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Lead Article

Elimination Of Export Subsidies: Concerns For India

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I. INTRODUCTION

Subsidies constitute an important aspect of domestic economic policy. Subsidies have also been a controversial aspect of international trade policy, particularly in the agricultural sector. Within the WTO framework, the WTO Agreement on Subsidies and Countervailing Measures ("SCM Agreement") establishes disciplines on the grant of subsidies by Member states in the domestic economic framework. The WTO SCM Agreement at present recognizes two types of subsidies: prohibited subsidies and actionable subsidies. The provisions relating to non-actionable subsidies under Articles 8 & 9 of the SCM Agreement have lapsed in accordance with the provisions of Article 31 of the SCM Agreement.

Article 3 of the SCM Agreement recognizes two main categories of prohibited subsidies: (i) subsidies contingent, in law or in fact, whether solely or as one of several conditions, on export performance ("export subsidies"), and (ii) subsidies contingent, whether solely or as one of the several other conditions, upon the use of domestic over imported goods ("local content subsidies").

While export subsidies are per se prohibited under WTO rules, the SCM Agreement in recognition of the development status of developing countries, accords special and differential treatment ("S&DT"). In fact, Article 27.1 of the SCM Agreement expressly recognizes that subsidies may play an important role in economic development programmes of developing country Members. An important S&DT aspect of the SCM Agreement is that it permits the maintenance of export subsidies by developing country members under certain conditions. However, the exemption from prohibition of maintenance of export subsidies for developing countries has been differentiated under the provisions of the SCM Agreement. Certain developing countries have been given a temporal exemption from the prohibition on maintenance of export subsidies while certain others have been given a contingent exemption. The relevant provisions in the SCM Agreement are explained below.

Article 27.2 of the SCM Agreement bifurcates the categories of developing countries exempt from the prohibition of maintaining export subsidies into Annex VII countries (countries

In this issue

mentioned in Annex VII of the SCM Agreement) [Article 27.2(a)] and non-Annex VII countries [Article 27.2(b)]. As per Article 27.2(b), non-Annex VII countries were permitted to maintain export subsidies for a period of 8 (eight) years from the date of entry into force of the WTO Agreement, i.e., upto 2003. However, the eight year time period is not absolute and non-Annex VII countries may seek extensions beyond the eight year period under the provisions of Article 27.4.

The other exemption provided is for developing countries in Annex VII of the SCM Agreement. Annex VII(a) is a blanket exemption available for LDC members. Annex VII(b) refers to certain developing countries listed therein which are entitled to maintain export subsidies till the year their GNP per capita reaches US$1000 ("graduation"). The countries included in Annex VII were: Bolivia, Cameroon, Congo, Côte d'Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka and Zimbabwe. Honduras was subsequently included in Annex VII on 20 January 2001. It would be important to state here that under paragraph 10.1 of the Doha Ministerial Decision on *Implementation-Related Issues and Concerns* of 20 November 2001 ("2001 Ministerial Decision") it has been clarified that Annex VII(b) countries can maintain export subsidies till their GNP per capita reaches US$1000 in constant 1990 dollars and remains so for three consecutive years. The possible rationale for allowing Annex VII(b) countries to maintain export subsidies for three consecutive years would be to ensure consistency in meeting the economic developmental threshold; a drafting ambiguity arising out of the Annex VII(b) text which the 2001 Ministerial Decision has clarified.

While the presence of provisions which enable non-Annex VII developing countries to seek extensions in light of their development needs are indeed development-friendly, the provisions of Article 27.4 give rise to interpretative ambiguity when they are sought to be applied to Annex VII(b) countries. The source of the ambiguity lies in the provisions of Annex VII(b) which state that upon graduation of the Annex VII(b) countries, the provisions applicable to non-Annex VII countries will be applicable to Annex VII countries, i.e., the provisions of Article 27.4 will become applicable to Annex VII countries. The implication of this provision in Annex VII(b) is that when an Annex VII country graduates, and seeks a further exemption in respect of its export subsidies, then the extension provisions contemplated in Article 27.4 become applicable to the graduating country. While the objectives of Annex VII(b) seem to provide guidance on extension procedures for Annex VII(b) countries, the language of Article 27.4 poses several interpretive challenges. This is discussed further below.

Article 27.4 stipulates that a non-Annex VII country shall phase out its export subsidies within the 8 (eight) year period in a progressive manner. Article 27.4 further states that in case a non-Annex VII country wants to continue its export subsidies beyond the 8 year period, then it shall not later than one year before the expiry of this period, enter into consultations with the Committee on Subsidies and Countervailing Measures ("SCM Committee"), which will determine whether an extension of this period is justified, after examining all the relevant economic, financial and development needs of the country in question. If the SCM Committee determines that an extension is justified, the developing country Member concerned shall hold annual consultations with the SCM Committee to determine the necessity of maintaining the subsidies. Article 27.4 provides that in case the SCM Committee does not arrive at such a determination, such country shall phase out the remaining export subsidies within two years from the end of the last authorized period.

The language of Article 27.4 is thus clear on the extension process for a non-Annex VII country. However, certain interpretative issues seem to arise when these provisions become applicable to Annex VII countries. Indeed, given that the provisions of Article 27.4 have been crafted particular to non-Annex VII(b) countries, the substantive provisions concerning extension of the time for maintaining export subsidies create a certain degree of dichotomy as to how Annex VII(b) countries are to use the procedures. These ambiguities in Article 27.4 are discussed further.

At the outset, Article 27.4 is clear in stating that non-Annex VII countries shall phase out their export subsidies within eight years. Article 27.4 goes on to further state that if, however, a non-Annex VII country wants to maintain its export subsidies beyond the 8 year period, it shall, one year prior to the expiration of this 8 year period, enter into consultations with the SCM Committee requesting for an extension. Again, the provisions of Article 27.4 are lucid in their application to non-Annex VII countries. While Article 27.4 talks of applying for an extension prior to the expiry of the 8 year period, Annex VII countries do not fall within the 8 year period category. Where then does the question of "entering into consultations with the SCM Committee a year prior to the expiry of the 8 year period" apply? A logical interpretative solution to this conundrum would then be to construe the provisions harmoniously by applying the principle of harmonious construction. The best possible way to interpret the above phrase would be to understand that Annex VII(b) countries are entitled to maintain export subsidies for a period of 8 years after graduating from the 1000$ per capita GNP threshold. However, whether such an eight year time period is actually applicable, is a question shrouded in ambiguity since there are no official references to this point in WTO documents apart from a proposal by certain developing countries.

Being a major developing economy with a diversified export base, export subsidies are crucial for many sectors of the Indian economy, especially those providing employment to a large number of people. Hence, clarity on the provisions of Article 27 on the issue of permissibility of an eight year time period after crossing the per capita threshold referred to in Annex VII(b) is very important for ensuring a predictable interpretation of this important S&DT provision. Further, on account of certain Annex VII(b) countries, namely Sri Lanka and Dominican Republic, resorting to extension procedures established by the SCM Committee, there is a need to understand the legal implications in the WTO when (and if) India were to cross the US$1000 threshold.

From the bifurcation of the developing country group into Annex VII and non-Annex VII countries, it is clear that the negotiators sought to confer a more special status on the Annex VII countries. It was possibly perceived that 8 years would be sufficient for non-Annex VII countries to benefit from the S&DT provisions while for Annex VII(b) countries it was perceived that since it would not be feasible to set a temporal timeline for phase out of export subsidies, a threshold in terms of GNP per capita of the developing country Member would be appropriate.

Annex VII(b) of the SCM Agreement lists 21 countries, including India, which are entitled to maintain the export subsidies till they reach the US$ 1000 GNP per capita threshold. However, Annex VII(b) does not by itself establish a methodology for calculating the GNP per capita of the Members; the same seems to have been left by the drafters for Members of the WTO. The methodology for calculating the GNP per capita of Members in 1990 constant dollars was devised way back in October 2001 by the Report of the Chairman of the SCM Committee ("Chairman's Report"), but was not applied then. Subsequently, the 2001 Ministerial Decision under Paragraph 10.1 instructed the SCM Committee to adopt an appropriate methodology for calculating the constant 1990 dollars. The Ministerial Decision under the above Paragraph also clarified that if the SCM Committee did not arrive at a consensus on an appropriate methodology by 1st January 2003, the methodology proposed and set forth in Appendix 2 to the Chairman's Report would be applied. Since the SCM Committee did not arrive at a methodology for calculating the 1990 constant dollars, the SCM Committee adopted the methodology set forth in the Chairman's Report. It is on this basis that the SCM Committee has been publishing and updating the GNP per capita of all the Annex VII(b) Members on an annual basis by way of an addendum.

Out of the 21 countries listed under Annex VII (b) of the SCM Agreement, five countries have crossed the threshold as per the latest GNP per capita calculations by the WTO Secretariat. Out of these five countries, *Morocco* does not maintain any export subsidies. *Philippines*[1] and *Egypt*[2] maintain that they have in place few subsidy programmes but assert that these subsidies are not specific to be prohibited under Article 1.1 of the SCM Agreement in their seemingly old notifications.

[1] Philippines' Notification to the SCM Committee, G/SCM/N/3/PHL dated 15 April 1996.

[2] Egypt's Notification to the SCM Committee, G/SCM/N/38/EGY dated 5 May 1999.

Apart from the above countries, the cases of Sri Lanka and the Dominican Republic are of interest for the purposes of understanding how they have invoked or utilized the extension provisions under Article 27, as the same is relevant and important to understand how this extension mechanism would be applicable to India once it graduates out of Annex VII.

Sri Lanka notified its export subsidies in the year 2002. It is interesting to see how it has dealt with the phase-out of export subsidies under Article 27 of the SCM Agreement. Having reserved its rights under the 2001 Committee Decision, Sri Lanka's case is particularly interesting since it is on the verge of crossing the US$1000 threshold as per the latest GNP per capita calculations released by the WTO Secretariat in Note G/SCM/110/Add.10 dated 11th July 2013. As per these calculations, Sri Lanka's GNP per capita at constant 1990 dollars were $989(2009), $1039(2010) and $1153(2011).

The *Dominican Republic* has been crossing the threshold since the publication of the first calculations by the WTO Secretariat in 2003. The last time it was granted an extension by the SCM Committee was on 6th December 2002. The extension was granted till 31st December 2003 under Article 27.2(b) for the elimination of export subsidies. The Dominican Republic last sought extension through consultations with the SCM Committee on 8th January 2013. However, no extension seems to have been provided by the SCM Committee. This is probably a reaffirmation and reiteration of the SCM Committee's resolve to not provide for extensions beyond December 2013-December 2015.

In order to better understand the cases of Sri Lanka and the Dominican Republic in seeking extension for maintaining export subsidies under Article 27 of the SCM Agreement, it would be imperative to understand the extension procedures evolved by the SCM Committee.

II. Extension Procedures under Article 27.4

Article 27.4 of the SCM Agreement lays down the broad basis for seeking extensions of the time period for maintaining export subsidies under Article 27.2 of the SCM Agreement. The main procedural and substantive provisions pertaining to extensions under Article 27.4 have been established by the SCM Committee in its decision of 20th November 2001 ("2001 Committee Decision") and by General Council Decision of 2007. This 2001 Committee Decision lays down the specific mechanism for seeking extension; establishes programmes eligible for extension pursuant to these procedures; standstill provisions, et al.

Amongst other provisions, the 2001 Committee Decision also contains provisions concerning Annex VII (b) countries which merit attention. Annex VII countries that had reached the graduation threshold and also maintained an eligible subsidy programme[3] are entitled to use the procedures mentioned in the 2001 Committee Decision. Also eligible to use the procedures under the 2001 Committee Decision are Annex VII countries which have not crossed the threshold and were maintaining a list of eligible programmes, by reserving their right to do so, but subject to submitting certain documentation[4]. Subsequently, four countries, namely *Sri Lanka*, *Bolivia*, *Honduras* and *Kenya* had reserved their rights to use these procedures. However, the non-reservation of rights by other Annex VII(b) countries does not prejudice the rights of such countries. This is explained in paragraph 7 (final provisions) of the 2001 Committee Decision. According to sub-paragraph (a) of Paragraph 7, the decision by Ministers, the procedures defined in the 2001 Committee Decision and the extensions granted under Article 27.4 are without prejudice to the requests for extension under Article 27.4 that are not made pursuant to the procedures under the decision. Furthermore, sub-paragraph (b) states that decisions by Ministers, the procedures defined in the 2001 Committee Decision and the extensions granted under Article 27.4 shall not affect any other existing rights and obligations under Article 27.4 or under the other provisions of the SCM Agreement. These provisions highlight the notion that the SCM Committee did not intend to make the extension procedures binding on all Annex VII(b) countries. Speaking about India's interests in this regard, it may be understood that India has not compromised or prejudiced its interests or rights by not reserving its

[3]Programmes eligible for extension pursuant to the procedures in the 2001 Committee Decision are defined in paragraph 2 of the 2001 Committee Decision.

[4]This documentation has been detailed in paragraph 1(a) of the 2001 Committee Decision.

rights, which could include being entitled to maintain subsidies for a period of 8 years after reaching the graduation threshold.

The procedures for seeking extensions under Article 27.4 were established by the SCM Committee on 20 November 2001 after the 14 November 2001 Ministerial Decision on Implementation Related Issues which directed the SCM Committee to extend the transition period for elimination of export subsidies by Members under the rubric of Article 27.4 and pursuant to the procedures established in the 2001 Committee Decision laid down under Paragraph 10.6 of the 2001 Ministerial Decision. Subsequently, the SCM Committee had provided extensions on a uniform basis for many eligible developing countries. Most of the countries such as the Dominican Republic had received an extension till 31st December 2003 from the SCM Committee.

Even though the SCM Committee had in principle granted extensions under Article 27.4 till December 2003, it would be interesting to note that the economic grouping known as the Small and Vulnerable Economies ("SVEs") had sought extension until the year 2018. The proposal was circulated by a group of 14 countries on 10th April 2006 identifying themselves as SVEs. The proposal of the SVEs was received positively by the General Council, and so in July 2007, the General Council in recognition of the economic, financial and development needs as well as the capacity and administrative constraints of these countries in eliminating export subsidies, reached a decision ("General Council Decision") on 27 July 2007 to grant an extension till *31st December 2015*. However, the General Council Decision clarified that the "last authorized period" referred to in Article 27.4 shall not extend beyond *31st December 2013* and the final two-year phase out period provided for and referred to in Article 27.4 would not go beyond *31st December 2015*.

The General Council Decision is a significant decision for developing country members maintaining export subsidies under Article 27.4. Amongst other provisions, paragraph 1(e) and paragraph 1(f) lay down important obligations for those countries receiving extensions under the General Council Decision. Under sub-paragraph (e), these beneficiary countries are required to take internal steps with a view to eliminating export subsidies before the end of the final two-year phase out period provided for in Article 27.4. Furthermore, under sub-paragraph (e), these beneficiary countries are required to provide an action plan for eliminating export subsidies as an integral part of the annual updating notification submitted for the annual review to the SCM Committee. According to the General Council Decision, the action plan shall indicate how the Member intends to eliminate export subsidies under the programme not later than the end of the final two-year phase-out period provided for in the last sentence of SCM Article 27.4. The information required to be included relates to legislative changes, administrative amendments and/or other procedures as may be necessary, and whether any of these actions have been undertaken or are in the process of being undertaken.

The General Council Decision also contains references to Annex VII(b) countries which are important and relevant for discussion in this Note. Sub-paragraph (a) of paragraph 5 is of particular interest in which it is stated that the General Council Decision does not prejudge the rights of Annex VII Members. However, the title of paragraph 5 seems to limit its applicability to Annex VII (b) Members which reserved their rights pursuant to the 2001 Committee Decision.

As per the latest calculations released by the SCM Committee on 11 July 2013, for India the GNI per capita at constant 1990 dollars is US $871 for 2009, $926 for 2010 and $966 for 2011. Thus India is very close to crossing the $1000 mark in the year 2012 based on constant 1990 dollars. In all likelihood, even with the pace of current economic growth, India is likely to remain above $1000 GNI per capita on constant 1990 dollars for years 2012, 2013 and 2014. The SCM Committee releases these calculations with a time lag of two years and thus in all possibility the calculations to be released in year 2016 by the SCM Committee may show India having crossed GNP per capita of $1000 for the three consecutive years (2012, 2013 and 2014) based on constant 1990 dollars. At that point of time in the year 2016, India in all possibility may move out of Annex VII of ASCM.

III. Proposal on Amendment to Article 27 of SCM Agreement

The concerns on the interpretative ambiguities pertaining to the language of Article 27 as discussed in the previous section have been raised by India in the Rules negotiations under the Doha Round. India subsequently came up with a proposal based on the principle of harmonious construction. Given the uncertainty that often surrounds legal texts on account of ambiguity of the wordings of the text or for other reasons, legal principles can play an important role in filling the gap[5].

According to India, given the ambiguities pertaining to the text of Article 27, a harmonious interpretation of the provisions of Article 27 would mean that Annex VII(b) countries graduating upon their GNP per capita reaching US$ 1000 per capita should be entitled to maintain their export subsidies for a period of 8 years upon reaching the defined threshold. It would be pertinent to note that in furtherance of these concerns, India had in 2011 moved the proposal in the Negotiating Group on Rules suggesting that Article 27 be amended such that, a footnote to Article 27.2(b) be included to state: "*In the case of developing country Members included in Annex VII, the 8-year period shall commence from the year in which they graduate out of Annex VII*", and a footnote to Article 27.4 be included to state: "*This will also include developing country Members who may graduate out of Annex VII.*" The proposal, originally mooted by India (TN/RL/GEN/177), has since been revised to include interests of other Annex VII(b) countries such as Bolivia, Egypt, Sri Lanka and Honduras.

India had raised concerns in 2011 about the need to clarify by way of amendment to the SCM Agreement the necessity for an eight year extension post crossing the $1000 threshold under Annex VII(b). With India's GNP per capita slated to cross the threshold in the near future, India has placed its concerns on record at a very appropriate time. Moreover, given the vital nature of export subsidies for India's wide and diversified export base in the economy and the complexities associated with the framing and implementation of government schemes, the clarification on the eight year extension is vital to India's trade and economic interests.

However, with the pace of negotiations at the WTO under the Doha Round - notwithstanding the success of the recent Bali Ministerial Conference - being tardy, India must aggressively pursue its proposal to clarify the provisions of Article 27 to mean that it is entitled to a period of eight years post crossing the threshold for eliminating its export subsidies maintained under Article 27.

In light of the aforesaid discussions, a key issue that India is required to consider in the WTO framework is the strategy that India should adopt towards being able to continue its export subsidy programmes in the context of Article 27.2. Should India's concerns be redressed through the SCM Committee? Or would it be better for India to pursue the proposal for amendments through the Doha Round negotiations? Both choices pose their own set of challenges and opportunities.

For India, pursuing its proposals in the Doha Round Rules negotiations may be ideal, as this will set at rest the ambiguity in the provisions in Article 27.4 of ASCM. However, as is the case with any multilateral trade negotiations, this will be beset with any possible trade offs. Also, looking at the present impasse in the Doha Round negotiations, finalizing a deal in Rules negotiations may seem to be a distant and difficult possibility - though not totally impossible. However, considering the scenario that India may graduate out of Annex VII sometime in the next 2-3 years, the other option would be for India to pursue this matter by obtaining a positive solution from the General Council. As discussed in the previous sections, the General Council Decision serves as an important precedent for India to argue for an eight year extension. The eight year extension provided to the SVEs acquires significance since the decision was taken by the General Council. India may be able to make a strong case that since an eight year extension was provided under the General Council Decision, India would similarly be entitled to an equitable decision.

[5] Andrew D Mitchell, Legal Principles in WTO Disputes, 2008, (New York: Cambridge University Press), page 13.

1. Trade Talk Series with Prof. Cottier

IIFT, New Delhi

The Centre for WTO Studies (CWS) at the Indian Institute of Foreign Trade (IIFT) organized a Trade Talk on "The Future of the Multilateral Trading System" on 13 January 2014. The talk was delivered by Prof. Thomas Cottier of the World Trade Institute, Bern and the Institute of European and International Economic Law. Prof. Cottier presented his views on new issues - climate change and global value chains. He also spoke on the decision making process at the WTO and the concept of single undertaking and suggested that these may require re-examination.

2. Specialized Course on WTO Rules, Dispute Settlement & RTAs

IIFT, New Delhi

The CWS conducted a Specialized Course on WTO Rules (Anti-Dumping, Subsidies, Safeguards), Dispute Settlement and Regional Trade Agreements (RTAs) from 20 to 29 January 2014 at the IIFT, New Delhi. The training programme was organised in collaboration with the Indian Technical and Economic Cooperation Programme of the Ministry of External Affairs and the Department of Commerce, Government of India (GoI).

Group Photograph: Participants and CWS/IIFT faculty at the Specialized Course on WTO Rules, Dispute Settlement & RTAs.

Twelve countries participated in the programme, namely: Afghanistan, Bhutan, Cuba, Ecuador, Lesotho, Madagascar, Myanmar, Nepal, South Africa, Sri Lanka, Uzbekistan and Yemen. In addition to the fifteen capital based participants, the programme was attended by four Geneva based officials.

Dr. Surajit Mitra, Director, IIFT inaugurated the programme and delivered a Special Address. Professor Abhijit Das, Head, CWS and Professor Mukesh Bhatnagar also addressed the participants at the inaugural session. The ten-day programme comprised of classroom sessions with a strong emphasis on experience sharing. Other than the classroom sessions, the training methodology also included case studies, practical exercises, discussion on a Panel/ Appellate Body Reports and a mock dispute exercise. In addition to the CWS faculty, experts specialising in the identified areas, were invited as resource persons. These included: Mr. R.K. Gupta, Former Chairman, Settlement Commission, Customs and Central Excise; Mr. Ajay Srivastava, Jt. DGFT; Ms. Anuradha R.V., Clarus Law Associates and Mr. Atul Kaushik, Joint Secretary, Department of Justice, GoI.

From (L) to (R): Prof. Mukesh Bhatnagar, CWS/IIFT; Mr. Sumanta Chaudhuri, Joint Secretary, Department of Commerce, GoI; Prof. Abhijit Das, Head, CWS/IIFT.

The valedictory session was attended by Mr. Sumanta Chaudhuri, Joint Secretary, Department of Commerce, GoI. The feedback received was positive as most participants expressed satisfaction with the topics covered and the quality of the presentations. The mix of Geneva based delegates and capital based participants was also appreciated.

3. Training Programme on WTO and the Agriculture Sector for Stakeholders in Madhya Pradesh

RCVPNAA, Bhopal

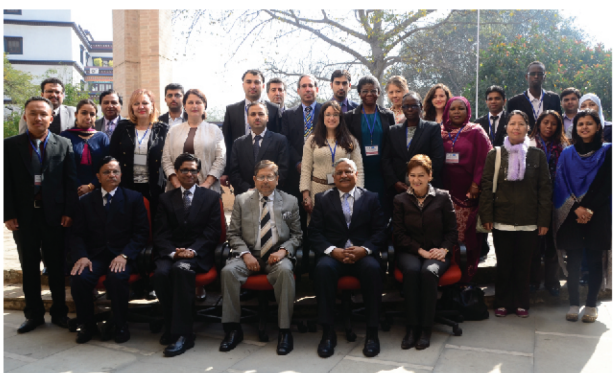
The CWS conducted a 3-day training programme from 3 to 5 February 2014 on WTO and the

Group Photograph: Participants and CWS/IIFT faculty at the Programme on WTO and the Agriculture Sector.

agriculture sector for stakeholders in Madhya Pradesh. The programme was organized in collaboration with RCVP Noronha Academy of Administration (RCVPNAA), Bhopal. Sixteen government officials from the Madhya Pradesh Agriculture Department, Agricultural Marketing Board, Forest Department, Horticulture Department and State colleges and agriculture institutions attended this programme. Prof. Sajal Mathur and Dr. Sachin Sharma from the CWS were resource persons and covered sessions on WTO the agriculture sector, Doha Round and agriculture, food security, WTO dispute settlement and agriculture, and on SPS and TBT issues. The participants engaged actively and found the practical exercise on WTO agricultural notifications particularly useful.

4. Specialized Advanced Training Programme on Current WTO Issues

IIFT, New Delhi

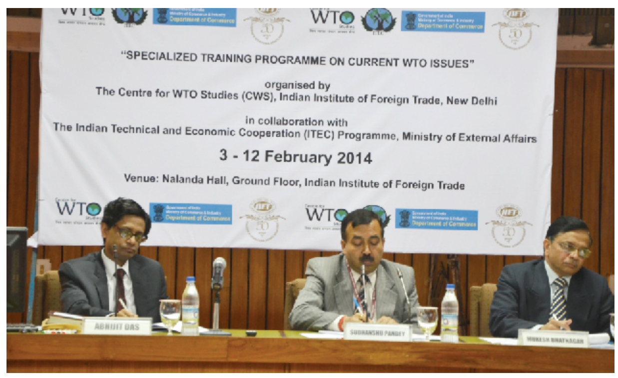


Group Photograph: Participants, resource persons and CWS/IIFT faculty at Specialized Advanced Training Programme on Current WTO Issues.

The CWS conducted a Specialized Training Programme on Current WTO Issues from 3 to 12 February 2014. Seventeen countries participated in the programme. These countries were: Afghanistan, Bhutan, Bolivia, Cuba, Iran, Madagascar, Montenegro, Myanmar, Nepal, Serbia, Sri Lanka, Sudan, Tanzania, Uzbekistan, Venezuela, Yemen and Zimbabwe. Of the twenty participants - seven were Geneva based delegates and the balance were capital based participants.

Dr. Surajit Mitra, Director, IIFT, formally the programme and delivered a Special Address. This was followed by a Welcome Address by Professor Abhijit Das, Head, CWS and Professor Mukesh Bhatnagar who proposed the Vote of Thanks.

The training methodology was a combination of class room training and participants' feedback on the role of research in Doha negotiations. In addition to the faculty of the CWS and the IIFT, experts specialising in the identified areas were invited as resource persons. These included Ambassador Jayant Dasgupta, Ambassador of India to WTO, Ms. Anu Mathai, Director (TPD), Department of Commerce; Ms. R.V. Anuradha, Partner, Clarus Law Associates; Mr. Vimal Srivastava, Director (TPD), Department of Commerce, Mr. M.S. Srikar, Deputy Secretary (TPD), Department of Commerce and Mr. Prabhash Ranjan, Assistant Professor, South Asian University.



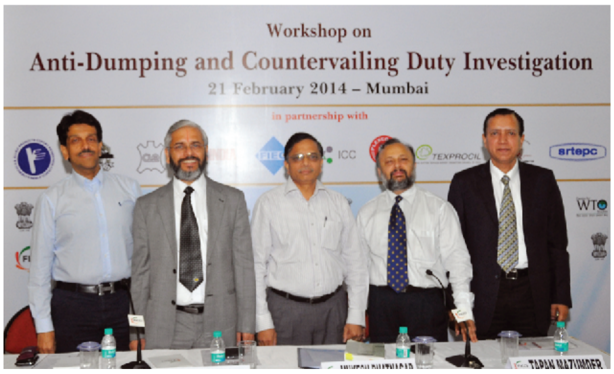
From (L) to (R): Prof. Abhijit Das, Head, CWS/IIFT; Mr. Sudhanshu Pandey, Joint Secretary, Department of Commerce, GoI; Prof. Mukesh Bhatnagar, CWS/IIFT.

Mr. Sudhanshu Pandey, Joint Secretary, TPD, Department of Commerce delivered the valedictory address. The feedback received at the valedictory session was positive as most participants found the training useful and appreciated the interaction with the resource persons. Discussion on new issues such as energy security, climate change, currency, investment was of particular interest.

5. Workshop on Anti-Dumping and Countervailing Duty Investigation

Mumbai

A workshop on Anti-dumping and Countervailing



From (L) to (R): Mr. Pankaj Chadha, EEPC India; Mr. S Seetharaman, CEO, Lakshmikumaran & Sridharan; Prof. Mukesh Bhatnagar, CWS/IIFT; Mr. Manab Majumdar, FICCI; and Mr. Tapan Majumdar, DoC/GoI.

Duty Investigation was organized by the CWS in collaboration with the Department of Commerce, Government of India and FICCI on 21 February 2014 in Mumbai. The workshop was designed to bring in focus the issues that are faced when anti-dumping and countervailing duty investigations are initiated by other countries against Indian exports. The workshop brought out the key aspects of these investigations during various stages, highlighting the key provisions of the WTO Anti-dumping Agreement and Subsidies Agreement. Presentations were made by Prof. Mukesh Bhatnagar, CWS, Mr. S. Seetharaman, Executive Partner and CEO, Lakshmikumaran & Sridharan, and Mr. Tapan Mazumdar, Director, Department of Commerce, GoI. The workshop was attended by about 100 participants comprising exporters from engineering, textiles, chemical, pharmaceutical sectors as well as SEZ Units. There were also participants from law firms handling trade related matters.

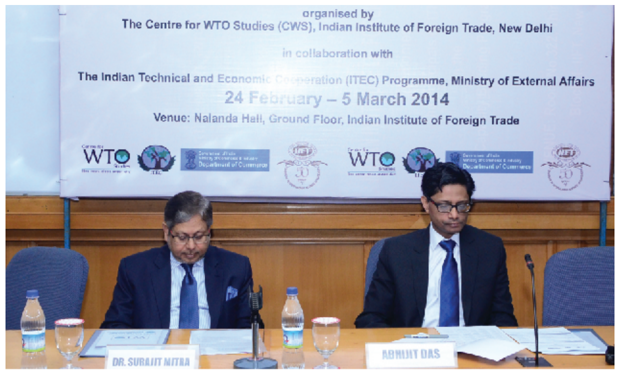
6. Specialized Training Programme on Select WTO Issues

IIFT, New Delhi

Group Photograph: Participants and CWS/IIFT faculty at Specialized Training Programme on Select WTO Issues: Agriculture, Services, TRIPS and RTAs.

The CWS conducted a Specialized Course on Select WTO Issues: Agriculture, Services, TRIPS and RTAs from 24 February to 5 March 2014. The programme was jointly organized by the CWS and the Ministry of External Affairs and Department of Commerce, GoI. The application process was facilitated by Indian Missions in various countries for capital based participants and by the Permanent Mission of India to WTO for Geneva based officials.

Fourteen countries participated in the training programme, namely: Bolivia, Botswana, Cuba, Ecuador, Ethiopia, Mozambique, Oman, Serbia, Sri Lanka, Sudan, Tanzania, Uzbekistan, Venezuela and Yemen. The participants included a mix of capital based officials and Geneva based delegates.



From (L) to (R): Dr. Surajit Mitra, Director, IIFT; Prof. Abhijit Das, Head, CWS/IIFT.

Dr. Surajit Mitra, Director, IIFT inaugurated the programme and delivered a Special Address. The ten-day training programme comprised of classroom sessions focused on Agriculture, Services, TRIPS and RTAs, with a strong emphasis on experience sharing. In addition to the classroom sessions, the participants were also given practical exercises and group work. In addition to the CWS faculty, experts specialising in the identified areas were invited as resource persons. These included Mr. Shailendra Kumar, Deputy Secretary, Department of Personnel and Training; Mr. M.S. Srikar, Director, Department of Commerce; Mr. Atul Kaushik, Joint Secretary, Department of Justice, Ministry of Law and Justice; Mr. Gopa Kumar, Third World Network; Dr. Manisha Sridhar, Regional Advisor, WHO-SEARO; Mr. Ajay Srivastava, Jt. DGFT; Dr. V.S. Seshadri (IFS Retired); and Ms. R.V. Anuradha, Partner, Clarus Law Associates.

7. Seminar on WTO Agriculture and NAMA Negotiations

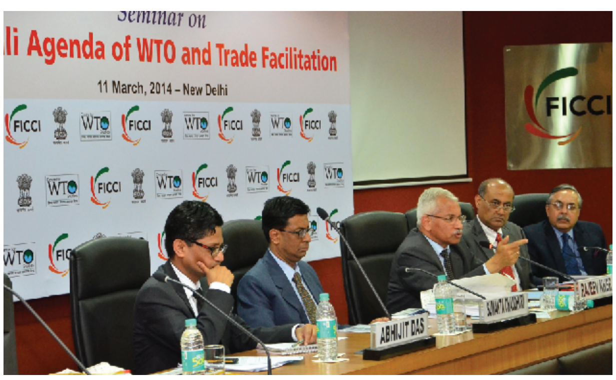
SPIPA, Gujarat

Group Photograph: Participants, resource persons and CWS/IIFT faculty at the Seminar.

A seminar on "WTO Negotiations in Agriculture and Non-Agricultural Market Access (NAMA)" was organized on 7 March 2014 by the Sardar Patel Institute of Public Administration (SPIPA), Gujarat in collaboration with FICCI-Gujarat State Council and the CWS, IIFT. The seminar had 39 participants – 19 from the Government of Gujarat/ Agricultural Universities and 20 from the private sector, consultants and media representatives. The day-long seminar was spread over four sessions and aimed to acquaint stakeholders, including policy-makers in Government, with the WTO negotiations in agriculture and NAMA. Dr. Murali Kallummal and Dr. Sachin Kumar Sharma participated as CWS resource persons at the seminar. The seminar provided an opportunity for policy-makers and facilitators, faculty, students, corporate executives, and professionals to get exposure to the WTO negotiations and other trade issues.

8. Post-Bali Agenda of WTO and Trade Facilitation

FICCI, New Delhi



From (L) to (R): Prof. Abhijit Das, Head, CWS/IIFT; Mr. Sumanta Chaudhuri Joint Secretary, Department of Commerce, GoI; Mr. Rajeev Kher Commerce Secretary, GOI; Mr. Kanoria, FICCI; Mr. A. Didar Singh, FICCI.

The CWS organized a seminar on "Post-Bali Agenda of WTO and Trade Facilitation" jointly with the Department of Commerce, GoI and FICCI on 11 March 2014. The seminar provided an opportunity to share perspectives on the outcome of the Bali Ministerial Conference and the Post-Bali Agenda.

Book release of Trade Policy Monitoring Reports by Mr. Rajeev Kher, Commerce Secretary and other dignitaries.

Mr. Rajeev Kher, Commerce Secretary delivered the keynote address and released a Trade Policy Monitoring Reports for Brazil, China, EU, Japan, Russia and the USA, prepared by the CWS and OP Jindal Global University. Mr. Sumanta Chaudhuri, Joint.Secretary, Department of Commerce (DoC) delivered a special address followed by presentations on the "Implications of the Trade Facilitation Agreement" by Mr. Vimal Srivastava, Director, DoC and a presentation on "Risk Management Systems" by Ms. Kajal Singh, Additional. Commissioner, CBEC, Ministry of Finance. The seminar provided a forum for industry to interact with policy makers on the Trade Facilitation Agreement, the Post Bali Agenda and the work programme for remaining issues in the Doha Round.

9. Training on Trade Policy and WTO Trade Defence Measures

Yangon, Myanmar

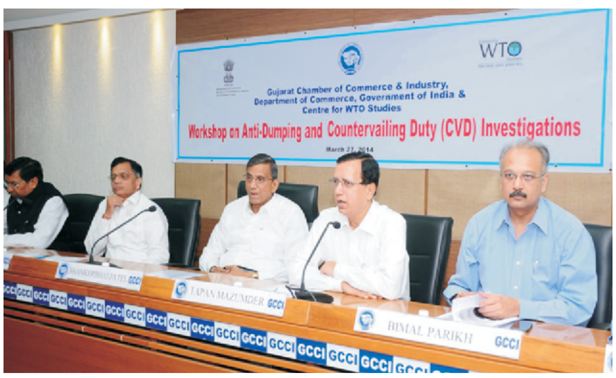
The CWS in collaboration with UNESCAP, Bangkok and the Trade Training Institute and Ministry of Commerce in the Government of Myanmar organized "Training on Evidence Based Trade Policy and WTO Trade Defence Measures" from 10 to 14 March 2014 in Yangon, Myanmar. The objectives of the training were to build in-house capacity for understanding, analysing and formulating evidence

Group Photograph: Participants, resource persons and CWS/IIFT faculty at the Training Programme.

based trade policy and implement trade defence measures for policymakers, private sector representatives and researchers. The training included sessions on evidence based trade policies, WITS database, trade remedies, countervailing duties, anti-dumping, services trade, role of domestic regulations in services trade and safeguard rules for Myanmar economy. Prof. Mukesh Bhatnagar, Dr. Pralok Gupta from the CWS, Mr. Rajan Sudesh Ratna and Dr. Witada Anukoonwattaka from UNESCAP, Bangkok and Dr. R.K. Gupta (Retd. IRS, India) were the resource persons for this activity.

10. Workshop on Anti-dumping and Countervailing Duty Investigations

Ahmedabad, Gujarat

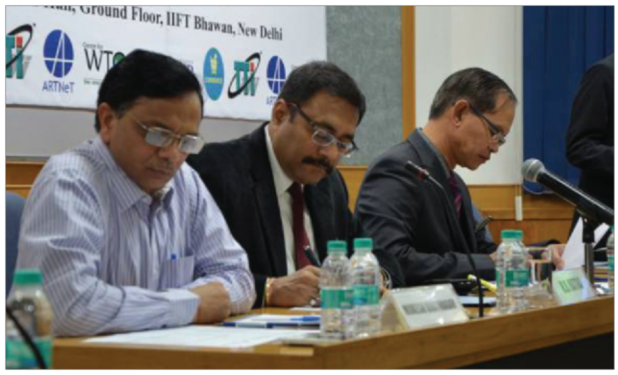


Panel Discussion at the workshop on Anti-dumping and Countervailing Duty Investigations.

A workshop on Anti-dumping and Countervailing Duty Investigations was organized by the CWS in collaboration with the Gujarat Chamber of Commerce & Industry (GCCI) and the Department of Commerce, GoI on 27 March 2014 in Ahmedabad. This was the second workshop in the series to sensitize exporters on various aspects of anti-dumping and countervailing duty investigations. Practical aspects of investigations were discussed in an interactive mode with exporters representing the chemical, textiles, engineering, and pharmaceutical sectors. Presentations were made by Prof. Mukesh Bhatnagar, CWS, Mr. Sharad Bhansali, Managing Partner, APJ-SLG Law Offices, and Mr. Tapan Mazumdar, Director, Department of Commerce, GoI. Representatives from the Gujarat State Government were present during the workshop, which was attended by about 50 participants.

11. Training Programme on "Basics of WTO and International Trade" for Myanmar,

IIFT, New Delhi



From (L) to (R): Prof. Mukesh Bhatnagar, CWS/IIFT; Mr Rajan Sudesh Ratna, UNESCAP; Mr. Hla Maw Oo. Director General, Ministry of Commerce, Government of Myanmar.

A training programme on international trade and WTO was organized for Myanmar officials from 31 March to 5 April 2014 at the IIFT, New Delhi. The programme was organized by the CWS in collaboration with UNESCAP, Bangkok and was attended by six officers from the Ministry of Commerce, Government of Myanmar and Yangon Institute of Economics.

The five-day programme comprised of classroom sessions providing an overview of WTO Agreements; GATT obligations; dynamics of RTAs; rules of origin; trade remedies; impact of the WTO agreements on domestic policy; special & differential treatment in WTO; TRIPS with focus on geographical indications; SPS and TBT; and trade and investment agreements. Topics of relevance to Myanmar were also covered like the bilateral trade relationship between India and Myanmar and the research needs of Myanmar. A special interactive session was organized for the Myanmar representatives with senior officials at the Department of Commerce, Government of India.

Faculty Participation in Outreach Programmes (January – March 2014)

	Participating Faculty	Outreach Activity/Topic	Date	Location
1.	**Prof. Abhijit Das**	Speaker on "Foreign Trade Policy: Deepening India's Presence in Global Markets" at the CII.	20 February	New Delhi
		Chair of session on "Global Economic Crisis, Macroeconomic Dynamics, Development Challenges of Developing Economics" at the Jamia Millia Islamia, New Delhi.	25 February	New Delhi
		Speaker on "Utilizing India's DFTP Scheme for LDCs: Analysis of Trade Trends" at the 10th CII – Exim Bank Conclave on India-Africa Partnership.	10 March	New Delhi
2.	**Prof. Mukesh Bhatnagar**	Speaker on "WTO and Its Relevance for International Trade" organized by Federation of Indian Export Organization (FIEO) with DGFT, Department of Commerce, Government of India.	7 February	New Delhi
3.	**Prof. Sajal Mathur**	Panelist at the Brainstorming Meeting on "Mega FTAs and the Indian Economy" organized by CUTS International.	24 January	New Delhi
		Panelist at the Seminar on "India, WTO and Trade Issues" organized by Symbiosis School of Economics, Pune.	19-20 February	Pune
		Resource person with session on "Implementation of SPS and TBT Commitments" at the Capacity-Building Workshop on Afghanistan's Accession to the WTO organized by UNESCAP.	11-13 March	New Delhi
		Speaker on "BRICS and their Neighbours – Trade and Investment" at the 6th BRICS Academic Forum – 2014 organized by IPEA, Brazil.	18 March	Brazil
4.	**Dr. Sachin Kumar Sharma**	Resource person at the Awareness Programme on "WTO and Free Trade Agreements - Challenges, Issues and Opportunities in the Agriculture Sector" organized at the College of Horticulture, by Department of Agriculture (WTO Cell), Government of Kerala	3-4 January	Vellayani, Thrissur, Kerala
5.	**Ms. Shailja Singh**	Speaker on "Analyses of Impacts and Counter Measures" at the Brainstorming Meeting on "Mega FTAs and the Indian Economy" organized by CUTS International.	24 January	New Delhi
6.	**Dr. Pralok Gupta**	Participated at the session on Trade Facilitation at the Conference on "Reviving Growth-Reversing the Tide" organized by The Growth Net.	23 March	New Delhi
		Presented paper on "Outward FDI from India to ASEAN Region: An Analysis of Emerging Trends" at the National Seminar on FDI: Trends, Opportunities and Challenges organized by the HP University.	28-29 March	Shimla

Trade Figures

1. Trade data for the period January- March 2014

December 2013

Snapping the double-digit growth rate for the second time, mainly on account of a fall in exports of petroleum products, merchandise exports rose 3.5% in December 2013 to $26.3 billion from $25.4 billion in the year-ago period. Exports had been growing in double-digits since July 2013. However, in November 2013, growth in shipments came down to 5.9%. According to Director-General Foreign Trade Anup K Pujari, export growth moderated due to petroleum product exports, which came down sharply by 16%. Petroleum exports constitute a little over 20% of India's total export basket.

Imports dropped 15.25% to $36.5 billion in December 2013, compared to $43 billion in December 2012. Thus, the trade deficit last month narrowed to $10.1 billion, compared to $17.2 billion in the year-ago period, according to data released by the commerce ministry. The decline in imports was led by gold and silver, which dropped 68.8% to $1.8 billion in December 2013, on account of a series of restrictive measures taken by the government to tame gold import in an effort to control the current account deficit (CAD). In the previous month, import of gold and silver stood at $1.05 billion.

Total exports during April-December 2013 stood at $230 billion, up six per cent over $217 billion in the corresponding year-ago period. Total imports during the first nine months of the current financial year registered a decline of 6.6% to $340.4 billion, compared to $364 billion in the corresponding period last year.

Business Standard (11 January 2014)

January 2014

Indian exports remained sluggish in January, posting single digit growth of 3.79% for the third successive month. However, imports contracted by a substantial 18.07% during the month, narrowing the trade deficit to $9.92 billion compared with $10.14 billion in December, 2013. Gold and silver imports fell by a steep 77% to $1.72 billion in January compared to $7.49 billion during the same period last year, contributing to the decline in overall imports.

The trade deficit almost halved during the month compared to $18.97 billion during the same period last year, bringing in much-needed relief for the government trying to keep the current account deficit (CAD) under $50 billion for 2013-14.Till January, India imported gold worth $29 billion compared to $46.7 billion during the same period a year ago. The fall has been a result of a series of restrictions imposed by the government on the import of the yellow metal.

Exports recorded $27.75 billion during January while imports stood at $36.67 billion during the period. For the April-January period, exports stood at $257.09 billion, up 5.71% year-on-year, while import stood at $377.04 billion, down 7.81% year-on-year. Sectors which have registered positive export growth include engineering (37%), rice (22.9%), marine products (50%) and iron ore (18%).

ENS Economic Bureau (12 February 2014)

February 2014

India's merchandise exports fell for the first time in eight months in February, but a sharper decline in imports brought down the nation's trade deficit to its lowest since last March. The narrowing trade gap is contributing to a smaller current account deficit, helping the rupee to claw back its value lost to the dollar but, in turn, hurting exports. Goods shipments fell 3.67% from a year earlier to $25.69 billion in February, according to data released by the commerce and industry ministry. Gold Shipments had increased 3.8% in January.

In the April-February period, exports were up 4.8% at $282.8 billion. The government has an export target of $325 billion for the year ending March. While the export numbers didn't look encouraging, the faster fall in imports ensured that the current account deficit steadily improved. Imports fell 17% in February and 8.65% in the April-February period. The trade deficit was $8.13 billion in February while for the first 11 months of the fiscal year it was $128 billion, compared with $180 billion a year earlier. Current account deficit is expected to be $40 billion this fiscal year, less than half of last year's $88 billion.

The end of the European Union's Generalised System of Preferences benefits in terms of lower import duties from January 1 also contributed to the slowdown in shipments. The engineering sector, which was the top performer in January registering 37% growth, posted a contraction in February at 2.75%. Gems and jewellery exports fell 4.18%. Gold imports dropped 71%, choking the supply of a key raw material for jewellery makers.

Economic Times (12 March 2014)

Foreign Trade Policy/Strategy

2. Export Target and CAD

Indian exports will fall short of the $325 billion target envisaged in the current fiscal though it would be more than what was achieved in the last financial year, Commerce and Industry Minister Anand Sharma has said.

For the April-February period, the country's merchandise exports were up 4.79% to $282.7 billion. Imports during the 11-month period fell 8.65% to $410.86 billion. The trade deficit during this period was $128 billion. In 2012-13, exports declined by 1.8% to $300.4 due to the global demand slowdown.

Federation of Indian Exports Organisation (FIEO) estimates exports to touch about $312-315 billion during the current financial year and suggests the government to fix exports target at least for next five years and announce some major policy decisions in the forthcoming Foreign Trade Policy for 2014-19 to boost shipments. Exporters believe that besides global manufacturing, growth too have impacted the exports growth.

On the other hand, Finance Minister P Chidambaram is confident that the current account deficit (CAD) will be kept under $40 billion in fiscal 2013-14 and that the revised fiscal deficit target of 4.6% (of the Gross Domestic Product) would be achieved. Chidambaram's statement followed two days after the RBI announced that the CAD had narrowed sharply to $4.2 billion or 0.9% of GDP in the third quarter of current fiscal, against $31.9 billion or 6.5% of GDP during the corresponding period in 2012-13. The lower CAD was primarily on account of a decline in the trade deficit, as merchandise exports picked up and imports moderated, particularly for gold. Trade analysts also believe the CAD situation will remain under control mainly because of moderation in the import of gold as well as other commodities such as coal and metal scrap.

Business Line (7 March), Business Standard (18 March) and PTI (25 March 2014)

3. India reviewing its bilateral investment pacts: Anand Sharma

The government has said it is reviewing all its bilateral investment promotion and protection pacts amid global firms raising concerns about India's investment policies. So far India has 83 bilateral investment promotion and protection agreements (BIPPAs) with various countries. "We have 83 BIPPAs which are currently under review because there are lessons learnt when these have been invoked by some (foreign) investors... then there is question of domestic jurisdiction in many cases. It was debatable and that is why it has led to a number of international arbitrations," Commerce and Industry Minister Anand Sharma said at India International Law Foundation function held in New Delhi on 22 January 2014.

Referring to the invocation of these pacts by major foreign telecom firms like Telenor, Sistema and Etisalat, he said these companies came in after thorough scrutiny by government agencies like RBI and FIPB. With the cancellation of telecom licences by the Supreme Court in 2012, Norway-based Telenor, Etisalat of UAE and Sistema of Russia went for international arbitration citing bilateral investment pacts with India.

PTI (22 February 2014)

4. More comprehensive services export data soon

Services export data for key sectors will soon be more comprehensive and reliable. The Commerce Ministry, with the help of the Central Statistical Organisation and the Department of Revenue, has initiated a survey-based exercise to collect data directly from service providers in select sectors. Two pilot surveys – one on the health sector and the other on education – have already kicked off and the export figures for 2013-14 are expected by the year-end, Commerce Secretary Rajeev Kher said.

The data will supplement the services export figures churned out by the RBI in its Balance of Payments (BoP) statistics which are inadequate as they cover just seven broad sectors (as opposed to 12 sectors and 171 sub-sectors covered for goods exports) and are based only on banking transactions. Lack of comprehensive data is a major handicap while negotiating free trade agreements and also in domestic policymaking as data on the strengths and weaknesses of services sectors at the disaggregated level are not readily available.

Services exports from India have jumped from $8.9 billion in 1997 to $143.5 billion in the previous fiscal. Its share in the world market has also expanded from 1% in 2000 to about 3.5% now. There is, however, a huge opportunity to increase exports as almost 80% of services exports from the country is in the IT/ITES sector and most of it is exported to just a few markets including the US and the UK.

Business Line (24 March 2014)

Bilaterals

5. India-Asean

Indian Foreign Minister Salman Khurshid has called for increased connectivity and liberalisation of visa rules to permit freer movement of people to cement closer ties between Asia's third-largest economy and the 10-member economically vibrant Association of South East Asian Nations (ASEAN). On strategic ties with ASEAN, Khurshid said India was looking to extend its naval footprint in the region, long considered China's backyard.

Addressing the sixth Delhi Dialogue on 6 March, Khurshid said India was meeting its commitments on building the India-Myanmar-Thailand Trilateral Highway and was "in the process of dialogue with ASEAN countries to pursue an intermodal approach to integrate road and rail corridors to sea routes, and to bring together economic synergies to transform the corridors of geographic connectivity into corridors of economic cooperation."

ASEAN groups Brunei, Malaysia, Phillipines, Laos, Cambodia, Thailand, Vietnam, Singapore, Indonesia and Myanmar. The grouping plans to evolve into an ASEAN Economic Community by 2015. India and ASEAN have set a trade target of $100 billion by 2015 and $200 billion by 2022. Both expect trade to surge thanks to the successful completion of negotiations on the Free Trade Agreement (FTA) on services and investment. The signing of an India-ASEAN FTA on goods in 2010 has seen trade reach $80 billion in 2011-12.

Khurshid proposed the introduction of long-term visas and the creation of economic hubs to ensure greater interaction between the business communities of India and the ASEAN. Moreover, he noted that the "economic underpinnings" of the ASEAN India strategic partnership were being strengthened with the completion of the process for signing of a free-trade agreement on services and investment.

On the strategic partnership between India and the ASEAN, Khurshid said an "important dimension" was its increasing relevance to the political-security space in East Asia. "With power equations being re-drawn, the ASEAN India relationship provides an egalitarian balance for the maintenance of peace and stability," Khurshid said in a possible reference to the increasing assertiveness of China in the region.

Mint (7 March 2014)

6. India-Bangladesh

Though since January, Petrapole and Benapole land customs stations have been made operational seven days a week, both suffer massive traffic congestion, poor road conditions and lack of authorised parking facilities. At a meeting attended by Union Revenue Secretary Sumit Bose and his Bangladeshi counterpart

Golam Hosen at Petrapole on 10 January 2014, traders from both sides of the border blamed lack of infrastructure as a major cause of concern to operate seven days.

Hampered by congestion at the land customs stations, India has asked Bangladesh to open direct sea routes to boost bilateral trade. The department of commerce is said to have asked the Directorate General (DG) of Shipping to work out a mechanism.

At present, goods shipped between the two countries are routed through the ports of Singapore or Colombo, making the transaction very expensive. As a result, the cargoes turn to Petrapole-Benapole land customs stations. Because of this, both the border posts face massive congestion. The logjam at the Petrapole and Benapole (Bangladesh side) has emerged to be one of the biggest trade barriers. Located nearly 80 km from Kolkata, Petrapole (India)-Benapole (Bangladesh) border accounts for nearly half of the $5.5-billion bilateral trade.

Exports from Bangladesh to India have risen significantly since 2010 when New Delhi took products from Dhaka off of its negative list. India imported goods worth $639.33 million in 2012-2013, compared to $254.66 million in 2009-2010. According to commerce and industry ministry data, total bilateral trade swelled to $5.78 billion in 2012-13 from $2.68 billion in 2009-2010.

Business Line (10 January) and Business Standard (8 March 2014)

7. India-China

Addressing the third Strategic Economic Dialogue (SED) forum in Beijing on 18 March 2014, Deputy Chief of the Planning Commission Montek Singh Ahluwalia raised concerns over “unsustainable” trade deficit with China though he expressed happiness over expanding trade between the two sides, and hoped that bilateral trade would reach the official target of US $100 billion by 2015.

“We recognise that trade does not have to be balanced between each pair of countries. However, India’s trade deficit over the last three successive years has been in excess of US $35 billion per annum which is not sustainable,” he said. It needs to be reduced to sustainable levels by more exports from India to China, and also by China building manufacturing capacities in India for goods it currently export, Mr. Ahluwalia said.

Under Railways, the two sides agreed to pursue specific collaboration arrangements in heavy haul, station redevelopment and raising speed of existing trains in India. Nodal agencies have been designated to work out implementation of modalities in this regard, a press release issued at the end of the talks said.

Highlighting India’s competitive advantage in niche engineering products, IT-enabled services, cotton textiles and home furnishings, and pharmaceuticals, Mr. Ahluwalia said the two governments have a large role to play in pushing it up. “I hope the Chinese government will help to provide our exports greater access to the market so that the target of US $100 billion can be achieved in a more balanced manner,” he said.

India’s trade deficit with China reached a record $31.4 billion in 2013, with two-way trade declining last year by 1.5% on account of a sharp decline in Indian exports, new trade figures released showed. Indian exports to China last year totalled $17.03 billion, a 9.4% fall from last year, out of $65.47 billion total bilateral trade, according to figures released by the Chinese General Administration of Customs (GAC). Chinese exports to India, in recent years largely comprised machinery, were up 1.6% .

The Hindu (11 January) and PTI (18 March 2014)

8. India- EU

India and the European Union (EU) are likely to have a free trade agreement (FTA), most likely in the first part of 2015, the EU Ambassador to India Joao Cravinho said while speaking to the Indian media on 17 January 2014.

“These are not the ideal circumstances to finalise an agreement. It (the FTA) is not round the corner but will definitely happen (and) could happen at the end of year because both sides will be in fully operational order by the end of year or more likely first part of

2015," he said. Asked whether a change of Government in India or EU could see a rethink on the FTA, the envoy said "I will be very surprised if the next Government which comes into office (will have a rethink on the FTA). The European Union (is India's) biggest trading partner," the Ambassador said.

Pointing out that most of the chapters of the FTA were "pretty much closed", the envoy said there were some issues that needed to be sorted, such as on wines and spirits, automobiles and car parts, services and, to a lesser degree, procurement.

For India, one of the major impediments to the FTA is also data security as India has been requesting EU to grant it data secure status. Indian software association Nasscom says, even as outsourcing demand from Europe revives after the debt crisis, data protection regulations in the region governing trans-border data flows could hurt the $108 billion Indian IT-ITeS industry.

Meanwhile, EU, India's largest export market, has withdrawn its preferential import duty scheme for some Indian products from 2014 and the Commerce Ministry is considering fresh incentives to help these sectors retain their competitiveness. These products are: textiles, chemicals, minerals, raw hides & leather and automobiles, including road vehicles, bicycles, aviation, space, boats and their parts. Until now, the EU's Generalised System of Preferences scheme provided duty-free or low-duty access to these products in all 27 of its member countries.

Business Line (11 & 17 January) and PTI (13 January 2014)

9. India-EFTA

Negotiations for the free trade agreement between India and EFTA, four-member grouping that includes Switzerland, was stuck on the issue of intellectual property regime (IPR). "EFTA (European Free Trade Association) wants India to commit more in IPR, a proposal which was not agreed by the Indian officials. India has clearly conveyed its stand on the matter to them. We are now waiting for their response. They have to accept India's stand," an Indian official said.

"In IPR, EFTA are asking for mutual recognition for Geographical Indicators. But it is not permissible under Indian laws. They are also demanding for data exclusivity, which India is completely opposed to," the official added.

Data exclusivity provides protection to the technical data generated by innovator companies to prove the usefulness of their products. In pharmaceutical sector, drug companies generate the data through expensive global clinical trials to prove the efficacy and safety of their new medicine. Switzerland has huge interest in this sector. By gaining exclusive rights over this data, innovator companies can prevent their competitors from obtaining marketing license for low-cost versions during the tenure of this exclusivity.

India and the four-nation bloc started the negotiations for the free trade agreement (FTA) in 2007 and both the sides have completed 13-14 rounds of talks till now. India is expected to get greater market access in services sector in those four countries besides in textiles. Two-way trade between India and EFTA stood at US $34.48 billion in 2012-13 as against US $37.5 billion in 2011-12.

PTI (19 January 2014)

10. India- Pakistan

At the heart of the fresh round of strife is Pakistan's refusal to give non-discriminatory market access (NDMA) to India as it wants to wait until the outcome of the upcoming elections. The Nawaz Sharif Government postponed a meeting of its Cabinet scheduled on 21 March 2014 that was to take up the issue of granting India NDMA status — a move that will result in removing import ban on 1,209 Indian products and open up access through the land route. NDMA is a more politically acceptable term used for the Most Favoured Nation (MFN) status that India had accorded Pakistan way back in 1996.

The Indian establishment feels it has been badly let down by Islamabad as it was PM Manmohan Singh's personal commitment which allowed the entire process of trade normalization to reach where it did before a "U-turn" by Islamabad. Singh, in fact, had suggested as late as January this year that he was still open to the idea of going to Pakistan.

According to Pakistani sources, there are stakeholders in Pakistan like the farmers' association which had threatened country-wide demonstrations if India was given NDMA before New Delhi removed Pakistan-specific non-tariff barriers. India, however, says that when it probed Islamabad over the issue, the complaints varied from lack of flights between Delhi and Lahore to the stringent visa regime between the two countries.

India and Pakistan officially restarted trade normalisation talks on 15 January 2014 as the two commerce secretaries met in New Delhi after a 16-month gap. Pakistan had agreed to give India MFN status by December 2012 but missed that deadline because of political considerations involved. Pakistan's auto, pharma and agri lobbies are opposed to greater access to India in these sectors. Though Pakistan claims that it has not benefited much from MFN status granted by India, Indian commerce ministry official Arvind Mehta says Pakistan's exports to India doubled in past three years from $250 million to $530 million.

India was scheduled to cut its sensitive list under the SAFTA pact to 100 for Pakistan from 614 by April 2013, while the neighbouring country was to reciprocate the same by 2017. However, India's position was based on the conditionality of Pakistan granting it the NDMA status by December 2012. Since NDMA was not granted within the specified time, India has not pruned the sensitive list.

Meanwhile, Pakistan's commerce minister Khurram Dastgir Khan's during his visit to New Delhi to attend the SAARC Business Leaders Conclave in January had agreed with his Indian counterpart to keep the Wagah-Attari border open 24 hours, seven days a week for trade, and allow more items through this route. Currently only 137 items can be traded through the Attari-Wagah land border. The two sides had also agreed to allow containers, which were until now unloaded at the check-post and re-loaded on the other side, to be moved right up to Amritsar and Lahore. It was also decided to expedite the process of giving bank licenses. But things have not moved any significant distance since then.

Economic Times (17 January), ENS Economic Bureau (8 February), Mint (16 February), Business Line (21 March) and Times of India (27 March 2014)

11. India-RCEP

Sixteen Asia-Pacific countries began their third round of free trade talks from 21 January 2014 in Kuala Lumpur with meetings on tariff-related issues on the agenda.

Negotiators from the 10 ASEAN member states and their six regional partners -- Australia, China, India, Japan, New Zealand and South Korea -- scheduled working group meetings on trade in goods, trade in services, and investment during their four-day gathering.

The Regional Comprehensive Economic Partnership (RCEP) framework negotiations are aimed at creating one of the world's largest free trade areas encompassing almost 30% of global GDP, half of the world's population and over a quarter of world exports.

China's chief negotiator Sun Yuanjiang, in his opening remarks as "facilitator" of the six non-ASEAN countries, said, "We will try to work in very practical and efficient ways so that we can soon achieve our goal." The six non-ASEAN countries in the negotiations already have FTAs with ASEAN, which is comprised of Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

The RCEP negotiation partners aim to wrap up talks by 2015. They held their first round in May last year in Brunei and the second one in Brisbane, Australia, last September.

Kyodo News (21 January 2014)

12. India- Russia

India and Russia will set up a joint study group to examine the feasibility of a free trade agreement for boosting bilateral trade and investment flow. The proposed free trade pact, formally called a Comprehensive Economic Cooperation Agreement (CECA), is to be signed between India and the Customs Union of Russia, Kazakhstan and Belarus.

The decisions were taken in a meeting between Commerce and Industry Minister Anand Sharma and visiting Russian Deputy Prime Minister Dmitry Rogozin on 26 February 2014. India had been pushing for a study group for some time as an FTA with Russia could help reduce the country's economic dependence on the US and the EU.

Meanwhile, India is in talks with Russia, the world's largest oil producer, to build a pipeline that will bring crude oil to the country on the lines of the TAPI pipeline, a senior official from the external affairs ministry said. Ajay Bisaria, Joint Secretary (Eurasia), said the issue was discussed between the two sides during PM Manmohan Singh's visit to Russia in late October. India has already broached the idea of a crude oil pipeline with Kazakhstan, and this could be extended to Russia.

India currently buys very little crude oil from Russia and therefore wants to increase its oil procurement from the country. According to the Indian embassy website, mineral fuel and oil imports from Russia stood at $176 million in 2012.

Business Line (26 February) and Financial Express (15 January 2014)

13. India-SAARC

Speaking at the SAARC Business Leaders Conclave held in New Delhi in January 2014, India's Commerce and Industry Minister Anand Sharma pitched for liberalized visa regime for movement of business people and professionals in SAARC and welcomed SAARC countries to invest in India. He also said there is a need to open bank branches in each other countries to help traders. Trade and economic ministers of Afghanistan, Bangladesh, Bhutan, Maldives, Nepal, Pakistan and Sri Lanka were present during the function.

Sharma also emphasized the need to address infrastructure bottlenecks such as roads, ports and airports to reduce transaction cost and enhance trade within the region. All the ministers shared this view and endorsed Sharma's concerns over modernization of infrastructure. "Connectivity is a problem in this region. We need to improve it to enhance trade," Nepalese Commerce Minister Shanker Prasad Koirala said.

However, a study shows how the sub-region in South Asia comprising India, Nepal, Bangladesh and Bhutan remains one of the toughest places to move goods due to archaic procedures. The study done by Delhi-based think tank Research and Information System for Developing Countries (RIS) has detailed how trade through three key corridors in the four countries faces major delay because of tardy procedural clearances. The study suggests that along with physical infrastructure augmentation that requires more time and investment process, re-engineering should be prioritized to reduce huge time lost in getting clearances for import and export of items in the region.

PTI (16 January) and Times of India (29 January 2014)

14. India-South Korea

India and South Korea have agreed to upgrade the Comprehensive Economic Partnership Agreement (CEPA) as early as possible to bolster trade and investment. Visiting South Korean president Park Guen-hye and Prime Minister Manmohan Singh on 16 January 2014 agreed to give a push to Posco's steel plant in Orissa. Both the sides also inked five agreements, including in defence and space.

Both sides agreed to establish the India-ROK Joint Trade and Investment Promotion Committee at the Cabinet level as an expanded and restructured replacement of the current India-ROK Joint Investment Promotion Committee, as per the joint statement issued after the meeting. The agreement to revise CEPA was one of the highlights in the joint statement issued after the summit. The trade pact was signed in 2009 and went into effect the following year.

In a later development, however, South Korea has demanded a deep cut in tariffs on its goods entering India, under CEPA. "We have been urging India to liberalise tariff duties, especially in automobiles, auto parts and Korean machinery. We want drastic reduction in this," said Dong Seok Choi, Director-General, Korea Trade-Investment Promotion Agency. On the other hand, the Indian government has asked South Korea for greater market access for its information technology exports, generic medicine and textiles.

Financial Express (16 January) and Business Standard (29 January 2014)

15. India- US

Rejecting US allegations on intellectual property rights (IPR), India said on 23 March 2014 that it was ready to discuss the matter at WTO as it had not breached any international agreement. According to Commerce and Industry Minister, Anand Sharma, India's patent regime is "fully compliant with the intellectual property rights norms of Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement of WTO and has never deviated from nor diluted these norms." To him, patent related issues being raised by some lobbyists in a particular sector, is crucial not just for India but for every country of the world to ensure availability of life saving medicines at affordable prices. He alleges the US of indulging in trade protectionism.

Drug multinationals have been lobbying with the US government for sanctions against India and to designate it a Priority Foreign Country (PFC) which will allow the US to impose unilateral sanctions against India. US lobbyists are against special provisions in the Indian patents law that require the patent holder to prove that a genuine invention has been made and the matter on which special rights are sought is not a mere upgradation of an existing product. Citing this provision, Indian patent authorities have denied rights to some medicines for which global giants had sought patents. The US Government wants India to drop Section 3(d) of the Indian Patents Act that allows rejection of patents on grounds that the product for which patent is sought is not significantly different from an existing product. But, Indian Supreme Court has upheld the validity of this Section.

To ease the tension, the US Food and Drug Administration (FDA) and its Indian counterpart decided to collaborate on inspection of drug units for good manufacturing practices (GMP) compliance and seamless sharing of regulatory information between them. Accordingly, Margaret Hamburg, Commissioner of the US FDA, in February this year, inked an agreement with Union Health Minister Ghulam Nabi Azad under which the two countries will exchange "information relevant to lack of compliance with accepted good manufacturing practices, good clinical practices, or good laboratory practices, as appropriate, by manufacturers and sponsors of medical products". Hamburg, during her interaction said "there is huge expectation and dependence of public on the regulator to ensure the quality of what the people consume through drugs and food" without specifying any quality problems. She added that "there should be a common set of standards so that people have quality, safe and efficacious drugs". Azad, however, defended the quality of drugs exported from India stating that "being affordable should not mean that they are cheap and spurious". He added that developing countries such as India who have a growing pharma industry should be allowed to grow.

South Centre, a Geneva-based organisation of developing countries, has slammed US and developed countries for pressurizing India over its IP laws, which it alleged undermines the legitimacy of WTO. "The Indian IP laws include balanced provisions to ensure that IP rights do not hinder the ability of the government to adopt measures for promoting development priorities, particularly in the area of public health," South Centre said in a statement issued on 4 March 2014."These are fully in line with the TRIPS Agreement and reaffirmed by the Doha Declaration on TRIPS and Public Health," it said.

World Trade Online (8 January), Agence France-Presse (6 February), Times of India (11 & 24 February), Financial Express (11 February), Business Line (25 February & 4 March) and PTI (6 & 24 March 2014)

WTO Disputes

16. India-US: Solar

The second phase of India's solar mission came under scrutiny of the US as the two countries begin consultations on compulsory local-buying requirements for certain components used in the programme. The US has alleged that the domestic sourcing requirements flout WTO norms as they discriminate against foreign companies.

India has already faced one round of consultations on the matter in 2013 after the US complained against the first phase that stipulated that all solar modules have to be purchased locally. It launched a fresh complaint in February after the second phase of the mission —

that will produce 750 MW of energy — continued with the sourcing norms. Although half of the project in the second phase will not have to conform to local sourcing conditions, for the remaining half it has been mandated that domestic procurement will also cover solar thin films. If the US is not satisfied during the consultations it may ask the WTO to set up a dispute settlement panel to fight the case.

Since the power produced by the projects under the Jawaharlal Nehru National Solar Mission (JNNSM) will be bought by a Government agency, India has argued that all equipment purchases fall under the category of 'Government Procurement'. As India is not a member of the Government Procurement Agreement of the WTO, it is not obligated to follow multilateral rules laid down for Government Procurement. Against this, the US says since the local sourcing condition has been applied on purchase of power equipment and not power (which will be bought by the Government), it cannot qualify as Government Procurement.

Commerce Secretary Rajeev Kher alleges it was the US that was following restrictive policies for its local solar panel manufacturers in 13 states. Last year, India had filed a report to WTO's subsidies and countervailing measures committee, saying the US was running a subsides programme for local content requirements, primarily in the states of Connecticut, Delaware, Massachusetts and Minnesota.

Indian industry also supports the government viewpoint. Ajay Goel, chief executive officer, Tata Power Solar says, "The US seems to be completely misguided in this issue and is just showing double standards. The policy of government procurement is allowed."

The US also alleges that in phase II of JNNSM, the domestic content requirement was expanded to cover thin film technology, which was exempt from such requirements under phase I, which will likely cause even greater harm to the US producers than under phase I as thin film comprised a majority of the US solar product exports to India. But according to a ministry of external affairs, "One or two of the major US producers of thin films have got export credits from the US government which is encouraging an inflow of older technology into India. Moreover, the cost of products sourced from the US and China are suspiciously lower than the known production cost."

Business Standard (12 February), Economic Times (21 February) and Business Line (18 March 2014)

17. India-US: Steel

A World Trade Organization dispute panel is expected to issue a mixed ruling in April on a challenge filed by India against US countervailing (CV) duties on imports of Indian hot-rolled carbon steel flat products. According to sources, a confidential preliminary ruling issued by the panel on 31 January has backed a number of key claims made by India against a US Commerce Department investigation, which led to the imposition of the CV duties in 2001 and a renewal of the duty order in 2007.

The preliminary findings are still subject to further review and may change when the panel issues its final ruling to the two parties in the second week of April. Should the preliminary findings be maintained, both sides are expected to claim various degrees of victory. The final panel ruling is expected to be appealed, most likely by both parties, meaning that a final verdict wouldn't be expected from the WTO's Appellate Body until sometime in 2015.

One of India's claims reviewed by the panel concerned the status of an Indian entity at the heart of the investigation, the National Mineral Development Corp. Ltd. (NMDC), which was found by US investigators to be a "public entity" under WTO rules providing countervailable subsidies to Indian steel producers through low-cost iron ore. India argued that the NMDC wasn't a government or public body and therefore couldn't be providing countervailable subsidies. The Indian argument is based on a March 2011 ruling by the Appellate Body which found that the US Commerce Department violated WTO rules by determining that state-owned suppliers of goods to Chinese producers targeted by CV duties were "public bodies" because they were majority-owned by the Chinese government, a criteria used by Commerce in other CV investigations.

India also says that the US rules serving as the basis for the duty order, Title 19, Part 351 of the US Code of

Federal Regulations, as well as certain provisions of the 1930 U.S. Tariff Act, are "as such" in violation of WTO subsidy rules in that they require various practices such as the automatic adoption of benchmark prices and "delivered" prices, as well as the automatic use of adverse facts available.

WTO Reporter (24 February 2014)

Also In The Press

18. Sugar Subsidy

India's export subsidies on sugar announced in February will not exceed $80 million and is essentially designed to encourage diversification away from white sugar to raw sugar; the country has clarified to the WTO. Going by the current exchange rate, the subsidy amounts to Rs. 3,333 a tonne and involves roughly 1.4 million tonne of subsidised sugar exports.

Defending its action at a recent meeting of the WTO Committee on Agriculture (CoA) where several members including Brazil and Australia attacked the sops, India said the subsidies were aimed at discouraging white sugar production of which there was a glut in the global market, a WTO official said. While the WTO does not allow any new export subsidies, some allowance is made for marketing and transportation. There are disciplines in place for members to gradually eliminate existing subsidies.

Coming down heavily on India at the CoA meeting on 21 March 2014, Australia said the Rs. 3,333 per tonne incentive payment is equivalent of 14-16% of the world price and threatens to seriously destroy trade as India is the third largest exporter of sugar. It demanded that India should immediately discontinue the subsidies. World's top sugar producer Brazil asked how India could justify the subsidies. According to Brazil, developing countries are allowed flexibilities for giving export subsidy (under Article 9.4 of the Agreement on Agriculture) only to meet marketing or transportation costs and there is no legally-binding decision by the WTO to extend its scope. Other members that questioned the subsidies include Colombia, the EU, Paraguay, Thailand, El Salvador, Canada, the US, Pakistan and New Zealand. India's defence is that WTO rules prohibit export subsidies only on finished products and raw sugar is a semi-processed item. It is, therefore, exempt from such restrictions.

The subsidy announced by the Cabinet last month is for exports made in February and March. Fresh calculations will be made for April based on existing exchange rate.

Business Line (19 & 24 March 2014)

19. Visa-on-arrival facility

India will extend the visa-on-arrival facility to all countries except eight with effect from September. The countries not covered under this single-entry e-visa facility, meant for purposes other than paid employment and education with a one-month time limit, are Pakistan, Sudan, Afghanistan, Iran, Iraq, Nigeria, Sri Lanka and Somalia.

The facility is currently available to 11 countries, including New Zealand, Singapore, Luxembourg, Japan and Finland. With the government's decision, India expects to become the world's number-one tourist destination, according to a government official. The country's total foreign tourist arrivals in 2013 stood at 6.84 million. Forex earnings from tourism grew 2.2% year-on-year to $18.1 billion.

Business Standard (6 February 2014)

20. India and the Mega-Regional Trade Deals

The direction of global trade is set to change as mega agreements like the Trans-Pacific Partnership (TPP) and Trans-Atlantic Trade and Investment Partnership (TTIP) come into force. The TPP includes 12 of the Pacific Rim countries including the US and Australia, whereas TTIP is between the US and the European Union. Respectively, they represent around 39% and 60% of the world's GDP. They have the potential to adversely affect excluded countries such as India by diverting trade and investment away and weakening their positions in global value chains.

The Bali package, which addresses trade facilitation, agriculture and the issues of least developed countries (LDCs), has restored some degree of faith in the WTO.

However, there remains a wide gap between WTO rules and on-the-ground business realities. It is these new realities or "21st century issues" that are at the core of the two ambitious "mega-regional" trade deals-the TPP and the TTIP.

Should the TPP be concluded, the extent of potential trade diversion from India is difficult to estimate. However, two areas of India's current "inclusive development" trajectory, services and manufacturing, could be affected. Indian commerce secretary Rajeev Kher says, "US is a big market for India. After implementation of (these) pacts, Indian products will get less preference as compared with the countries which are part of these pacts. Once TPP, TTIP are implemented, it will throw a challenge to us."

While FTAs are posing some challenges, they should be addressed proactively to convert them into opportunities. As a response, India should effectively negotiate the RCEP agreement and its FTAs with key trading partners such as the European Union and Australia in order to gradually remove or harmonise non-tariff measures affecting trade among these countries and improve its domestic regulatory regimes for process and product standards, intellectual property rights and other behind-the-border trade facilitation measures.

Forbes India (8 January), Mint (21 February) and Business Standard (22 March 2014)

21. Post Bali

Members of the World Trade Organization offered different views on February 6 as to how the WTO should move forward with the multilateral negotiating agenda following the successful conclusion of the global trade facilitation agreement in Bali, Indonesia, in December.

Members such as the US, the European Union, Japan and Canada stressed the need to be realistic and open-minded on how the remaining issues on the stalled Doha Round agenda should be addressed, including the possibility of adding new "21st Century" issues to the mix. However, India was joined by a number of developing and least-developed countries such as Cuba, Egypt and Kenya in insisting that the future priority must be the existing Doha agenda and that the principle of the "single undertaking"—whereby an agreement on one issue is dependent on agreement on all issues—must be maintained.

In the first discussion among the entire WTO membership on the organization's post-Bali negotiating priorities, WTO Director-General Roberto Azevedo said the first priority must be ensuring the implementation of the trade facilitation agreement, followed by the preparation of a "clearly defined work program" on the remaining Doha agenda issues by the end of 2014.

Later, at an informal meeting on February 24 of the new Preparatory Committee on Trade Facilitation, members agreed in principle that the legal review will be undertaken first, followed by the drafting of a protocol, in the form of an amendment, formally inserting the trade facilitation agreement as an annex to the 1994 Marrakesh Agreement establishing the WTO. The insertion of the trade facilitation text into the 1994 agreement means that WTO dispute resolution procedures will apply to the new agreement.

Differences are already emerging among WTO members whether the first step should be a simple scrub of the trade facilitation text or instead a more detailed examination of the agreement adopted in Bali. Officials attending the meeting said the US fell into the former camp, arguing the scrub should not take longer than three months. Others, such as India, Egypt and Venezuela fell into the latter camp, arguing that time pressures in Bali produced a "rushed" agreement with some elements requiring clarification. Esteban Conejos, the Philippine ambassador to the WTO and chairman of the Preparatory Committee, reminded members that ministers agreed in Bali the legal review would be for rectifications of a "purely formal character that do not affect the substance of the Agreement."

WTO Reporter (7 & 25 February and 9 March 2014)

Forthcoming Events (April - June 2014)

S.No.	Events	Partner Institution	Proposed Dates
1	Standards Conclave - Role of Standards in International Trade: Challenges, Opportunities & Issues	Department of Commerce, GoI & CII	16 – 17 April
2	Workshop on the Post-Bali Agenda of the WTO, Nairobi, Kenya	Commonwealth Secretariat, African Exim Bank, East African Economic Chamber of Commerce	24 – 25 April
3	Workshop on the Post-Bali Agenda of the WTO, Accra, Ghana	Commonwealth Secretariat, African Exim Bank, Ghana Institute of Mgmt & Public Admin	28 – 29 April
4	Workshop on the Post-Bali Agenda of the WTO, Dhaka, Bangladesh	Commonwealth Secretariat, Bangladesh Foreign Trade Institute, SANEM	5 – 6 May
5	Training Programme on Basics of WTO and International Trade for DoC Interns	Department of Commerce, GoI	6 – 9 May
6	TOT on WTO & International Trade: Strengthening State-Centre Linkages	Department of Commerce, GoI	19 – 21 May
7	WTI - CWS Joint Academy on International Trade Law & Policy	World Trade Institute (WTI)	26 May – 20 June

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