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Lead Article

GIS a vital safeguard against misappropriation, says Centre for WTO Studies

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1. Introduction

Over the past couple of years, Geographical Indications has emerged as an important form of Intellectual Property Right, spurring a lot of debate and speculation the world over. Geographical Indications (GIs) refers to the region, place or country of origin of the product wherein an essential characteristic or trait, reputation, assured quality of the product is attributed to that particular region. 'Darjeeling' (tea), 'Champagne' (wine), 'Parmesan' (cheese) are examples of some such GIs that are famous all over the world. GIs are collective community rights vested with a group of producers which help distinguish their products from the rest of the products in the competing market. From a consumer's point of view, GIs act as a signaling device, which helps them identify genuine quality-products and also protect them against counterfeits. **India with its rich cultural heritage and biodiversity needs mechanisms to protect, preserve and build upon the same and the enactment of the Geographical Indications Act, 1999 (implemented in 2003) was one such endeavour.**

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India hosts Ministerial Meeting on Re-energising Doha



A two-day Ministerial meeting of around 30 Ministers of WTO member countries on "Re-energising Doha : A Commitment to Development" concluded in New Delhi on 4 September 2009.

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The meeting was chaired by India's Commerce and Industry Minister Mr. Anand Sharma. On the first day, 3 September 2009, there was a round of statements by the coordinators of various coalition groups in the WTO and some member countries. These included the Cairns Group, G-20, G-33, Cotton 4, G-10, NAMA-11, African Group, Africa-Caribbean-Pacific Group (ACP), LDCs, Small and Vulnerable Economies (SVEs), and CARICOM (Caribbean Community). In addition, statements were made by many member countries in their individual capacity, including the European Union (EU), China, the US, Brazil, South Korea, South Africa, Australia, and also by the Director General (DG) of the WTO and the Chairs of the Agriculture and NAMA Negotiating Groups. On 4 September 2009, after statements by a few more members, including Canada, Argentina, Philippines, Thailand, Nigeria,, Uruguay, Malaysia, Ecuador, Cuba, Egypt, Pakistan, Peru, Mexico, Chile, Japan and by the DG of the WTO, there was an open discussion on the process-related issues that had been flagged by India at the outset.

There was a unanimous affirmation of the need to expeditiously conclude the Doha Round, particularly in the present economic situation. All agreed there was a need to resume talks in Geneva. The development dimension and the need to address the concerns of LDCs was emphasized.

Acknowledging that the LDCs and the Small and Vulnerable Economies had the most at stake in this Round, Ministers collectively reaffirmed that

development remains at the heart of the Doha Round and called for placing all LDC concerns on a faster track for negotiating convergence.

Ministers also called upon Chief Negotiators/Senior Officials to meet in Geneva in September/early October 2009 to draw up a process of engagement, and to work with the Chairs of the Negotiating Groups to prepare an overall agenda of action.

Ministers called for issue-based work plans for intensifying engagement of members on Agriculture and NAMA to complete negotiations within a timeframe to be stipulated. They also called for work plans in other areas covered in the Doha Round. There was unanimity of opinion that negotiations should resume on the basis of progress achieved till December 2008.

They stressed the importance and integrity of the multilateral process given its inclusiveness and transparency.

In the light of the 2010 timeline, Ministers suggested that there was a need to frequently track progress and to use all opportunities for political guidance, including at the level of leaders.

Ministers were unanimously appreciative of India's effort to revive the flagging negotiations by bringing together such a widely representative group of WTO groups representing practically all shades of opinion and interests at the WTO in an effort to reach a broad-based consensus on the road ahead for the Doha Development Round.

Trade Talks series: Commerce Secretary on Doha Negotiations



The Centre for WTO Studies has started a programme of Trade Talks by eminent persons on WTO and Trade related issues. The first event in this series was organized on 30 October 2009 at India International Centre where Dr. Rahul Khullar, Commerce Secretary, gave a talk on the ongoing Doha Negotiations. The Talk was attended by government officials as well as representatives of foreign missions in India, trade bodies, legal community and members of the media.

Dr. Khullar, in his talk, emphasized the need to complete the Doha Negotiations quickly. He observed that this was important in order to preserve the legitimacy and relevance of WTO which had emerged as the only credible multilateral institution from the current economic crisis and it must be seen to be working. Secondly, successful conclusion of the Round would stop the wave of protectionism that we currently saw in the developed economies on account of local pressures for protection. This could be seen in various measures like State aid to car companies, raising of TBT barriers, breach of IPR commitments etc. In view

of these circumstances, it was important to 'bank' whatever had been achieved in the negotiations so far and leave the rest for the future. He cautioned that the best should not become the enemy of the good, and following this dictum, a 'Doha lite' outcome would be better than continuing to strive for the best possible outcome.

On the state of play of negotiations, Dr. Khullar recalled that the negotiations had paused in July 2008 and restarted from 14th September 2009 after the meeting of Trade Ministers in India in September 2009. He lauded India's leadership role in the resumption of negotiations. However, experience in the last one and half months had been disappointing as no serious negotiations had begun as yet.

Dr. Khullar also presented a framework of timelines for the conclusion of the negotiations keeping December 2010 as the end date. He opined that it would be necessary to arrive at an agreement on the modalities of agriculture and NAMA negotiations by March-April 2010. This would provide the necessary time of 4-6 months for scheduling the agriculture and NAMA commitments and their cross checking by other WTO Members. The period from April to July 2010 could be used for verification of the Schedules of Agriculture and NAMA modalities as also to conclude the services negotiations. After June 2010, Members needed to start scheduling of services commitments, which was a more complex exercise and would need at least 6 months to conclude. He observed that other

negotiating issues like Fishery Subsidies, Trade Facilitation, Environmental Goods, Anti-dumping etc. were also important but, in his assessment, once Agriculture, NAMA and Services negotiations were wrapped up, these issues would automatically fall in place.

He observed that the time had now come to stop talking about the state of play of negotiations and to talk about how Doha Round could be completed. He observed that the WTO Ministerial Conference Scheduled from 30th November to 2nd December 2009 in Geneva was an opportunity to give a firm political direction to conclude the negotiations. He warned that the people's patience with the negotiations was waning and lack of progress towards concluding the Round would make negotiators a laughing stock before the public, particularly after the solemn assurances given by the Trade Ministers in the Delhi meeting to conclude the Round by end of 2010. He observed that during the forthcoming Ministerial meeting, G-20 as well as the Indian delegation could play a leadership role, even if it meant settling for a 'Doha lite' outcome. He warned that a failure to conclude the negotiations within 2010 would be a great setback for WTO.

Mr. D. K. Mittal, Additional Secretary, Department of Commerce, mentioned that this new initiative of the Centre for WTO Studies was at the instance of the Commerce Secretary and hoped this would be useful in disseminating information and generating healthy debate.

GIs (Contd from page 1)

As of today more than a hundred GIs have been registered in India; primarily in handloom, handicrafts and agricultural sectors. The GIs are essentially registered by various intermediaries such as the State Promotion Councils, manufacturers' associations or boards etc. and the rights emanating from these lay with the Indian farmers, craftsmen, artisans, producers, etc.

With its law in place, India needs to formalize and strengthen its GI regime to realize the maximum commercial potential of the system in order to facilitate economic growth, sustainable development and revenue generation.

With this view a National Seminar on "Geographical Indications- *Where do Indian interests lie?*" was organized by the Centre for WTO Studies, IIFT on the 24-25 of September 2009. The Seminar picked up many threads for discussion and discussed the future of GIs in India and the steps India ought to take to exploit the same, for its benefit.

This article attempts to discuss all the possible aspects of the position of GIs in India, the problems pertaining to registration, effective utilization of the system and encompasses the key issues which were raised and concluded in the National Seminar on GIs as well.

2. Legal Framework

The Agreement on Trade Related Intellectual Property Rights (TRIPS) under the WTO was the first international effort to standardize intellectual property rights in its member countries. The TRIPS Agreement for the first time defined Geographical Indications.

Although it contains a single, identical definition for all GIs, irrespective of product categories, it mandates a dual system of protection: (i) the basic protection applicable to all GIs in general (under Article 22¹); and (ii) an additional protection applicable only to the GIs denominating wines and spirits (under Article 23). Importantly, the absence of Article

23 type cover for the other GIs leaves considerable room for their misuse.

To comply with its obligations under the TRIPS, India enacted a "Geographical Indications of Goods (Registration and Protection) Act, 1999." The Act defines GIs², the criteria required to grant a GI and lays down the registration process, remedies available in case of infringement and passing off. The act provides exclusive rights to manufacture and sell the goods, to a group of individuals or a community.

Critical Provisions of the GI Act which require serious consideration

The current Indian legislation differentiates between a registered proprietor and an authorized user. Section 6 of the GI Act divides the registration process into two; Part A relating to the registration of the product by the proprietor and Part B with the registration of the authorized user or producer. This feature of the law, often criticized by commentators, gives rise to questions relating to the actual ownership of the GI (i.e. whether with the proprietor or the producers). In India, what has often been seen, is that the organization which is involved in the registration process does not represent the interests of the producers, neither are the producers involved in the registration process and most of them are not aware of the benefits and rights conferred to them after granting of the GI. This differentiation has been seen to lead to creation of intermediaries and to the exploitation of the actual creators of the IP, who get marginalized, giving an upper hand to the intermediary bodies registering the GI. Some other features of the Law which have been criticized are as follows:

- a. **Transfer of Rights**
The Indian Law does not recognize transferability of rights particularly in the case of partnership firms and mergers or takeovers.
- b. **Enforcement**
The Act lacks provisions on enforcement,

¹ Article 22: *Protection of Geographical Indications*

1. Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
2. In respect of geographical indications, Members shall provide the legal means for interested parties to prevent:
 - (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good;
 - (b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention (1967).

²Section 1 (e): "geographical indication", in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods, one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.

monitoring and quality control mechanisms after the registration process is over.

c. **Ownership of GIs by more than one region**

The law remains silent on the issue of common ownership of a GI by two different states or even countries for that matter. Often the demarcation of the area is done in a way wherein certain producers involved in that particular art are left out of the ambit of the GI as they belong to another state or region, e.g. Kohlapur chappals. Also there are cases where on account of partition of the Indian subcontinent, with the migration of families, the skill and the agro-climatic regime finds dispersal over two or more distinct political jurisdictions, e.g. Basmati Rice being grown over the entire Indo-Gangetic Plains over India and Pakistan.

There is ample cause for a review of the Act to examine the possibility of incorporating provisions to deal with long term protection and not just tradability of the products.

3. Status of GIs in India

Case studies presented during the Seminar reveal that although the registration of GIs has helped the producers economically through an increase in sales, market presence and goodwill of the registered goods but their share in these benefits are relatively low in comparison to the expectations from the system. As a result of which the producers have had to find alternate means of livelihood and lack the incentive to stick to their ancestral businesses. This can be attributed to a number of reasons such as:

Lack of knowledge and awareness of the existence of a GI system to protect their products against misappropriation and the advantages of the GI.

Overwhelming presence of intermediaries who usurp the supply chain and depress factor payments as well as little or no interaction with the customers and exporters.

Skills and technology used by the artisans and producers seem to be stuck in a time warp without contemporary upgradation leading to barely acceptable standards suiting present tastes.

No monitoring or standards or effective enforcement mechanism after the

registration process.

Lack of proper branding and marketing of the product including inadequate customer development.

4. Management, Marketing and Branding of GIs

Once the product is registered, steps need to be taken in order to make its presence felt both nationally and internationally. Extensive and aggressive marketing of GIs plays a crucial role in creating a successful global identity. Efforts to reach the customer effectively and efficiently would succeed only with a sustained campaign to achieve:

- a. Branding of the GIs.
- b. Identification with the country, region of origin.
- c. Quality enhancement to bring the products at par with the global standards.
- d. Promote GI tourism.
- e. Establishing global partnerships to increase market penetration.
- f. Creating variations within the ambit of GI specifications.

5. GIs as a Tool for Development

Once an effective GI regime is in force it not only protects the Intellectual Property from misappropriation but also encourages innovation and creativity. It ensures a regular income flow for the producers, artisans and uplifts their socio-economic conditions; giving them motivation and incentive to retain their ancestral occupation.

The global recognition and reputation leads to increase in industrialization, improvement in standards of production and in the overall development of the geographical regions.

6. Interface between TK and GI

Traditional Knowledge (TK) is the knowledge held by a traditional community or group, wherein their livelihood may or may not depend on this TK.

Although both TK and GI are existent in a particular community, born from cultural practices and exist in the public domain, what sets GIs apart from TK is the linkage of GI to a particular geographical area. One often finds that there is some amount of TK in every GI,

³ Case study of Pochampally Ikat and Bidri Metal works

however there is more to a TK which cannot be confined within the definition of a GI. For example, Turmeric has certain wound healing properties which are used by Indians over centuries and the same cannot be protected under GI, as the wound healing properties of Turmeric would exist everywhere and cannot be confined to one geographical location.

Therefore, GIs to an extent, is an effective IPR to protect Traditional Knowledge, but to actually preserve Indian culture and TK; an independent *sui generis* law should be developed to accord protection to TK as only a few TK are protected under the current GI regime.

This Traditional Knowledge passed through generations, by word of mouth, is freely available in public domain; therefore, it had become very important to document these to provide a sort of a safeguard against their misappropriation. The Department of Ayurveda, Yoga, Unani, Sidha and Homeopathy (AYUSH) was instrumental in establishing a Traditional Knowledge Digital Library (TKDL) in 2001, to protect the traditional knowledge base of India. The TKDL seeks to document all the traditional knowledge existing in India, giving it legitimacy and to make available to the International Patent Offices a searchable database for prior art searches, to prevent the grant of patents on existing TK.

7. The Road Ahead

Although a GI Act exists, India will have to develop a suitable strategy to protect and maintain its GI pool. There is a **need to bring in**

certain amendments in the GI Act to strengthen the system by including a single registration process for the protection of the domestic industries.

1. To bring about **skill enhancement, technological upgradation, capacity building to bring it at par with global competitors in such a way that the product retains its originality** and indeed refine its essential characteristics. The **producers and artisans need to be made aware of the protection available for their products against misappropriation** under the GI and the exclusive rights and benefits which flow from the same.
2. **Enhance the commercial potential of the GI through appropriate branding and marketing techniques in order to attract the potential customers.**
3. **Ensure that the registration process is handled by Apex bodies** such as Central cottage Industries, Export Promotion Councils, etc. as well as NGOs, so that the individual interests of the intermediaries are not over-represented and the benefits arising from the GIs are available to the artisans and producers and not largely cornered by these intermediaries.
4. **Ensure participation of the producers in the registration process so that the ultimate ownership lies with the ultimate beneficiaries.**

Increased participation by the State governments in **monitoring and enforcement mechanisms.**

Jargon buster: GIs

- **Article 22:** Of the TRIPS Agreement says geographical indications have to be protected to avoid misleading the public and to prevent unfair competition.
- **Article 23:** Provides a higher level of protection for geographical indications for wines and spirits: subject to a number of exceptions, they have to be protected even if misuse would not cause the public to be misled.
- **CBD:** Convention on Biological Diversity
- **Geographical indications (GIs):** Place names or (words associated with a place) used to identify products (for example, "Champagne", "Tequila" or "Roquefort") which have a particular quality, reputation or other characteristic because they come from that place.
- **TK:** Traditional knowledge.
- **TRIPS:** Trade-related aspects of intellectual property rights.

EVENTS

Commerce Secretary Launches WTO Centre book on NTBs

Dr. Rahul Khullar, Commerce Secretary, released the book, "Review of Trade Policies of India's Major Trading Partners" in New Delhi on 7 September 2009. The book has been prepared by Professor Shashank Priya, and Shri Reji K. Joseph, Consultant of the Centre for WTO Studies.

The Commerce Secretary, while releasing the book, emphasized the need to improve India's awareness on non-tariff barriers (NTBs) faced by the Indian trading community in markets abroad. As India becomes more and more integrated with the global market, it would be important to become more active in addressing the market access barriers of Indian exporters. He commended the effort of the Centre for WTO Studies in bringing out the publication which has obtained information on trade barriers from various sources like Trade Policy Reviews in WTO, Commerce Ministry's inputs and other sources. He pointed out that it was equally important to update this publication on an annual basis.



National Seminar on "Geographical Indication Where do Indian interests lie?"

The Centre hosted a National Seminar on Geographical Indications on 24-25 September, 2009 in New Delhi. The effort behind the Seminar was to bring into focus issues related to GIs beyond just the law. A realization is growing that registration of GIs, though requiring substantial effort in itself, is but a small step in reaping full benefits of the Intellectual Property contained in the GI.

The Seminar was inaugurated by Mr. B.K. Sinha, Development Commissioner (Handlooms) Government of India in the presence of Mr. K.T.Chacko, Director of Indian Institute of Foreign Trade (IIFT). Mr. Sinha highlighted the importance of a GI monitoring and enforcement mechanism in India, adding that the GI System, although at a very nascent stage, was important to avoid infringement in India and abroad; and that India should work towards creating an identity in the global and national markets through brand building. Mr. Chacko said that the Seminar was the first attempt of its kind on the issue of GIs. He said that the registration of GIs was only the beginning and to make GIs sustainable, India should use it as a tool for economic development, revenue generation and protection of the country's heritage.

There were nine technical sessions, where panelists and chairpersons were drawn from the government, industry, academic and legal fraternity. In addition, there was sizeable representation from organizations involved with promotion and protection of crafts in the country. The presentations covered issues ranging from pre-registration such as creating an awareness of GIs, to registration and finally to post-registration activities and resultant benefits. An attempt was also made by way of case studies to examine the extent and impact of involvement of the producers and artisans community; post-registration activities such as quality control and long-term mechanisms for enforcement and monitoring of the GIs. On the legal front, several questions were raised with respect to the existing legal system on issues relating to distinction between the rights of a registered user and an authorized user, transferability of a GI right and joint-state ownership of a GI. Discussions throughout the Seminar highlighted the importance of a more aggressive policy nationally and internationally for the protection of GIs.

Some interesting issues that were debated during the sessions included:

- Protection of GIs which have seen migration of holders of skills to other locations or where owing to political reorganization of national

boundaries the GIs have now two or more separate national presence;

- Role of the Law of GIs in preservation and promotion of traditional craft and knowledge;
- Unavoidable role of intermediaries notwithstanding, the need to regulate rapacious and unduly exploitative role played by them currently;
- Certain infirmities in the Geographical Indications Act, 1999 particularly relating to the

working of the law,

- efficient enforcement,
- development of quality control mechanisms,
- creation of enabling conditions for access to subsidized funds, etc.

In conclusion, all the panelists and participants expressed their deep appreciation regarding the quality and content of the sessions and the general arrangements made for the seminar. All the



Mr. BK. Sinha giving the inaugural address at the National Seminar on Geographical Indications. Others (L-R): Prof. Madhukar Sinha, Mr. K.T. Chacko and Prof. Shashank Priya.



Participants at the National Seminar



The Panel chair, Mrs. Kasturi Gupta Menon introducing the 5th Session on the Institutional Framework for GIs in India. Others (L-R): Mr. V. Ravi, Mr. G.K. Muthukumar, and Dr. Mohan Dewan.



Prof. Madhukar Sinha interacting with the panel at the Session on Case Studies: Metal Works

distinction between registered 'owner' of GI and 'authorized user', issue of transferability of GIs for partnership firms;

- The impact of modern communication technology in promotion as well as dilution of GIs.
- The interface between traditional knowledge and GI and to what extent can GIs be used to protect traditional knowledge;

In the concluding session chaired by Dr. Manisha Shridhar, from the IP and Trade Unit of WHO-India, Professor Madhukar Sinha of the Centre for WTO Studies summed up the proceedings through a brief yet comprehensive presentation. Some of the issues that were identified for further research include

- an increased role of the State,
- effective implementation and monitoring of the

presentations made during the seminar are available on the website of the Centre <http://wtocentre.iift.ac.in>.

Regional Training Course on Agriculture Negotiations in WTO

The Centre for WTO Studies in collaboration with the Department of Commerce, Government of India, WTO Secretariat, and UN ESCAP organised a Regional Seminar on Trade in Agriculture and Agricultural Negotiations on 9 - 11 September, 2009. The programme was attended by representatives from Bangladesh, Bhutan, Chinese Taipei, Fiji, India, Indonesia, Lao People's Democratic Republic, Maldives, Myanmar, Nepal, Pakistan, Philippines, Republic of Korea, Russian Federation (SF), Sri Lanka, Thailand, Tonga and Turkey. In all, 46 participants attended the training.

Mr. Amrendra Khatua, Joint Secretary, Trade Policy Division, Department of Commerce, in his inaugural address, stressed the importance of negotiations on agriculture and informed that India was actively engaged in the agriculture negotiations. It is important to remember that for India, agriculture is not just a trade issue but also an issue of food security and livelihood security for millions of subsistence farmers.

Mr. Jayant Dasgupta, Secretary, Prime Minister's Economic Advisory Council, gave a brief overview of agriculture negotiations under Doha Round, especially in the context of India's concerns. He pointed out that while agriculture accounted for only 17% of India's GDP, 58% of its work force depended on agriculture. It had only 11.2% of world's arable land but it fed 16% of world's population. 93 % of agricultural holding in India was broadly 10 acres or less and 60% of agriculture land was rain fed. Global trade in food grains was to the tune of 5.5 million tonnes and India produced 14 million tonnes and imported 2.5 million tonnes. He also pointed out that the size of global market was not large enough to fulfil India's requirements in case of failure of crops. Besides, shortage of food grains in India would also have serious implication for other food importing countries.

Mr. Mark Proksch, Economic Affairs Officer, Trade and Investment Division, UNESCAP observed that this programme was a result of partnership between WTO, UNESCAP and India's Department of Commerce. Emphasising the importance of the issue, he said the training was being organized at a very opportune time given the fact that the negotiations in Geneva were to begin soon. Mr. Diwakar Dixit, Economic Affairs Officer, Agriculture and Commodities Division, WTO, said the WTO

Secretariat was happy to coordinate with other agencies to organise this Regional Seminar on Agriculture.

The technical sessions covered subjects like India's Perspective on Agricultural Negotiations; Liberalization of trade in agriculture: implication for Asian and Pacific developing countries; Market access: current provisions and issues in the negotiations; Domestic support: current provisions and issues in the negotiations; Export competition: current provisions and the issues in the negotiations; Implementation experience of the Agreement on Agriculture through discussions on select disputes and the agricultural notification requirements in WTO. Most of the training sessions were conducted by the resource person of the WTO Secretariat. Prof. R. S. Ratna of the Centre for WTO Studies conducted a simulation exercise on agriculture negotiations. The presentations made during the training programme can be accessed on the Centre's website <http://wtocentre.iift.ac.in/>.

The participants found the training very useful as the issues were explained in great detail and were supported by some practical exercises and discussions.



Capacity Building on the WTO Agreements and Popularisation of SPS &TBT Web Portal at Guwahati and Ahmedabad

In an effort to reach out to the stakeholders in the process of trade policy making, such as industry, exporters/importers and academics/researchers, the Centre for WTO Studies (CWS) has been partnering with various apex industrial organisations like FICCI, FIEO, FISME, and CII and jointly organising Capacity Building Workshops on WTO Agreements at various cities in India. Taking a lead from the earlier programme held by the CWS and based on its stated objective, CWS conducted two additional workshops - on the 23 October 2009, at Guwahati and on 27 October 2009 at Ahmedabad.

In his welcome speech at the Guwahati workshop Dr. Bhupati K Das, Chairman of the CII Assam State Council, welcomed the audience representing wide range of stakeholders and also introduced the speakers, Mr. Ankur Mahanta, from CII, New Delhi, Prof. Madhukar Sinha and Dr. Murali Kallummall from the CWS.

In the second capacity building workshop at Ahmedabad, Mr. Vishal Chiripal, Convener, FIEO Ahmedabad Chapter, welcomed all the dignitaries and participants and highlighted the importance of such a consultation on the WTO issues. He welcomed Mr. Ashok Kumar, DDG, FIEO New Delhi, Mr. A. N. Mishra, Jt. DGFT Ahmedabad, Prof. R. S. Ratna, Prof. Madhukar Sinha and Dr. Murali Kallummall all from the CWS, and emphasized in his welcome address the need for exporters / importers to realize the importance of WTO issues in the current context as it was increasingly becoming the future of the businesses.

Broadly, these two programmes were meant to provide focused attention on recent developments in the Doha Round negotiations, Agreement on Agriculture & NAMA, with a review of the legal provisions of the commitments undertaken by the other WTO Members and its potential impact on the overall trading regime. In addition, the workshop also discussed issues related to other Agreements of the WTO related to agriculture and non agricultural sectors like the sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT), and TRIPS.

The important aspects of all the agreements were flagged to the stakeholders with particular reference to India. The participants were also given a presentation on the data base developed by Centre for WTO Studies on SPS and TBT notifications of various WTO Member countries which is hosted on the CWS website <http://wtocentre.iift.ac.in>. The sessions were largely interactive and effort was to clarify the issues/doubts in the minds of stakeholders.

The views expressed by all the stakeholders at various such capacity building workshops would get reflected in the form of policy briefs and suggestions made by the CWS at various points of interaction with the government.



Mr. Chiripal, Convener, Ahmedabad Chapter, FIEO-WR addressing the audience.
Others (from L to R): Mr. Ashok Kumar, DDG, FIEO; Mr. A. N. Mishra, Jt. DGFT, Ahmedabad;
Prof. R. S. Ratna; Prof. Madhukar Sinha and Dr. Murali Kallummall



Participants at the Capacity Building event

New Faculty in Centre for WTO Studies

Mr. Bipin Kumar, has joined the Centre for WTO Studies as a Consultant (Law) with effect from 1st September 2009. He has done his LLB and LLM from Delhi University. He was Assistant Professor at National Law University, Jodhpur, Rajasthan from 2005 to 2009. His areas of specialisation are International Trade/WTO, IPRs and Competition Laws.

FACULTY PARTICIPATION IN OUTREACH PROGRAMMES (SEPTEMBER-OCTOBER 09)

	Participating Faculty	Topic	Location
Prof. R. S. Ratna	September 10, 2009	Conducting of a "Mock-assignment on domestic support concerning issues in the negotiations" during WTO/ESCAP Regional Seminar on Trade in Agriculture and Agriculture Negotiations	New Delhi
	September 16, 2009	Presentation on WTO at Interaction Session with ASEAN Diplomats attending a training programme at the Foreign Services Institute	New Delhi
	September 21-24, 2009	Executive Development Programme for Namibian Government Presentation on "Policy framework for International Trade". Presentation on "WTO Agreement: An Overview". Presentation on "WTO Negotiations in Agriculture and NAMA". Presentation on "SPS and TBT Web Portal by Centre for WTO Studies". Presentation on "India Namibia: Infinite Opportunities for Trade and Investment".	Windhoek, Namibia
	October 21, 2009	Presentation on "Background and Overview" in the Seminar on ASEAN-India FTA in Goods: Emerging Opportunities for Enhanced Malaysia India Business Engagement	Kuala Lumpur, Malaysia
	October 22, 2009	Presentation on "Background and Overview" in the Seminar on ASEAN-India FTA in Goods: Emerging Opportunities for Enhanced Malaysia India Business Engagement	Penang, Malaysia
	October 26, 2009	Presentation on "WTO Agriculture and NAMA negotiations in Doha" organized jointly by Centre for WTO Studies and Federation of Indian Export Organization	Ahmedabad
Prof. Madhukar Sinha	September 12, 2009	Conference in connection with Bayh-Dole type legislation for India [organized by WBNUJS, Kolkata]	Kolkata
	October 23, 2009	Presentation on "TRIPS and Traditional Knowledge with CII" organized jointly by Centre for WTO Studies and Confederation of Indian Industry.	Guwahati
	October 27, 2009	Presentation on "TRIPS and India" organized jointly by Centre for WTO Studies and Federation of Indian Export Organization.	Ahmedabad
Dr. Murali Kallummal	October 23, 2009	1) Presentation on "Introduction to the SPS/TBT Portal by Centre for WTO Studies" organized jointly by Centre for WTO Studies and Confederation of Indian Industry. 2) Presentation on Agriculture & NAMA Negotiations organized jointly by Centre for WTO Studies and Confederation of Indian Industry.	Guwahati, Assam
	October 27, 2009	Presentation on "SPS & TBT Portal of Centre" [organized jointly by Centre for WTO Studies and Federation of Indian Export Organization]	Ahmedabad
Shri Bipin Kumar	September 24-25, 2009	Presentation on "Trademarks vs. Geographical Indications in the context of current TRIPS Negotiations" in the National Seminar on Geographical Indications conducted by the Centre for WTO Studies	New Delhi
	October 23, 2009	Marine Insurance	Indian Society of International Law, New Delhi
	October 26, 2009	Joint Venture	
	October 28, 2009	UN Convention on the Limitation period in International sale of Goods, 1973	
	October 30, 2009	Licensing and Technology Transfer	

WTO BRIEFS



Success for WTO's Open Day

Under a late summer sun on Sunday 6 September 2009, about 5,000 people came to learn more about the World Trade Organisation, its work, staff, artistic treasures and its building that is more than 80 years old.

G-20 countries refrain from extensive use of restrictive measures, but some slippage evident

G-20 governments have refrained from extensive use of restrictive trade and investment measures in recent months but have continued, in a limited way, to apply tariff and non-tariff instruments that have hindered trade flows, the heads of the OECD, UNCTAD and the WTO indicated in a joint report to G-20 leaders meeting in Pittsburgh later this month released on 14 September 2009. "We welcome the G-20 governments' commitment to maintaining open trade and investment regimes and their ability to withstand domestic protectionist pressures. International rules for trade and investment agreements are a source of opportunity in times of economic growth and a restraining influence in times of difficulty. It is in this latter role that the rules are serving us particularly well right now", Secretary General Angel Gurría of OECD, WTO Director-General Pascal Lamy and UNCTAD Secretary General

Supachai Panitchpakdi said in their joint report. Tariffs, non-tariff measures, subsidies and burdensome administrative procedures regarding imports have been applied in recent months and these actions have acted as "sand in the gears of international trade that may retard global recovery", they said.

473 developing country officials enrol in WTO online training courses

Three WTO online courses started on 21 September 2009 with 473 selected participants from developing and least developed countries (LDCs). The aim of these courses is to provide online training on matters relating to international trade, WTO Agreements to government officials from developing countries and LDCs in English. The courses will last from six to eight weeks. Tutors and trainers from the WTO will monitor online participants' progress and learning process through the course. Session 9 includes the following three courses : introduction to the WTO; Trade in Services in the WTO; and Trade-related aspects of Intellectual Property Rights.

WTO opens workshop on environmental goods and services

The WTO Secretariat on 23 September 2009 organised a three-day Workshop on Environmental

Goods and Services. The purpose of the workshop was to help WTO members deepen their understanding of issues arising under the mandate of Paragraph 31 (iii) of the Doha Ministerial Declaration, including development aspects without prejudice to ongoing negotiations in the Committee on Trade and Environment - Special Session (CTESS). The mandate under Paragraph 31 (iii) of the Doha Declaration calls for “the reduction, or as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services”.

WTO, WIPO launch advanced course on intellectual property for government Officials

Twenty government officials from developing countries, least-developed countries and countries with economies in transition, three from developed countries and one from the European Union (EU) participated in the first joint WIPO-WTO Advanced Course on Intellectual Property (IP) organized by the World Intellectual Property Organisation (WIPO) and the World Trade Organisation (WTO) in Geneva on 5-9 October 2009. On 5-6 October the government officials were at the WIPO headquarters and on 7-9 October at the WTO headquarters in Geneva. Participants came from the following countries: Albania, Argentina, Bahrain, Bangladesh, Botswana, China, Colombia, Costa Rica, Egypt, El Salvador, Fiji, Georgia, Germany, Jordan, Kenya, Malta, Mauritius, Mozambique, Nepal, Netherlands, Nigeria, Peru, Sri Lanka and the EU. The objective of the course was to update participating government officials on the activities and instruments of the WIPO and the WTO and to provide a forum for an exchange of information and ideas between them and the two secretariats on these matters. The course addressed a range of topics including: an overview of international policy and law in intellectual property; the negotiating background

of the TRIPS Agreement and an overview on subsequent developments; intellectual property and economic development; the WIPO development agenda; overviews of the current international landscape in copyrights, trademarks, industrial designs, geographical indications and patents; WTO Dispute Settlement and TRIPS; IP Global issues; TRIPS and public health; innovation and intellectual property; intellectual property and genetic resources, traditional knowledge and folklore; the relationship between the TRIPS Agreement and the Convention on Biological Diversity; and enforcement of intellectual property rights. This advanced course also formed part of the Geneva-based component of the WTO's training and capacity-building programme, which also comprises 3-month trade policy courses, 3-week introduction courses for government officials from least-developed countries and advanced thematic courses on other topics, including dispute settlement, technical barriers to trade and sanitary and phytosanitary standards.

10 new regional trade agreements notified to the WTO

The Chairperson of the Council for Trade in Goods Ambassador Elin Ostebo Johansen (Norway) on 30 October 2009 said 10 regional trade agreements had been notified to the Committee on Regional Trade Agreements since June 2009. These agreements were:

Free Trade Agreements between Nicaragua and Chinese Taipei; Panama and Chinese Taipei; Peru and Singapore; Canada and Peru; Canada and EFTA; Chile and Colombia; Japan and Switzerland; and Economic Partnership Agreements between European Communities and Cameroon, and between Japan and Viet Nam, and the Gulf Cooperation Council.

(Source: WTO/Geneva)

Informal employment curbs trade benefits for developing countries: ILO, WTO joint study on Trade and Informal Employment

A joint study from the International Labour Organisation (ILO) and the WTO has found that high incidence of informal employment in the developing world suppresses countries' ability to benefit from trade opening by creating poverty traps for workers in job transition. The study focuses on the linkages between globalization and informal employment and finds that informal employment is widespread in many developing countries, leaving thousands of workers with almost no job security, low incomes and no social protection. Levels of informality vary substantially across countries, ranging from as low as 30 % in some Latin American Countries to more than 80 % in certain sub-Saharan African and South Asian countries.

Informal employment involves private, unregistered enterprises which are not subject to national laws or regulation, offer no social protection, and involve self-employed individuals, or members of the same household. In most cases, informality has remained high and has even increased in some countries, particularly in Asia.

"Trade has contributed to growth and development worldwide. But this has not automatically translated in improvement in the quality of employment. Trade

opening needs proper domestic policies to create good jobs. This is all the more evident with the current crisis which has trade and thrown thousands into informal jobs", said the WTO Director-General Pascal Lamy.

Reducing informality can release additional productive forces, enhance diversification and strengthen the capacity to trade internationally. Adverse effects of informality can mainly be related to the absence of productivity gains and low average firm size resulting from barriers to firm growth in the informal economy. Informality also prevents countries from fully benefiting from trade reforms by creating poverty traps for workers in job transition.

Integration into world markets and tackling informal employment through decent work policies should be considered complementary. Greater attention should be devoted to social protection policies as well as to the design of trade reforms.

The study suggests that trade reforms should be designed and implemented in an employment friendly way, making the reallocation of jobs more conducive to formal employment growth.

WHO SAID WHAT:

Bi-monthly Round-up of News and Views on WTO and Related Issues

(September- October, 2009)

1. 'India talks key to Doha success': Ron Kirk--

The United States expects a world trade ministerial meeting in India this week to be an "important step" in efforts to conclude the Doha free trade accord, US President Barack Obama's top trade envoy said on 2/9/09. "I think this ministerial... can be a very

important step for our goal for the successful completion of the Doha round of negotiations," US trade representative Ron Kirk said. He added that the talks provided a critical "window" between now and the WTO ministerial meeting later this year in Geneva, giving countries "the clarity needed to understand the opportunities for meaningful market access (and) allow Doha to come to successful conclusion." (*Times of India dated 3/9/09*).

2. Doha game far from being over, says India--

India on 3/9/09 contested the claim of WTO director-general Pascal Lamy and some other countries, including China and Brazil, that most issues of the Doha round of trade talks have been settled, even as 36 nations kicked off talks on reviving the stalled negotiations for a global trade agreement. Delivering his opening speech at the two-day ministerial meeting in New Delhi, commerce & industry minister Anand Sharma said a large number of issues remain unresolved. "In some quarters, it has been suggested that most issues have been settled and we are almost in the 'endgame'. However, if we look at the text modalities on agriculture and non-agriculture market access (Nama) alone, it would be apparent that there are still gaps and a number of unresolved issues," he said. In areas like services, too, there are gaps that need to be narrowed before ministers can outline the way forward for the Doha round started eight years ago, he said. *(Economic Times dated 4/9/09).*

3. G-20, WTO should report to UN: 'New triangle of global governance' needed, says Lamy--

Taking the WTO and G-20 beyond the realm of trade and economics, WTO DG Pascal Lamy on 3/9/09 said it was important to have both the G-20 and international agencies such as WTO reporting to the parliament of UN in the long term. Reporting to the UN would constitute a potent mix of leadership, inclusiveness and action to ensure coherent and effective global governance, he said in his 35-minute address to Indian industry at a FICCI meeting in New Delhi on 3/9. He spoke of a new triangle of global governance involving the G-20, the WTO and the UN. *(Business Standard dated 4/9/09).*

4. Left calls for mass stir against WTO : Says talks will not be in national interest -- With

the government making efforts to complete Doha round negotiations after a year-long deadlock, a Left-supported campaign against WTO protested the move and called for a nation-wide agitation, saying that the revival of the WTO talks would not be in national interest. "The keenness of the commerce minister to kick-start Doha Round negotiations are not in India's interest and we have much more to lose than gain in these negotiations," said CPI (M) Politburo member Sitaram Yechury, while addressing the Indian Peoples Campaign Against WTO (IPCAWTO), joined by CPI-(M) and CPI, charged during an agitation on 3/9/09. Yechury alleged that this was an outcome of the "deepening strategic relations" between India and US "which is inimical to our national interest". "The two-day ministerial meeting here in the national capital from Thursday is the first step towards the formal ministerial meeting of all country members of WTO, scheduled to be held in Geneva later in November-December this year. The compromises struck in New Delhi will be formalised in Geneva," he said. *(Pioneer dated 4/9/09).*

5. Farmers protest WTO talks--Activists of the Bharatiya Kisan Union and the Indian Coordination Committee of Farmers' Movement held a demonstration on Parliament Street in New Delhi on 3/9/09 in protest against the United Progressive Alliance Government's decision to revive the World Trade Organisation negotiations. Led by BKU leader Mahendra Singh Tikait, farmers from across the country were addressed by presidents of various State units. In a letter to the Prime Minister, the two organisations said the farming community was agitated over the unnecessary push by the UPA Government to conclude the Doha Round by 2010: "India's negotiating stance was not even debated in

the last session of Parliament. Since the UPA came back to power early this year, it is showing undue haste in pushing through trade deals.” (*The Hindu* dated 4/9/09).

6. **Breakthrough on Doha, talks to resume on Sept. 14 : Still tough nuts to crack, says WTO DG Pascal Lamy** -- The two-day informal meeting of trade ministers has broken the impasse that engulfed the Doha Round of global trade talks under the WTO last year, Minister of Commerce and Industry Anand Sharma said on 4/9/09. Chief negotiators will now meet on September 14 to restart the stalled talks with the December texts as basis of discussions. Talks had collapsed in Geneva in July last year after India, among others, opposed agriculture subsidies offered by rich nations to their farmers on the grounds that this distorts trade by making produce of developing countries costly. “There has been a breakthrough in this meeting. The impasse in resuming the negotiations has been broken. It has been agreed by all that with a strong consensus the chief negotiators and senior officials will meet in Geneva on September 14 to restart the entire process,” Sharma said in his briefing after the conclusion of the meeting. WTO Director-General Pascal Lamy, however, asserted that a successful conclusion of the Doha negotiations still has a long way to go. “There are still tough nuts to crack in this negotiation. And we should not underestimate this,” said Lamy, while briefing the media after the Delhi meeting. (*Business Standard and other papers* dated 5/9/09).
7. **PM lauds participants for ending deadlock--** Trade ministers of about 35 WTO-member countries called on the Prime Minister, Dr Manmohan Singh, to inform him of the progress made during the WTO mini-ministerial meeting in New Delhi. Sources said

that the Prime Minister “applauded” the global trade ministers for breaking the logjam over the Doha negotiation process. (*Hindu Business Line* dated 5/9/09).

8. **'Let's not have the illusion you can substitute process for substance: Celso Amorim--Brazil,** which is heading the G-20 group in the WTO talks, has asked developed nations to show more will to ensure a faster conclusion of the Doha Round. While the Delhi ministerial aimed at process and not content the leader of the coalition of developing nations insists that process cannot be substituted for substance. Celso Amorim, External Relation Minister of Brazil, said at a press conference in New Delhi: “I would strongly stress to our friends of the developing world that the big difference between this and the Uruguay Round is that we were able to conduct negotiations (then) essentially through the multilateral process,” (*Business Standard* dated 5/9/09).
9. **WTO rules against loans to Airbus, claims US-** The WTO ruled on Friday that European loans for Airbus were illegal subsidies under world trade rules, US lawmakers said, but European sources said Washington did not win a sweeping victory. The findings, which came in a confidential 1000-plus page ruling are the latest chapter in a decades-old battle between US manufacturer Boeing and European rival Airbus for dominance of the global aircraft market, a major source of jobs on both sides of the Atlantic. (*Reuters in Washington & Brussels* on 5/9/09).
10. **September 2009 New Delhi Ministerial Meeting: Editorial Comments**
 - **Doha Round may re-start, but don't expect early conclusion : Business Standard, 7/9/09--** The “informal ministerial” meeting of key members of the WTO, held in the capital last week, has been declared a success

because it has paved the way for fresh, formal negotiations to re-start at the WTO headquarters in Geneva. In the process, India has played the role of successful host and shown itself to be a member in good standing, intent on making the Doha Round of trade negotiations come to a successful end. This was a useful purpose to achieve because many developed countries had blamed India and its commerce minister of the time for the talks being stalled in the summer of 2008. So, while the New Delhi meeting can be considered a success (because, tactically, it focused not on the substance of the negotiations but the process by which to move things forward), it does not spell any quick conclusion to the Doha Round. Both the US negotiator as well as Pascal Lamy of WTO seem to be pointing to a fairly distant deadline as being realistic.

- **Renewed focus on free trade talks is good news: Times of India, 7/9/09** -- "Free trade negotiations will resume in Geneva in mid-September, with the aim of concluding the Doha development round which collapsed in July last year. Commerce minister Anand Sharma has special reason to smile. In its eighth year now, the Doha session is back on the global radar thanks to a "breakthrough" at an informal meeting of world trade ministers where he played host. India can pat itself on the back for taking the initiative to re-energise dialogue. True, these differences haven't gone away. So Doha's "end game" may take longer to play out than WTO director-general Pascal Lamy thinks. The mini-ministerial was only a warm-up. It's still not a given that the gridlocked sides will make the concessions required for real progress".

- **Now to build on progress at Delhi: Economic Times, 7/9/09** -- Has the informal mini-ministerial of the WTO held in Delhi

September provided the 'value-addition' commerce minister Anand Sharma was looking for when he unexpectedly sprung the idea of hosting a meet earlier in the year? To the extent trade ministers representing the broad cross section of interests of its membership have agreed to resume talks in Geneva later this month, it has done that and more. It has breathed fresh life into the Doha round. The Delhi meet has changed all that. It rekindled interest in the multilateral process at a time when protectionist tendencies are on the rise and free trade agreements are proliferating by the day.

11. CPI (M) concerned over ASEAN free trade pact--The Communist Party of India (Marxist)

has expressed concern at the free trade agreement with the ASEAN countries and termed as "intriguing" the move by India to break the so-called deadlock in the World Trade Organisation's talks. In a statement at the end of the two day Polit Bureau meeting in New Delhi, the party said that despite the apprehensions raised about its adverse effects by States such as Kerala that would be affected by the agreement, they were not consulted. *(The Hindu dated 7/9/09).*

12. WTO has more than 20 negotiating groups --

While a precise count is difficult, there are more than 20 formal groupings, each representing a particular set of interests in the WTO. This is apart from major players like the US or EU. Some of the most significant of negotiating groups are the G-20, the Cairns group, the African group, Cotton 4, G-33, the ACP (African, Caribbean and Pacific) and LDCs (least-developed countries). In many cases, countries are part of more than one grouping, since a particular group may address one aspect of their concerns while another might be more effective in dealing with a different set of concerns. For instance, Brazil and

Argentina are part of both the G-20 and Cairns group. Similarly, India is in the G-20 as well as the G-33. *(Times of India dated 7/9/09).*

13. **Lamy fears climate deal failure at Copenhagen will hit Doha**--Failure to find agreement at United Nations climate change talks in Copenhagen in December would threaten a much needed overhaul of the international trading system, Pascal Lamy, head of the WTO, warned on 6/9. His comments highlighted concerns that a breakdown in discussions about reducing greenhouse gas emissions may spill into the trade arena with devastating effect, as some countries seek to exclude goods from high emitters. India has already protested to Hillary Clinton, the US secretary of state, about the threat of carbon tariffs from environmental legislation proposed by the Obama administration. Speaking as trade ministers from 39 countries met in New Delhi to progress the WTO's Doha round, Mr Lamy cautioned against adopting trade measures to force changes in environmental behaviour. *(Financial Times of London dated 7/9/09).*
14. **WTO negotiators to fast-track Doha round talks next week**-- WTO member countries will identify the main issues that had led to the collapse of trade talks last year and discuss 'nitty-gritty' of the procedure to sort them out at the meeting of chief negotiators from member countries beginning in Geneva next week. *(Economic Times dated 8/9/09).*
15. **Doha Round: Progress in sight**--India played host to about 40 trade ministers in New Delhi on 3-4 September, 2009 to discuss ways to bring the ongoing WTO Doha Round negotiations to an early conclusion. The Delhi meet goes beyond earlier events of this nature organised by India, which were mostly an attempt at coalition building amongst like-minded developing countries. India is

emerging as a key global player in more ways than one. A more immediate context is India's involvement with G-8 process. Since 2007, G-8 has initiated dialogue with Brazil, China, India, Mexico and South Africa to build a common understanding on key issues on the global agenda. *(Economic Times dated 9/9/09).*

16. **Doing Doha down: Regional trade deals are no substitute for a Doha agreement. Indeed, they are its enemy** -- Something is usually better than nothing. Shorn of all of the economic jargon and legal niceties, that is the logic behind the booming business in bilateral trade deals that is sweeping Asia. As the Doha round of world trade talks languishes, Asia's trading nations say that they cannot afford to sit on their hands and wait for Doha to revive. Better, they argue, to loosen up trade with simpler deals between a couple of countries or, if you are truly ambitious, a handful. Some regional trade deals in the right circumstances have indeed added to economic well-being. But the sorts of deals that are now being signed in Asia, just when multilateral trade desperately needs supporting, are likely to do less for their countries' economies than for the egos of the politicians who sponsor them. Taken as a trend, they amount to a dangerous erosion of the system of multilateral trade on which global prosperity depends. Some claim that the tricky issues that stand in the way of a multilateral deal can be more easily resolved when only two countries are sitting at the table. That rarely happens: in the rush to conclude an agreement, such issues are often shelved. India's deal with ASEAN last year, for instance, put aside the poisonous question of farm trade, which was one of the deal-breakers in the Doha talks last July. Bilateral agreements, thus, do not, on the whole, serve as stepping stones to a comprehensive global deal. *(The Economist dated 11/9/09).*

17. WTO talks : Waiting for Godot-- 'Another one bites the dust.' This line from a rock song by a popular band of the nineties might well become the national anthem of the WTO ministerials since Doha. It is now clear that ministerials are no longer going to take talks forward at least in the Doha round. Ministerials are mainly meant to clear the political air about forward movement in negotiations. What is the actual position? First, as far as agriculture is concerned, we now know that no country can obtain complete exemption from exposing its agricultural sector to imports. India cannot be an exception. Short of dropping the AOA (Agreement on Agriculture) from the WTO negotiations (which I have strongly supported in these columns) the 'single undertaking' of the Uruguay round of 1995 (reiterated in the Doha round) makes opting out of the AOA an impossibility. Developing countries like India will have to use the gaps between their bound and actual tariffs to keep out imports. We now have special and differential treatment (SDT). There are other issues like special products. There is the US position (or lack of it!) on cotton imports. But the main point is that conclusion of the Doha round is in the technical phase and this cannot be sorted out in ministerials where politics intrude. Second, in NAMA there seems to be some agreement on the formula for tariff reductions. Developed countries have now added the issue of sectoral zero duty agreements on selected sectors which go beyond the usual tariff cutting formula. These could be bilateral agreements which are currently permitted only for developing countries. So, in this sense, a new agenda item calling for significant research work by developing countries has been introduced. Third, forward movement here is really where India's interests lie. India's favourable foreign

exchange balance owes more to service sector exports (remittances, software, and tourism) than to trade in manufactured goods. But the problem is that service negotiations will necessarily impinge on a country's domestic legislation and I doubt if countries like the US would ever agree to this. For service imports are not subject to traditional border restrictions but are determined by domestic legislation like immigration rules, taxation of foreign companies, etc. So, 'waiting for Godot' I think is a correct description of the current ministerials. Yet, even the current state of development of the WTO rules offer useful restrictions on obvious protectionism. As I have argued earlier, the current fight in agriculture is between the agricultural producers (the CAIRNS group), the US and the EU. Why should India be proactive? (*Manoj Pant, professor, Centre for International Trade and Development, JNU, in Economic Times dated 11/9/09*).

18. EU wants pact to include govt procurement-- Ahead of the next round of talks on a bilateral trade treaty with India, the European Union (EU) said it was keen that the comprehensive pact included government procurement agreement. While India has so far resisted any move to include procurement on the agenda, Daniele Smadja, the EU ambassador to India, told reporters that the 26-member trading bloc was keen that the agreement open up the market in India and also help Indian companies access the European procurement market which was estimated at over 2 trillion euros (around Rs 1,41,29,087 crore). (*Business Standard dated 11/9/09*).

19. China complains to WTO on US tyre tariffs-- China on 13/9/09 hauled the US to the WTO over what it alleged were unfair tariffs imposed by Washington on Chinese tyre imports. (*Hindu Business Line dated 15/9/09*).

- 20. The IPR icing on Brazil's cotton victory**--When the WTO finally ruled in favour of Brazil in its long fight with the US over its damaging cotton subsidies, the verdict was a double victory for developing countries. America's cotton subsidies have hurt a number of developing nations, particularly a clutch of sub-Saharan countries, and this in itself is cause for celebration. The more significant aspect of the arbitration panel's ruling is that it allows cross retaliation by Brazil against intellectual property rights (IPR) which is protected by the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) or on services. This means Brazil can suspend IPR rights of American companies. If it does so, it will in all probability override the patents of US pharmaceuticals companies with whom it has waged a bitter battle in the past decade and allow generic manufacturers to make cheaper versions of patented medicines. (*Business Standard dated 16/9/09*).
- 21. Banarasi silk sarees get copyright cover** -- Banarasi silk products have now joined the league of Pochampalli, Tirupati laddu and Darjeeling tea under the registered name of 'Banaras Brocades and Sarees' by securing Geographical Indication (GI) rights. This is the first GI status to any product in Eastern UP covering Varanasi, Mirzapur, Chandauli, Bhadohi, Jaunpur and Azamgarh districts. The other product that has got the GI status in UP after April is Malihabadi Dussehri mango. The GI rights are the intellectual property rights that restrict others from marketing or processing a product in the same name. As per the GI certificate issued by the registrar of GI, the Banaras Brocades and Sarees fall in four classes (13-26) that include silk brocades, textile goods, silk saree, dress material and silk embroidery. The registration is for 10 years and it may be further renewed. (*Times of India dated 18/9/09*).
- 22. Talks stalled in Geneva despite Delhi meeting**-- Key WTO members failed to make any progress in the stalled Doha trade negotiations in Geneva last week, casting a huge cloud over the 2010 deadline for concluding the Round, several trade diplomats told Business Standard. During a closed-door green room meeting with select trade envoys, WTO chief Pascal Lamy admitted that political signals issued by trade ministers and leaders to conclude the Doha trade negotiations sometime in 2010 were not translated into action in Geneva. Green room meetings refer to meetings of 20 to 40 delegations, usually at the level of heads of delegations, in the director-general's conference room. Green room is the informal name given to this room. (*Business Standard dated 21/9/09*).
- 23. Group meetings are fine, but WTO talks must be multilateral: Developing nations** -- A number of least-developed countries and developing economies, including the African Group, Turkey and Costa Rica have stressed the WTO has to ensure that the ongoing global negotiations continue to remain multilateral. In the recent senior officials' meet in Geneva, they said that while bilateral or smaller group meetings are necessary, the negotiations should involve the full membership in Geneva. In the informal mini-ministerial meeting in Delhi earlier this month, ministers had discussed the option of smaller groups examining certain main issues holding up the Doha round of WTO negotiations. It was felt that key countries could discuss certain issues amongst themselves as involving all 153 members could be a time consuming process. (*Economic Times dated 21/9/09*).
- 24. China cites 'morals' in its WTO appeal**-- China

invoked defense of its "public morals" in appealing a WTO ruling against restrictions on distribution of Hollywood movies and other Western media, according to a copy of the appeal seen by The Wall Street Journal. The WTO's 460-page August ruling said Beijing must stop forcing U.S. artists and production companies to go through state-controlled distributors. *(Wall Street Journal dated 24/9/09).*

25. **Doha Round talks to start as nations agree on road map** -- Talks on the Doha Round are all set to start as chief negotiators of WTO member countries have agreed on a road map for the negotiations in the week ending September 18. Ten days after the Delhi summit, chief negotiators of WTO member nations met in Geneva to take the Doha talks forward. "The chairmen of agriculture, Nama and services negotiations have made a work plan during the meeting of the chief negotiators. They will now meet again in October and November," commerce minister Anand Sharma said in a media interaction on 24/9/09. Sharma added two thirds of the issues on the Doha Round have been agreed to and remaining gaps can be closed with further talks. "You do not go to negotiations with a frozen mind. This round is for development. WTO talks should lead to establishment of a rule-based multilateral system," Sharma added. *(Financial Express dated 25/9/09).*
26. **G-20 must be more flexible on world trade, says Lamy**--G-20 leaders must give their negotiators more flexibility to ensure they can actually reach a global trade deal and conclude the long-running Doha round. The leaders' renewed pledges at the Pittsburgh summit to reach a deal were not enough, WTO director-general Pascal Lamy told the WTO's public forum. It is now incumbent

upon them to 'walk the talk'. *(Reuters in Geneva on 28/9/09).*

27. **Indo-ASEAN trade treaty a threat to Kerala plantations**--Less productive plantations and relatively higher labour cost are making Kerala plantations more vulnerable under the Indo-Asean free trade agreement, officials of the Association of Planters of Kerala (APK) said. "The recently signed Indo-ASEAN free trade agreement is no doubt going to have disastrous consequences for plantations in Kerala as the state is the abode of all the plantations crops," MP Cherian, former chairman of APK, said. As per the agreement, the import tariff of tea and coffee would be brought down to 45% from the existing level of 100% and for pepper from 70 to 50% by December 31, 2019. *(Financial Express dated 29/9/09).*
28. **'Farmers' interest must be protected**--South Africa's minister for trade and industry Rob Davies feels that it is important to conclude the Doha negotiations of WTO as a development round even if it takes some more time. In a recent interview with ET NOW, Mr Davies said only a fine balance between key issues like agriculture and services would lead to success of the Doha round. "We believe that conclusion of the negotiation process, if indeed we are in the end-game, has got to be on the basis of the development mandate. Commercial demands of the rich world should not gain precedence over the development demands of the developing world and the least developing countries in particular. In general, we need to achieve what we agreed to in Hong Kong - a balance between the level of achievement in agriculture and the rest of the negotiating agenda. Well, there is a list of outstanding issues that have not been resolved. They start with the issue of special safeguard measures

(SSM). I think here we have the legitimate demand of the poor farmers in the developing world against commercial ambition from commercial agriculture. For us, the balance has to be tilted in favour of the needs and interest of poor farmers. Then, there is this question of ensuring the balance between the level of ambition in agriculture, NAMA (industrial production) and services.” *(Economic Times dated 2/10/09).*

29. **'Developing intellectual property rights is not a zero-sum scenario'**--The Geneva-based World Intellectual Property Organization (Wipo), a specialised agency of the United Nations, aims at developing a balanced and accessible international intellectual property (IP) system among its 184 member countries. While its efforts are highly appreciated in the developed world, some of its initiatives have drawn flak from various IP stakeholders in developing nations. Just before the ongoing annual general assembly of Wipo began in Geneva on September 22, Delhi-based civil society groups had asked the central government for measures to defend the domestic policy space, as well as the public health safeguards available within the framework of international treaties. In an e-mail response to Joe C Mathew, WIPO Director-General Francis Gurry said “It's not clear what you mean by a “global patent system”. The only international system as such that exists today is the Patent Cooperation Treaty (PCT). But, the PCT is not a patent granting system; it is an international filing system for patent applications. As such, it does not touch the sovereign rights of states because under this system, it is the national patenting authorities themselves that determine the patentability of inventions, he said. *(Business Standard dated 3/10/09).*

30. **FTA with ASEAN against democratic norms: Karat**--Communist Party of India (Marxist) general secretary Prakash Karat has termed the Free Trade Agreement (FTA) between India and the Association of South East Asian Nations (ASEAN) a gross violation of democratic norms and called upon the Centre to review it. Inaugurating a rally organised before the Raj Bhavan in Thiruvananthapuram as a prelude to a mammoth 'human chain' linking the two ends of Kerala, Mr. Karat pointed out that the Centre had not cared to consult the State government before signing the agreement with ASEAN. *(Hindu dated 3/10/09).*
31. **Beyond Doha: Earlier Agreements violated Justice and Fair Trade**--In the years preceding the formation of WTO, some developed countries had the benefit of subsidies to help them export goods at cheap rates. But the developing countries could use the protection of quantitative restrictions as well as high tariffs. In the post-WTO regime, the developed countries maintained their huge subsidies and occasionally even increased it. The developing countries were asked to give up quantitative restrictions; they are now being asked to rapidly reduce tariffs. In consequence, developing countries such as India are becoming far more vulnerable - compared to the pre-WTO days - to cheap imports. The decade preceding the establishment of the WTO had seen a rapid drift towards the concentration of the world's seed industry in the hands of a few large multinational companies. They were gaining increasing control over the collection of germ plasm, much of which had been collected from developing countries. It was in such circumstances that the agreement on Trade Related Aspects of Intellectual Property Rights was introduced in the Uruguay round.

Thus were the seed companies able to extend their control over the seeds sector of almost the entire world. The USA and the EU have interpreted WTO rules to allow for stronger patent protection of plants and animals. Patents have also been awarded in the USA and Europe for product processes used by and known to farmers in developing countries. Farmers' control over seeds is a basic requirement for food security and bio-diversity, but this may be lost by the patent laws and new seed laws. The TRIPs agreement is certain to lead to a rise in the price of medicines. Similarly, the excessive concessions made in the services sector, increasing the possibility of a higher role for profit-motivated transnationals in such essential sectors as water and health, can have an adverse impact on the poor. The scope of reviving the Doha negotiations should be examined in the wider context. A concession or two should not be allowed to conceal the reality of a fundamentally unjust trade system unleashed by the WTO regime. Of course, talks are necessary. But any interaction must assess whether the world has actually moved towards a just and fair international trade system. These basic questions must include a complete reappraisal of the earlier agreements and rules that have violated justice and fair trade. **(Article by Bharat Dogra in Statesman dated 7/10/09).**

- 32. Brazil may team up with India against EC--** Brazil may join India in its appeal against the European Commission (EC) at the WTO over the seizure of consignments carrying generic drugs. Over the last year, European ports have seized several in-transit consignments by Indian drug firms on grounds of alleged patent infringement. **(HT Mint dated 8/10/09).**

- 33. Ramesh reiterates his stand on emission cuts: Attempts to impose emission goals can affect growth: PM--**Just weeks before the crucial Copenhagan summit, India has reiterated its stand for not accepting any internationally legally binding emission reduction target and stated that the emission cuts are only for developed countries as globally agreed under the Bali Action Plan. Union minister for environment and forest Jairam Ramesh said, "India will never agree to the elimination of the distinction between developed or annex I countries and developing or non-annex I' as far as binding emission reduction is concerned". Meanwhile, Prime Minister Manmohan Singh accused developed nations of making "concerted attempts" to impose emission cuts on developing countries and said such moves could affect economic progress, while addressing the Army Commanders Conference. **(Financial Express dated 21/10/09).**
- 34. GI protection: Gain for some, pain for others--** Early next month, the Madras High Court will hear a unique case a petition challenging the geographical indications (GI) protection given to the famous Tirupati laddu, produced by the Tirumala Tirupati Devasthanam (TTD). The GI recognition, given on September 15 this year, reached the court after a petitioner said that the laddu, which earns a substantial profit for the TTD, does nothing to protect the community rights of stakeholders a precondition for getting such protection. The judgment in this case will have a significant impact on the livelihood of thousands of vendors who earlier used to sell a similar laddu just outside the temple precincts (the GI protection is only for those prepared in the temple kitchen). It will also decide whether the GI status can be granted to a single entity.

While the Tirupati laddu case is unique in terms of its impact and brings into question the entire registration process, India's GI track record in other areas has been mixed. (*Business Standard dated 21/10/09*).

35. **Road from Doha: The necessity of a balanced trade regime**--The proposal of the recently revived WTO's Doha round of negotiations suggests that developing countries will have to cut their agricultural targets by 36 per cent. Even the most important products of poor farmers would face around 19 per cent cuts. The proposal does not imply real cuts in huge farm subsidies in the US and EU. Both pretend to effect 70 per cent and 80 per cent cuts in subsidies. Actually, however, there are no real reductions. The current US subsidy is around \$7 billion, while a 70 per cent cut would cap its subsidies at \$14.5 billion. Similarly, according to estimates, EU subsidies would be around 12 billion euros by 2014 while the 80 per cent cut would cap its subsidies at 22 billion euros. The WTO has promised that trade liberalisation will bring benefits to all countries. In reality, the rich countries took full advantage of the opening of markets in the developing ones. Yet they failed to open their own markets. This is particularly clear in agriculture, where subsidies to farmers in the US, Europe and Japan have risen to almost \$1 billion a day. Patent rights, by granting temporary monopolies to drug manufacturers, keep drug prices and company profits up. In the US, the average tariff rate for imports of industrial goods is 4.9 per cent but the range of variation is between 0 and 350 per cent. In Japan, the average rate is 4.3 per cent (1998), but the range of variation is 0 to 60 per cent. In the EU, the tariff rate is 4.8 per cent with the range of variation being 0 to 89 per cent. The range of variations is due to specific tariffs on a range of products, which

can hide the real degree of protection in the rich countries. Commodities subjected to high tariffs in the developed countries are those products in which the poor countries have a comparative advantage. Developed countries have started a strong campaign to include free flow of investments as a condition for members of the World Trade Organisation. It demands that all countries must allow complete freedom to the multinational companies to withdraw investment and to remit profits across the border. The WTO cannot satisfy all countries all the time; the economic interests of different countries are different. A multinational trade negotiation is bound to fail because of the divergence of interests of the participating nations. Thus, for the developing countries, it is better to have a trade management system whereby each country, not only the developed ones, can pay for its imports in terms of its own currency. In that case, a developed exporter country would have the obligation to buy from the country to which it is exporting. This will not result in a massive surplus for one country or deficit for another. It will help bring about a balanced trade regime, which will benefit everyone. The WTO, instead of being an arbitrator and promoter of 'free trade', should be an advisory council to plan the foreign trade system so as to protect the interests of all. (*Dipak Basu, Professor in International Economics, Nagasaki University, Japan in Statesman dated 23/10/09*).

36. **India rejects draft WTO services schedule by US**--India, along with other countries, on 22/10/09 shot down a concerted move by the United States, Australia, and Canada to prepare draft scheduling of commitments in Doha services negotiations based on signals made by trade ministers during the failed

ministerial meeting last year, a trade envoy told Business Standard. At a meeting convened by the chair for Doha services negotiations, Ambassador Fernando De Mateo, India said it could not agree to draft services schedules, to be prepared on the basis of signals made by trade ministers in July 2008, saying those were contingent on several other issues in the stalled Doha trade negotiations. Developing countries have opposed preparing draft schedule of commitments without first finalising the market access commitments in agriculture and industrial goods as mandated under the Hong Kong Ministerial Declaration. *(Business Standard dated 23/10/09).*

37. **India, China in talks for FTA**-- A day after Indian Prime Minister Manmohan Singh and Chinese Premier Wen Jiabao smoked the peace pipe, New Delhi today said it was in discussion with Beijing for a free trade agreement aimed at breaking the duty barriers for bilateral trade. Faced with a huge trade imbalance in favour of China, the Indian

industry is strongly against signing any FTA-like agreement with the neighbouring country,. Meanwhile India said it had granted the 'Market Economy' status (MES) to Vietnam, which responded by entering into the Indo-ASEAN Free Trade Agreement (FTA), which was signed with other members of the ten-nation block in August. *(Business Standard dated 26/10/09).*

38. **US wants India to decrease tariffs on industrial goods**--Commerce ministry officials are examining a demand made by the US that India should agree to steep tariff cuts on a range of industrial products that cover about 60 per cent of the latter's overall imports. Brazil has informed that it cannot accept Washington's requests made during a bilateral meeting in Paris last month. Both Brazil and India held separate bilateral meetings with the US as part of a move to advance the stalled Doha trade negotiations. *(Business Standard dated 30/10/09).*

Forthcoming Events

S.No.	Date	Topic	Location
1	November 24, 2009	Workshop on WTO Agreements: A Capacity Building Initiative in Collaboration with CII	Gurgaon
2	December 04, 2009	WTO Trade Talk in Collaboration with FICCI	New Delhi
3	December 08- 09, 2009	WTO Stakeholder Consultation in collaboration with UNCTAD India	New Delhi
4	December 15, 2009	Workshop on WTO Agreement: A Capacity Building Initiative in Collaboration with FICCI	Mumbai
5	December 18, 2009	Lecture on "Trade Policy Responses in the Time of Crisis" by Dr. Simon Evenett, Professor of International Trade and Economic Development, University of St. Gallen, Switzerland	IIFT, New Delhi

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