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Lead Article

Single Undertaking in the Multi-Polar World

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I. Introduction

The principle of 'single undertaking' has been an important and defining element of the present multilateral trading regime, as reflected in the World Trade Organization (WTO). Although no precise definition of the phrase is available in any of the legal texts of the WTO, 'single undertaking' has been understood to mean a type of negotiation approach and outcome, where nothing is final till everything is agreed upon - leading to a single package of multilateral commitments among the negotiating countries. By virtue of the single undertaking, Members of the WTO undertook commitments covering a wide array of issues ranging from trade in goods and services to intellectual property rights and investment measures. The principle of single undertaking is captured in Article II:2 of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), which states that:

> *"The agreements and associated legal instruments included in Annexes 1,2 and 3 (hereinafter referred to as "Multilateral Trade Agreements") are integral parts of this Agreement, binding on all Members." (emphasis added)*

Thus, the Multilateral Trade Agreements (MTAs) listed in the WTO Agreement are binding on all Members, unless specific derogations are permitted therein. Although the WTO still has place for plurilateral agreements that do not create either obligations or rights for Members that have not accepted them, there are only two such agreements in force as of date, dealing with trade in civil aircraft and government procurement. The single undertaking principle has some inherent advantages and disadvantages associated with it, as the experience of the Members, especially the developing countries and the least developed countries (LDCs) in the Uruguay Round of Multilateral Trade Negotiations (Uruguay Round) indicates. The single undertaking, in principle, does allow removal of fragmentation caused by a plurilateral trading regime and can help in offsetting concessions in one area with gains in another. Similarly, cross retaliation in the dispute settlement system is now possible with single undertaking. However, the extent to which the single undertaking has been able to create a level playing field for the developing countries and the LDCs at the WTO is subject to debate, and there exists a view that single undertaking at the Uruguay Round put liberalization before the development needs of the Members.

In this issue

Given this backdrop, this article aims to trace the development of the principle of single undertaking from the time it first appeared in the multilateral negotiations' text to the state of current developments surrounding it. With increasing clamour amongst a set of WTO Members to replace the rigidity of single undertaking with some form of variable geometry, and in view of the current deadlock in the Doha Development Round, the feasibility of the same will be evaluated as well.

II. Evolution of Single Undertaking: *The Ghost of GATT/WTO Past*

The origin of 'single undertaking' in its current form is usually traced back to the declaration launching the Uruguay Round. However, it is noteworthy that the Tokyo Round of Multilateral Trade Negotiations ('Tokyo Round') declaration also used a similar terminology. The declaration stated that the *'The negotiations shall be considered as one undertaking, the various elements of which shall move together'* (MIN (73)W/1). Thus, the understanding reflected there was that the negotiations on different issues would be simultaneous and not sequential in nature. Deriving from this position, some scholars go even further back in the GATT history and track the origin of the concept in the launch of Kennedy Round in the 1960s and the preceding Dillon Round in the 1950s, since the former required the creation of a Trade Negotiations Committee (TNC) that would oversee simultaneous negotiations on issues such as goods, agriculture and LDC preferences (Wolfe, 2009).

The outcome of the Tokyo Round, however, could not have been further from the concept of 'single undertaking' as it is understood today. The Tokyo Round was characterized by the so called '*GATT a la carte*', which gave the GATT Contracting Parties the freedom to pick and choose the trade rules they wished to be bound by, to accommodate the non-reciprocal nature of these negotiations. Thus, the Tokyo Round 'codes' that were agreed upon were of a plurilateral nature and were only binding on the countries that acceded to them. Several of these plurilateral agreements, like the anti-dumping code, contained code-specific dispute settlement procedures as well. As a result, under the *GATT a la carte* setup, not only did each agreement have a different set of signatories but also separate dispute settlement rules, which led to an extremely fragmented world trading regime. Nevertheless, this option of picking and choosing provided flexibility to the developing countries to not invest energy and effort in the negotiating process dealing with rules they did not wish to be bound by.

Post the Tokyo Round, as part of preparatory process for the launch of the Uruguay Round of Multilateral Trade Negotiations ('Uruguay Round'), a secretariat note indicates that the idea of launching the new round as a single undertaking, where parallel progress was made in all areas of negotiations, was toyed with as early as in April 1986 (PREP.COM(86)W/26). A contrary view is also recorded in the note, according to which the progress in some areas should not have been necessarily conditioned by progress in others. It was also stated that such a mechanism could be especially useful for the developing countries. However, it is clear that by September 1986, it was the first view that managed to prevail and find its way in the launch of the Uruguay Round.

Indications of such a development can be seen soon after when, in August 1986, the United States took the clear position that the new round to be launched in Uruguay would have to be a single undertaking both politically and legally, for the United States to participate in it and must include services as one of the subjects of negotiations (MDF/36). The European Community also took a similar stand but, within the context of single undertaking, was willing to explore any solution, like an *ad hoc* ministerial meeting to take account of the genuine concerns of all sides in order to reach a consensus.

The Punta del Este declaration that launched the Uruguay Round, in its Part I relating to 'Negotiations on Trade in Goods', used the phrase 'single undertaking' and stated that:

'The launching, the conduct and the implementation of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis by agreement prior to the formal conclusion of the negotiations. Early agreements shall be taken into account in assessing the overall balance of the negotiations.' (emphasis added)

Thus, the Punta del Este declaration included not just the launch and conduct of the negotiations as part of the a single undertaking, but the implementation of the negotiations as well. However, what really stands out about the Punta del Este declaration is that the phrase 'single undertaking', while clearly stated in Part I dealing with Negotiation in Goods, is glaringly absent from Part II dealing with Negotiation in Services. This also reflected the formal position of the 'group of ten' led by India and Brazil, that there could be no negotiations on services in the new GATT round, despite the efforts of the United States. But the United States was nevertheless successful in getting the new round of multilateral trade negotiation launched with services as part of it. The other two new issues relating to trade –related investment measures (TRIMS) and trade-related intellectual property rights (TRIPS) were dealt with within the confines of the relevant GATT articles and did not transgress the GATT framework, and therefore were not seen to cause as much trouble as the negotiations in trade in services (See Shukla, 2000).

This omission was brought to notice by various developing countries time and again to reiterate their stand that the negotiation on services was never really a part of the single undertaking. Frontrunner amongst these countries was India, which stated in a February 1987 meeting of the Group on Negotiation Services, that though the Uruguay Declaration as a whole, had been adopted as a 'single political undertaking launching the Uruguay Round', this concept of a single political undertaking had to be distinguished from the concept of a 'single undertaking' which had been used in Part I in relation to the Negotiation on Trade in Goods (MTN.GNS/W/4). According to India, the singleness of the political undertaking had to be seen only in terms of the unity of time and place provided by the Punta del Este meetings; establishment of the TNC, the same time–frame for the two processes of negotiations and finally, the provision that the decisions on the implementation of the respective results of the negotiations would be taken at the Ministerial meetings on the pattern of the Punta del Este meetings. India had also submitted that there was no basis for visualizing point to point correspondence in the progress of the two different processes of negotiations on goods and services.

On the other hand, the resistance on TRIPS by the developing countries had crumbled to a large extent in 1989, when in the name of compromise, and contrary to earlier resolve, the developing countries had virtually accepted the chairman's proposals which reflected the stand of the major industrial countries (Shukla, 2000).

Though, in case of services negotiations, as late as in 1990, there appears to be no clarity as to whether trade in services was part of the single undertaking. India remained consistent with its stand on "single undertaking", and in a TNC meeting on November 26, 1990 reiterated that it had been previously agreed to put the negotiations on services on a separate track, outside the judicial framework of GATT (MTN.TNC/17). According to India, this had been done to address the concern that, when an independent economic treaty was negotiated, it should be demonstrated to each participant that it was in its interests to join the agreement. Thus, according to India, the suggestion by some participants that the negotiations be accepted as a single package was totally unacceptable and it clearly violated the principles of free consent and good faith, universally recognized in treaty-making. India's position was supported by Egypt which also submitted that trade in services and TRIPS were separate domains upon which governments would have to decide separately and without any bearing on decisions on trade in goods (MTN.TNC/17).

Outside the formal trade negotiations too, developing countries and the LDCs put resistance, to the introduction of the single undertaking. The Group of 77 (G-77), in a run up to UNCTAD VIII, made a public statement that introduction of single undertaking had been done at a very late stage and was tantamount to 'breach of good faith'. It was stated that the concept had not been part of the negotiations, and had been introduced only to force the developing countries to accept all the outcomes of the Uruguay Round (Raghavan, 1991).

However, according to the secretariat history of the Uruguay Round by John Croome, the rigid separation between negotiations in trade in goods on the one hand and the issues of trade in services and TRIPS on the other hand started to fizzle out only in 1991, when with respect to the integrated dispute settlement procedure, some countries proposed that such a procedure should cover not only agreements on trade in goods, but also the 'new subjects', particularly services (Croome, 1999). According to Croome "the cat was effectively out of the bag: the distinction between negotiations on goods and services was breaking down as the elements of the Uruguay Round package began to be assembled; it was probably inevitable that this occurred first in the discussion of the institutions to be put in place after the Round".

Unofficially, however, as is the case with most international negotiations, there are several versions available to account for what really happened (Wolfe, 2009). These accounts vary from threat of withdrawal from GATT being used by the bigger states and aggressive unilateralism by the certain large developed countries, like the United States, to force the major developing countries to accept obligations under all the new agreements; to the understanding among the countries that given the objectives of the Uruguay Round, it could only be concluded as a single undertaking. What is apparent however is that, while from 1986 to 1991, there was no unanimity amongst the countries as to what issues would be included within the ambit of the single undertaking; between 1991 to 1993, the developed countries led by the United States were successful in getting the 'new issues' relating to services, TRIPS etc. as part of the so called 'single package' covered by the single undertaking mandate, despite this not being reflected in the Punta del Este declaration. In turn, the developing countries had to settle with the textiles agreement and the increased access to the United States' markets.

Thus, a series of trade-offs, concessions and aggressive unilateralism by the developed countries resulted in the single undertaking becoming an integral part of the multilateral framework, with the establishment of the WTO framework, as enshrined in Article II:2 of the WTO Agreement and discussed above. A direct outcome of this inclusion was that unlike the Tokyo Round "codes", which was *a la carte* in nature, the developing countries and LDCs could no longer afford to stay out of any of the negotiations relating to the multilateral trade agreements (MTAs) with the establishment of the WTO.

III. Doha Round and Single Undertaking: *The Ghost of WTO Present*

In the years since the establishment of the WTO, the developing countries have come to recognise how the principle of single undertaking was used as a coercive tactic to make them agree to the newer issues during the Uruguay Round. Furthermore, the difficulties faced by the developing countries in implementing the newer agreements like the TRIPS, notwithstanding the longer transition period, have made them realise the consequences and potential pitfalls of entering an agreement on an issue where they lack technical and economic capability.

Thus, it not surprising that post 1995, the developing Members of the WTO have evolved their negotiating strategy and have used the principle of single undertaking to block negotiations on areas they did not want to be included at the WTO. This change in the negotiating approach of the developing Members has perhaps been best displayed in the ongoing Doha Development Round. The Doha Development Round was launched in 2001, at the fourth ministerial conference of the WTO, to launch new negotiations as well as work on other issues like the implementation of the existing agreements. The Doha Ministerial Declaration on the Organization and Management of the Work Programme ('Doha Declaration') stated that the new negotiations would be part of a single undertaking, loosely borrowing the language from the Punta del Este declaration. The Doha Declaration states that:

"*With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiation.*" *(emphasis added)*

The Doha Work Programme and mandate for the Trade Negotiations Committee further provided that the negotiations were to be concluded by 2005 'as a single undertaking'. However, no breakthrough in the negotiations has been made till date. The effect and importance of the single undertaking framework has been especially visible in the Doha Development Round, where countries, in particular the developing countries and the LDCs, have adopted a cautious approach in agreeing to issues being made part of the negotiating agenda. In the so-called 'July Framework', three of the four Singapore issues, namely investment, competition policy and transparency in government procurement were dropped from the agenda, with trade facilitation being the only issue that moved forward. Although, this outcome cannot wholly and conclusively be attributed to single undertaking, there exists a view that single undertaking may have played an important role in the decision making process of the WTO Members.

Scholars have thus blamed this logjam, in part, on the new found awareness amongst the developing countries and the LDCs that the scope and content of the negotiation agenda itself can be a "strategic battleground if negotiations are undertaken pursuant to the single undertaking"; and the single undertaking itself, has become a 'double edged sword' whereby a WTO Member or a group of Members can hold all negotiations to hostage (Rolland, 2010).

IV. Where is Single Undertaking headed?: *The Ghost of WTO Future*

With increasing frustration among the WTO Members, especially the developed countries, who have for long been used to getting their way in international trade negotiations, it is not surprising that informal talks of moving away from the single undertaking to some form of variable geometry is catching force, especially in the light of approaching Bali Ministerial in December 2013. Some scholars argue that given the rigidity of the principle of single undertaking, it may not be completely undesirable to look for alternatives, especially as membership of the WTO is now close to 160 countries having varied trade interests and the Doha Development Round is nowhere near its conclusion even 12 years after it was launched.

Since the most common concern relating to variable geometry is that it may lead to a system of potential free rider, where countries may enjoy the benefits of an agreement without undertaking the accompanying obligation, it has been argued that such a situation can be tackled either by excluding all non-signatories, a sort of unconditional MFN treatment, or one in which exclusion is possible (conditional MFN) (Levy, 2004). Another alternative that has been suggested is to adopt a modified form of single undertaking - where the principle of single undertaking is applied with *ad hoc* variances. This suggests two variances: one, where a package of measure could be adopted even in the absence of unanimity, for instance, where countries that contribute negligible part of the world trade can opt out of an agreement; and two, where a package of measures could be adopted in respect of some, but not all agreements, and technical and rules oriented negotiations are detached from the single undertaking framework (Rolland, 2012).

A more drastic multi-tier alternative proposed suggests that single undertaking should be relaxed, thereby making the WTO an 'umbrella' institution circumscribing a range of plurilateral agreements, participation in which would be on a purely voluntary basis (MacMillan, 2010). Another alternative to single undertaking proposes to make WTO a 'club of the clubs', where the agreement would come into force whenever it was signed by one fourth of the entire membership; and would be either renegotiated or abandoned if one fourth of the membership objected to the agreement (Huang, 2011).

Most of the alternative proposals by scholars, barring the one by Rolland, seem to be based on the premise that the conclusion of the negotiation is desirable, even if the same is done at the cost of the interest of the developing countries and the LDCs.

V. Conclusion

The WTO is probably facing today one of the most crucial and challenging times since its establishment in 1995. Lack of progress in negotiations at Doha Development Round, coupled with proliferation of regional trading agreements has eroded confidence in the multilateral regime. It is therefore not unusual for certain sections of international legal experts to identify the 'single undertaking' as one of the problems that has led to the current situation and propose possible solutions to get a breakthrough in negotiations, which they believe will infuse new energy into the WTO. However, one should be wary of 'quick-fixes' at this juncture. While it is most desirable that the WTO membership makes a headway at the upcoming Bali Ministerial, it is equally, if not more, important to ensure that the same is not done at the cost of the development needs of a majority of the WTO membership. Whatever may have been the dubious history of inclusion of 'single undertaking' in the Uruguay Round, since then, it has become an integral part of the WTO framework. Just as the inclusion of single undertaking at the Uruguay Round was predominantly pushed by few countries who wanted to promote their own interests, departure from single undertaking should not become a tool in the hands of a few who want to serve their own interests at the cost of others. After all, the WTO is as much an organisation of Members belonging to the lower strata of economic development, as it is of the rest of the world.

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Activities & Events (October – December 2012)

1. Workshop on the Impact of WTO on the State Economy

Bhubaneswar, Odisha

A workshop on the "Impact of WTO on the State Economy" for officers of the Government of Odisha was held on 5-6 October 2012 at the Xavier Institute of Management, Bhubaneswar (XIM-B). The workshop was organized by XIM-B in collaboration with the Centre for WTO Studies (CWS), IIFT and the Government of Odisha. Twenty five participants comprising state government officials from the departments of agriculture, industries, fisheries, finance, and representatives from the private sector, cooperatives and civil society attended the workshop.

Group Photograph: Participants, Resource Persons and Faculty of XIM-B & CWS/IIFT.

Fr. P.T. Joseph, Director, XIM-B; Mr. R.S. Gopalan, Director, Department of Agriculture, Government of Odisha; Prof. Asit Mohonty, XIM-B and Prof. Sajal Mathur, CWS, IIFT addressed the inaugural session. Dr. Sachin Kumar Sharma and Ms Shailja Singh from the CWS, IIFT were also in attendance for the inaugural and technical sessions that followed. The workshop focused on agriculture, non-agriculture market access and non-tariff barriers, fisheries, trade remedies, trade in services and TRIPS. Feedback from participants indicated the workshop was well received and raised awareness on WTO and international trade issues of relevance to the state.

2. Seminar on International Trade & WTO Issues of Interest to Mizoram

Aizawl, Mizoram

A seminar on "International Trade and WTO issues of interest to Mizoram" was held on 8-9 November 2012 at the Administrative Training Institute (ATI), Aizawl, Mizoram. The seminar was organized by the ATI, Government of Mizoram in collaboration with the CWS, IIFT. The seminar was inaugurated by Ms. Esther Lalruatkimi, Secretary, Government of Mizoram and Mr. Ashutosh Kumar, Director, ATI, Mizoram. The resource persons for the seminar were Mr. Agneshwar Sen, Joint DGFT, Kolkata, Prof. Vanlalchhawna and Prof. Lianzela from the Mizoram University, and Prof. Sajal Mathur and Dr. Pralok Gupta from the CWS/IIFT.

Group Photograph: Participants, Resource Persons and CWS faculty.

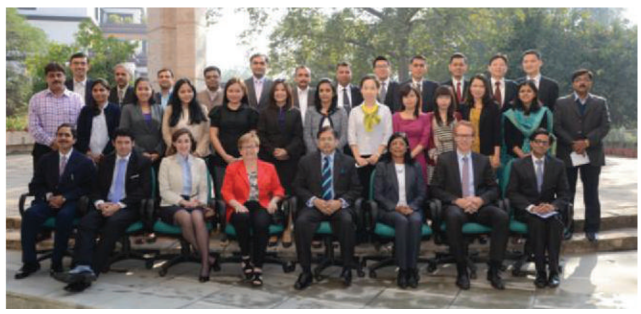
The participants at the seminar included government officials from agriculture, trade and industry departments, officials from Mizoram Chamber of Industry, representatives from the private and public sector and civil society. The seminar focused on "International Trade – Scope, Challenges and Opportunities"; "WTO and FTAs – Background, structure, Impact on India's economy and the Role of States"; "Trade-potential of the North East/Mizoram"; and "India's Foreign Trade Policy and Export Strategy: Trade Promotion and Export Development Support" by DGFT. An interactive session was also organized on the theme "Expectations – Private and Public Sector" to provide participants an opportunity to put forward their views on international trade issues pertaining to Mizoram.

3. WTO Dispute Week

IIFT, New Delhi

The Centre for WTO Studies partnered with the World Trade Organization (WTO), Advisory Centre on WTO Law (ACWL) and International Centre for Trade and Sustainable Development (ICTSD) to organize the "WTO Dispute Week" from 26 to 30 November 2012 at the Indian Institute of Foreign Trade (IIFT), New Delhi.

The week was split into three segments with: "Training on WTO Dispute Settlement for Asia Pacific Economies" on 26 – 28 November; "Asia Regional Dialogue on Managing Trade Conflicts" on 28 – 29 November; and "India National Dialogue on Managing Trade Disputes" on 30 November.

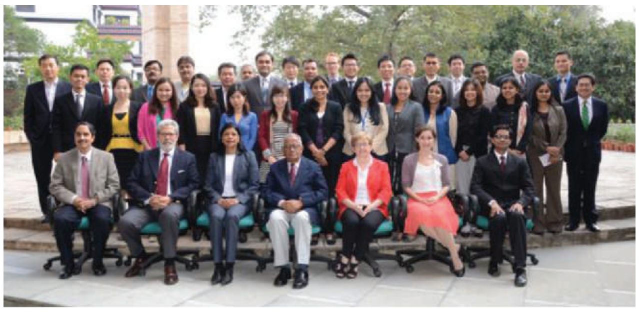


Group Photograph: Participants, Resource Persons and IIFT/CWS Faculty at the Training on WTO Dispute Settlement for Asia Pacific Economies.

The training and regional dialogue for Asia-Pacific was very well received by twenty four participants from ten countries viz., China, Indonesia, India, Malaysia, Pakistan, Philippines, Sri Lanka, Chinese Taipei, Thailand and Vietnam.

The inaugural session was attended by representatives from all the partner institutions. Welcome remarks were given by Prof. Abhijit Das, Head, Centre for WTO Studies. Ms. Valerie Hughes, Director, Legal Affairs Division, WTO and Ms. Cherise Valles, Deputy Director, ACWL briefed the participants and presented an overview of the workshop. Dr. Surajit Mitra, Director, IIFT delivered the keynote address. A vote of thanks was given by

Prof. Shashank Priya, Centre for WTO Studies. Classroom sessions were organized on the first two days of the programme covering pre-dispute preparation, consultations, panel procedures, appellate review proceedings and other substantive issues in WTO disputes. A number of practical exercises like drafting a panel request, drafting a complainant/respondent submission and moot court were included in the classroom sessions. The participants gave a very positive feedback on this training format.



Group Photograph: Participants, Resource Persons and CWS Faculty at the Asia Regional Dialogue on Managing Trade Conflicts.

The classroom sessions were followed by the "Asia Regional Dialogue on Managing Trade Conflicts". The dialogue started with a brief overview of WTO Dispute Settlement: Asia Pacific Experience and Mr. Miguel Rodriguez Mendoza, Senior Associate, ICTSD delivered the keynote speech. Experts from Japan, Philippines, Indonesia, Vietnam, Thailand, Singapore, India and Korea provided insightful comments at the round table discussions on intra-governmental coordination and private sector engagement. The Asia Dialogue concluded with a moderated discussion on implementation and retaliation.

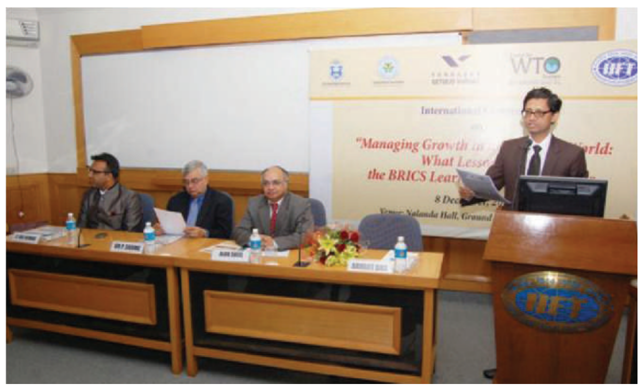
The final segment of the WTO Dispute Week was the

Group Photograph: Participants, Resource Persons and CWS Faculty at the India National Dialogue on Managing Trade Disputes.

"India National Dialogue on Managing Trade Disputes". Experts joined a roundtable discussion to share their views on managing trade disputes from an Indian perspective. Twenty three participants attended the National Dialogue, including representatives from the Federation of Indian Export Organizations (FIEO), Indian Industries Association (IIA), Cotton Textiles Exports Promotion Council (TEXPROCIL), Ernst and Young, Clarus Law Associates, CUTS international, Unique Identification Authority of India (UIDAI), Marine Products Export Development Authority (MPEDA), Federation of Indian Chambers of Commerce and Industry (FICCI), Confederation of Indian Industry (CII), Export Inspection Council (EIC), and the Ministries of Food Processing Industries and of Communication and Information Technology. Mr. S. Narayanan, India's former Ambassador to the WTO also participated in the Regional and National Dialogues.

4. Conference on Managing Growth in a changing World: What Lessons Can the BRICS Learn From Each Other?

IIFT, New Delhi



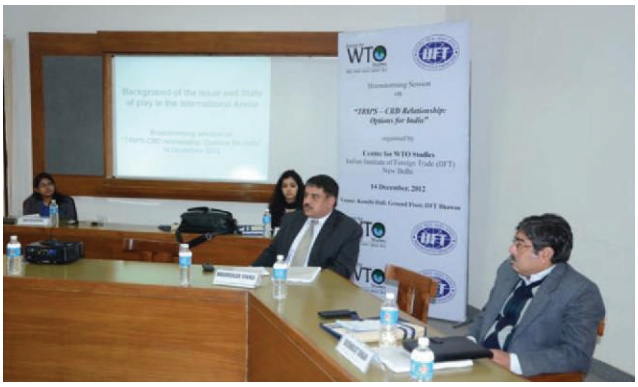
From (L) to (R): Prof. C. Rajkumar, Vice Chancellor, O.P. Jindal University; Dr.Parthashastry Shome, Advisor, GoI; Mr. Alok Sheel, Secretary, PMEAC, GoI and Prof. Abhijit Das, Head,CWS.

The CWS, IIFT in partnership with Jindal Global Law School, O. P. Jindal Global University, and Getulio Vargas Foundation (FGV) in São Paulo, Brazil organized an International Conference on "Managing Growth in a Changing World: What lessons can the BRICS learn from each other?" from 6 to 8 December 2012. This three day conference examined the legal and regulatory strategies employed in Brazil, Russia, India, China, and South

Africa in order to harness the positive, and mitigate the negative impacts stemming from rapid economic growth in the BRICS countries. Diplomats from BRICS countries shared their perspective on the changes required in the architecture of global economic governance to reflect and promote development aspirations of BRICS. Eminent academicians from Brazil and India made presentations at the conference.

5. Brainstorming Session on TRIPS-CBD relationship: Options for India

IIFT, New Delhi



Participants at the Brainstorming Session on "TRIPS-CBD relationship: Options for India"

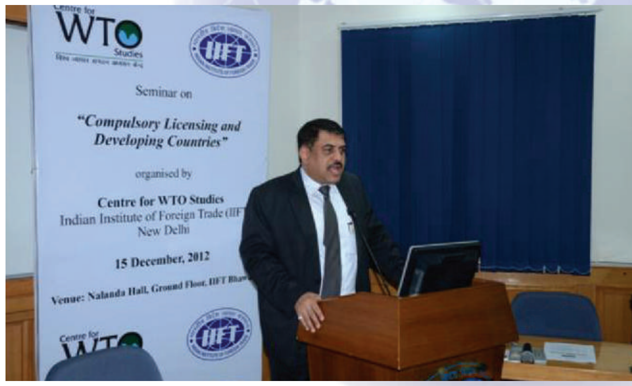
A brainstorming session on "TRIPS-CBD Relationship: Options for India" was organized by the CWS, IIFT on 14 December 2012 in New Delhi. The brainstorming session was organized to analyse the relationship between TRIPS and CBD. Recommendations from the brainstorming could be forwarded to the Government of India as possible negotiating inputs in the TRIPS Council.

The session was attended by Dr. P. Pushpangadan, Mr. Yogesh Pai, Ms. Latha Jishnu, Ms. Shalini Bhutani, Ms. Ranja Sengupta, Ms. Anuradha RV, Dr. Biswajit Dhar, Mr. Nitya Nanda, Mr. T C James and Dr. Madhukar Sinha. The session was moderated by Dr. Biswajit Dhar, Director, Research and Information System for Developing Countries (RIS).

6. Seminar on 'Compulsory Licensing and Developing Countries'

IIFT, New Delhi

A seminar on "Compulsory Licensing and Developing Countries" was organized on 15 December 2012 by



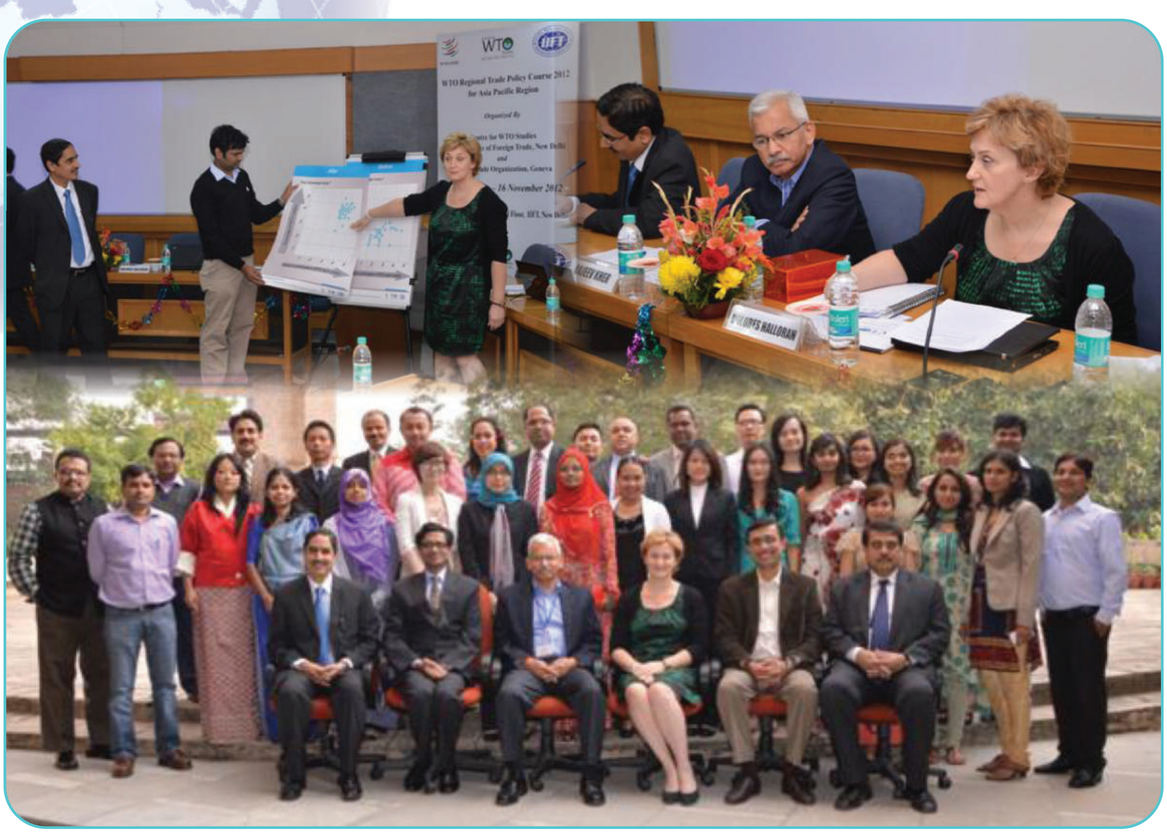
Dr. Madhukar Sinha, Professor, CWS at the Seminar on Compulsory Licensing and Developing Countries.

CWS, IIFT. The seminar was spread over 5 sessions covering the following topics: (i) international legal perspective on compulsory licensing under law of patents especially in the context of medicinal formulation; (ii) inquiry into the domestic legal regime in light of the recent decision of the Controller General of Patents to issue a compulsory licence; (iii) likely impact on introduction of new research-based and generic drugs by the industry in response to new activism by the Patent authorities; (iv)economic implications of non-voluntary licensing especially with reference to control over monopoly position; and a roundtable discussion on the likely international, economic and legal scenario emerging from the newly established precedence in India keeping the context of compulsory licensing in other countries.

The seminar was attended by experts from industry, civil society, government, academia and the student community; the latter also presented their technical papers which were selected after a call for papers.

Group Photograph: Participants, Resource Persons and CWS faculty at the Seminar on Compulsory Licensing and Developing Countries.

WTO's RTPC Successfully Concluded



The Centre for WTO Studies, in partnership with the WTO Geneva, successfully hosted the second edition of the WTO Regional Trade Policy Course (RTPC) for the Asia Pacific region to be held at the IIFT, New Delhi. Twenty five participants drawn from 19 countries or economies from the Asia-Pacific region: Bangladesh, Bhutan, Cambodia, China, Chinese Taipei, India, Indonesia, Laos, Malaysia, Maldives, Mongolia, Myanmar, Nepal, Pakistan, Philippines, Samoa, Singapore, Sri Lanka, and Vietnam attended this flagship 8-week WTO training programme held from 24 September to 16 November 2012. The course was inaugurated by Mr. S. R. Rao, India's Commerce Secretary in the presence of a host of dignitaries including the RTPC Patron and India's former Cabinet Secretary, Mr. K. M. Chandrasekhar and Mr. Jorge Vigano, Head, Technical Assistance Monitoring and Evaluation, Institute for Training and Technical Co-operation, WTO, Geneva.

The course covered all disciplines of the WTO covering trade in goods, services and intellectual property rights. The course was divided into various theme-based sessions. A user friendly virtual classroom was created for the course and all presentations as well as training materials were put online in advance of the sessions. To provide practical exposure to the participants, trade negotiation simulation exercises were also conducted as part of the course.

The participants benefitted greatly from the high quality of WTO and regional resource persons. The address by the RTPC Patron Mr. K. M. Chandrasekhar and Dr. Harsha Vardhan Singh, Deputy Director-General, WTO on 30 October 2012 was another highlight of the programme. During the RTPC, several cultural visits were organized which were appreciated. At the end of the course all 25 participants were awarded diplomas by Mr. Rajeev Kher, Additional Secretary, Department of Commerce & Industry, Government of India and Ms. Dolores Halloran, RTPC Officer, WTO, Geneva.

Faculty Participation in Outreach Programmes (October – December 2012)

	Participating Faculty	Outreach Activity/Topic	Date	Location
1.	**Prof. Abhijit Das**	Industry Consultation on "Treatment of Remanufactured Goods and Product Coverage of the Information Technology Agreement"	10 October	Bangalore
		Industry Consultation on "Treatment of Remanufactured Goods and Product Coverage of the Information Technology Agreement"	11 October	New Delhi
2.	**Prof. Shashank Priya**	Lecture on "Multilateral Trading System: Policy Implications for India" at the University of Delhi (South Campus)	15 December	New Delhi
		Lectures on "Overview of International Trade and WTO"; "Journey from Geneva to Tokyo; Uruguay to Doha round"; and "Introduction to WTO Agreements" at the National Academy of Customs, Excise and Narcotics (NACEN)	17 December	Faridabad
3.	**Prof. Madhukar Sinha**	Resource person at the annual conference of the International Association of Sound and Audiovisual Archives with lecture on "Music Rights, Copyright and User Rights: Birth of new business models"	7–12 October	New Delhi
		Resource person at the Workshop on "Trade & Innovation Report - 2012" jointly organized by UNCTAD and RIS.	2 November	New Delhi
		Resource person at the National Seminar on "Transforming Bihar: Challenges and Innovations" organized by Indian Institute of Advance Study in association with the Department of Sociology, Patna University	5–6 November	Patna
		Resource person at the Conference on "Copyright Amendments, 2012: A Fair Balance" jointly organized by NUJS, Kolkata and CUSAT.	27–28 November	Kolkata
4.	**Prof. Sajal Mathur**	Lecture on "WTO & related issues" at the87th Foundation Course for All India and Central Services held at RCVP Noronha Academy of Administration, Bhopal.	18 October	Bhopal
		Panellist on "WTO and Bretton Woods Institutions - A Critique" at the Asian Forum on Global Governance hosted by the Observer Research Foundation.	19 October	New Delhi
		Resource Person for sessions on: "Trade and Development: The WTO Framework" and "Trade Policy Formulation: Global Perspectives" at the Training Programme on "Trade and Sustainable Development: Issues for developing countries" organized by The Energy Research Institute (TERI).	27 November	New Delhi
		Chair of session on "Barriers to the expansion of intra-SAARC trade in agriculture and food products" at the Regional Consultation on "Trade, Climate Change and Food Security in South Asia" organised by SAWTEE, Nepal.	20-21 December	Kathmandu

	Participating Faculty	Outreach Activity/Topic	Date	Location
5.	Dr Sachin Kumar Sharma	Participant at the Joint World Bank-MSE Workshop on "Diagnostic Tools, Computable General Equilibrium Modelling and other approaches for Assessing Environmental Challenges"	4-7 December	Chennai
6.	Dr. Pralok Gupta	Speaker at the Roundtable on "India's Legal Services Sector: Strengthening the Regulatory Framework and Enhancing Capacity" organized by CII, New Delhi	12 October	New Delhi
		Participant at Seminar on "Services Sector as an Engine of Inclusive Growth" organized by ICRIER	19 December	New Delhi

News Roundup

Trade Figures

1. India emerges among top 25 leading exporters in world

India has emerged as one of the top 25 leading exporters in the world along with countries like Brazil Mexico and Malaysia. "In addition to China, many new trading powers have emerged - Brazil, India, Mexico and Malaysia are all in the top 25 leading exporters' table and all posted export growth of 15 % or better in 2011," WTO chief Pascal Lamy said at the Brookings Dialogue held in October 2012 in Washington.

Developing countries' share has increased to about 50% compared to around 33% of the global trade in 2008. Also, trade as a share of the world GDP has risen from roughly 40% in 1980 to around 60%, Lamy added. However, he expressed concerns over increasing use of non-tariff measures by different countries impacting trade.

These measures, according to him, are regulatory in nature and are aimed at protecting consumers' health and safety and so removing them is often neither desirable nor politically feasible. The challenge before the WTO and other multilateral organisations is to reduce such discrepancies so that they do not conflict and unnecessarily restrict trade, he said. These measures include standards, testing and certification procedures.

Besides, regional or bilateral preferential trading arrangements may include elements not covered by the WTO agreements such as social and environmental standards, recognition of standards or qualifications. "There is a danger that the regulatory elements of each accord may not only differ but clash, creating perhaps unintended but very real barriers to trade," Lamy said.

PTI (3 October 2012)

2. India ranked seventh in global services trade by WTO

India has been ranked by the WTO as the seventh largest player in global services trade with value of exports and imports aggregating $261 billion in 2011. With exports at $137 billion and imports at $124 billion, India is among the five countries among the top ten players which ended the year 2011 with a surplus of trade in commercial services, a WTO report says.

Indian economy is mainly driven by services with the sector contributing over 55% of the country's GDP. The US lived up to its reputation of a global powerhouse of commercial services with exports of $581 billion, far exceeding its imports of $395 billion, the report noted. Though Germany was ranked as the second biggest player in the global services trade, it had more of imports than exports with a deficit of $36 billion. Its exports of services were $253 billion while imports aggregated to $289 billion in 2011, it said.

China, which runs a big surplus in merchandise trade, had a deficit in the services with imports exceeding exports by $54 billion."The value of world exports of commercial services rose by 11% in 2011 to $4,170 billion, exceeding pre-crisis levels of $3,850 in 2008," the report said. While Europe showed signs of recovery, with annual growth of 11% in 2011, Asian economies saw their growth rate halved compared with 2010, mainly due to slower growth in transportation services and other commercial services, it added.

The report also noted that services supplied by US majority-owned foreign affiliates to China and India proved more resilient to the global crisis than exports of cross border services.

The Economic Times (18 November 2012)

3. Trade data for the period September-November 2012

September 2012:

India's exports contracted for the fifth straight month in September while imports rose marginally, pushing up the trade deficit to an 11-month high at $18.1 billion. Exports contracted 10.8% from a year ago to $23.7 billion, while imports rose 5.1% to $41.8 billion on a 31% rise in oil imports to $14.1 billion, according to the official data released by the Commerce Ministry.

Non-oil imports for the month showed a contraction of 4.5%, indicating that the economy was still struggling but rising crude consumption was worsening the trade deficit. Record high trade deficit last fiscal had pushed up the current account deficit to 4.2% of GDP, but a sharp moderation in gold imports fuelled hopes that the gap would be lower. Although the trade gap has widened, some economists are hopeful of an improvement in the current account deficit. But trade experts don't see a rebound in exports, given the deteriorating outlook for the developed nations.

Exports have dipped sharply this fiscal due to shrinking demand from the West, a major market for Indian goods, and other markets such as Japan and Korea. The sectors affected the most include engineering goods, petroleum products, gems and jewellery, drugs and pharmaceuticals, and readymade garments. Exporters blame the fall in exports on the high cost of credit and the fluctuation in the rupee.

The Economic Times (12 October 2012)

October 2012:

India's exports fell for the sixth straight month in October while imports rose marginally, pushing the trade deficit to a 12-month high. October exports fell 1.63% from a year ago to $23.24 billion, while imports rose 7.37% to $44.20 billion, as per the data released by the Commerce Department. India's trade gap widened to $20.96 billion from $18.1 billion last month as overall imports rose on the back of higher crude oil purchases. Oil imports accelerated to 31.6% year-on-year in October to $14.78 billion. The dismal performance on the exports front was largely due to shrinking demand from the West, a major market for Indian goods.

For the April-October period, exports dropped 6.18% to $166.92 billion and imports shrank 2.66% to $277.13 billion, increasing the trade deficit to $110.2 billion. "World trade is continuously contracting. Our integration with world trade has increased, so any ripple worldwide will impact India's trade," Commerce Secretary S R Rao said.

Some exporters, however, feel that the decline will bottom out soon, as the fall in October exports is marginal as compared with that over the past months. But experts rule out a turnaround until global conditions improve.

The Economic Times (13 November 2012)

November 2012:

Slackening demand abroad triggered a contraction of exports for a seventh straight month in November 2012, with outbound shipments declining 4.2 % to $22.3 billion against $23.3 billion in the same month last year. In fact, exports fell faster than the 1.7% in the previous month, belying expectations that the deceleration in shipments would come down. On the contrary, the data showed that imports increased 6.4 % to $41.6 billion during the month compared to $39.1 billion, pushing the trade deficit to $19.3 billion against $15.8 billion in November 2011.

Cumulatively, between April and November 2012, exports registered a fall of six per cent to $189 billion, while imports recorded a decline of only 1.6 % at $318.7 billion. Consequently, the trade deficit rose to $129.5 billion, higher than the $122.6 billion reported in the same period in 2011. This could dash the initial optimism of the Commerce Department, that the trade deficit would be lower this year against the $185 billion in 2011-12.

higher than the $122.6 billion reported in the same period in 2011. This could dash the initial optimism of the Commerce Department, that the trade deficit would be lower this year against the $185 billion in 2011-12.

Earlier, imports also contracted till August, so the deficit was under control. However, now even the trade deficit has started rising, which would aggravate the current account deficit (CAD), projected to come down to 3.6 % of GDP this year by the Prime Minister's Economic Advisory Council, against 4.2% in 2011-12.

Within imports, oil was 16.8 % higher at $14.5 billion in November, while non-oil imports were up slightly by 1.5% to $27 billion. Cumulatively, oil imports were up 10.8% at $110.1 billion in the first eight months of this year, while non-oil declined 7.1 % to $208.6 billion. So, there is partial recovery in non-oil imports, a glimmer of hope on industrial revival.

Business Standard (12 December 2012)

4. Services exports shrink 7.6% on declining demand

India's services exports have started to shrink, on top of declining demand in the overseas markets in the face of recession in Europe and faltering economic recovery in the US, reinforcing concerns about the government's ability to bridge the widening current account deficit.

Net services exports shrank 7.6% to $28 billion in the first half of the fiscal (April-September 2012), as per the data released by RBI. The merchandise trade deficit widened to $48 billion during the same period, from $40.4 billion in the year-ago period, as exports fell and imports rose.

India runs up a deficit with the rest of the world in merchandise trade in most fiscal years, with the gap being partially met by a surplus in services trade. The declining net services exports and a widening merchandise trade deficit pose a new challenge for the government, which is struggling to boost slowing economic growth.

During the financial year ending 31 March 2012, the trade deficit, mostly the outcome of an increase in gold imports, led to a current account deficit of 4.2% of the GDP. RBI, in a note published on 12 November 2012, said the falling merchandise exports, coupled with the declining surplus in services trade over the medium term, is likely to leave the current account deficit too wide for comfort.

Finance minister P. Chidambaram said recently that the government hopes the current account deficit will fall to 3.7% of GDP this fiscal. He said a substantial part of the $70.3 billion required to finance the deficit will be met through foreign direct investments, foreign institutional investments and external commercial borrowings.

India's services exports range from information technology (IT) to services provided by Indian doctors and nurses abroad. RBI's classification of service exports includes transport, travel, construction, insurance and pensions, financial services, telecommunications, computer and information services, and personal, cultural and recreational services.

Services are critical to India's economic well-being as they constitute more than half the country's GDP. The share of services in the GDP has risen from 33.5% in 1950-51 to 56.3% in 2011-12. In terms of size, software is a key category, accounting for 41.7% of the total services exports in 2010-11.

The Economic Survey for 2011-12 said the outlook for the services sector in the domestic economy is linked to its prospects externally. "While software services exports have continued to be steady, the unfolding events in the euro area could lead to some sluggishness in this sector," it said. "The fair-weather business services exports, which have already shown signs of deceleration, may not get better."

While the commerce ministry regularly updates its foreign trade policy and sets yearly targets for merchandise export growth, forecasts for the services sector or measures to boost its exports are a rarity.

According to the World Trade Organization, India ranked sixth in exports of commercial services in 2011 with a 3.6% global share. In services imports, it ranked seventh with a 3.4% global share. In contrast, India ranked 19th for its share of merchandise exports, contributing 1.6%; it ranked 13th in its share of merchandise imports with 2.5%.

RBI, in its annual report released in August 2012, cautioned that the falling comfort level from services exports means that current account deficit risks will persist this year."Software exports are likely to moderate as global IT spending is expected to be lower. Major software exporters have already made steep downward revisions in their guidance on expected revenue during the year," the central bank said.

Mint (15 November 2012)

Foreign Trade Policy/strategy

5. India needs to diversify exports to developing countries

Expressing confidence in the prospects of the economy, President Pranab Mukherjee underlined the need to diversify exports to developing countries to achieve high growth. Addressing a FIEO award function recently, Mukherjee said: "I am confident about the prospects of Indian economy, which continues to be one of the fast growing economies of the world, and also that our export sector will be a part of this growth story."

The unfolding of Euro-zone crisis has impacted the economy through lower growth, falling business sentiments, declining capital inflows and exchange rate, stock market volatility and attendant implications for investor confidence, he said.

The slowdown in external demand has led to significant deceleration in the growth of exports, with the outward shipments showing a negative growth since May 2012. "Even as one awaits the recovery of demand in the developed economies, India needs to maintain the focus of its trade policy on developing new export markets in the emerging and the developing countries...", Mukherjee added.

The Economic Times (5 October 2012)

6. Centre announces sops to arrest falling export growth

In view of unabated fall in export growth for seven months in a row and current account deficit situation worsening, the government announced a slew of incentives on 26 December 2012 to boost exports. Among the measures announced were an extension of the 2% interest subvention for certain sectors for an additional year till March 2014, inclusion of the sub-sectors of engineering goods as beneficiaries of the interest subvention scheme, a scheme for promoting project exports, inclusion of more countries in the Focus Market Scheme and incentives on incremental exports made to the US, the European Union and countries in Asia.

The interest subvention scheme, already in place, covers select labour-intensive sectors and is available till end-March. It now gets extended for another year and also covers select segments of the engineering sector. The benefit of interest subvention, to be made available through Exim Bank for project exports, is for contracts in select countries in South Asia, Myanmar and Africa. Extension of the Focus Market Scheme is for export to New Zealand, Latvia, Bulgaria, Cayman Islands and Lithuania.

"With these measures, we should be able to give a push to our exports in the last quarter of this financial year. The objective is to stabilise the situation and try and move from the negative territory to positive," said Commerce and Industry Minister Anand Sharma while announcing the sops on 26 December 2012. He expressed hope that the measures would boost outbound shipments from the country and help in controlling the spiralling trade deficit. India's trade deficit has increased by nearly a-fifth to $175.5 billion (Rs 9.6 lakh crore) between January and November 2012. The trade gap had stood at $146.9 billion in the corresponding period last year.

Exporters have welcomed the sops. According to Rafeeque Ahmed, president of the Federation of Indian Export Organisations, the scheme for incremental growth would act as stimulus for exporters looking at the US, the EU and Asian markets as these three accounts for close to 80 % of the country's exports.

But many trade analysts are of the view that incentives alone may not provide long term sustainability to our exports, especially in today's fiercely competitive global market. "No country can sustain its exports only on the basis of incentives and such incentives should be given only to neutralize the disadvantages that erode export competitiveness such as state-level input taxes. WTO rules allow a country to provide export subsidies to a particular sector if the country does not have more than 3.25% share in global trade in that sector." Prof. Abhijit Das, head of Centre for WTO Studies had said in an interview with Mint.

The Economic Times (28 September 2012), Mint (29 October 2012) and Business Standard (21 November, 19, 27 and 31 December 2012)

Bilaterals

7. India-ASEAN

Despite reservations expressed by Philippines and Indonesia, strong in outsourcing, India and the Association of South East Asian Nations (Asean) moved closer to completing a bilateral trade pact by finalising a free trade agreement (FTA) on services and investment. They are expected to sign the pact in August 2013. An FTA on goods was signed between India and Asean in 2011, but the agreement on services and investment was pending. India's services sector contributes around 55% to the country's GDP, making this new pact significant.

Services under the pact will include sectors such as healthcare, tourism, transport, communication and construction. The FTA aims to cover a market of 1.8 billion people and a collective GDP of $3.8 trillion. The pact will enable free movement of professionals from India such as doctors, engineers, architects and management consultants across the Asean markets. It is being seen as lifting the India-Asean relationship to a new strategic partnership. Business process outsourcing (BPO) is among the areas likely to benefit once the pact is signed.

In his opening remarks at the two-day 'Asean India Commemorative Summit' held at New Delhi on 20-21 December 2012, Prime Minister Manmohan Singh said negotiations for the new FTA had been concluded. "This represents a valuable milestone in our relationship. I am confident it will boost our economic ties in much the same way the FTA in goods has done," he said.

India-Asean trade has grown over 10 times in the 10 years since the annual summits between the two sides began, the PM noted. While the summit is celebrating 10 years, India has been a dialogue partner with this regional grouping for 20 years. Two-way trade grew 41% in 2011-12, to touch $79 billion. While the target has been set at $100 billion by 2015, the PM said it had the potential to reach $200 billion by 2022.

As Asean investments into India have multiplied, their countries, too, have emerged as major destinations for Indian companies, the PM said, "From energy resources to farm products, from materials to machinery, and from electronics to information technology, Indian and Asean companies are forging new partnerships of trade and investment."

The Asean region, along with six major economies in the region - India, China, South Korea, New Zealand, Japan and Australia - have also agreed to launch negotiations for a regional comprehensive economic partnership with an aim to be the largest trading block in the world when negotiations conclude in 2015.

Mint (19 December 2012) and Business Standard (21 December 2012)

8. India-Australia

India has urged Australia to lower tariff and other import barriers on a host of products including pharmaceuticals, passenger cars, gems & jewellery, garments, chemicals and machinery in the bilateral free trade agreement being negotiated.

New Delhi has stressed that specialised access for some identified products from India, many of which are being imported in large quantities from China, is important to bridge the widening trade deficit between the two countries. India imported goods worth $15 billion from Australia in 2011-12 compared to exports worth $2.4 billion, running a trade deficit of $12.5 billion.

India and Australia began talks on a free trade pact, formally known as a comprehensive economic cooperation agreement, in May 2011 and are still at an initial stage of discussion. Both hope to increase bilateral trade to an annual $45 billion from the present $18 billion in the next five years as a result of the agreement.

Meanwhile, Australian Deputy Prime Minister Wayne Swan believes that the two countries must expand relations beyond minerals and energy. In an interview during his visit to India in December 2012, he said, "It (Indo-Australian economic engagement) can be much broader than just investment in energy and resources. I am very optimistic about what we can do in the future together. We can extend it to a whole range of trade and services such as financial services or working with your domestic resources. I also know that India is very interested in our expertise in infrastructure projects. We can ensure that there is professional expertise and planning in infrastructure projects in India."

The Economic Times (26 November 2012) and Indian Express (12 December 2012)

9. India-Bangladesh

With India seeking to address the trade imbalance with Bangladesh, a World Bank report released in December 2012 said a free trade agreement (FTA) between the two countries could push bilateral trade by over 100%. During 2011-12, the two-way trade stood at $4.3 billion.

In 2004, India and Bangladesh had exchanged documents for an FTA and negotiations were underway. However, talks were stalled over a few issues. India's exports to Bangladesh include cotton, cereals, nuclear reactors, boilers and machinery, while imports from the neighbouring country comprise edible fruit and nuts, fish, apparel and textiles articles.

According to Biswajit Dhar, RIS, one area where India must focus on is the upgrading of the facilities available at the land customs stations (LCS) existing between the two countries. At present, most of these LCS provide only rudimentary facilities for conducting trade, with many essential services not yet available. Programmes were initiated during the 11th Five-Year Plan period for modernizing several of these LCS and convert them into integrated check posts (ICP), which would provide in a single modern complex, customs facilities, banks, food testing laboratories, all equipped for the conduct of trade. Under these programmes, seven LCS between India and Bangladesh would be converted into ICPs in a two-phase programme. Setting up of these ICPs will not only provide greater opportunities for trade and commerce, but will also help in the development of the border regions, which are among the least developed in both countries.

Mint (8 October) and The Hindu (18 December 2012)

10. India-Canada

India hopes negotiations on a free trade pact with Canada to conclude by the end of 2013. "Negotiations on Comprehensive Economic Partnership Agreement (CEPA) are proceeding smoothly and we hope it would be finalised by 2013," Indian Commerce & Industry Minister Anand Sharma said in a statement after meeting Canada's International Trade Minister Edward Fast who accompanied Canadian Prime Minister Stephen Harper on a six-day official visit to India in October 2012.

The two countries had launched the talks in 2010 to boost investment and raise bilateral trade to $15 billion by 2015. Progress on the free trade pact came as Canadian and Indian negotiators struggled to clear a diplomatic logjam over resuming trade in nuclear materials and technology, according to media reports. The countries agreed two years ago on a nuclear co-operation deal that was supposed to open doors to new exports of Canadian uranium and reactors.

But India is resisting calls that Canada be allowed to scrutinise the use of its nuclear material. India already reports to the International Atomic Energy Agency (IAEA) and believes its actions should not have to be vetted by Canada as well. New Delhi, backed by the United States, won an exemption in 2008 from the Nuclear Suppliers Group, which governs global nuclear trade, to allow it to buy reactors and fuel from overseas.

Agence France Presse (5 November 2012)

11. India-China

A steep decline in Indian exports to China in October 2012 has widened the trade imbalance between both countries to $23 billion, according to trade figures released by the Chinese General Administration of Customs (GAC).

While officials say Indian demand for sourcing in China is still strong, a sharp fall in iron ore exports and continuing uncertainties in the power and telecom sectors - where the imports of Chinese equipment have emerged as a key driver of trade - have left an uncertain future for the trade relationship, and cast doubt on whether a $100 billion target set for 2015 will be met.

Officials attributed the decline to a close to 50% fall in Chinese purchases of iron ore, the biggest Indian export to China. Trade figures, officials said, underscored the need for both countries to find a replacement for ores as a new driver of trade. One reason for the fall in exports is an oversupply of stock in China and a slowdown in the steel sector here. But with mining bans in India and increasing domestic demand, exports are unlikely to recover fully.

India's exports to China after ten months of 2012 amounted to $16.34 billion, a 13.3% decline from the same period last year, according to figures released by GAC. Overall bilateral trade reached $55.68 billion as of October 2012, down 8.1 % from 2011. While trade figures usually record an increase in the last two months of the year, overall trade is set to fall below the record $73.9 billion figure of 2011, when China became India's biggest trading partner.

Chinese exports to India have also fallen during 2012, down 5.7% after 10 months this year. Indian purchases of power and telecom equipment have been the biggest component of Chinese exports, but troubles in both sectors have seen a slump in trade. Officials said the falling rupee, which discouraged Indian companies from entering into debt arrangements to fund purchases, was another reason behind the slump.

According to country-wise trade data released by the GAC, the 8.1 % decline in trade with India was the second-lowest figure recorded between China and all of its major trading partners. Only trade with Italy fared worse, falling 19.9 %.

The Hindu (11 November 2012)

12. India-EU

The much-delayed negotiations for the proposed free trade agreement between India and the EU continue to face hurdles due to persisting differences over issues such as opening up of the services sector, intellectual property rights, grant of data secure status, government procurement, and market access in automobiles and the wines and spirits sectors.

The pact, officially called Bilateral Trade and Investment Agreement (BTIA), seeks to liberalise trade in goods and services. India and its largest trading partner EU aim to slash duties on over 90% of trade under the pact. The negotiations for the pact, which started in June 2007, have missed several deadlines. These talks were to conclude in 2011, but differences between the two sides on the level of market opening came in the way of the BTIA.

So far, India has not offered concessions on either alcohol or cars to any of its trading partners in bilateral deals as these two sectors are young and hold growth potential. The Indian automobile industry is apprehensive that lowering duties for EU countries could spell havoc for the infant domestic industry.

Industry body SIAM has warned that duty concessions will keep out investments from the country as foreign car makers would prefer to export their cars to India rather than set up manufacturing facilities. But, on the other hand, Indian garment exporters are unhappy over delay in signing of the free trade accord saying this is pushing them behind Bangladeshi exporters who are enjoying duty free access to the markets in EU. India's textile exports to EU have fallen drastically over the last few months, mainly due to recession.

The pact seeks to liberalise trade in services, an area of strength for India. However, this continues to face hurdles like visa problems in several EU member states. India, is also unhappy with progress on issues such as gaining data secure status in the EU that will increase flow of sophisticated offshore business to the country.

EU is also pushing India to liberalise its patent regime as part of the proposed bilateral agreement. Negotiators from the 27-member bloc have been insisting that India allow European pharmaceutical companies to extend the life of their patented drugs in the Indian market beyond the commitments made under the Trade Related Aspects of Intellectual Property Rights (TRIPS). They argue that the European parliament does not allow bilateral trade deals that do not include an agreement on intellectual property. Patents worth an estimated $150 billion, held by European pharmaceutical companies, are set to expire over the next five years.

What the EU primarily wants from India is data exclusivity, which refers to exclusive rights of a company over the clinical data for its drugs, without actually holding a patent for it. India gives patent protection for a period of 20 years, which it considers adequate and is not in favour of giving data exclusivity as it could make life saving medicines unaffordable in the country.

In September 2012, India liberalized foreign investment in retail, aviation and broadcasting sectors, areas where the EU is interested in. Apart from the reform measures already announced, the EU wants India to open up its postal and legal sectors, and further liberalize the pension, insurance and banking sectors. India has made it clear it cannot promise anything that requires legislative approval. The EU also wants India to approve the government procurement bill pending before Parliament to make for greater transparency in state purchases.

India wants greater flexibility in the movement of skilled professionals. Since the EU does not have a common working visa system, it restricts the free movement of an Indian professional across nations of the grouping. While the current Schengen visa system allows free movement of people within signatory countries in Europe, it is essentially a tourist visa meant for short stays and does not allow visa holders to live permanently or work in Europe. Europe is currently debating the adoption of a common immigration policy to provide single working visas for non-Europeans.

India is also keen on EU members removing restrictions on investments by Indian companies. Some EU countries such as Hungary and Romania prohibit acquisitions by Indian companies.

Of late, India has proposed an incremental approach to expedite negotiations for the long-pending trade accord. Such an approach would mean “what may not happen now, can be included later,” Indian Commerce & Industry Minister Anand Sharma said after a meeting with German Economy Minister Philipp Roesler held in 2011. Analysts said what Sharma means is that the two sides should move ahead with the negotiations capturing the achievable targets and keeping the contentious issues off the table for now.

PTI (18 October 2012), The Economic Times (3, 24 October and 23 November 2012) and Mint (2 November 2012)

13. India-Japan

Bilateral trade between India and Japan has been targeted to almost double to $25 billion by 2014, Consul General of Japan Mitsuo Kawaguchi said at an event organised by Calcutta Chamber of Commerce on 5 October 2012. "The value of two-way trade between our countries has reached $14 billion in 2010-11. Target is to increase it to the $25 billion mark by 2014.”

Kawaguchi added that India's export to Japan had started showing an uptrend even before the Comprehensive Economic Partnership Agreement (CEPA) was signed. The CEPA was signed in February 2011 and came into force in August 2011. India's export to Japan was about $5 billion in 2010-11, against around $3 billion earlier.

India's exports to Japan mainly include mineral fuels, mineral oils, natural and cultured pearls, precious and semi-precious stones, iron and steel, fish and crustaceans, and fodder. Whereas, Japan’s export items to India include boilers, machinery appliances, optical, medical and surgical instruments, and articles of iron and steel. Besides, foreign direct investment from Japan to India between April 2000 and 2009 was $13.3 billion, placing that country in the fourth place after Mauritius, Singapore and Britain.

Voicing concern on rising steel imports from the two Asian economic powers, leading steel makers like JSW Steel and Essar Steel have reportedly sought removal of steel from the purview of FTAs with Japan and South Korea. Steel Minister Beni Prasad Verma had rejected their demand earlier and had said, "They have to understand that when import duty would be near zero by 2025, they have to compete". According to the Joint Plant Committee of the Steel Ministry, imports went up to 4.25 million tonne (MT) during April-October period of 2012-13 as against 3.27 MT in the same period of 2011-12, a growth of 30 %. In 2011-12, India's total steel import stood at 6.83 MT.

According to Commerce Ministry data, Japan and South Korea together sold steel products worth $ 2.873 billion in 2011-12 to Indian consumers. During the first half of the current fiscal, steel imports from the two countries were worth $1.653 billion. As per the data, China has been the largest exporter of steel products to India, amounting over 25% of total Indian imports at $2.738 billion in 2011-12. During the April-September period of 2012-13, imports from China had been at $1.198 billion.

PTI (5 October and 26 November 2012)

14. India-Pakistan

Pakistan's decision to grant India the Most Favoured Nation (MFN) status has been delayed. Neither will the two countries be switching to the negative list approach in bilateral trade right now. Though improved trade was billed by both countries as a major step forward in relations, the momentum that gathered pace earlier in 2012 seems to have sputtered to a halt with Pakistan's Commerce Minister Makhdoom Amin Fahim conceding in Karachi that the two decisions have been delayed for a short time.

He was quoted in *The News* in December 2012 as saying, "The process of converting the negative list into positive and granting MFN status has been delayed." Further, according to him, the delay in granting MFN status was due to the apprehensions expressed by certain industries. As for the delay in switching to a negative list, he maintained that the decision was taken in consultation with Indian Commerce Minister Anand Sharma.

Given the delay and with elections round the corner, businessmen are of the view that another six months may pass before the two decisions are operationalised. Though improved trade with India has across-the-board political support, religious right-wing organisations are against the move. In fact, after lying quiet for several months, the Difa-e-Pakistan Council reactivated itself in December to take out a protest march to the Wagah border against granting MFN status to India.

Pakistan took an 'in principle' decision to grant MFN status to India in 2011 and the schedule drawn up envisaged it becoming operational from 2013. Though there is a strong view in favour of more trade with India, there is also a section in the trading community which has strong apprehensions of its impact on their business.

Required of all WTO members, MFN status mandates that each nation must treat trade with all members equally. Although India granted MFN status to Pakistan in 1996, Islamabad had previously refused to reciprocate due to ongoing disagreements between the two neighbours over the Kashmir region. In November 2011, however, Pakistan's cabinet unanimously agreed to begin the process of granting India MFN treatment.

In October 2012, Pakistani Commerce Secretary Munir Qureshi had confirmed that Islamabad plans to reduce its sensitive list under SAFTA, which specifies which items a country can exclude from tariff concessions, from approximately 1000 products from India to 100 by 2017, in line with statements made by officials from both sides earlier. According to Qureshi, however, the timeline of the sensitive list reduction is meant to give Pakistani businesses five years to prepare to compete against Indian imports. India, in turn, plans to bring its sensitive list of products from Pakistan down to 100 items by 2013.

India on the other hand, requested Pakistan to look at more options to increase bilateral trade and move towards grant of MFN status. "Pakistan government has taken some steps to move towards full normalization of trade relations with India... This process must be taken to its logical end by phasing out the negative list and eventually according MFN status to India," Commerce and Industry Minister Anand Sharma had told a business delegation from Pakistan which visited India during November 2012. The statement came after India went ahead and granted concessional duty access to more products from across the border.

At the meeting, Sharma also said India was open to allowing private banks from Pakistan to set up branches in the country after the first two branches were opened. "Let both the countries quickly establish first two branches and we may also look at the possibility of expanding and bringing in some of our private sector banks. We are open to that." he said.

Two banks from across the border - National Bank of Pakistan and United Bank - are expected to set up branches in India while Punjab National Bank is keen to go back to Lahore. The decision to let banks open branches is part of a trade normalization exercise, which includes more trade through land route and tariff concessions.

During the meeting, Sharma pressed on the need for more trade through the land route as several products such as hosiery and sweets do not remain competitive if they have to be transported by ship. "It would be beneficial to the business communities of both sides if Pakistan allows all items not in the negative list to be traded across the land border at Attari-Wagah," the Minister said.

In addition, he hinted at the possibility of opening another link. "We are keen on Khokhrapar-Munabao. A joint working group was agreed to be set up. In our state of Punjab, they want to open more border points and also in Rajasthan connecting Sindh. I believe there is a similar desire from the Pakistan side so that other states of Pakistan are also connected."

Bridges Weekly Trade News Digest (31 October 2012), The Economics Times (26 November 2012), The Hindu (22 December 2012 and 1 January 2013)

15. India-Russia

Russian President Vladimir Putin hopes that by 2015 the two countries will double mutual trade turnover, which is expected to reach a record of over $10 billion this year. On the eve of his visit to India during December 2012, Putin identified investment, technological and industrial alliances in the most dynamic and prospective sectors, particularly the energy sector. Among other issues, President Putin was expected to focus on the construction on the Kudankulam nuclear power plant (KNPP) and India's participation in Russia's Sakhalin-I project.

RIA Novosti (24 December 2012)

16. India-Sri-Lanka

Indian auto companies, facing sluggish demand in the home market, are further hit due to steep increase in indirect levies by Sri Lanka, the largest importer of Indian automobiles. Sri Lanka accounts for around 13% of their exports. India caters to 95% of the auto market in the island nation.

Through 2012, Sri Lanka has made it difficult for Indian auto exporters, first by increasing import duty significantly in April, and following up with the increase in excise duty. Sri Lanka has increased excise duty on utility vehicles to 173% from 100%. Total duty on cars having engine capacity of less than 1,000cc increased from 120% to 200%, including a 47% increase in excise. The excise on three-wheelers was raised from 45% to 100%, and on two-wheelers from 61% to 100%. Colombo has also imposed an absolute levy of Sri Lankan Rupees 109,000 on commercial vehicles, besides a 12% excise duty. The new structure came into effect in November.

"We are still trying to evaluate the impact of the development. The impact of it has been negative and exports of vehicles to Sri Lanka have completely stopped," said Vishnu Mathur, Director General, Society of Indian Automobile Manufacturers (SIAM), an industry lobby group. Domestic sales of cars declined 8% in November, in a month when they were expected to rise. According to SIAM, Sri Lanka is the largest export market for Indian automobiles. In 2011-12, out of India's $6 billion worth of auto exports, Sri Lanka accounted for $800 million.

Mint (10 December 2012)

17. India-Thailand

The conclusion of the long-awaited comprehensive free-trade agreement between Thailand and India has been postponed to 2013 because both sides have yet to agree on several issues.

Delaying the conclusion of a comprehensive Thailand-India FTA could result in bilateral trade not meeting the $9-billion (Bt275.69 billion) projected expansion by 2014. However, it is believed the pact will be wrapped up by early 2013.

Piramol Charoenpao, Director-General of Thailand's Trade Negotiations Department, said that Thailand would not rush into finalising a deal with India if the benefits are not satisfactory to both sides. Initially it was expected that Prime Minister Yingluck and her Indian counterpart, Manmohan Singh, would announce the completion of the pact during the Asean India Summit in New Delhi in December 2012.

Since 2004, the two countries implemented the Early Harvest Scheme, under which tariff is waived on 82 items. This scheme now covers 84 items, while the FTA pact is expected to cover more items as well as the liberalisation of services and investment.

The Nation (15 December 2012)

18. India-US

Committed to strengthening bilateral economic ties, India and the US discussed ways to lower trade and investment barriers further. In a joint statement after the India-US Economic and Financial Partnership meeting on 9 October 2012, Finance Minister P Chidambaram and US Treasury Secretary Timothy Geithner said the two sides will also strengthen co-operation to combat money laundering and terror financing.

They said India and the US are committed to exploring new areas to deepen and broaden economic and financial ties. "Both countries recognise the great potential benefit from working together to meet the challenges of a shared future to generate jobs, sustain growth and help ensure macroeconomic stability... We discussed ways we can further lower barriers to trade and investment to facilitate stronger growth and job creation," the statement said. "Our work continues on infrastructure financing."

At the meeting, the two sides discussed economic and financial developments in their economies and in the world. "We agreed to deepen our cooperation bilaterally and in multilateral fora, including the G-20 to contribute towards steering the global economy out of uncertainties and achieving strong, sustainable and balanced growth going forward," the statement said.

The two sides agreed to expand cooperation to deepen capital markets and strengthen financial regulations. The third partnership meeting was attended by RBI Governor D Subbarao and US Federal Reserve Chairman Ben Bernanke, among others.

Meanwhile, the US' share in India's total exports rose to 11.3 % in 2011-12 from 10.1 % in the previous financial year, and 10.9 % in 2009-10, despite the slowdown of US economy. In value terms, India's exports to US grew 37.3 % in 2011-12, to $34.7 billion, according to data released.

The share of the US in India's total exports used to be even higher earlier. It was 12.7 % in the pre-financial crisis year of 2007-08 (it came down to 11.4 % in the crisis period of 2008-09). In 2002-03, a little over 20 % of India's exports went to that country. In value terms, India's total exports in 2011-12 stood at $303 billion, up 21.8 % over the previous year.

Business Standard (8 October) and PTI (9 October 2012)

19. India-US: Outsourcing and Visa issues

US Secretary of State Hillary Clinton has promised to take up the issue of hike in visa charges with authorities concerned in the light of protests by Indian software companies. In a meeting with Foreign Minister S M Krishna in October 2012, Clinton assured India that the US would try and "rectify" the decision, even if not immediately.

The US in 2010 announced a hike in work visa charges, including H-1 B, apparently to meet the cost of securing its border with Mexico. Even though the decision was not country-specific, top Indian software companies impacted by the decision alleged that they were being discriminated against leading New Delhi taking up the matter diplomatically with the US. India has also been contemplating filing an appeal in the WTO against the move.

The Indian side is of the view that its IT industry isn't seen as a part of the US industrial complex, unlike Japanese car makers for instance, who find themselves deeply integrated into the economy. According to the industry's apex body, Nasscom, Indian IT firms have increased their investment in US-based centres by almost 10 times. This has meant that from having around 58,000 permanent employees in the US in 2005-2006, the headcount doubled to around 107,000 in 2010-11. Of these, three out of every four jobs are held by US nationals, and within the larger ecosystem, Indian IT has created 175,000 indirect jobs in the US. The projections are that over the next five years, the number of seats that Indian IT companies have in the US will double again, bringing with them more investments. In total, the IT industry provides direct employment to about 2.8 million people and indirectly employs another 8.9 million people. This was perhaps why Indian IT industry was not whipped as much in the current US election campaigns as earlier.

But now with Obama returning as President, US has set a limit of 65,000 on H-1B visas for software engineers to enter the US, and India's share in this is just 7%. Moreover, Obama has cracked down on L-1 visas. A leading Indian IT firm Infosys complains that half its applications for such visas have been rejected. Obama's victory means India will face four more years of anti-visa pressure. Obama has resisted pressures to be more protectionist in four years of recession and high unemployment. Trade has remained mostly open, though there have been many anti-dumping measures (like sky-high duties on Indian exports of steel pipes and tubes).

But Obama wants to crack down as never before on US investments abroad that take advantage of lower taxes overseas. He also wants to discourage US investment abroad of the sort that exports jobs. India has been the recipient of precisely such investments - IBM and Accenture now have more employees in India than in the US. Stiffer tax rules on such companies could impact future investments.

Business Standard (3 October 2012), Times of India (3 October 2012), The Economic Times (9 November 2012) and PTI (10 December 2012),

20. RCEP

The 16-country Regional Comprehensive Economic Partnership (RCEP) unveiled in Phnom Penh, Cambodia, in November 2012 on the margins of the East Asian Summit, enthusiastically embraced by China and which includes India, will be the world's largest trade bloc, when it comes into being in 2015.

The decision by the Trade & Economic Relations Committee (TERC) on 2 November 2012, signals the Indian government's intent to drive down import duties further in the coming years, a proposal that may not get too much support from the domestic industry, although it is being sold as an attempt to increase competitiveness of local players.

In return, the government is hoping to get a sweeter deal for Indian nurses, teachers and auditors who want to work in any of the 16 initial members of the proposed RCEP, which will also have Australia and New Zealand. Of course, this will come with the promise of allowing overseas companies easier access by giving them more flexibility in FDI rules.

The biggest concern, however, is the China factor as the Indian government has so far hesitated in entering into any sort of a trade arrangement with Beijing, fearing that the market would be flooded with cheap imports. But TERC is learnt to have taken the view that it would be imprudent to ignore RCEP as India was taking a 'Look East' view of the world. Besides, it is seen as the trading region of the future, with trade expanding rapidly. The fear in government circles is that entering the bloc late would entail higher commitments, including a steeper reduction in import tariffs.

The government decision to join the talks signals a significant shift from multilateralism to bilateralism, a strategy that India has been pursuing since the collapse of the WTO talks in Cancun in 2003. For several years, India resisted efforts to sign a free trade agreement with its neighbour as it fears that the trade deficit will widen further. The government is worried over the rising gap, which touched a record $39 billion in 2011-12 and accounted for over a fifth of the country's trade deficit of $183 billion. In fact, the Commerce Department had started to work on a strategy to lower the burden by checking imports and pushing exports. But RCEP could force it to alter this as it will result in the 11 Asean members, along with India, China, South Korea, Japan, Australia and New Zealand agree to lower import duties on a majority of the goods.

Officials within the government are also worried as RCEP may require India to increase its commitment on intellectual property rights, a move that could hurt access to medicine and the local drug manufacturers, who have come to acquire a reputation of specializing in developing low-cost generics of patented medicines.

India's decision to engage with Asean in the China-led RCEP has been taken after considerable thought, especially since Delhi has consistently refused Chinese overtures to build their own regional free-trade area. But when Asean decided to buy into RCEP, Delhi decided it must show solidarity with the former, with which it is commemorating 20 years of partnership in December 2012.

In that sense, Delhi is hoping it will be able to gain from having a leg in both worlds, in the US and China, and perhaps even hopes to leverage its relatively weaker power status by postponing the moment when it will need to choose one over the other. Most importantly, India does not want to be left out of a trade bloc such as RCEP, which will cover more than half of the world's population.

Times of India (31 October and 9 November 2012) and Business Standard (26 November 2012)

WTO Disputes

21. WTO sees more trade disputes ahead

A surge in trade disputes has forced the World Trade Organization to reallocate staff to cope with a flood of litigation in the pipeline for 2013, according to diplomats and documents at the global trade body in Geneva. The WTO's 157 members have launched 26 trade disputes so far in 2012, the most since 2003 and three times more than the eight new complaints filed in 2011.

The boom in litigation comes as the WTO struggles to get back on the path to reforming its rules, after the failure of the decade-old Doha Round of trade negotiations last year. The countries attracting most complaints in 2012 were China and the United States, each the target of six disputes. The United States also initiated the most disputes - three against China and one apiece against Argentina and India.

Solar power components were the subject of several disputes, as accusations flew that China's over-stimulated producers had flooded the world with cheap supply. China hit back with its own claims against the United States and the EU, alleging that the US case was illegal and renewable energy markets in Italy and Greece were rigged in favour of local firms.

Other recent disputes have taken aim at countries using environmental or health concerns as trade barriers, such as China's export restrictions on rare earths and Australia's tough cigarette packaging laws. One of the most fertile areas for potential new disputes in 2013 is trade-distorting subsidies, whether overt or covert.

More disputes could also come from the 2012 entry of Russia to the WTO. The EU has said it is ready to take open legal cases on several fronts, and the United States has said Russia's rules on meat imports appear to be inconsistent with WTO rules.

Reuters (14 December 2012)

Also In The Press

22. FDI

Speaking at the inauguration of the fortnight-long India International Trade Fair held in November 2012 at Delhi's Pragati Maidan, President Pranab Mukherjee said the Union Government had gone in for Foreign Direct Investment (FDI) in multi-brand retail and civil aviation sector to put the economy back on a high growth trajectory.

The Government's decision to allow 51 % FDI in multi-brand retail is likely to stimulate investments. If all the big States implement the decision (at present, only some States and Union Territories have agreed to open up multi-brand retail to FDI), it is estimated that \$2.5 to \$3 billion will flow in the form of FDI of the total expected investments of \$10 billion in the retail industry over the next five years. Many provincial leaders have already expressed reservations against the move. Just nine of India's 29 states and two Union Territories say they will implement the retail reform and allow in foreign supermarkets, with others fearful of the effect on small store owners.

Bulk of the FDI in retail is likely to flow into the food and grocery (F&G) vertical as the organised retail penetration (ORP) in this vertical is the lowest. The F&G segment, which stands at \$300 billion, accounts for two-thirds of the Indian retail market but has organised retail sales of only around 2%. This highly price-sensitive segment will gain the most from the scale, technology and investments in the back-end that would accompany FDI in retail.

According to the FDI policy norms, the minimum investment by a foreign retailer should be \$100 million, and 50% of this amount has to be channeled into the development of back-end infrastructure in the first three years. This minimum investment can typically fund the establishment of around one million square feet of front-end store space, equivalent to 10-15 hypermarkets or department stores.

Agence France Presse (10 October 2012) and The Hindu (22 October and 15 November 2012)

23. India against trade pact on electronics

India has opposed a move by the US and the European

Union to expand the list of electronic items under the WTO's Information Technology Agreement (ITA), which will result in elimination of import duties on mobile handsets, printers, fax machines and consumer electronic goods. The government is of the view that inclusion of more items in the list would have an adverse impact on the "fledgling" domestic industry.

The existing ITA was signed between 29 WTO members, including India, in 1996. The membership has since increased to 70. The original agreement sought to eliminate import duties on 217 items like parts of microscope, semi-conductor equipment, spraying appliances and other laboratory instruments. India claims that its industry was hit by the decision to eliminate duties on these products.

The new pact intends to include more consumer durable products such as air conditioners, refrigerators and washing machines under the label of IT products. While developed countries have been pushing developing countries such as India and China to accept heavy tariff cuts in some of the industrial sectors under the languishing Doha Round of trade talks, India has been maintaining that any such tariff reduction has to be voluntary and cannot be forced upon developing countries. Signing the pact could result in a further disadvantage to the domestic electronics manufacturing industry, which lags because companies had little incentive to manufacture in India. South Korea along with the US and EU are pushing for inclusion of these items in the ITA's product list. They have sought negotiations on the issue when talks begin on the second installment of ITA from January 2013.

On the other hand, Indian government approved in November 2012, a national electronics policy, which includes incentives for semiconductor fabrication units and industrial clusters for manufacturing electronics. The cabinet had in July also approved a Rs.10,000 crore package of incentives for makers of electronics products and components under the so-called modified special incentive package scheme. The policy also specifies standards for electronics imports to stop spurious goods from entering the country. A proposal for electronics clusters has also been approved. Under the policy, the government will offer incentives of Rs.50 crore each to 200 clusters set up by manufacturers. Moreover, the government has also reserved 30% of all its electronic procurement for companies that can add at least 25% of domestic value to products in the first year of the policy being implemented.

India's electronics manufacturing industry is projected to grow at an annual pace of 22% to $125 billion (Rs.6.8 trillion) by 2014 and $400 billion by 2020, according to official estimates. However, if local manufacturing is not provided incentives, India's cost of importing electronics may exceed its crude import bill - $300 billion by 2020.

Mint (30 October 2012) and The Economic Times (10 November 2012)

24. Pharma Patents

India revoked a patent for an asthma drug held by US-based Merck following a challenge from local pharmaceutical giant Cipla, marking a new blow to global drug firms in the Indian market. The drug produced by Merck & Co, a global health care company, was "not inventive", said the order announced on 11 December 2012. The development is the latest in a string of patent revocations by India and involves interpretation of patent protection rules introduced in 2005 to comply with WTO regulations.

During the last quarter of 2012, an Indian panel had revoked a patent granted to Swiss giant Roche for a Hepatitis C drug. The Intellectual Property Appellate Board overturned the patent awarded by the Indian Patent Office to Hoffmann-La Roche's drug Pegasys, citing a lack of evidence that it was a "new class" of drug. The ruling was in response to an appeal against the patent filed by a Mumbai non-profit group, The Sankal Rehabilitation Trust, which helps drug users who frequently contract Hepatitis C through use of dirty needles. Patients with chronic Hepatitis C had to purchase Pegasys at a market price of up to 436,000 rupees ($8,750) for a course of treatment, a price that is beyond the means of most poor patients, the Sankal trust said.

Still earlier, India's patent office had rejected patent application for a cancer drug by US drug giant Pfizer, saying the patentee had miserably failed to demonstrate any improved activity warranting a patent. Pfizer is planning to appeal against this ruling.

Medical charities have expressed concern that compliance with WTO rules could reduce the country's role as a supplier of low-cost medicines. India is the world's leading exporter and manufacturer of non-branded medicines. But Western firms, looking to countries such as India for sales growth, have voiced criticism of poor brand protection in India.

Agence France Presse (5 October, 2 November and 12 December 2012)

25. Shrimp Exports

India has raised with the World Trade Organization what it calls "unscientific and unjustified" health standards imposed by Japan on its shrimp exports. The move comes as more than 140 containers of frozen Indian shrimps await clearance at Japanese ports. Japan, which has recently lowered the acceptable level of ethoxyquin in shrimps, has since August 2012 rejected seven Indian consignments of the seafood. Ethoxyquin is an anti-oxidant widely used in shrimp feed. Japanese authorities rejected shrimps from India in August after the level of ethoxyquin, an anti-oxidant, in some shrimps was found to be in the 0.02-0.04 ppm range. Japan's newly introduced health standards tolerate ethoxyquin levels up to 0.01 ppm.

According to Indian industry estimates, export of shrimps from Odisha and West Bengal has fallen by up to 50% in the last four to five months due to the Japanese restrictions. In 2011-12, shrimps accounted for half of India's total seafood export of $3.5 billion. But, the Union Government is hopeful of Japan lifting its curbs on import of shrimps from India.

India's seafood export industry is facing another threat after an American shrimp producers' organisation filed petitions against subsidising shrimp exports by seven countries, including India. During end December 2012, the Coalition of Gulf Shrimp Industries (COGSI) filed petitions with the US government, seeking relief from the subsidised shrimp imports from China, Ecuador, India, Indonesia, Malaysia, Thailand and Vietnam. The petitions seek imposition of countervailing duties (CVD) on shrimp from these countries. These duties are needed to offset the unfair trade advantage currently held by these countries, they said.

If Washington imposes CVD on imports, India's seafood exports industry will be in deep crisis as the US is the largest importer of Indian seafood in value terms. The exports industry is already hit by a drop in exports to other major markets, such as the European Union, Japan, South-east Asia and China. During April-September, however, the US imported 45,540 tonnes valued at Rs 1,947 crore, registering a growth of 11.42 % in value terms. The US is the only country which recorded growth in import during the period.

Earlier in 2005, the US Department of Commerce had imposed 11.17 % anti-dumping duty on Indian shrimp, which had caused a steep fall in exports. This was based on a petition filed by the Southern Shrimp Alliance, a producer's organisation. Over 280 exporters were shipping shrimp out to the US during that period, which had come down 68 in 2009. Due to the concerted efforts by the industry and the Government of India, Washington was forced to reduce the duty to 2.52 % last year, following which Indian shipments rose again.

Times of India (4 October 2012), The Economic Times (4 December 2012) and Business Standard (1 January 2013)

26. India urges resumption of Doha Round; Lamy hopes re-engagement

India, on 20 November 2012, urged US President Barack Obama and leaders of agencies like the WTO to urgently resume multilateral trade liberalisation talks in order to limit protectionism and prevent global trade and investment from sinking further. The suggestion from Prime Minister Manmohan Singh was put across to world leaders at a global economic dialogue in Phnom Penh on the sidelines of the East Asia summit, which was also attended by WTO Director General Pascal Lamy, IMF MD Christine Lagarde among others.

India also reiterated its demand for greater say in the affairs of global financial institutions like the World Bank and the IMF saying emerging economies that now account for two-fifth of world trade needs a greater representation.

On the multilateral trade talks, according to WTO Director-General Pascal Lamy, WTO members are beginning to show signs of re-engagement in the negotiations. However, he warned members must be realistic and pragmatic in the months ahead to avoid jeopardising the small Doha deliverables package that they aim to clinch by next December's Ninth Ministerial Conference (MC9) in Bali, Indonesia.

In order to achieve results in time for Bali, Lamy added, members should pursue "realistic" demands that account for other members' so-called "red lines," while avoiding unattainable goals or being confrontational in the negotiating process. He also said that proponents of any new proposals should take on the responsibility themselves to build consensus among other members, and that members must avoid setting "new and unworkable deadlines."

While a small package of Doha deliverables for December 2013 now appears to be members' current goal, many made clear that the Bali event would not mark the end of the Organisation's efforts to conclude the entire Round.

"Of course, we should be under no illusion about the breadth of what we can achieve in the short timeframe between now and MC9," Lamy said. "Nor should we create unrealistic expectations. The main stumbling blocks of the [Doha Development Agenda] are still standing and many of the toughest nuts will likely not be cracked by the time ministers meet in Bali. But we should also not wait for the last minute to engage," the trade chief warned. "One more housekeeping ministerial conference in Bali would not suffice to keep the Doha House alive."

Various delegations who spoke at the WTO's Trade Negotiation Committee meeting on 7 December 2012 echoed the Director-General's comments, noting that Bali is just one step in a longer process. Many also cautioned that the year until Bali's meeting is - in practice - less time for negotiating than it sounds.

Indian Express (21 November 2012) and Bridges Weekly Trade News Digest (12 December 2012)

27. Next WTO Director-General?

Developing countries – among them India, China, Brazil, Argentina and South Africa, stated that the next World Trade Organization Director General should come from a developing country. Current Director General Pascal Lamy is slated to step down in 2013.

Raising the issue under "other business" at a special General Council meeting held on 26 October 2012, convened to approve the accession package of Laos, India stated that since the present Director General is from a developed country and his predecessor was from a developing country in Asia, the membership should consider rotating the post in favor of a candidate from either Africa or Latin America.

India's envoy Jayant Dasgupta said "though there are no written agreements or guidelines in some areas relating to appointments to important positions in the WTO, we have a few unwritten understandings among the members, which have been working exceedingly well."

Meanwhile, nine countries have presented candidates to succeed Pascal Lamy as head of the World Trade Organization ahead of the deadline. The last candidate was Roberto Azevedo, Brazil's envoy to the WTO Mexico nominated Herminio Blanco Mendoza, an economist and former minister who led that country's negotiations on the North American Free Trade Agreement. Costa Rica proposed its foreign trade minister, Anabel Gonzalez. South Korea and New Zealand have also nominated their trade ministers, Taeho Bark and Tim Groser, respectively. From Jordan, the name of ex-minister Ahmad Nindawi has been put forward, while Indonesia is going with Mari Pangestu, current tourism minister and also a former trade minister. The race kicked off when Ghana nominated its former trade minister Alan John Kwadwo Kyerematen, while Kenya has since suggested that its former WTO ambassador Amina Mohamed be given the job.

The WTO's General Council is mandated with selecting the Director General by consensus, and candidates that stand little chance of being selected are expected to withdraw on their own. Come what may, the next WTO head will be charged with trying to wrap up the so-called Doha Round of trade talks, which were launched in 2001 but have since encountered obstacles.

WTD (29 October 2012) and AFP (31 December 2012)

Snapshots - CWS in 2012

Forthcoming Events (January – March 2013)

S.No.	Events	Partner Institution	Proposed Dates
1	Sensitization programme on WTO and Related Issues	Anna Institute of Management, Government of Tamil Nadu	9-10 January
2	Specialized WTO Course on Anti-Dumping, Subsidies, Safeguards, Dispute Settlement and TRIMS	ITEC, Ministry of External Affairs, Government of India	21 -30 January
3	Seminar on WTO/International Trade Issues of Relevance to Manipur	FIEO & DGFT (Kolkata), Department of Commerce & Industries, Government of Manipur	5 – 7 February
4	Specialized Training Programme to Facilitate WTO Accession of Afghanistan	Ministry of External Affairs, Government of India	11-22 February
5	Integrating South Asia in Regional Supply Chains: New Directions for Research and Sharing Experience		7-8 March
6	Seminars on WTO: Implications for States & Stakeholders	Visvesvaraya Trade Centre (VITC), Government of Karnataka	14 - 15 March
7	International Training Programme on WTO & Doha Round Negotiations	ITEC, Ministry of External Affairs, Government of India	11-20 March
8	Seminar on WTO & International Trade Issues of Relevance to Rajasthan	HCM-RIPA, Government of Rajasthan	21-22 March

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