

Trade Disputes under WTO

Trends and Features

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The Dispute Settlement Mechanism is one of the best elements of the World Trade Organisation (WTO) system since it addressed the earlier concerns under the GATT system, of lack of transparency, non-enforceability, discriminatory nature and high degree of ambiguity. In this paper we evaluate the trends and features of trade disputes initiated at the WTO Dispute Settlement Body during 1995-2003 and then relate the disputes to world trade. The paper first examines the disputes on the basis of major defendants and complainants involved. It reveals a high frequency with which advanced nations or blocs like the United States (US) and European Communities (EC) got involved as complainant or defendant in trade disputes. The paper next groups the disputes based on broad issues on which the disputes have been initiated. The analysis reveals a large number of disputes on certain widely debated or controversial issues such as Trade Related Aspects of Intellectual Property Rights (TRIPS) and import control measures. Thirdly, the paper examines the disputes by category of products involved and concludes that disputes occur more often on products falling in contentious areas such as agriculture and food. The paper ends with an exploratory econometric analysis of the world trade-dispute relationship. While it finds no statistically significant causal relationship between trade and disputes, it finds traces of a mutually inverse movement in the two.

Introduction

THE Dispute Settlement Mechanism has been widely accepted as one of the stronger elements of the WTO system (see, for example, Winham, 1998; Hoekman & Mavroidis, 2000; and Sampson, 2000). This is attributed to the fact that the dispute settlement process under the WTO system removed by a large measure some of the most crippling de-merits of the earlier dispute redress system under the GATT such as lack of transparency, non-enforceability, discriminatory nature and high degree of ambiguity.

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While certain ambiguities still exist, the utility of the Dispute Settlement Mechanism was enhanced under the WTO system by the requirement that nations must make their local legislations compatible with the WTO provisions. When trading nations failed to uphold this expectation as well as requirement, the aggrieved trading partners could directly approach the Dispute Settlement Body of the WTO without seeking the often costly and time-consuming local remedies. Such provisions might explain the high frequency of disputes initiated at the WTO body since 1995, notwithstanding instances where even under the WTO the cost of running a dispute sometimes discouraged the affected nations from seeking redress at the Dispute Settlement Mechanism (for instance, in the case of Sri Lanka, when Brazil imposed countervailing duties on its export of desiccated coconut. Also see Hoekman & Mavroidis, 2000).

In this paper an attempt is made to evaluate the trends and some of the features of the trade disputes initiated at the WTO Dispute Settlement Body during 1995-2003 (up to 21 May 2003). The paper *first* examines the disputes on the basis of major defendants and complainants involved. The underlying proposition while doing so is that the developed countries may appear as complainant as well as defendant in a large proportion of disputes due to their pre-emptive approach and the protective impulses and strategies. A similar view is taken about the developing countries, as in a number of occasions the developing nations are pushed to the corners owing to the protectionist tendencies and aggressive trade approach of trading partners, most prominently the developed ones. *Secondly*, the paper groups the disputes based on the broad issues on which the disputes have been initiated. It is expected that a large number of disputes may occur on those broad issues the agreements related to which have been the most debated or controversial among all the WTO agreements including on TRIPS and import control measures. *Lastly*, the paper examines the disputes by the category of products involved. Here too, the hypothesis is that disputes occur more often on product areas that are related to the contentious areas of WTO agreements such as agriculture.

WTO Disputes Since 1995

During 1995-2003 (up to end of November 2003) 303 disputes were initiated with the Dispute Settlement Body of the WTO. An analysis of the trend in the disputes since 1995 shows that while the number of disputes averaged at about 34 per year, the number of disputes has significantly come down after 1998. Thus, the average number of disputes comes to around 33 during 1999-2003 as compared to an average of about 44 during 1995-1998. The 1999-2003 period further witnessed a lower average number of defendants, complainants, broad issues involved in disputes and of product areas involved in disputes. This aspect may be clarified from Table 1.

TABLE I
PARTICULARS OF WTO DISPUTES 1995-2003*

Particular	Number	Average number	
		1995-1998	1999-2003
Disputes	303	44	33
Defendants	303	44	33
Complainants (Single/Joint)	321	41	35
Broad Issues	305	38	33
Product Areas	276	38	27

* Till end of November 2003.

The developed nations are often accused of creating obstacles to trade arising from the developing countries. The United States (US) and the European Communities (EC) have been particularly blamed for placing restrictions on exports from countries like India without adequate factual support. For instance, Gagne (2000) notes that protectionist pressures and political factors have tended to influence the conclusions of US investigating agencies working on trade offences such as dumping and subsidisation of exports. Further, in the banana dispute between the US and EC, it was widely suggested that the EC had the intention of providing benefits to its erstwhile colonies while adopting the controversial banana policy. Hence, the US and the EC should be expected to be defendants in a number of trade disputes.

The developed nations too hold the developing countries responsible for restricting trade in the name of resource constraints and developmental imperatives. The US in particular has been harsh to the developing countries in this respect. Therefore, it is likely that the developing nations are also involved as the offender in several disputes. In other words, the developing nations as well as the US and EC could be the complainant as well as defendant in a large number of disputes raised at the WTO Dispute Settlement Body. In the next two sections, we will examine the validity of these propositions.

A number of analysts have discussed the import restrictions that the developed countries continued to impose under different guises and pretexts. Anti-dumping actions have been rampantly carried out in many countries including the US and India. Sometimes countries like the US have been found even guilty of trying to defend outdated or WTO-inconsistent trade laws such as on anti-dumping (Satapathy, 2000) analysed one of such instances involving the US). The other areas in respect of which uneasiness prevailed among trading nations include subsidies and concessions, quantitative restrictions, intellectual properties, etc.

Therefore, it is reasonable to expect to find disputes emerging on the above issues and areas more frequently. Further, some of the most prominent among the business areas where concerns have been raised against the WTO system are the pharmaceuticals, agriculture & food products, textiles & clothing, and primary industrial products such as metal and chemical products. Logically, these areas should also see a lot of dispute settlement activity under the WTO system. In two subsequent sections we would examine the tenacity of these propositions.

Defendants

As noted at the beginning, the US and EC (including rest of Western Europe) appear to be the leading offenders in international trade under the WTO system. A brief examination of Table 2 will reveal this. Table 2 shows that while the US has been the defendant in about 27 per cent of the disputes during 1995-2003, the EC has been defendant in more than one-fifth of the disputes. Nearly three-fifth of all the disputes involved the developed nations as the defendant. The entire African continent got involved as defendant only in 4 of the 303 disputes whereas India had to defend itself in close to 5 per cent of the disputes.

Table 2 also illustrates that the US did not improve over the years on committing trade offences while the EC retreated to some extent from erecting trade obstacles. Accordingly, the year 2002 involved the US in trade disputes with a peak 18 disputes as compared to the previous peak in 1999 with 11 disputes. Against this, the EC (including rest of Western Europe) had its highest and second highest peak defendant involvement in disputes in 1998 and 1997 with 15 and 10 disputes respectively. On the other hand, such peak during the post-1998 period was 9 in 2003. The other countries including India (but excluding a couple of Latin American ones such as Chile) also had most of their defendant involvement in WTO disputes during the period up to 1999 rather than later.

On the whole, while several countries have been involved as defendant in trade disputes at some point of time since 1995, the US has been the worst performer in this respect in recent years. It may be conjectured that (1) the US has felt threatened in its domestic markets due to influx of cheaper foreign goods and hence it was forced to take protective actions more frequently, (2) the US has not yet reconciled with the relatively egalitarian trade framework of the WTO and hence it often resorted, betraying an affliction to the ostrich syndrome, to measures to evade competition through erecting new artificial barriers to exports from other nations, or that (3) the US authorities have too often played into the hands of the domestic business lobbies who due to their inability to face foreign competition on their own arguably pressurised the government to raise protective barriers.

TABLE 2
WTO DISPUTES 1995-2003 – DFENDANTS

Defendant	2003*	2002	2001	2000	1999	1998	1997	1996	1995	Total
United States	7	18	8	9	11	7	9	9	3	81 (26.7)
Canada	-	1	1	-	1	5	2	1	-	11 (3.6)
Mexico	3	-	2	2	-	1	1	1	-	10 (3.3)
Chile	1	-	4	2	-	-	3	-	-	10 (3.3)
Argentina	-	-	3	3	4	3	1	1	-	15 (5.0)
Brazil	-	-	1	2	1	1	2	4	1	12 (4.0)
Rest of Americas	3	4	1	3	3	1	-	2	-	17 (5.6)
EC & Western Europe	9	6	4	2	4	15	10	6	7	63 (20.8)
Rest of Europe	2	-	2	1	1	3	-	1	1	11 (3.6)
Japan	-	1	-	-	-	1	3	4	4	13 (4.3)
India	1	-	-	-	1	4	7	1	-	14 (4.6)
Korea	-	1	-	-	3	-	3	2	3	12 (4.0)
Turkey	-	1	1	1	-	-	-	4	-	7 (2.3)
Rest of Asia	-	-	-	2	-	1	3	5	1	12 (4.0)
Australia & N. Zealand	1	2	-	-	-	2	1	1	2	9 (3.0)
Africa	1	-	-	2	1	-	-	-	-	4 (1.3)
Others	-	-	-	1	1	-	-	-	-	2 (0.7)
Total	28	34	27	30	31	44	45	42	22	303 (100)#

* Till end of November 2003.

Figures in parantheses are % of grand total.

Subject to rounding error.

Source: Compiled from WTO (www.wto.org).

Complainants

In the case of complaining about other trading partners' trade activities, policies, rules and procedures too the US and the EC (and rest of Western Europe) have been in the forefront. This point can be substantiated with Table 3. Table 3 reveals that different WTO member nations have made 321 appearances as complainants in trade disputes filed with the Dispute Settlement Body. This includes 18 appearances of certain nations as joint complainants in some of the disputes. The number of complaints has been greater, as noted while discussing Table 2, during the period 1996-1998 in comparison with the years since 1999.

Once again, the US accounted for nearly 23 per cent of complaints while the EC (and rest of Western Europe) appeared as complainant in about 21 per cent of the cases. Together, a few other developed nations such as Canada, Japan and Australia (including New Zealand) also contributed a major part (14.9%) of the

complaints brought up as disputes. While 13.6 per cent of the disputes originated from three leading Central and Latin American developing nations, Mexico, Argentina and Brazil, India's share in the WTO disputes as complainant stood close to 5 per cent again.

TABLE 3
WTO DISPUTES 1995-2003* – COMPLAINANTS[§]

Complainant [§]	2003*	2002	2001	2000	1999	1998	1997	1996	1995	Total
United States	2	4	1	8	9	10	17	17	6	74 (23.1)
Canada	2	3	3	1	2	4	1	3	5	24 (7.5)
Mexico	3	-	1	1	3	-	-	4	1	12 (3.7)
Chile	-	2	4	-	-	-	1	-	1	8 (2.5)
Argentina	3	3	1	1	-	1	-	1	-	10 (3.1)
Brazil	-	5	8	3	-	2	2	-	1	21 (6.8)
Rest of Americas	5	-	5	2	4	-	2	4	3	25 (7.8)
EC & Western Europe	3	5	2	7	7	18	16	7	2	67 (20.9)
Rest of Europe	2	1	2	-	1	4	-	-	-	10 (3.1)
Japan	-	2	1	-	2	1	1	3	1	11 (3.4)
India	-	2	3	1	1	3	-	4	1	15 (4.7)
Korea	3	1	1	2	1	-	2	-	-	10 (3.1)
Turkey	1	-	-	-	-	1	-	-	-	2 (0.6)
Rest of Asia	2	4	3	2	1	1	-	4	2	19 (5.9)
Australia & N. Zealand	1	2	1	-	3	1	3	2	-	13 (4.0)
Africa	-	-	-	-	-	-	-	-	-	-
Others	1	-	-	-	-	-	-	-	-	-
Total	28	34	36	28	34	46	45	49	23	321 (100)#

* Till end of November 2003.

§ Some of the disputes involve more than one complainant (joint complaints) each of which is classified separately.

Figures in parantheses are % of grand total.

Subject to rounding error.

Source: Compiled from WTO.

Unlike the trend as defendant, the US has shown declining interest in bringing up disputes at the WTO body in recent years especially since 2001. As compared to 17 cases each brought up in 1996 and 1997, the US brought up just one complaint in 2001 and only four in 2002. A similar trend was visible in the case of the EC too. From a peak of 18-complaints raised in 1998, the number declined to 3 and 5 respectively during 2003 and 2002. At the same time, countries like Canada, Chile, Argentina, Brazil and India have been active in raising trade disputes equally or more during the recent years.

In short, the leading developed countries and blocs have resorted to WTO disputes more often during the earlier years of implementation of the WTO agreements than in the later years. One plausible explanation of this tendency may be that in the earlier years they opted to act preemptively in removing the trade restrictions prevalent in other countries and that probably they used the disputes as a sort of pressure mechanism to force the defendant members to deal with the untenable trade policies, procedures and actions as early as possible. An illustration of such a possibility is available in the US attempts on India in the context of the intellectual property issues related to pharmaceuticals, agricultural chemicals, etc. during the early second half of 1990s. The US wanted India to implement certain provisions without further delay when India as a developing country having no product patent system had time up to end of 2004 for implementing TRIPS in totality (Watal, 2000). Another possibility is that with a cumulative experience of nations about the nuances of the dispute settlement process and given the huge costs and political considerations associated with the existence and resolution of most of the trade disputes, the new trade differences are being addressed and solved in many cases through mutual consultations even without being taken to the WTO dispute settlement mechanism.

It could even be that since other trading partners too are getting inclined to raising disputes at the WTO Body, the countries or blocs like the US and EC are discouraged from frequently complaining about others so as to encourage reciprocity from others. Intuitively, since the strategic orientation of the US, in particular, in every international matter including trade and economics has been too obvious in the past, the action of the US of filing fewer trade complaints with the WTO body in recent years cannot be considered accidental.

Broad Issues

Lending support to our argument in the introductory section, a large proportion of the WTO disputes related, as shown in Table 4, to direct import restrictions of various types. While the various import restrictions on trade in goods falling under the purview of GATT constituted 38.4 per cent of the disputes raised, a small proportion (2.3%) of the restrictions was on services. The indirect import restrictions in the form of anti-dumping actions and safeguard measures also constituted a large chunk of issues underlying the disputes. While anti-dumping actions were the cause of over 15 per cent of disputes, over 10 per cent of complaints have been due to safeguard actions. The customs classification problems, which too sometimes act as an indirect import barrier especially when an item is misclassified to qualify for a higher import duty, accounted for another 3.3 per cent of disputes. In addition, the alleged anticompetitive elements of quotas/

Quantitative Restrictions (QR), subsidies/concessions and the countervailing actions together gave rise to over 13 per cent of the complaints. Issues related to TRIPS led to 7.5 per cent of the disputes whereas violations of provisions related to various other important components of the WTO system such as Sanitary & Phyto-sanitary Measures (SPM), Technical Barriers to Trade (TBT), Rules of Origin (ROO), etc. contributed to just 5 per cent of the disputes.

TABLE 4

WTO DISPUTES 1995-2003* - BROAD ISSUES[§]

Broad Issue [§]	2003*	2002	2001	2000	1999	1998	1997	1996	1996	Total
Import tariff	1	1	-	2	-	3	-	1	4	12 (3.9)
Import restriction: goods	7	11	6	12	9	16	19	25	12	117 (38.4)
Import restriction: services	1	-	-	1	-	-	1	4	-	7 (2.3)
Anti-dumping actions	5	6	8	7	8	6	3	4	-	47 (15.4)
Safeguard measures	2	10	6	5	5	2	2	-	-	32 (10.5)
Quotas/QRs	-	-	1	-	-	2	6	1	-	10 (3.3)
Customs classification	1	1	1	-	1	-	2	1	3	10 (3.3)
Subsidies/concessions	1	4	1	-	-	5	5	2	-	18 (5.9)
Countervailing actions	3	1	1	3	1	3	1	-	-	13 (4.3)
TRIPS	5	-	1	1	4	5	4	3	-	23 (7.5)
Others (SPM/TBT/ ROO/CV/GSP, etc.)	2	1	2	-	3	2	2	1	3	16 (5.2)
Total	28	35	27	31	31	44	45	42	22	305 (100)#

* Till end of November 2003.

§ Some of the disputes involve multiple issues, each of which is classified separately.

Figures in parantheses are % of grand total.

Subject to rounding error.

Abbreviations: CV = Customs Valuation; GSP = Generalised System of Preferences.

Source: Compiled from WTO.

Disputes arising from the imposition of various import restrictions have been more rampant during the earlier years of implementation of the WTO system although a large number of import restrictions continued as indicated by the number of disputes during the years 2000 and 2002. The resort to safeguard measures has been on the rise over the years as the number of disputes related to safeguard measures shows. The increasing use of safeguard measures in recent years may be attributed to a surge in imports when import curbs including QR disappeared over the years. It may also be a result of a declining scope for continuance of direct import restrictions. The new policy constraints on curbing imports, on the other hand, were a consequence of various WTO obligations of the member countries and the eagerness of other trading partners to question the

imposition of any restrictions. To illustrate, Reinert (2000) refers to a tendency of countries administering the Multi Fibre Arrangement (MFA) to seek greater reliance on safeguard measures in textiles & clothing with the gradual dismantling of quotas in textiles & clothing under the Agreement on Textiles & Clothing (ATC).

Complaints also increased and persisted in number since 1998 on anti-dumping actions, which again reflect the dwindling avenues of nations for imposing direct restrictions and the perception of the anti-dumping (and countervailing) route as a safer way of import curbs and of providing protection to the domestic industry. Krueger, 1999; Srinivasan, 1999; and Tharakan, 1999, who considers anti-dumping provisions a “safety valve”, also reflect this view. Also, certain other issues causing disputes such as subsidies and TRIPS came down in prominence since 2000 or earlier although the number of disputes due to these issues occasionally showed an increase. Moreover, despite widespread apprehensions and some evidences of the misuse, in markets like the EC, of the provisions of SPM, TBT, etc. particularly in view of the growing production of genetically modified foods (see Kerr, 1999; and Perdakis, Kerr & Hobbs, 2001, for some useful analysis), there has been no significant dispute activity, in absolute or incremental terms, on such issues.

To conclude, disputes related to the direct and indirect import restrictions and trade protection to domestic industry dominated the dispute settlement activity at the WTO. While the role of specific issues in causing trade disputes changed over the years positively or otherwise, the disputes under all categories of import protection put together remained significant even in 2002. This should cause concern because it is hardly encouraging to note that despite over eight years of existence of the WTO, the best ever global framework for free trade, the international trade continued to be bogged down by trade restrictions and protective measures of the trading partners.

Product Areas

The broad product areas into which the WTO disputes since 1995 could be clustered form another aspect on which part of our initial expectation comes true. Table 5 reveals that the agriculture/food and allied areas attracted maximum disputes. It may be noted that the agricultural/food and allied products could come under the purview of several components of the WTO agreement such as GATT, Agreement on Agriculture, agreement related to subsidies, agreements on anti-dumping and countervailing actions, SPM, TBT and TRIPS. Apart from other industrial products, other major product areas having coverage in the trade disputes are metallic products (mainly steel), automotives & allied products and textiles & clothing. The natural resource products on which disputes have arisen include timber, marine products and gasoline.

TABLE 5
WTO DISPUTES 1995-2003* - PRODUCT AREAS[§]

Product area [§]	2003*	2002	2001	2000	1999	1998	1997	1996	1995	Total
Pharmaceuticals	1	-	1	-	2	2	1	2	-	9 (3.3)
Agriculture/food & allied	6	12	9	6	4	11	14	6	6	74 (26.8)
Services	1	-	-	1	-	3	1	5	-	11 (4.0)
Textiles & clothing	1	1	-	1	-	3	8	8	-	22 (8.0)
Steel/metals	1	12	3	5	3	2	-	-	-	26 (9.4)
Automotives & allied	1	1	1	1	3	5	4	7	2	25 (9.1)
Chemicals & allied	1	-	-	2	3	1	1	4	1	13 (4.7)
Natural resources	2	3	2	1	-	1	1	2	5	17 (6.2)
Poultry/bovine & allied	5	1	1	1	5	2	5	2	-	22 (8.0)
Other industrial products	5	-	4	2	3	4	18	6	7	49 (17.8)
Other products	-	2	-	2	1	1	-	1	1	8 (2.9)
Total	24	32	21	22	24	35	53	43	22	276 (100)#

* Till end of November 2003 .

Subject to rounding error.

§ Some of the disputes are not product-specific.

Figures in parantheses are % of grand total.

Source: Compiled from WTO.

It is significant that more than two-fifth of the disputes owe their origin to three related areas put together: agriculture/food & allied products, natural resource products and poultry/bovine & allied products – these products are all primary ones. By implication, the trading nations have been striving to exercise control over markets for these primary products. The markets could be in other countries where the exercise of control can be realised if restrictions get removed through raising disputes or in one's own domestic markets where control can be retained if the restrictions are successfully defended through winning the dispute. The rising consumer power in markets like Europe could be another major factor, as Kerr (1999) remarked in a different context, creating trade differences among trading nations as in the case of genetically modified foods.

As a matter of fact, the disputes involving different product areas have not been equally distributed over the years. For instance, disputes involving the agriculture/food & allied products have emerged frequently almost throughout the period since 1995. On the other hand, disputes related to steel & other metal products have been more frequent in recent years, with a tall peak in 2002, as compared to the earlier years. At the same time, most of the other product categories listed in Table 5 have been caught in disputes more in the initial years of commencement of the WTO system than in the later years. This has been true

even in the case of products like services and textiles & clothing (despite the latter's recent problems like back loading in implementation of ATC, arbitrary changes in rules of origin, etc). The prominence and contentiousness of the above areas as trading objects have been expected to increase over the years with respectively the gradual evolution of GATS into a full-fledged system and the planned total disintegration of the MFA by 2005. For a related discussion on trade in textiles & clothing under ATC, see Reinert (2000).

It is surprising that despite the recent public debates and controversies shrouding the TRIPS and other related agreements, the pharmaceutical products have not been embroiled in many trade disputes particularly after 1999. As a reference, Srinivasan (2000) and Watal (2000) throw up some light on the concerns particularly in India related to pharmaceutical products under the TRIPS and WTO regime.

It may be apt to conclude at the end that the primary products especially having link to food and subsistence have been frequent targets of disputes. Such disputes often emanated from a desire to retain or capture market control in such products as if justifying those who oppose various WTO agreements in India and elsewhere, although the consequences of those disputes might not be as pervasive as one may fear. As a matter of fact, the opposition to WTO agreements in general is on the ground that the agreements will endanger the subsistence and livelihood of common man across the globe. Incidentally, such events as the granting of exclusive soyabean patent to Monsanto in Europe will only accentuate the adverse perceptions about and opposition to the emerging global trade framework despite its innumerable benefits. It may be relevant to mention here that quite a few issues causing concerns among trading nations were due for discussion at the Cancun Ministerial Meeting (see *EPW*, 2003a, for some highlights).

Trade & Disputes

What motivates nations to raise disputes so frequently with their trading partners? As noted in an earlier paragraph in the context of the US, competition or domestic lobbying could be playing their role. Or, as observed in the context of the primary products, the disputes could arise from the desire of nations to retain market domination within or across the border. For the domestic market, this is in tune with what Kelly (2003) noted while examining certain disputes related to environmental or health and safety goods: "...[these disputes are] protectionist measures that merely purport to promote environmental or health and safety goals." In either case, inward or outward trade appears as a potential factor explaining the frequency of disputes. This may attract us to the possible relationship between the emergence of disputes and the world trade performance.

To verify how far world trade and trade disputes are related we evaluate the trends in world trade and correlate it to the trends in the disputes during 1995-2002 for which comparative data are available. (For reference, we also present the inter-regional trend in the different components of trade where we look at the Indian trade data too.) In doing this, first we graphically present the trends in world trade in both mercantile goods (exports and imports) and in commercial services (exports and imports). Then we estimate the trend growth rate of disputes and various components of world trade, and compare them. The results of trend analysis are presented in Figures 1 to 6 and Table 6.

TABLE 6
ANNUAL TREND GROWTH RATE OF TRADE & DISPUTES 1995-2002:
WORLD AND INDIA

Component	Growth rate (%)	
	World	India
Total trade	3.47*	9.25*
Mercantile trade	3.43*	6.73*
Exports	3.30*	6.54*
Imports	3.56*	6.89*
Commercial services trade	3.64*	17.02*
Exports	3.69*	21.46*
Imports	3.60*	13.49*
Trade disputes with WTO	-0.86	

* Significant at 1% level.

Estimates are based on data from WTO, *International Trade Statistics 2003*.

We have also explored if the number of disputes had significant causal relationship with movements in world trade during 1995-2002. This is done with a simple two-variable regression model. The model used for estimation is of the following general form: $\text{disputes} = f(\text{world trade})$.

For estimation, we have used both the current and single-period lag forms of the variable world trade, whose four components as well as totals have been used alternatively as explanatory variables. As we will explain later, the econometric analysis did not reveal any significant causal relationship and, hence, we have not reproduced the results here.

Figures 1 to 6 present the graphical trends in trade. Figure 1 shows the trends in world mercantile and commercial services exports and imports. The trends are similar not only between world mercantile imports and exports and between world commercial services exports and imports, but also between world mercantile and

commercial services trade. In contrast to this, for India the trends are dissimilar on each of these aspects (Figure 2). For instance, while mercantile imports and, most prominently, exports exhibited cyclical trends, commercial services exports increased continuously throughout the study period. At the regional level too the trends differed (Figures 3-6). For example, the cyclical trend in trade is much more apparent in respect of the non-Middle East Asian region than the other regions including North America in each of the four components of trade. As a matter of fact, the Western Europe registered the most stable trend growth in the various components of trade during 1995-2002.

FIGURE 1

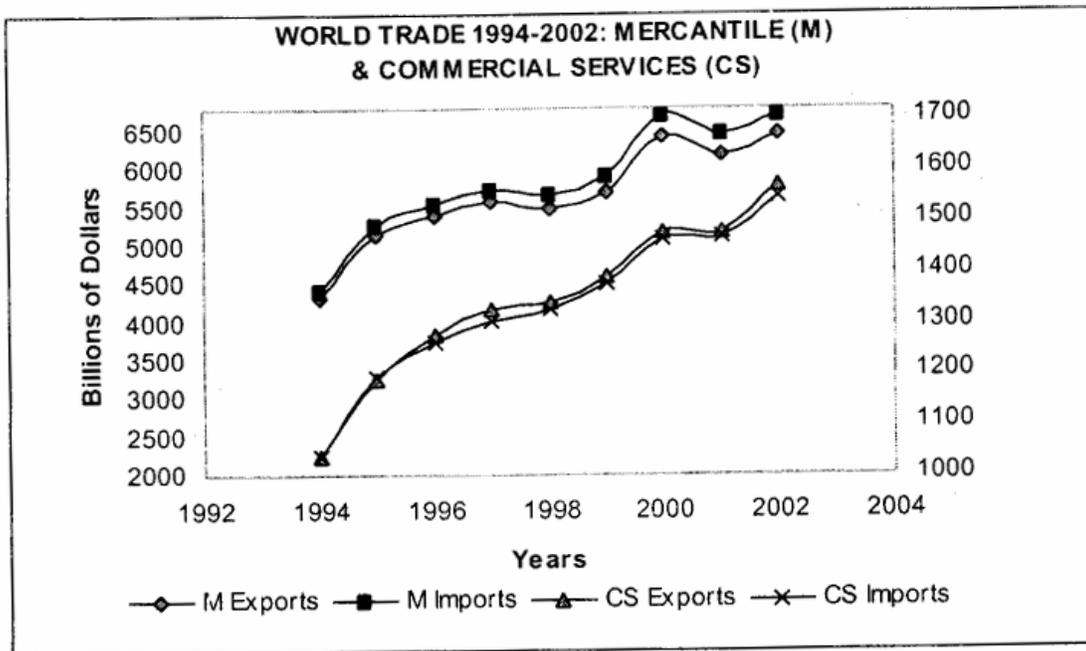


FIGURE 2

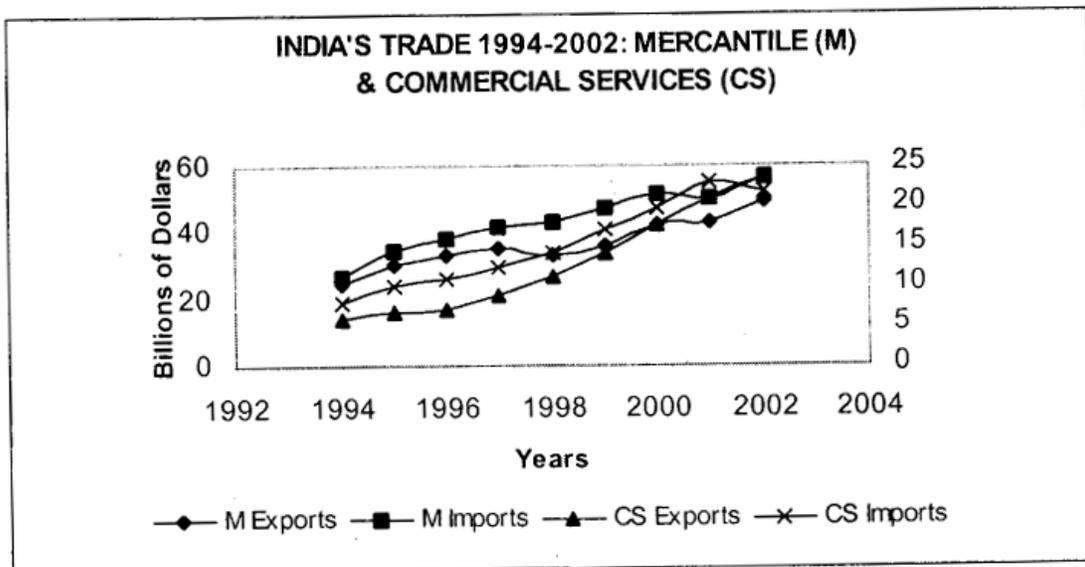


FIGURE 3

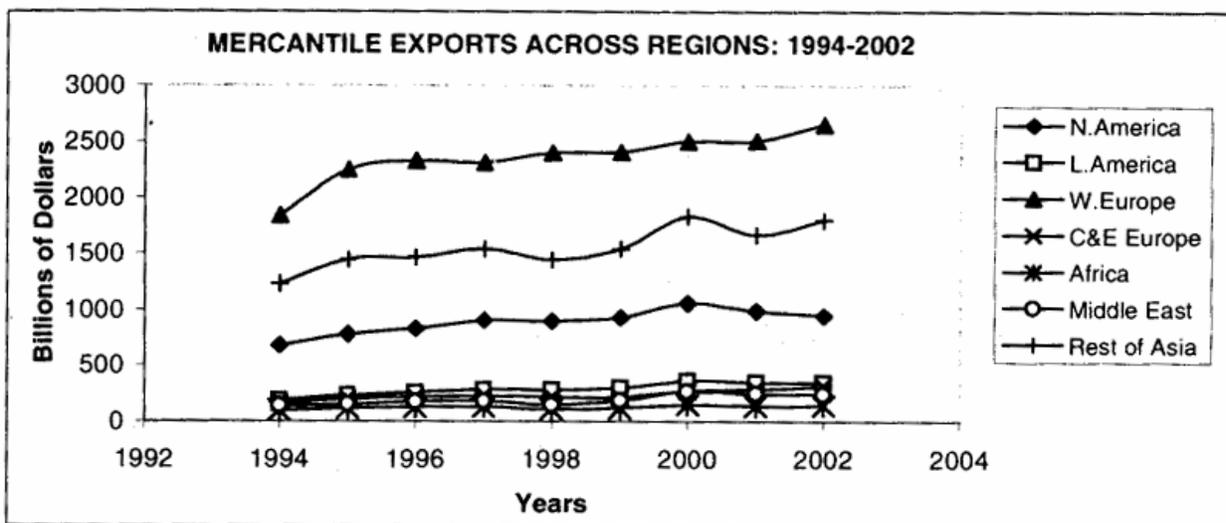


FIGURE 4

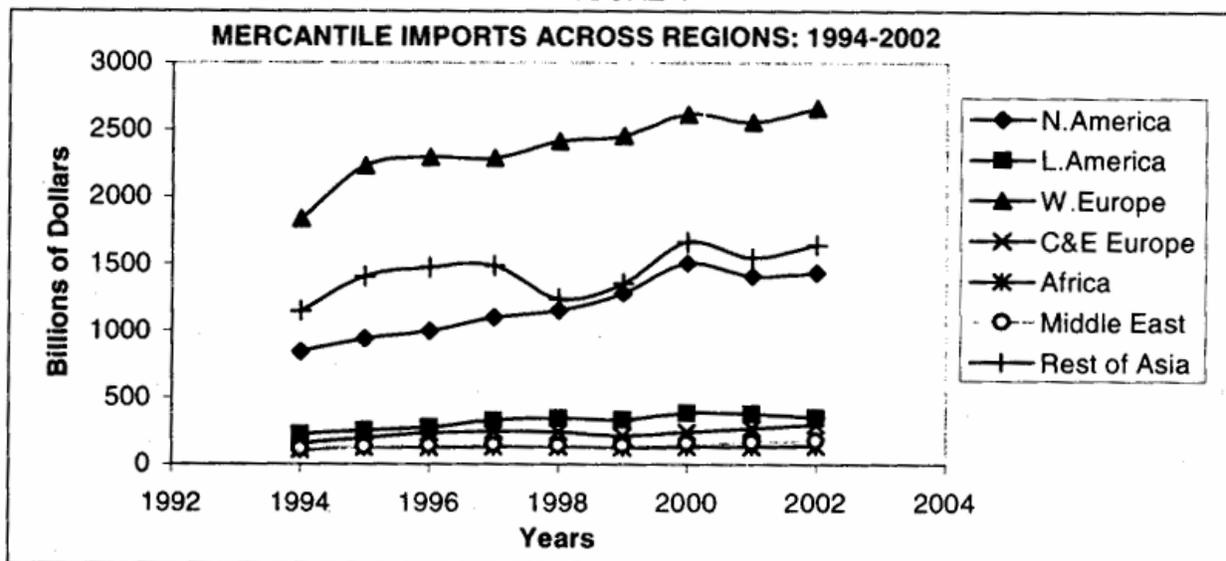


FIGURE 5

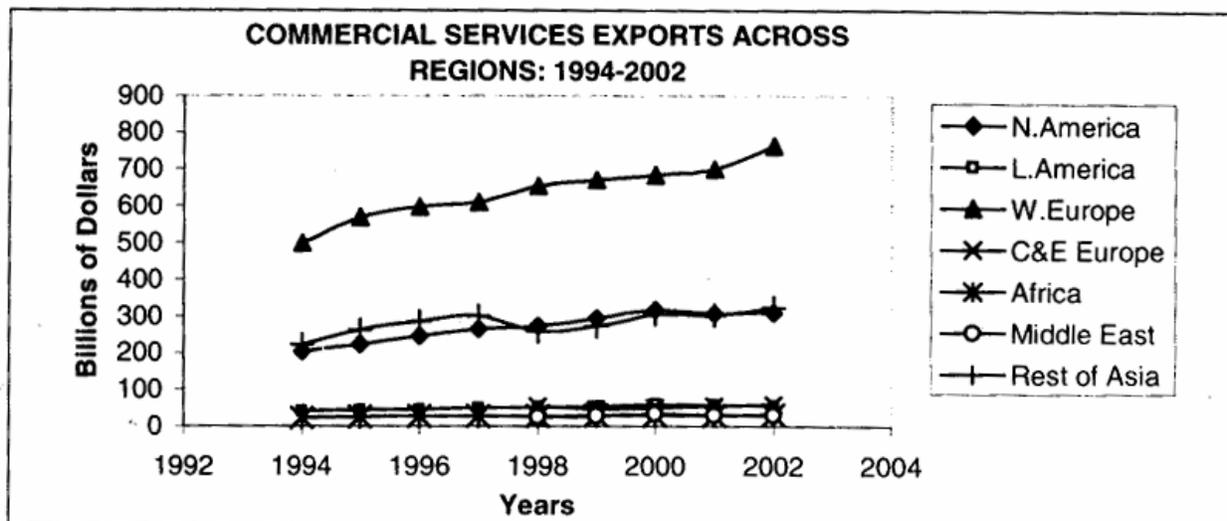


FIGURE 6

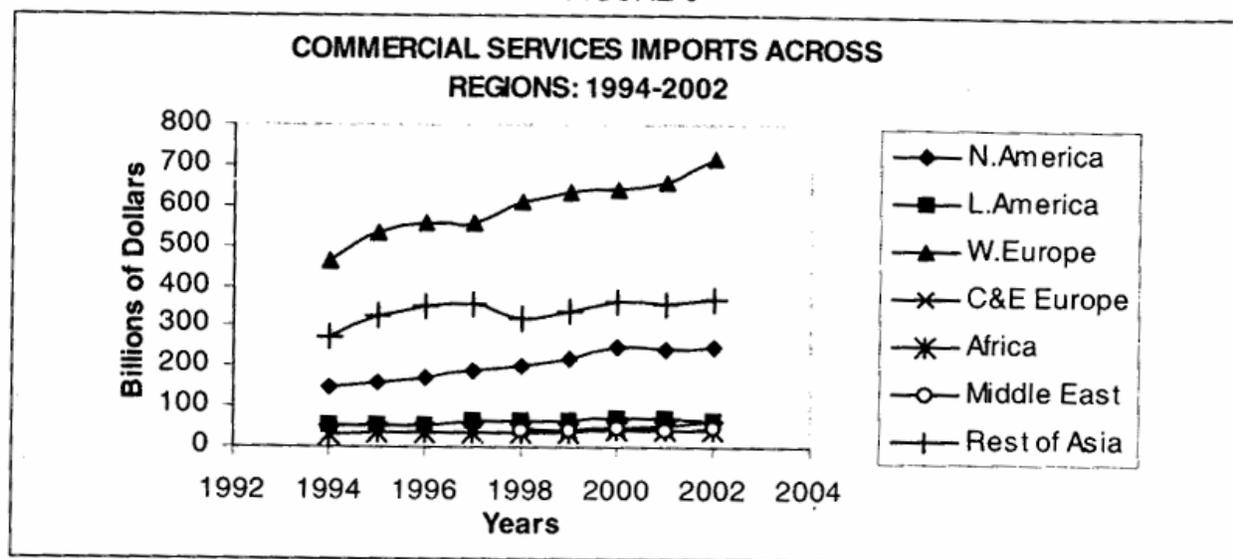


Table 6 shows the trend growth of the various components of world trade and the WTO disputes on trade. For purpose of comparison, the table also incorporates the trend growth rates of India's trade in the various components. The table reveals that each of the components of world trade achieved highly significant trend growth ranging between 3.30 and 3.69 per cent per annum during 1995-2002. (Compared to this, the trend growth rates for India are much higher, with the growth rates on the commercial services components of trade being quite substantial.) At the same time, trade disputes grew only at a statistically insignificant -0.86 per cent rate per annum during 1995-2002. Significantly, the sign of the trend growth rate of disputes is negative. It means that, on an average, disputes tended to decline over years since 1995. This is indeed a happy observation, although without statistical validity, since it implies either that in recent years the trading nations are finding fewer issues as worthy of being brought up as WTO disputes or that they are beginning to use discretion while approaching trade differences with their trading partners.

The regression models used in this study could not explain the incidence of trade disputes. In other words, the number of trade disputes is not econometrically related to the value of world trade. Lack of such causal relationship is true irrespective of whether we have used as explanatory variable total trade or its various components such as mercantile or commercial services trade or exports or imports. It also did not help whether the explanatory variable is considered in current or lagged (one-period) form. In short, variations in world trade or its components do not econometrically explain yearly variations in trade disputes. However, one important point is to be noted although without statistical validity: in all the estimates the coefficient has a distinct negative sign. It clearly implies

that if at all the trade influences the frequency of occurrence of trade disputes, it is in the negative way. That is, higher the world trade, the lower is the number of disputes and vice versa. In other words, more disputes are raised in years in which the trade growth slows down or the trading nations face problems on the trade front. Understandably, when countries are doing well, they may be less inclined to squabble over trade issues. The above finding is significant because it gives us a ray of hope: by engineering a global trade boom, through whatever policy or geo-political means possible, and by enabling the trading nations to derive benefits of such booming trade, the potential for trade disputes could be reduced. However, to achieve fast growth in world trade, the national economies will have to grow faster and the national borders will have to be opened up further. Obviously, there is a chicken and egg problem in this.

Concluding Remarks

Raising disputes at the Dispute Settlement Body of the WTO has been thought of, by trading nations, as an important means of pressurising the trade partners to modify their trade rules, procedures, policies and tariff levels so as to make them compatible with the latter's obligations under the various WTO agreements and to meet the aspirations of the other trading nations. As in any other disputes involving different nations, in trade disputes too there is interplay of different dynamics and political considerations. Therefore, it is not always true to believe the trade disputes as manifestations of pure economics or commerce; rather, they often could be part of a larger international strategy transcending the boundaries of commerce, economics as well as geopolitics. Given the dynamics and non-commercial elements involved in the trade disputes, it is quite natural to expect the stronger nations to use disputes as a leverage mechanism more frequently and to derive more mileage out of the disputes as and when they initiate them or even when those disputes are reactions to their actions. The trade dispute statistics since 1995 indeed validate the first part of this contention by revealing the frequency with which advanced nations or blocs like the US and EC got involved as complainant or defendant in trade disputes.

The extensive US involvement in disputes is not surprising as the US is the biggest player in international trade as well as the biggest economy of the world. The US commerce and trade agencies are alert to the trade practices of other member countries across the globe including in its own market. The US industry and business are also repulsive of any attempts by competitors, of what they call unfair competition. So, the US authorities lose no time in placing restrictive measures, which the trading partners repent or due to which the US gets dragged into disputes. One of such instances, related to the Rules of Origin, affected India and it raised a dispute (Pratap, 2003, gives a brief analysis of this case).

As the biggest source of innovations and foreign investments, the US businessmen are quick to seek smooth exploitation of business opportunities in foreign markets with a view to recouping their investments in other markets in as little time as possible. Any policy, procedural or other obstacles to the realisation of such objectives in those markets invariably provoke them to persuade the US authorities to seek remedial measures including through disputes at the WTO body. In fact, Fratianni and Pattison (2001) refer to Barber (1997) and Dunne (1998) for support while rightly pointing out the growing role of US interest groups as reasons why the United States often takes a narrow position on matters of broad international significance. And, sometimes the eagerness of the US authorities to protect their commercial interests across the globe even emboldens them to arm-twist their trade partners, especially smaller and weaker ones, in various ways including through harassment with disputes.

Although the EC apparently is less powerful in trade than the US, the EC too has taken recourse on the one hand to imposing restrictive measures thereby giving scope for disputes and on the other to raking up disputes with other nations including the US. It is not, therefore, uncommon to find quite a number of disputes being fought between the US and EC just as there have been several trade disputes between the US and other nations and between the EC and other nations. Other nations have also learnt from the US and EC about the utility of the WTO dispute settlement mechanism in fighting trade curbs and, hence, they also have improved their resort to the same even as they themselves give scope for the US, the EC as well as the others to question them. Thus, when every important trading nation chooses to fight with the same or similar weapon, the net gains to the trading world from posing and fighting disputes at the WTO becomes somewhat limited if not none. In this respect, the incidence of fewer disputes being initiated in recent years is probably an illustration of the realisation among trading nations about the pitfalls of riding on disputes and about the need for finding a better way of solving trade differences, if not due to the "glass house syndrome" or the fear of the weaker governments of countries affected by trade protection by partners, of detrimental consequences (Hoekman & Mavroidis, 2000).

Lastly, old habits die hard. As such, it should be within our expectations to find restricting imports an important pre-occupation (if not pastime) of nations even under the WTO system that also covers several other crucial components affecting trade. Further, the sectors that are being protected even now as aggressively as before are the same sectors that basically were subject to heavy protection in the past. There are the sectors giving sustenance to humans and animals such as agriculture and food. Indeed, time and the trade environment have changed; nonetheless, basic tendencies of nations take longer time to change.

Notably, there is an increasing demand from several quarters for further freeing of agricultural trade and for eliminating excessive government support to farm products in the US and EC. Hence, the high frequency of disputes in this area may hopefully act as a catalyst in inducing trading nations to strive harder to achieve such objectives. To be realistic, success on such issues does not come forth easily as proved at the September 2003 Cancun Ministerial Meeting (see *EPW*, 2003b, for a reflection on this) as at the Doha meet earlier. Still, due to the fact that the pressure to achieve results is likely to be far more intensive in future negotiations than at present, better understanding among trading nations may be realised at least in near future.

At the end, the econometric analysis of trade-dispute data does not show any significant causal relationship between trade and disputes. If at all any, statistically insignificant, relationship exists between them, it is an inverse one, implying that nations tend to raise more disputes when they have problems on the trade front. By implication, fledging global and national economies could contribute to reducing trade disputes among the trading nations. Therefore, what the nations should work for is not trade obstructions, but a booming global economy.

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