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## Is import through STE, WTO compatible?

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parties adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales" (sub-para 'b').

The emphasis in sub-para 'a' and 'b' is clearly on "non-discrimination" and affording "adequate opportunity" to other contracting parties. Now, if, the designated agency/STE floats global tender and follows standard business practices for procuring its requirements, apparently, it will not be violating the provisions of the Article. But, there is a catch here! Can the designated agency/STE import on behalf of private parties who, under the Exim policy, are prohibited from undertaking direct imports of the specified items? Incidentally, bulk of import of wheat during 1996-99 were contracted by PEC — a canalising agency — on behalf of private millers.

Considering the highly sensitive nature of the commodities, government would like to restrict quantum of imports only to the extent of gap

between demand and domestic supply and thus, avoid flooding the market. This objective can, however, be met only if, designated agency/STE exercises "caution" while considering requests of private parties for imports. The former could even outrightly reject the latter's request. Could such restriction or, perhaps, rejection of request by private parties for imports be perceived as being violative of the principle of non-discrimination? It is important to note that the interest of exporters from other countries are linked with those of importers in India. In view of this, any restriction on the latter is likely to raise concern amongst the former.

While, it is for legal experts to decide as to what constitutes a WTO compatible dispensation, broadly speaking, there is need to draw a clear line between a QR regime on the one hand and a QR free regime on the other. Any restriction or ceiling on the quantum of imports or the absence of it, is one major factor which distinguishes between the two regimes. There could, perhaps, be an arrangement which incorporates the features of both and yet is fully compatible with WTO. But, we need to be on guard and keep other 'safeguards' — within our armoury — in place to ensure reasonable protection to domestic producers/industry. For instance, tariff on certain items right now are ridiculously low; these need to be raised to reasonable levels.

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IN THE Exim policy released on 31 March, in respect of 27 sensitive items including wheat, maize, rice, diesel, ATF, etc., the government has proposed that these will be imported only through designated state trading enterprises (STEs) which will conduct imports as per 'commercial' considerations. Under the QR regime prior to 1 April, imports of these items were made through designated agencies — commonly known as 'canalising' agencies — primarily on government account. The quantum of imports was based on an assessment of gap between demand and domestic supply.

Will there be any change in this scenario under the new dispensation? Considering the fact that STEs will be required to conduct their operations as per Article XVII of WTO, we need to take a close look at the provisions under it. This is important as whatever the government does has to be compatible with WTO. Article XVII requires that "a state enterprise or any enterprise enjoying exclusive or special privileges, shall, in its purchases or sales involving either imports or exports, act in a manner consistent with general principles of non-discriminatory treatment prescribed in the Agreement for government measures affecting imports or exports by private traders" (sub-para 'a'). The other requirement is that "such an enterprise will make purchases or sales solely in accordance with commercial considerations including price, quality, availability, marketability and so on and shall afford enterprises of other contracting