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### INDIA

#### Statement Circulated by Mr. Ramakrishna Hegde,

Minister of Commerce

1. It is an occasion of rare privilege and honour for me to be present at the Second Ministerial Conference of the WTO, as it coincides with the 50th Anniversary of the General Agreement on Tariffs and Trade. Distinguished delegates, we have come a long way since GATT was initially established in 1947. During the last 50 years, we have striven progressively to lower barriers to trade all over the world. We have negotiated long and hard and we have endeavoured to understand and accommodate the interests of all countries and groups of countries. The Uruguay Round Agreements represent a major step forward in our efforts. The establishment of the World Trade Organization has created a forum for continuous negotiations to reconcile the sometimes conflicting interests of trading partners.

2. India is proud to have been a founder Member both of GATT and of WTO. Over the years, our negotiators have played a prominent role in shaping the contours of the multilateral trading system as it exists today. We have contributed significantly to the successful conclusion of all trade negotiations. We have helped in various ways to reconcile seemingly irreconcilable positions. We have participated effectively in the formulation of all major trade agreements. Since the formation of WTO, our delegation has been active at all times in all deliberations and we have played a part in bringing difficult negotiations to a satisfactory conclusion.

3. The multilateral trading system, which the WTO administers, represents a balance of concessions which, if implemented in letter and spirit, could bring about orderliness, transparency and predictability in global trade. The principle of most-favoured-nation treatment of all Member countries by each country, more free trade through reduction of

tariffs and progressive removal of non-tariff barriers, elimination of trade distorting measures, including subsidies, systems of rules to serve as guidelines for national legislation to bring about uniformity in laws and regulations everywhere and simplification of border measures are some of the gains of the system.

4. The 50th Anniversary of GATT should be an occasion for introspection and reflection on what the system stands for, its objectives and its shortcomings. We have to be clear in our mind regarding the manner in which we are going to take the system forward and how we are going to strengthen it. We have to set at rest apprehensions regarding the lack of fairness of the system. For the system to be strong and effective, all Member countries must be assured that they have an equal and effective role to play in its evolution and that their concerns will be viewed with understanding and a spirit of mutual accommodation.

5. In order to make WTO an effective multilateral body, which serves the objectives for which it was set up, it is necessary to go back to the basic principles. The Uruguay Round negotiators had stated their intentions quite clearly in the Preamble to the Marrakesh Agreement Establishing the World Trade Organization. They recognized "that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development. They recognized also "that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development".

6. It is very clear that the intention of the negotiators was to use trade as an instrument for development, to raise standards of living, expand production, keeping in view, particularly, the needs of developing countries and least-developed countries. The WTO must never lose sight of this basic principle. Every act of implementation and of negotiation, every legal decision, has to be viewed in this context. Trade, as an instrument for development, should be the cornerstone of all our deliberations, decisions and actions. Besides, the system should be seen to be equitable and fair. It must be used in such a manner that the letter and spirit of the Agreements is fully observed. The WTO Members must mutually support and encourage each other to achieve the final goal. It must be recognized that all Members should assume a negotiating rather than an adversarial posture. It should also be recognized that different economies have different features and structures, different problems, different cultures. The pace of change must be carefully calibrated to take into account such differences. All Members should guard against unilateral action that cuts at the root of multilateralism.

7. Developing countries have generally been apprehensive in particular about the implementation of special and differential treatment provisions in various Uruguay Round Agreements. Full benefits of these provisions have not accrued to the developing countries, as clear guidelines have not been laid down on how these are to be implemented. A case in point is Article 15 of the Anti-Dumping Agreement, which

explicitly says that "special regard must be given by developed country Members to the special situation of developing country Members" in applying such measures and that "constructive remedies provided for by this Agreement shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members". In actual practice, we have faced situations in which our products have been subjected to repeated anti-dumping actions and levy of provisional duties, creating an atmosphere of uncertainty and instability in the market, thus resulting in closure of smaller units and unemployment. Another example is Article XVIII:B of GATT which provides for a special dispensation for developing countries in the institution and maintenance of quantitative restrictions on imports. This Article clearly lays down that quantitative restrictions may be imposed and maintained by a developing country "to ensure a level of reserves adequate for the implementation of its programme of economic development". However, in actual practice we find that the development dimension is totally ignored while assessing the adequacy or otherwise of foreign exchange reserves, with the result that there is no distinction between Articles XII and XVIII. All developing countries are firmly of the view that development has to be brought back to the centre stage of WTO activities, as was intended by the Uruguay Round negotiators.

8. Another issue of deep concern is the trend towards unilateral action by certain developed countries in total disregard of provisions laid down in the Uruguay Round Agreements. We are forced, at great expense and considerable difficulty, to take such issues to the dispute settlement mechanism. Distinguished delegates are aware that developing countries and least-developed countries have to battle against resource constraints and shortage of skills and expertise in these areas. Such unilateral action, I have no hesitation to say, brings to disrepute the entire multilateral trading system which we have struggled to build over the years. This would necessarily slow down the impetus for reform in all developing countries.

9. There has also been an increasing trend in the recent past in favour of regionalism. While regional economic groupings have resulted in increased trade among countries in the region, there is inherent danger of discrimination against third countries. Article XXIV of GATT specifically recognizes regional arrangements as an exception to the multilateral system. While we recognize the positive effect of regional groupings that are consistent with the principles of the multilateral trading system and also the special needs of developing countries as enunciated in the Enabling Clause, we fear that the proliferation of such arrangements may weaken the framework of the system. The rules relating to such regional arrangements need to be clear and precise and should ensure that market access for third countries is not denied or reduced. Otherwise, we will, over the years, have a situation where the multilateral system becomes largely irrelevant.

10. The implementation aspects of the Uruguay Round Agreements need to be given special attention. We have been articulating from time to time our concerns regarding the implementation of the Agreement on Textiles and Clothing. At the Singapore Conference, we had drawn the attention of Members to the adverse impact on our exports of actions taken under this Agreement, such as the series of transitional safeguard measures, which were subsequently found to be inconsistent even with the provisions of the Agreement. We have taken careful note of the First Major Review of the Agreement conducted by the Council for Trade in Goods earlier this year. It is a matter of deep concern to us to note that, in spite of the provisions negotiated by us to ensure a commercially meaningful phasing out of restrictions maintained under the MFA regime, the review confirmed that

the bulk of restrictions would get integrated into the GATT 1994 only at the end of the transition period. This is indeed a serious matter, considering that the Members resisting progressive liberalization of trade in this sector are demanding from countries like India faster and more "broad-based" liberalization in other sectors. Obviously, in this context, we must see a symmetry of concessions as far as trade liberalization is concerned. I have referred elsewhere in my address to the pernicious effect of the use of anti-dumping measures by a major trading partner on our textile and clothing exports. In the context of the Agreement on Textiles and Clothing, the use of anti-dumping measures on textile and clothing exports which are already under a quota regime, is a clear case of protectionism and needs to be deplored in the strongest terms. We are glad that Members have decided to entrust the Council for Trade in Goods with the task of keeping the implementation of the ATC under regular review. We reaffirm our commitment to fulfil this mandate given to the Council, especially in the process we would be initiating with respect to evaluating the overall implementation of WTO Agreements. I would like to emphasise that the textiles and clothing sector is an extremely significant part of our own economy accounting for 20 per cent of national industrial output and providing means of living to 30 million people. Any restriction of market access for our exports of textiles and clothing products would, therefore, have very serious implications for us in terms of income and employment and jeopardize the very credibility of the multilateral trading system.

11. The Agreement on Agriculture will come up for review in the year 2000. We will then have an opportunity to have a fresh look at this area, keeping in view the development perspective and the needs of developing countries. There still remain a number of inequities as far as the implementation of the Agreement concerned. For instance, while the majority of developing countries are prohibited from providing export subsidies, the developed countries are permitted to resort to such subsidies provided their budgetary outlays are within their reduction commitment. This is obviously unfair in the sense that countries which have been distorting the market in the past can continue to maintain subsidy regimes, while others are prohibited from using such measures in the future. This Agreement is based on the rationale of open international trade in the agricultural sector. It presupposes the supremacy of an open price based system, thereby implying that a country should import agricultural products if they are produced cheaper elsewhere. India and certain other developing countries have been stressing the need for the multilateral trading system to recognize the importance of food security. A country may not have the resources to buy agricultural products from international markets even if they are easily available. Moreover, a very large percentage of the rural population in such countries is dependent on agriculture and any measure that has an effect on employment in this sector needs to be carefully examined. It is necessary also to have a close look at the shortcomings in minimum market access provisions, which are circumvented in many ways in the actual process of implementation by various ingenious methods such as aggregation of tariff lines into product groups. The exemptions given for direct payments to farmers and deficiency payments from the ambit of reduction commitments in respect of production subsidies also need to be carefully studied. There is also the issue of the possible negative effects of the reform programme on least-developed and net-food-importing developing countries which has not been effectively addressed as yet, despite a Ministerial Decision during the Uruguay Round negotiations.

12. The General Agreement on Trade in Services will also be reviewed in the year 2000. We would hope that developing countries will be able to achieve substantial

improvement in market access during the negotiations. While there has been great focus on movement of goods and capital, particularly from markets in the developed world to developing countries, hardly any attention has been paid to market access to professionals from developing countries, our engineers, our doctors, our technicians. The fear expressed in the developed countries that there will be transfer of job opportunities from the North to the South pays scant regard to the fact that the free inflow of goods and services into developing countries can likewise lead to displacement of industry, unemployment, decline in effective demand, fall in incomes and the deprivation of the globally under privileged. We are concerned that the comparative advantage of our professionals is not allowed to be exploited in full measure, while, at the same time, there is unabating pressure on us to open markets to goods and services in which the developed world has a decisively comparative advantage.

13. Protectionist measures adopted by developed countries in various ways restrict market access for goods and services produced in developing countries. An analysis of Indian's external trade reveals that the sixteen countries or territories to which four fifths of our exports are directed, maintain eight major categories of non-tariff barriers restricting our market access. These include restrictive import policy regimes, standards, testing, labelling and certification measures which are set at unrealistic levels for developing countries or are scientifically unjustified, export subsidies, barriers on movement of services, unfavourable government procurement regimes, barriers to investment and other barriers including anti-dumping measures and countervailing measures. In the area of standards, in particular, developing countries suffer both at the stage of standard setting in international bodies and in actual implementation. Article 12 of the Agreement on Technical Barriers to Trade and Article 10 of the Agreement on Sanitary and Phytosanitary measures needs to be implemented in letter and in spirit.

14. Similar imbalances are seen in the TRIPS Agreement. Although Article 65 of the TRIPS Agreement contemplates a transition period of ten years for India as a developing country to introduce product patent protection in areas of technology not so protected in its territory as on 1 January 1995, such as pharmaceuticals and agro-chemicals, the obligation under Article 70.9 to grant exclusive marketing rights for patents at any time after the entry into force of the WTO Agreement effectively neutralises this transition period available to us. In the realm of geographical indications, the additional protection available to wines and spirits is not applicable to the region specific products of developing countries. The current debate in India on the Basmati rice issue, involving the passing off type of activity indulged in by certain foreign enterprises with regard to this kind of rice which is associated with certain regions of India, has focused attention on the need for higher protection for products other than wines and spirits under Article 23 of the TRIPS Agreement.

15. Indeed, the issue of development of proprietary patents by enterprises based on the traditional knowledge of indigenous communities, nurtured through generations, without obtaining prior informed consent or without coming to any agreement on benefit sharing, have been viewed as iniquitous practices by countries such as India, which are storehouses of such indigenous knowledge. A situation, where indigenous biotechnology, developed over the ages in countries such as India, is being used without any flow back of benefits from patentees to original developers calls for amendments in the TRIPS Agreement. The imbalances in the TRIPS Agreement and its tilt against the holders of

indigenous know-how, mainly based in developing countries, misaligns it with another major international agreement, namely, the Convention on Biodiversity.

16. Moreover, where Multilateral Environmental Agreements, such as the Montreal Protocol or the Framework Convention on Climate Change set time bound targets for adherence to certain environmental standards, there also has to be provision for transfer of environmentally sound technologies and processes on fair and reasonable terms to developing countries built into the TRIPS Agreement. The same mechanism of transfer of technology on reasonable terms will have to be available where developed countries lay down difficult mandatory national standards. Resources for compensating individual exporters for transfer of technology at non-commercial rates could easily be found from the funds presently used for providing subsidies and support measures to producers in developed countries.

17. Thus, the agenda before us is heavy. The shortcomings of the Uruguay Round Agreements and problems in their implementation have come to light in increasing measure. These shortcomings have necessarily to be addressed in a fair and objective manner and solutions found through negotiations in a spirit of mutual understanding. Developed countries, with far greater experience in global trade and a strong information infrastructure, are in a much better position to exploit market access opportunities provided by the Uruguay Round Agreements and to use them to their advantage. It is for this reason that developing countries have been resisting the move to widen the area of activity of the WTO. The developing countries are still at a preliminary stage in understanding the Agreements, implementing them as they can, absorbing their full implications and meeting the onerous notification requirements. We consider that attention should be focused on implementation issues and the issues relating to the built-in agenda rather than take up new issues at the present moment. Faith in the multilateral trading system will increase manifold if people perceive that it is sensitive to their needs and concerns.

18. We are however deeply committed to the success of the multilateral trading system. We believe that the WTO and the multilateral trading system must be effective instruments for serving the needs of the weakest section of the society in all parts of the world. No single pattern, no single package of measures can be considered to be universally applicable. We would be deluding ourselves by thinking that a single remedy can be applied across the board. What we should strive to achieve is the amelioration of the living conditions of all people, particularly the poorest. In the words of Mahatma Gandhi, "I do not believe in the 'greatest good of the greatest number', nor can I agree that might is right. For human beings, the object in view should be the good of all, with the weak being served first." On this, the 50th Anniversary of GATT, let us resolve to forge ahead in a spirit of mutual accommodation and goodwill, keeping in perspective at all times the needs of the poorest, the most underprivileged amongst us.

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