v. *EU*[29]; *Argentina* v. *EU, Canada and Australia*,[30] and *Hong Kong* v. *Norway* (1978),[31] the pleading of part IV as commitments and joint action was completely ignored. In *Brazil* v. *EU* which arose out of EU refusal to join the International Sugar Agreement, the panel observed that the EU's failure to join the International Sugar Conference although constituted a failure to collaborate jointly to further the objectivities of GATT, particularly the Article XXXVIII (1) yet it was not in violation of Part IV. Similarly in the case of *Chile* v. *EU*, Chile pleaded that discriminatory quantitative restrictions on Chilean apples by the EU was violative of Part IV. The panel held that Part IV was not violated. In the case of *Argentina* v. *EU, Canada and Australia*,

Argentina claimed that restrictions on Argentina imports in consequence of the Falkland war was violative of Part IV, however, there was no ruling by the GATT panel. In *Hong Kong* v. *Norway*, the panel noted that the objectives of Part IV did not justify derogation from Part II. Thus, it can be concluded that the disputes brought under Part IV were more of a statement of principles and intent than changes in the rules governing trade.[32]

The problem of developing countries were sufficiently demonstrated in 1983 when Nicaragua initiated a complaint against the United States, in which Nicaragua alleged that the United States decision to reduce the amount of Nicaraguan sugar allowed to be imported into the United States under the United States sugar quota system violated GATT rules on the administration of quotas. Although a GATT panel sided with Nicaragua, the United States refused to oblige.[33] Nicaragua could not retaliate as it feared that the United States could harm Nicaragua more in other areas of trade than impose restrictions on imports from United States to Nicaragua.

B. WTO Cases

The Uruguay Round had done away with special and differential treatment principles for developing countries and the dispute settlement mechanism is strengthened and some major trade sectors such as textiles, agriculture, TRIPs and TRIMs have been brought into WTO dispute settlement machinery. In the WTO, the Agreement on Textiles and Clothing have been pleaded in five out of six cases[34] dealing with textiles. The Multifibre Agreement restrictions are no longer present and the developing countries have been successful before WTO in tackling the complaints concerning textiles. In *Costa Rica* v. *United States*; and *India* v. *United States*, the WTO has successfully redressed the grievances of these developing countries against the United States.[35]

Agriculture was treated differently under the GATT unlike the other sectors. From 1960-95 there were only ten cases initiated by developing countries but in WTO, there was almost an equal number of agricultural disputes initiated by the developing countries in two years (1995-1997).[36] As the agriculture sector was outside the pale of GATT, the policies of developed countries since the inception of GATT had acted impediments to the exports of several tropical and temperate products of the developing countries to the markets of the developed countries. The domestic agricultural programmes in the European Common Agricultural Market and the United States, the world prices of several agricultural products which are of interest to developing countries (like sugar, spices etc.) are well below the normal market prices which these agricultural products would have fetched in the international market. In the Uruguay Round Agreement on Agriculture, the impediments to trade in agriculture have been removed in converting all non-tairff barriers to

tariffs and binding all tariffs at the end of the implementation period with a commitment that there shall be minimum access for all products where non-tariff barriers were imposed. The Agreement calls for an average reduction in tariffs and tariff equivalents by 36 per cent for imports of agricultural products, over a period of six years for developed countries and 10 years for developing countries. Also for tropical agricultural products, which account for half of exports from developing countries of agricultural products, a 43 per cent reduction in tariffs will be implemented by developed countries.[37] The Agreement defines the permissible upper limit in the use of export subsidies by country (21 percent) and commodity and embodies these limits in individual country schedules, although the export subsidies have not been phased out. It is expected that the Uruguay Round Agreement on Agriculture would stabilize world food markets, providing great trade opportunities for developing countries. The developing countries have been offered special and differential treatment in the Agricultural Agreement such as tariff reductions would be as low as two thirds of developed countries and domestic subsidies that are part of the economic development of developing countries are exempt from controls. The developing countries are given ten years instead of six to implement all changes.[38]

The cases involving Voluntary Export Restraints (hereinafter referred to as VERS) under the GATT, 1947 namely *Korea* v. *EU* (1978)[39]; *Chile* v. *EU*[40]; *Hong Kong* v. *Norway* (1978)[41]; and *Portugal* v. *USA* (1985)[42] demonstrated that VERS were clearly illegal under GATT but were frequently used by the developed countries to control the imports from the developing countries. In the *Korean case* (1978) restrictions imposed by EU on imports of TVs from Korea ended up in a bilateral understanding. In the case of *Chile* v. *EU,* Chile argued that Article XIII (1) was violated because similar competing suppliers were restrained by VERS while Chile was restrained by a direct QR, however the panel held that the VERS with other suppliers were not similar to the QR placed on Chile. In the case of *Hong Kong* v. *Norway* (1978), the complaint concerned discriminatory VERS on textile imports to certain developing countries which was latter on settled mutually.

In the field of trade related intellectual property (TRIPs) and services, which are completely new areas in the GATT, the developing countries are bringing cases to WTO frequently.

Four complaints have been filed by the developing countries with respect to subsidies before the WTO. Two of the complaints are between the same parties, Brazil and Canada regarding the same subject-matter, i.e. aircraft subsidies. The other two complaints are directed against Hungarian agricul-

tural export subsidies by Argentina and Thailand in a joint complaint. However, it is too early to comment on the role of WTO in the matter of subsidies.[43]

The developing countries as a group faced several import restrictions and under the GATT, 1947 cases such as *India* v. *Japan; Hong Kong* v. *Norway* (1978); and *Hong Kong* v. *EU* (1971), however all these cases were settled without a direct and final finding. In the WTO, there have been complaints initiated by developing countries which deal with Articles XI or XII or with both but several of these are joint complaints involving the same subject-matter. India, Malaysia and Pakistan filed a joint complaint against the US import prohibition on shrimp and shrimp products under section 609 of US Public Law 101-62 followed by Phillipines on the same subject-matter. Ecuador, Guatemala, Honduras, Mexico and the United States jointly filed a complaint against EU laws regarding importation, sale and distribution of bananas, invoking GATT Article XI and the Agricultural Agreement among other legal provisions. India, Hong Kong and Thailand have entered into consultation with Turkey in regard to import prohibition on textiles. Singapore and Malaysia settled an import prohibition case through mutual consultations.[44]

IV. The Future

The future of the developing countries in the overall mechanism of settlement of disputes in GATT/WTO is difficult to assess. Firstly, in a recent case WTO Panel on European Community Regime for the Implementation, Sale and Distribution of Bananas (EC Bananas case)[45] the United States and Mexico successfully opposed the prescence of some private attorneys to represent St. Lucia, a developing country before WTO is not good for the interests of developing countries as majority of the developing countries are not fully equipped with the legal, economic and other technical nuances of the subject as important as that of international trade and WTO. If developing countries' economic interests are to be safeguarded properly and satisfactorily within the framework of the international trade agreements concluded under the aegis of WTO, it is imperative for the WTO to allow the representations of the developing countries through their accredited legal counsels and attorneys. It is important for the WTO to maintain impartiality in the panel proceedings and the impartiality can be maintained only when the facts and circumstances are properly marshalled before the panel. Such marshalling of facts and circumstances can happen only when the countries are represented by legal counsels and attorneys. The developing countries must be given a proper opportunity of having been heard, *audi alteram partem*. In the settlement of disputes in WTO, the panel procedures are contentious and WTO members automatically accept the compulsory jurisdiction of the DSB (Article 6 : 1

DSU), hence the panel decisions and reports have a judicial characteristics settling disputes between contracting parties.

Secondly, the developing countries' increasing recourse to WTO dispute settlement mechanism can be attributed to the more legalistic and improved dispute settlement mechanism systems in the WTO as well to the inclusion of other sectors of international economy under the purview of WTO such as agriculture, textiles and others with the result that the developing countries have more areas to contest before the WTO than the GATT, 1947. The developing countries by and large have much more stakes in strengthening the dispute settlement mechanism of WTO as the problems confronted by them are developed country origin such as subsidies, import restrictions, Voluntary Export Restraints & Non-tariff Restraints.

In the final analysis, the participation of developing countries in the GATT/WTO settlement of disputes procedures is a reflection of how best the trading interests of the developed and the developing countries can be accomodated in a multilateral legal regime of World Trade Organisation.

NOTES AND REFERENCES

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2. See John H. Jackson, WORLD TRADE AND THE LAW OF GATT (The Michie Company, 1969) at 164. GATT Articles and paragraphs are as follows:

   II : 5; VI:7; VII:I; VIII:2; IX:6; XII:4; XIII:4; XVIII:12; XVIII:16; XVIII:21; XVIII:22; XIX:2; XXII; XXIII; XXV:1; XXVII; XXVIII:1; XXVIII:4; XXXVII:2.
3. GATT Articles and paragraphs are as follows: II:5, XII:4; XVIII:7; XVIII:21; XIX:3; XXIII; XXVII; XXVIII:3; XXVIII:4 .
4. The balance of the Article X contained obligations with respect to the uniform, impartial and reasonable administration of laws, regulations etc. and the maintenance of tribunals and review procedures for review and correction of administrative action relating to customs matters. See Jackson, *supra* n.2 at 461-464.
5. Document L/2281 (26 october 1964).
6. Conciliation Procedures under Article XXIII, GATT C.P. Dec. (5 April 1966) 23 sess. 14th Supp. BISD (1966) 18.
7. *Ibid*, para 1.
8. *Ibid*, paras 4, 5 and 7.
9. *Ibid*, para 8.
10. *Ibid*, para 9. See A. Yusuf, LEGAL ASPECTS OF TRADE PREFERENCES FOR DEVELOPING COUNTRIES (Martinus Nijhoff, 1982) at 75.
11. Pretty Elizabeth Kuruvila, *The Developing Countries and the GATT/WTO Dispute Settlement Mechanism*, 31 JOURNAL OF WORLD TRADE (1997) at 173.

12. GATT Doc. L/4907, 26th Supp. BISD (1980) at 210.
13. *Understanding on Rules and Procedures Governing the Settlement of Disputes,* 33 INTERNATIONAL LEGAL MATERIALS (1994) at 122; Norio Komuro, *The WTO Dispute Settlement Mechanism: Coverage and Procedures of WTO Understanding,* 29 JOURNAL OF WORLD TRADE (1995) at 5; See also Koul, *supra* n. 1.
14. *Preamble of the Agreement Establishing the World Trade Organisation (WTO) Final Act Embodying the Results of the Uruguay Round of MTN,* 33 INTERNATIONAL LEGAL MATERIALS (1994) at 114; see also, Autar Krishen Koul, *The WTO and the Problems of Regulating International Economic Interdependence or Globalisation,* in Permanand Singh ed., LEGAL DIMENSION OF MARKET ECONOMY.
15. WTO Article XVI: 4; See also the two volume collection of papers edited by Jagdish Bhagwati and Robert Hudec, FAIR TRADE AND HARMONISATION, (Cambridge MA : MIT Press, 1996).
16. Michael Hart, THE WTO AND THE POLITICAL ECONOMY OF GLOBALISATION, 31 JOURNAL OF WORLD TRADE (October, 1997) AT 75; See also Koul, *supra* n. 14.
17. For the text of the Understanding, see *supra* n. 13.
18. *WTO Dispute Settlement Mechanism*, GATT Focus No. 107, May 1994 at 12.
19. Arwin Von Bogdamdy, *The Non-violation Procedure of Article XXIII: 2, GATT: Its Operation and Rationale*, 29 JOURNAL OF WORLD TRADE (1995) at 95-111.
20. For Rules and Procedures and the Agreements, see Koul, *supra* n. 1 at 51.
21. *Ibid.*
22. Kuruvila, *supra* n. 11 at 179.
23. *Ibid.*
24. *Id. at* 188.
25. *Ibid.*
26. GATT BISD, 13th Supp (1965) 35.
27. See Robert E. Hudec, THE GATT LEGAL SYSTEM AND WORLD TRADE DIPLOMACY (London : Butterworths, 1990) at 240.
28. *Id.* at at 474.
29. *Id.* at 476.
30. *Id.* at 502.
31. *Id* at 471.
32. See Kenneth Dam, THE GATT LAW AND INTERNATIONAL ORGANISATION (Chicago : University Press. 1970) at 91-94.
33. BISD, 31 Supp, 67. Panel Report adopted on March 13, 1984.
34. *Costa Rica* v. *USA*, WT/DS 24; *India* v. *USA*, WT/DS 33; *India* v. *USA,* WT/DS 32; *India* v. *Turkey*, WT/DS 34; *Thailand* v. *Turkey*, WT/DS 47; *Hong Kong* v. *Turkey,* WT/DS 29.
35. See Kuruvila, *supra* n. 11 at 194.
36. *Ibid.*
37. See John Whalley, *Developing Countries and System Strengthening in the Uruguay Round* in Will Martin and L. Alan Winters, ed., THE URUGUAY ROUND AND DEVELOPING ECONOMIES, World Bank Discussion Papers # 307 (Washington D.C. : The World Bank, 1995).

38. *Ibid.*
39. See Robert E. Hudec, ENFORCEMENT OF INTERNATIONAL TRADE LAW : THE EVOLUTION OF GATT MODERN LEGAL SYSTEM (London : Butterworths, 1993) at 470.
40. *Id.* at 476.
41. *Id.* at 471.
42. *Id.* at 528.
43. Kuruvila, *supra* n. 11 at 198.
44. Hudec, *supra* n. 39 at 485.
45. WTO Press Release dated 19 September 1996.