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**India, 30 other nations call to protect WTO appellate body at Shanghai meet**

D. Ravi Kanth, Live Mint

Geneva, 7 November, 2019: India and 30 other countries on Tuesday called for urgently resolving an impasse at the World Trade Organization's (WTO's) highest dispute settlement body, which faces being reduced to a one-judge court after 11 December.

The call to protect the WTO's Appellate Body (AB) came at a trade ministerial summit in Shanghai.

At an informal trade ministerial summit hosted by China on the sidelines of its annual trade fair in Shanghai on Tuesday, participants from more than 30 countries expressed grave concern about the continued impasse at the AB which faces being reduced to just one member from its requisite strength of seven, effectively becoming dysfunctional.

The US, which did not attend the Shanghai meeting, has consistently blocked the selection process to fill the six vacancies for the past two years, saying it has concerns about the functioning of the AB.

At Tuesday's closed-door meeting, India's commerce secretary Anup Wadhawan called for urgent action to protect and preserve the multilateral rules-based trading system, according to a participant, who asked not to be named.

“Despite engagement in an intensive process in Geneva for almost two years on the ongoing impasse in the Appellate Body, no solution is in sight, and next month, we will have a non-functional Appellate Body," India cautioned, according to the participant present at the meeting.

“Therefore, it should be our utmost priority to save the dispute settlement mechanism. It is important that in the way forward, we take into account the aspirations of the large majority of the membership and re-double our efforts for an inclusive, transparent and development-oriented agenda," India argued.

Significantly, WTO director general Roberto Azevedo, who addressed the meeting of trade ministers and senior trade officials, remained silent on the AB crisis, said a participant, who asked not to be named.

“We can show that the multilateral trading system can deliver meaningful results," the WTO director general said, according to a statement put up on the WTO website.

“We can demonstrate that members are able to come together and reach decisions that enhance certainty and predictability in the 21st century global economy," he said.

With only a few months left for the WTO's 12th ministerial conference in Nur Sultan, Kazakhstan, in June 2020, India called for putting in place “a structured process to finalize a focussed and balanced agenda including issues of priority for the whole membership latest by March 2020."

“The issues which must be on the agenda include a permanent solution for public stockholding in agricultural negotiations [and] an agenda of WTO reforms based on inclusiveness, keeping development central and addressing the historical imbalances and asymmetries in the Uruguay Round agreements," India demanded.

**Opinion | India should now get its trade negotiation act together**

Vivan Sharan, Live Mint

November 7, 2019: India opted out of the Regional Comprehensive Economic Partnership (RCEP) negotiations this week. A mega free trade agreement (FTA) in the works, the RCEP currently comprises ten countries of the Association of Southeast Asian Nations (Asean), along with Australia, China, Japan, New Zealand and South Korea. In addition to conventional trade-related issues, like custom duties and dispute settlement mechanisms, an imminent RCEP agreement is expected to cover a wide range of new areas, including intellectual property, competition and e-commerce. India had participated in the RCEP process since its inception in 2013, dedicating a significant part of its limited state capacity to extensive trade negotiations. Therefore, India's late decision to exit the RCEP took many observers by surprise.

The long-term economic trade-offs in complex trade deals are never easy to quantify, chiefly because markets are dynamic. For instance, while India can leverage its strengths in services trade with RCEP members today, lack of new innovations may change this paradigm in the future. And India's situation is not unique. The remaining RCEP countries must equally confront such uncertainties while negotiating with the rest. China may not remain the manufacturing hub of the world, South Korean chaebols may falter, Japan may not be able to solve its demographic challenges, and so on. In such circumstances, it is useful to assess India's decision through a wider strategic prism.

First, if India remains outside the RCEP, it will need to redouble efforts to ensure that the World Trade Organization (WTO) functions smoothly and in the country's favour. However, the US has lately held the WTO to ransom through its veto power—for instance, by demanding sweeping institutional changes in exchange for approving appointments at the WTO's appellate body. Another US demand is a change in the "developing country" status accorded to emerging economies like India. While graduating to developed country status within the WTO may initially seem like a cause for celebration, what it means is that India will no longer receive special and differential treatment on account of its development needs. It will have to compete on a level-playing field with industrialized nations.

India must reject American demands by building a consensus among developing nations on viable counter proposals. Simply saying "no", as it did in the case of the RCEP, will not yield anything substantive.

However, by leaving the RCEP, India has lost some of the goodwill it requires to mobilize forces effectively at the WTO, especially among its regional Asian allies. India's inability to champion development is a relatively recent phenomenon in global trade. For several decades, leading up to the Marrakesh Agreement that established the WTO, the country was at the helm of the Group of 77 developing nations. Today, it is scarcely able to engender a consensus even on softer issues like cross-border e-commerce, whereas dozens of developing countries have found common cause with related proposals of developed countries.

Second, India must enhance its ability to negotiate bilateral deals if it wants to stay out of plurilateral engagements like the RCEP. Here, it must take a leaf out of China's playbook. As far as trade spats go, the US-China trade dispute may be the most shrill and high-stakes one yet. However, both countries are simultaneously engaging each other in several forums, recognizing the exigencies of a global system that has enmeshed them. Their multi-pronged engagement includes discussions on e-commerce at the WTO within a group of 76 countries, excluding India. At the last G20 Summit, the US and China were also among the 24 co-signatories to the "Osaka Track", reinvigorating their commitment on e-commerce. India, however, stayed outside this conversation too.

Importantly, China does not share all of the US's interests on e-commerce. It diverges on several fronts. For instance, it has an internet firewall that keeps the likes of Google and Facebook out of its domestic market. It also imposes data localization requirements antithetical to the logic of seamless cross-border e-commerce. China also has a poor track record of protecting intellectual property. Yet,

Beijing recognizes the value of bilateral conversations. If nothing else, staying engaged with its trading partners sparks regular internal reforms. At the 66th meeting of its State Council last month, China enacted deep regulatory changes, effectively strengthening its intellectual property regime to encourage innovation-linked investments. This is in stark contrast with India, which has been unable to capitalize on the US-China dispute, despite a two-year window.

Last, if India decides to join the RCEP at a later date—an option it can still exercise—it must anticipate suboptimal outcomes. India did not participate in the initial stages of the Trade-Related Aspects of Intellectual Property Rights (Trips) negotiations during WTO's Uruguay Round between 1986 and 1993. When it eventually joined—as it is likely to do in the case of the RCEP—the key pillars of the agreement had already been established. There are several such instances of delay or inertia inadvertently undermining the national interest. If negotiating strategies don't improve, history may repeat itself. That would be unfortunate.

**Opinion | The Trojan horse of a trade pact that India should guard against**

Vivek Dehejia, Live Mint

November 3, 2019: Regular readers of this column will know that advocacy of free trade is, as it were, hard-wired into trade economists such as myself—at any rate, those of us who have been students of a great free trader such as economist Jagdish Bhagwati has been fighting the good fight for liberal trade for decades.

However—and this is the crux—support for free trade, or even freer trade, does not necessarily imply that one ought to support any particular preferential trading deal that falls short of genuine multilateral trade liberalization under the aegis of the global system administered by the World Trade Organization. In particular, the Regional Comprehensive Economic Partnership (RCEP), currently under negotiation, is one such problematic so-called "mega" preferential trade deal, for it departs from genuine multilateral freer trade in two distinct and important ways.

First, trade liberalization within a bloc is not equivalent to trade liberalization among all global trading nations. Agreements that achieve the latter are necessarily "trade creating", while the former may give rise to baleful "trade diversion", to use the celebrated terminology coined by Canadian economist Jacob Viner. As Viner famously showed, and research by economists following him confirmed, a preferential trade agreement—such as the proposed RCEP—could actually make everyone worse-off, by distorting trade patterns in light of the pattern of preferences built into the agreement. In simpler terms, preferential deals are always two-faced—they are liberalizing vis-à-vis one's partners but they increase the margin of protection vis-à-vis non-partners.

Second, as this column has observed in the context of the flailing Trans-Pacific Partnership (TPP), today's trade deals have very little to do with trade and are mostly concerned with non-directly-trade-related matters such as intellectual property, government procurement, investor protection and so forth. These other elements that are lumped into mega deals turn them into Frankenstein's monsters that do little to liberalize trade but do a lot to pursue the narrower agenda of stakeholders looking for market access. Thus, the previous as well as the current Union governments have correctly shunned the TPP as not being in India's national economic interest. As I have earlier described it, the TPP is a little more than a Trojan horse, intended to foist a US-style domestic regulatory system on India, something that should be a domestic choice for the country to make.

The acid test of whether any component of a trade deal is genuinely concerned with freer reciprocal trade is to ask: Is there necessarily mutual gain? Or rather, is there a transfer of "rents" (as economist David Ricardo termed it; use the Marxian term "surplus" if you prefer) from one to the other country?

Thus, leaving aside the issues of trade diversion for the purpose of this discussion, if all members of the RCEP lower tariffs against all other members, there is the prospect of mutual gain.

If, however, all countries adopt the domestic regulatory norms of one of the countries—or of a non-member of the group, such as the US—no mutual gain can be presumed. India, in particular, will come out a loser if it is forced to ratchet up intellectual property protection (IPP) norms to rich country levels. The generic pharmaceuticals industry, for instance, would virtually disappear overnight if India were forced to adopt US-style IPP norms.

The problem with the RCEP, like the TPP before it, is that all negotiations occur in secret among member governments, and the public has no idea exactly what is being negotiated, except insofar as governments are willing to share that information—and then, it is not always clear if this is genuine information or strategic communication intended more to disinform negotiators on the other side rather than enlighten the public.

Unfortunately, governments the world over seem to have learnt little from the current outbreak of anti-globalization sentiment. Whether you are sympathetic or not to the broader concerns raised by anti-globalists, they are right to criticize globalists for undermining democratic legitimacy and accountability. After all, if the public does not even know exactly what is contained in the RCEP agreement, how are they supposed to form an enlightened opinion on whether to support it or not?

If news reports are to be believed, there is the possibility that the RCEP may actually find formal agreement among its members at an upcoming summit meeting in Bangkok on 4 November. The putative members include 10 members of the Association of Southeast Asian Nations, along with six additional partners in the Asia Pacific region, comprising China, India, South Korea, Japan, New Zealand and Australia.

Meanwhile, in India, opposition to the RCEP is building. On 25 October, the Indian National Congress party announced that it was opposed to the deal—not forgetting that negotiations began under its own watch back in 2012. The Congress party has been joined by a chorus of other domestic groups, which fear that the RCEP will be an opportunity for China to increase its penetration of the Indian market even more than is already the case, without much in the way of Indian gains in the Chinese market.

**Farmers, plantation sector cheer decision**

Business Line

New Delhi, November 6, 2019: From plantation to dairy sectors, India’s exit from the crucial phase of Regional Comprehensive Economic Partnership (RCEP) negotiations has brought cheers to farmers across the country.

The struggling plantation sector, which feared dumping of cheap plantation commodities from South-East Asia, welcomed the move.

As they celebrated the decision, some of the farmers’ associations are apprehensive and sceptical, saying that this could be a temporary relief.

“It is a welcome move. The plantation sector needs protection from cheaper imports,” said AL RM Nagappan, President of The United Planters Association of South India (UPASI).

The Association of Planters of Kerala (APK) has cautioned that all the future negotiations should be carried out keeping the interest of domestic growers in mind.

“A paradigm shift in policy matters are required to make growers of plantation crops globally competitive in production, productivity and price,” said Ajith B.K, Secretary of APK.

He said the sector is yet to come out of the adverse efforts of earlier trade agreements such as WTO and Indo-Asean FTA.

RK Bhoodes, Chairman of Cashew Export Promotion Council of India, feels that cashew is perhaps the worst sector affected by the free trade and preferential trade agreements.

“There already exists an anomaly in the ASEAN agreement by which the roasted cashew kernels are fully exempted from import duty while the plain cashew kernels are subject to 70 per cent import duty,” he pointed out.

Indian growers were at a disadvantageous position as cost of production in some RCEP countries was low. “The processing cost in some RCEP countries is about one-fourth of that of India as they adopt fully mechanised processing. In India, the processing is more or less manual and the industry provides gainful employment to around 15 lakh workers,” he added.

Amul relieved

Dairy major Amul welcomed the Centre’s decision not to sign the RCEP treaty and termed it a step in the right direction.

“It is a welcome decision and has given confidence to 10 crore dairy farmers. The government has done what they had promised. In spite of the pressure from other 15 partner countries, the government decided to safeguard the interests of India’s small and marginal dairy farmers. This will encourage farmers to continue investing in dairy farming,” RS Sodhi, Managing Director, Gujarat Cooperative Milk Marketing Federation (GCMMF), said.

Arecanut sector

Stakeholders in the arecanut sector too are happy about India’s decision to opt out of the talks. They, however, feel that it’s time the factor focus on value addition in order to face future threats from trade pacts.

Agro-economist Vigneshwara Varmudy recently told BusinessLine that the RCEP may not make big impact on arecanut market in the country as it was already importing the commodity from countries such as Indonesia and Thailand. Subrahmanya Bhat, a grower from Bantwal taluk of Dakshina Kannada district, said that the country cannot enter into a free trade agreement without preparing the growers for such trade regimes. Stating that cost of production in countries such as Indonesia and Thailand was low, he said signing of the agreements would have affected the growers here.

SR Satishchandra, President of Campco (Central Arecanut and Cocoa Marketing and Processing Cooperative) Ltd, asked the Centre to keep arecanut, pepper and milk out of the RCEP purview.

Ravish Hegde, General Manager of the Sirsi-based Totagars’ Cooperative Sale Society (TSS), too welcomed the decision, saying it would help the farmers.

Edible oil sector

“This bold decision will go a long way in helping our farming community improve their income levels. India has signalled to its trading partners that it cannot be treated as a dumping ground,” said Atul Chaturvedi, President of the Solvent Extractors' Association of India (SEA).

Already faced with an increase in cheaper edible oil imports from Malaysia under Free Trade Agreement, the edible oil makers were apprehensive about opening up India's market to entire Asian nations besides China, Australia and New Zealand.

The Saurashtra Oil Mills Association (SOMA), a groundnut oil trade body, too welcomed the decision, said SOMA President Sameer Shah.

The Telangana Rythu Sangham has said that the dairy sector would be completely destroyed if the country went ahead and signed the treaty.

“The threat still lurks. We strongly feel that this is only a temporary relief,” said Vemulapalli Venkatramaiah, President of All India Kisan Mazdoor Sabha (AIKMS).

Terming India’s withdrawal from talks as a victory for mass movements, the All India Kisan Sabha (AIKS) demanded that the Centre come out with a white paper, reviewing the impact of trade liberalisation policies in general and India-ASEAN Free Trade Agreement, before signing any new agreement.

“It is also mandatory to discuss with States as well as place all papers for scrutiny by Parliament,” the AIKS said.

**India’s irresponsible flip-flops at RCEP**

Biswajit Dhar, Business Line

November 9, 2019: After engaging for six years for establishing the Regional Comprehensive Economic Partnership, the largest free trade agreement (FTA) ever, India decided to pull out when leaders of the 16 participating countries had convened in Bangkok for announcing the conclusion of negotiations.

The trigger for the pull-out was the unprecedented opposition to the most obvious component of an FTA — tariff liberalisation. Never before did almost all major stakeholders, from farmers, trade unions, civil society organisations and industry associations representing the sectoral interests, come together to make their voices heard against a policy initiative of the government.

Their immediate concerns were the threat to the existence of domestic entities in the face of stiff import competition. The voices perhaps became louder given the uncertain state of the Indian economy, which has been losing momentum, and whose growth projections going forward have been lowered by almost every institution.

For the domestic stakeholders, the lack of transparency and predictability in the government’s engagement with RCEP was among the most problematic issues. Take, for instance, the trigger for the huge discontent over what seemed to be a tacit acceptance by the government that it would effect deep cuts in tariffs, which was what the mandate of RCEP had stipulated.

This came to many of the stakeholders as a surprise since in an early phase of the negotiations, in 2015 to be precise, the government had taken the nation into confidence by stating clearly that it was not willing to accept the RCEP negotiating mandate on tariff cuts. In the initial tariff offer the government informed the stakeholders that the additional market access to its three FTA partners from among the RCEP participating countries (RPCs), namely ASEAN, Korea and Japan, would be kept at modest levels, and China’s access to preferential tariffs under RCEP would be significantly lower than those of other participants.

The transparency that the government displayed was unparalleled — never before had any government disclosed its negotiating position in the FTAs. It was an assurance from the government that the interests of the stakeholders would be protected.

Turn in tide

The next phases of the government’s engagement in RCEP negotiations saw the tide turn completely in the opposite direction.

The government seemed to have changed its initial position in tariff negotiations by committing to the RCEP negotiating mandate, but the extent of the shift was not quite clear. Further, in some of the critical areas like investment and electronic commerce, the government seemed to be backing proposals which were in complete contradiction with its domestic policy template.

On the issue of investment, the government had declared, once again in 2015, that it would discuss investment agreements on the basis of the Model Text for the India's Bilateral Investment Treaty, which it had adopted to protect itself from frivolous investment disputes under the investor state dispute settlement mechanism (ISDS).

In keeping with this stance, the government had terminated bilateral investment treaties with 58 countries in 2017. However, some parts of the investment chapter of RCEP available in public domain suggest that the provisions are no different from those of the investment treaties that the government had rejected in 2017.

In other words, if the disquiet among domestic constituencies over tariff liberalisation had not taken centre-stage, the government would have taken the commitment to implement an investment agreement whose adverse consequences were too well-known.

E-commerce

Equally serious would have been the commitments on electronic commerce (e-commerce), which is the elephant in the room for at least two reasons. First, its definition is anything but clear. This implies, the sectors of the economy that e-commerce could impact cannot be gauged easily.

The second and the more contentious aspect of e-commerce is the possibility free flow of data across international borders. This raised a myriad of issues, ranging from flows of sensitive data from the point of view of the country's security, personal data and other information pertaining to the functioning of the economy.

The RCEP does not provide a definition of e-commerce. This leaves the door open for definitions provided by other forums, as for instance, the OECD, according to which, goods or services are ordered online, but the payment and the ultimate delivery of the goods/services do not have to be conducted online. This definition would suggest that there is a thin line dividing conventional foreign trade transactions and e-commerce conducted across international boundaries. In recent years, several members of the WTO have been engaged in developing rules on e-commerce, but India has consistently opposed this move.

Among the reasons why India has opposed discussion of e-commerce in the WTO was the push by some countries to keep e-commerce transactions free from import tariffs. In other words. imports using the e-commerce platform would not face any tariff restrictions.

The RCEP chapter on e-commerce seems to have adopted this framework, despite India's presence in the negotiations. This implies that if India had been a party to RCEP, the extent of market opening would have been far more than what the tariff cuts suggest. Two provisions of the e-commerce chapter on cross-border transfer of information and location of servers are particularly contentious.

The former provision stipulates that RPCs must allow data and other information to freely flow across borders, and the latter provides that no RPC can insist that servers of entities engaged in e-commerce business must be located in their territories. Both these provisions run counter the Draft National E-Commerce Policy that the government had circulated in February 2019.

There are at least two important takeaways for the government from its RCEP experience. The first is that new generation FTAs like the RCEP can cause a rupture of government's autonomous policy space in critical areas like tariff policy, treatment of foreign investors and data protection policy,

among others. Given that the country's development deficits need a degree of government intervention, foregoing the policy space would be least desirable.

And, second, there must be complete transparency in the government's decisions-making and, therefore, FTAs which require democratic governments to negotiate in secrecy are inappropriate forums to take decisions on the country's future.

**China can impose retaliatory measures to tune of $3.5 bn on US goods: WTO**

D. Ravi Kanth, Live Mint

November 2, 2019: China on Friday secured the green signal from an arbitrator at the World Trade Organization to slap retaliatory duties worth $ 3.579 billion annually on the American goods. The WTO's Arbitrator's decision came after the US failed to implement the trade body's recommendations against several aspect of the US anti-dumping methodologies used in the investigations involving Chinese products.

Washington was required to implement the WTO's recommendations against the controversial US' anti-dumping methodologies used in anti-dumping investigations against Chinese products by 22 August 2018. But, the US has failed to implement the recommendations until now.

China has demanded the arbitrator to allow Beijing to impose $ 7.043 billion annually based on the "level of nullification or impairment" that it had suffered because of the US' anti-dumping methodologies. But the Arbitrator rejected the Chinese demand and concluded that China can only impose retaliatory duties up to $ 3.579 billion annually on American goods.

China can now ask the WTO's dispute settlement body for authorization to slap retaliatory tariffs om imported American goods valued up to the annual amount fixed by arbitrator.

Meanwhile, President Donald Trump announced on Thursday that China and the U.S. are in the process of selecting a new site to sign what he has called phase one of a broader trade agreement between the two countries. Even as the two sides are closing in on an the major bilateral trade agreement, the two sides continued to spar over a range of issues at the WTO.

Earlier, the US President want to sign the deal with China during a November summit of nations from the Asia-Pacific Economic Cooperation group in Chile. But Chilean President Sebastian Piñera announced on Wednesday cancelled the meeting because of continued backlash against his government's economic policies.

Against this backdrop, President Trump tweeted on Thursday that "the new location will be announced soon." He claimed "President Xi and President Trump will do signing!"

The US and Chinese negotiators are negotiating to conclude the phase one deal, which was agreed to in principle last month. The deal will include substantial purchases of American farm products, including pork and soybeans. It will also cover some aspects concerning improvements in intellectual property rights and provisions aimed at stopping currency manipulation.

However, the deal is well short of addressing any of the structural changes that the US had demanded in the Chinese trade policy regime, especially the elimination of subsidies to the state-owned enterprises. China also demanded that all security-related sanctions against Chinese telecom company Huawei and other Chinese chip-makers be removed for a larger trade agreement.

**BRICS, one decade later: Has the hype matched the substance?**

Rajan Kumar and Bappaditya Mukherjee, Financial Express

November 12, 2019: The forthcoming summit of BRICS at Brasilia on November 13-14 will be an opportunity for the members to conduct a decennial assessment of their cooperative and collaborative activities thus far. These nations can be justifiably pleased with the tangible results of their BRICS-related diplomatic efforts: first, they have established financial institutions that are influential enough to pressurise the Bretton Woods institutions; second, the grouping has advanced a shared vision of global governance that prioritises the interests of emerging economies; and finally, the organisation has become a platform for meaningful transnational civil society interactions.

The global order, nonetheless, has undergone momentous changes since the first formal summit meeting of the BRICS in the Russian city of Yekaterinburg in 2008. The BRICS economies have slowed down, and there is a rising wave of protectionism led by the US. The BRICS was conceived in the backdrop of the financial crisis and the collapse of the Doha Round of WTO negotiations in 2007. This was a sign that the incremental progress towards a global free trade regime may be harder than previously thought. However, the subsequent setbacks in global trade liberalisation have surprised even the most pessimistic prognosticators.

The global economic system is facing serious headwinds due to the spectre of retaliatory protectionism between China and the US. Given the centrality of the US-China dynamic for the global trading system, China's disputatious relationship with the US is having downstream adverse effects on other BRICS nations as well. Although trade liberalisation continues to be the stated objective for the BRICS nations, it is increasingly becoming politically difficult for policymakers to justify economic openness to their domestic constituencies. For example, India has recently refused to sign the Regional Comprehensive Economic Partnership (RCEP) treaty, a free trade forum that includes China, Australia, Japan and the ASEAN countries. India's further turn towards protectionism has to be viewed in the larger context of the virtual abandonment of the liberal trading order by the US under President Trump. Trump merely exploited the long-term concern within the US that it's trading partners were responsible for deindustrialisation, particularly in the electorally important rust belt states. Trump has made reducing the trade deficit the chief goal of US foreign economic policy.

Consequently, under Trump US market access has become harder for its traditional trading partners. For three BRICS nations, Trump's actions carry colossal significance. China is directly impacted by retaliatory tariffs by the US. On the other hand, an aggressive and transactional US trading policy could not have come at a worse time for Brazil and India. Both nations are seeking to boost their export volume for which access to the US market continues to be important. This is why one of the chief concerns of the BRICS group is to ameliorate the negative consequences of the global beggar-thy-neighbour protectionism triggered by the US-China trade dispute.

The good news is that although BRICS nations have struggled to maintain their pre-2008 growth rates in the post-crisis decade, they continue to be the most dynamic components of the global economy. The contribution of the BRICS nations to the global GNP per capita was 5.7 per cent during 2008-2017. This compares very favourably to 1.7 per cent, the share of the rest of the world over this period. The current trajectory of the relatively superior economic performance of the BRICS bloc of nations vis-a-vis the rest of the world is likely to stay the course in the coming years. Irrespective of the results of the next years' presidential elections, the US retrenchment of its leadership of the liberal international order is likely to continue. Absent US leadership and resources, the long-term decline in the legitimacy and effectiveness of the global institutions — the International Monetary Fund (IMF), the World Trade Organization (WTO) and the World Bank — to perform their mandated and assumed functions are likely to accelerate.

In this uncertain environment, the BRICS can offer a multilateral model of institutional leadership to enable stable economic and political governance. The diplomatic and resource coordination displayed by the BRICS nations to create the New Development Bank and the Contingent Reserve Arrangements in such a short period has to be lauded.

A more robust BRICS will also strengthen the legitimacy and effectiveness of the United Nations and the WTO. In broad terms, the BRICS nations are aligned with some of the broad principles of the sovereignty, non-intervention norm, territorial integrity and a rules-based global economy based on the international division of labour that these International organisations are meant to institutionalise. They are in general agreement that these Westphalian principles are useful in delegitimising interventions by US-led multilateral coalitions or unilateral US sanctions on Iran and Russia that they oppose in unison. These sanctions have impacted many of the BRICS nations, and Russia and China are likely to call out this issue in the BRICS summit.

The participation of China and Russia underscores the centrality of BRICS as an important forum of international security diplomacy. Russia is deeply involved in West Asia and Eurasia, while China is a regional hegemon in East and South-East Asia, though contested by Japan, Vietnam and other countries. Given the strategic interests of some BRICS nations in Syria, Afghanistan and North Korea, this grouping can play an important role in stabilizing these international flashpoints.

Apart from undermining the existing global free trade regime, the retrenchment of the US from its international leadership responsibilities under Trump has also seriously retarded the existing system of global environmental regulation. Following the withdrawal of the US from the Paris accords on climate change, the BRICS nations have no choice but to forge a transnational consensus on reducing emissions and developing alternatives to fossil fuels.

On the issue of global terrorism, the national interests of individual BRICS members often collide in building a coherent response to this menacing transnational problem. India and China diverge on whether diplomatic pressure should be brought to bear on Pakistan to assuage Indian concerns regarding cross-border support for terrorist groups that target India. For example, Indian efforts to declare Masood Azhar as a global terrorist through a United Nation Security Council Resolution was blocked for a long time due to a technical hold placed by China. A symbolically significant advance in intra-BRICS coordination on global terrorism occurred at the Xiamen Summit in China in 2017 when Pakistan-based Lashkar-e-Taiba (LeT), Jaish-e-Mohammed (JeM), and Haqqani network were jointly classified as global terror outfits. This was deemed as a major diplomatic victory for India because China had prevented a similar declaration at the BRICS summit Goa just a year ago. In this context, it is noteworthy that President Bolsonaro of Brazil, the host of the next BRICS summit, recently announced that the fight against organized crime and money laundering would be core agenda items of this meeting at Brasilia. This is a good opportunity for India to advance its counter-terrorism diplomatic agenda through BRICS. India has always maintained that curbing money laundering, terrorist finance, supporting the ranking system of countries instituted by the Financial Action Task Force (FATF) are vital components of a global anti-terror regime.

While the combined size of the population of its members, regional spread across five continents and market size make BRICS a serious group actor in the world affairs, its effectiveness remains hobbled due to failure of its members to resolve some seemingly irreconcilable bilateral differences. In a small organisation of just five members, the border dispute between India and China poses a terminal risk to the viability of this institution. This became quite evident during the Doklam crisis between the two neighbours in 2017 when India threatened to boycott the next summit to be hosted by China. As the power asymmetry between China and the other BRICS nations is likely to increase further, in the future, deft diplomatic manoeuvring will be required by all the stakeholders to manage the internal contradictions within this grouping. China's economic rise is likely to motivate grander ambitions to expand its influence in the South China Sea and Indo-Pacific. China's BRI has also raised concerns because the interests of other countries were not properly addressed before its implementation. The success of BRICS to a large extent will depend on how India and China manage to resolve the border and trade disputes. China's continued diplomatic and material support to Pakistan is likely to remain an issue between the two countries.

In the final assessment, BRICS has made significant achievements in the last decade. It has acquired an institutional status from being an informal talk-shop. The Brasilia summit is occurring at a time when three non-excludable governance challenges are threatening international stability — retaliatory protectionism between US and China, rapid deterioration of the environment, and transnational terrorism. The relevance of the BRICS depends on its ability to coordinate policies on these issues and persuade non-BRICS members to join its efforts.

**In swipe at US, BRICS hit out at protectionism**

Business Line

November 15, 2019: Five of the biggest emerging economies railed against protectionism on Thursday as they vowed to overcome "significant challenges" facing multilateralism, in a swipe at US tariffs and unilateral action.

In a joint declaration, BRICS countries - Brazil, Russia, India, China and South Africa - said "trade tensions and policy uncertainty have taken a toll on confidence, trade, investment and growth" in the global economy. "It is critical that all WTO members avoid unilateral and protectionist measures," they said. "We reiterate the fundamental importance of a rules-based, transparent, non-discriminatory, open, free and inclusive international trade."

And the BRICS "reaffirm our commitment to helping overcome the significant challenges currently facing multilateralism." The United States is locked in a protracted trade war with BRICS titan China, while it also has sanctions on Venezuela, whose president Nicolas Maduro is backed by Beijing and Moscow.

Venezuela crisis

The statement, issued on the second day of the annual BRICS gathering, made no mention of the economic and political crisis raging in Venezuela, an issue that has divided the emerging markets group.

More than 50 countries, including Brazil, recognized Venezuelan opposition leader Juan Guaido as acting president earlier this year after rejecting Maduro's re-election as fraudulent. The other BRICS back Maduro. Guaido supporters partially occupied the country's embassy in Brasilia on Wednesday, a few kilometers from where the BRICS were holding talks.

The stand-off with Maduro backers ended after Guaido's appointed ambassador Teresa Belandria ordered them to leave for security reasons.

Chinese President Xi Jinping and his Russian counterpart Vladimir Putin have repeatedly slammed protectionism during the BRICS meeting, also attended by Indian Prime Minister Narendra Modi and South African President Cyril Ramaphosa. "Mounting protectionism and bullyism have eroded international trade and investment and are weighing down the world economy," Xi told business leaders on Wednesday.

Putin said "protectionism was thriving" amid the use of "unilateral sanctions". Bolsonaro said earlier Thursday he would not get involved in a trade war, in an apparent attempt to distance himself from the two men and avoid upsetting his key ally, US President Donald Trump.

While there have been no major announcements, the BRICS summit has given Bolsonaro the chance to deepen ties with Xi -- a relationship that only months ago looked to be in jeopardy. Signalling a pragmatic approach to Brazil's biggest trade partner, Bolsonaro said Wednesday that China was becoming "more and more" part of the Latin American country's future.

**WTO: India shows interest in EU's proposal on fisheries sops**

Amiti Sen, Business Line

November 14, 2019: India is favourably considering the European Union's latest proposal on curbing harmful fisheries subsidies at the World Trade Organization (WTO) as it provides for certain exemptions that could lead to the insulation of its small and vulnerable fishing community from subsidy cuts.

"India is among the countries that have registered their interest in the EU's new proposal on fisheries subsidies, as the suggested exemption for subsidies for subsistence fishing could help it retain its subsidy programmes for its artisanal fishers," a Geneva-based trade official told *BusinessLine* .

Other countries that have supported the EU's proposal, which talks about exempting certain "green box" subsidies as well as subsidies for subsistence fishing from prohibition, include Canada, Indonesia, Thailand, China and Morocco. The proposal was made at the WTO fisheries subsidies negotiations last week.

WTO members are trying to work out a deal to cut down and regulate harmful fisheries subsidies, estimated at $14-20 billion annually, which result in over-fishing and depletion of marine resources. According to the decision taken at the WTO Ministerial meet in Buenos Aires in September 2017, all members will try to finalise an agreement on curbing fisheries subsidies so that a deal can be signed by the next WTO Ministerial Conference, which is scheduled in June 2020 in Kazakhstan.

New Delhi, however, has said that any deal should recognise the special & differential treatment (S&DT) enshrined in the WTO to protect the interests of developing countries and it should not be forced to take away the meagre subsidies given to its fishers.

India had earlier argued that its subsidies per fisher amounted to less than $0.10 per day and it is the large subsidisers who needed to be disciplined.

"Since the EU's proposal talks about exempting subsidies for subsistence fishing from cuts, most of the subsidy programmes run by the Indian government providing incentives to buy fuel, boat and other gear, to small fishers could be given a clean chit," the official said.

The proposal, however, has been rejected by countries such as the US, Argentina, Australia and Uruguay, who have said the exemptions in the proposal are too broad. These countries further argued that the exemptions make circumvention easy, do not guarantee a reduction of subsidies and would put too much burden on dispute settlement panels to scrutinise fishery management programmes.

Some of these countries, such as Australia and the US had earlier proposed categorising members into three-tiers based on fish production volumes and give exemptions to only to those falling into Tier-3, which means those accounting for less than 0.05 per cent of global marine capture.

India doesn't qualify for exemptions under this set up as it has about 6.2 per cent of the world's fish.

**Policy mess in sugar**

Business Line

November 14, 2019: India's sugar sector is in the eye of a global storm for its subsidies in the form of price support and for exports. India has been producing far more sugar than its domestic market can absorb. This glut, triggered by price support, is believed to be holding down world sugar prices, as a result of which Australia, Brazil and Guatemala have dragged India to the WTO ( *BusinessLine* , November 11). Sugar output has risen from 20.3 million tonnes in 2016-17 to 32.5 million tonnes in 2017-18 and 32.9 million tonnes in 2018-19, while consumption remains constant at about 27 million

tonnes. The problem of excess is likely to persist in the 2019-20 marketing season, despite a lower sugar output. India's capacity to export (at three million tonnes in 2018-19, it is 5-6 per cent of world sugar export) remains constrained because of its higher cost of production. To deal with this excess, the industry has received a buffer stock subsidy of Rs. 1,674 crore for holding four million tonnes, and an additional Rs. 6,268-crore export subsidy for exporting six million tonnes. The latter works out to a subsidy of Rs. 10.44 a kg, which is roughly estimated to be the difference between the Indian cost of production of Rs. 30 a kg and the globally competitive price of Rs. 20 a kg. It would appear that the case made out by Brazil *et al* is flawed; India's sugar price support (or 'fair and remunerative price') does not seem to exceed the WTO limit of 10 per cent of the value of the produce in question, if the reference price is adjusted for inflation. But there can be no case for an export or buffer stock subsidy, besides interest subvention, which discourages the industry from improving efficiency. Sugar remains an enclave of protection and political patronage. It is a striking anachronism in post-reform India.

While it is true that India's FRP has increased from Rs. 170 a quintal in 2012-13 to Rs. 275 a quintal today, raising costs of sugar mills, the industry's inefficiencies are well known. Sugar mills do not reinvest their surplus in modern technology. They are assured of State support at every adverse turn. Managements of sugar mills use the proceeds for pursuing commercial and political ambitions, while running up debts that remain unpaid.

A sugar export subsidy should be replaced by incentives for ethanol production. The Centre has done well to push ethanol production by encouraging both the producers and the oil marketing companies in this regard. Ethanol can be produced from sugarcane juice, besides molasses, without its requiring a separate environmental clearance. India's ethanol output of three billion litres in 2018 falls short of its consumption of 3.8 billion litres. With blending slated to rise, this output gap would need to be closed.

**Subsidies, market support have turned sugar into an anachronism**

Business Line

November 14, 2019: India's sugar sector is in the eye of a global storm for its subsidies in the form of price support and for exports. India has been producing far more sugar than its domestic market can absorb. This glut, triggered by price support, is believed to be holding down world sugar prices, as a result of which Australia, Brazil and Guatemala have dragged India to the WTO (*BusinessLine*, November 11). Sugar output has risen from 20.3 million tonnes in 2016-17 to 32.5 million tonnes in 2017-18 and 32.9 million tonnes in 2018-19, while consumption remains constant at about 27 million tonnes. The problem of excess is likely to persist in the 2019-20 marketing season, despite a lower sugar output. India's capacity to export (at three million tonnes in 2018-19, it is 5-6 per cent of world sugar export) remains constrained because of its higher cost of production. To deal with this excess, the industry has received a buffer stock subsidy of ₹1,674 crore for holding four million tonnes, and an additional ₹6,268-crore export subsidy for exporting six million tonnes. The latter works out to a subsidy of ₹10.44 a kg, which is roughly estimated to be the difference between the Indian cost of production of ₹30 a kg and the globally competitive price of ₹20 a kg. It would appear that the case made out by Brazil *et al* is flawed; India's sugar price support (or 'fair and remunerative price') does not seem to exceed the WTO limit of 10 per cent of the value of the produce in question, if the reference price is adjusted for inflation. But there can be no case for an export or buffer stock subsidy, besides interest subvention, which discourages the industry from improving efficiency. Sugar remains an enclave of protection and political patronage. It is a striking anachronism in post-reform India.

**Explained: How India subsidised certain exports, why WTO panel ruled against it**

Prabha Raghavan, The Indian Express

November 11, 2019: The export subsidies under most of the challenged schemes, except for MEIS, consist of exemptions and deductions from customs duties and other taxes. A World Trade

Organisation (WTO) panel recently ruled against India in a trade dispute over its subsidies to exporters under various schemes. If the panel's ruling is adopted, the decision is expected to put at risk export subsidies claimed to be worth over $7 billion.

Why was India taken to the dispute settlement panel?

The US in March 2018 challenged export subsidies provided by India under five sets of schemes — Export-Oriented Units, Electronics Hardware Technology Park and Bio-Technology Park (EOU/EHTP/BTP) Schemes; Export Promotion Capital Goods (EPCG) Scheme; Special Economic Zones (SEZ) Scheme; Duty-Free Imports for Exporters Scheme (DFIS); and Merchandise Exports from India Scheme (MEIS).

The US had alleged these schemes violated certain provisions of WTO's Subsidies and Countervailing Measures (SCM) Agreement that prohibit subsidies that are contingent upon export performance. According to the agreement, India was only exempt from this provision until its Gross National Product per capita per annum reached $1,000.

The export subsidies under most of the challenged schemes, except for MEIS, consist of exemptions and deductions from customs duties and other taxes. The subsidies under MEIS consist of government-issued notes ("scrips") that can be used to pay for certain liabilities vis-à-vis the government and are freely transferable, according to the WTO dispute settlement panel.

The US argued these subsidies were a detriment to American workers and manufacturers. When consultations with India did not work out, the US in May 2018 requested that a dispute settlement panel be set up.

What was India's defence?

India argued that certain provisions under the SCM Agreement, allowing for special and differential treatment of certain developing countries, excluded it from the provisions prohibiting export subsidies. It also argued that all the challenged schemes, except the SEZ scheme, adhered to a provision of the SCM Agreement that carves out exemptions from or remission of duties or taxes on an exported product under certain conditions.

On what grounds did the panel rule against India?

The panel found the US had "demonstrated the existence of prohibited export subsidies" that were inconsistent with provisions of the SCM Agreement. It recommended that India withdraw certain "prohibited subsidies" under the DFIS scheme within 90 days; under the EOU/EHTP/BTP, EPCG and MEIS schemes within 120 days and under the SEZ scheme within 180 days from the adoption of its report.

According to the panel, the US was able to show that India had foregone revenue through exemptions and deductions from duties and other taxes to the benefit of exporters in most schemes. In the case of MEIS, it was able to establish that exporters benefited from a direct transfer of funds through the provision of scrips. MEIS, because of its design, structure and operation, did not meet the conditions for the exemptions from these prohibitions as well, according to the panel.

The panel found that the US had established that most of the measures under the other four schemes (EOU/EHTP/BTP, EPCG, SEZ and DFIS) were "contingent in law upon export performance". It also found that, as there was no dispute that India had graduated from the special and differential treatment provision that it originally fell under in the SCM Agreement, it was no longer excluded from the application of the prohibition on its export subsidies. It concluded that "no further transition period" was available to the country to stop these subsidies.

Not all the US' arguments were accepted. The panel rejected some of its claims regarding certain customs duty exemptions provided under the DFIS scheme and excise duty exemptions under the EOU/EHTP/BTP schemes.

Who will be impacted if these "prohibited subsidies" are withdrawn?

These subsidies were worth over $7 billion annually and benefited producers of steel products, pharmaceuticals, chemicals, information technology products, textiles and apparel, according to the office of the US Trade Representative. While there will be no retrospective impact, India would have to stop providing the subsidies in this form. However, some experts say India can tweak the schemes to support exports while making them more WTO-compliant.

Some ways that India can continue to support exports, according to these experts, is by providing tax concessions (like concessions on GST) on parts and components used in the production of the exported product.

The government has already begun work on making some of the debated schemes more WTO-compliant. In September, it announced the Remission of Duties or Taxes on Export Product to replace the MEIS as a more WTO-compliant scheme. The overall duty foregone under this scheme is expected to be "more or less the same" as MEIS (around Rs 40,000 crore-45,000 crore annually).

What happens next?

India plans to appeal the report on some aspects of law and legal interpretation before the panel's report is adopted within 60 days of it being circulated with all members. While the US is expected to push for early adoption, if India's notice to appeal the report is submitted before this, it stands a chance of challenging this ruling.

In this particular situation, with the dispute panel's appellate mechanism expected to become dysfunctional after December 11 (when two of the three remaining members of the body will retire), India may not be obligated to implement the panel's current ruling.

**Crisis in WTO, breather for India**

Amiti Sen, Business Line

November 11, 2019: The legal team in the Ministry and Commerce and Industry is busy preparing an appeal against the judgment given by the World Trade Organisation's dispute panel which ruled that several of India's export incentive schemes go against multilateral trade rules. The team has time till about the end of this month to appeal before the WTO's Appellate Body.

But what is interesting is that the apex decision-making body may not be in a position to decide on the dispute anytime soon. Yet, when a decision is challenged by an appeal by the member-country concerned it cannot take effect.

Since the US has scuttled the process of appointment of new judges to the Appellate Body, it is likely to become dysfunctional from December 11, when the number of judges on the panel will fall below the minimum of three. So, India may have the leeway of continuing with the incentive schemes.

This state of affairs may continue for a while, as the US does not seem inclined to let go of its demand that reforms be brought about in the Appellate Body before the new judges are appointed. Attempts by other members to work out an arrangement between themselves to settle disputes are also in a nascent stage.

It is well understood by policymakers in India that certain schemes, such as the popular Merchandise Export Incentive Scheme, undoubtedly qualify as direct export sops which India should not be

extending to its exporters, as the country, in 2015, crossed the prescribed threshold of $1,000 per capita Gross National Income for three consecutive years. It needs to stay on track with its 2020 timeline of replacing the scheme with a new one, compatible with WTO norms.

But for other targeted schemes such as the sops given to Special Economic Zones (SEZs) and the Export Promotion Capital Goods Scheme, where New Delhi believes that it is well within its rights to continue the programmes, it should stay put.

**India, a hero, dubbed a villain at WTO**

Rajalakshmi Nirmal, Business Line

November 11, 2019: Sugarcane is the most rewarding crop of all. While rural India is facing tough times due to falling prices at the *mandi* gate and rising input costs, cane growers have seen their incomes rise in past 5-6 years. The FRP (Fair and Remunerative Price) on cane, which is the guaranteed price paid to farmers, was Rs. 170/quintal for a basic recovery rate of 9.5 per cent in 2012-13. This now stands at Rs. 261.25/quintal for a recovery of 9.5 per cent or Rs. 275/quintal for 10 per cent. In Uttar Pradesh, Bihar, Haryana, Punjab and Uttarakhand, where the State government fixes the price for cane (SAP – State advised price), farmers received an even higher remuneration (SAP in UP is Rs. 315/quintal).

All the 50 million cane farmers across the country draw benefit of the FRP mechansim .

There are thus reasons why more and more farmers grow sugarcane every year. But in this process India has earned the wrath of large sugar players in the global market. In July, Australia, Brazil and Guatemala initiated dispute proceedings against India at the World Trade Organization, claiming that the country's sugar policies are not compliant with WTO rules.

While the Indian government keeps claiming that all its supports are within the limits of the WTO, what's the contention about? Why are these countries, which export bulk amounts of sugar, making India a villain, whose exports are much smaller than that of other countries?

Impact on global market

India has traditionally seen negligible excess production in sugar; the output swings between surplus and deficit.

But over the last two years there has been a significant jump in output of sugar attributable to higher yield, following adoption of new cane varieties and a very remunerative FRP.

India's sugar output jumped from 20.3 million tonnes in 2016-17 to 32.5 million tonnes in 2017-18 and 32.9 million tonnes in 2018-19. The 2019-20 sugar season has begun with a massive opening stock of 14.2 million tonnes.

That said, India's sugar exports didn't see a big jump in the past two years due to lower international prices. India exported about 0.46 million tonnes of sugar in 2017-18 and about 3 million tonnes in 2018-19. It needs mention here that India's exports account for only 5-6 per cent in the world sugar export, while Brazil's share is 34 per cent; Australia and Guatemala together share 10 per cent.

Speaking with *BusinessLine* , David Rynne, Director, Economics, Policy & Trade, Australian Sugar Milling Council, said: "Something to be understood about global sugar prices is that big surpluses that are generated in countries such as India at the moment impact the global stocks-to-use ratio. So, even though stocks are sitting in shades domestically, the market anticipates that one day this sugar will be exported and does factor that into price…"

In 2018, as well as the current year, it has been observed that raw sugar prices globally have been sensitive to news from the Indian market on sugar output and subsidies by the government for mills and farmers.

For 2019-20, the government has announced export subsidies to the tune of Rs. 10.44/kg for exports of 6 million tonnes of sugar — the highest ever.

Weak global prices

Global raw sugar prices, after falling steeply in the first nine months of 2018 (16 to 12 cents/lb) following higher output in key producing countries, mainly India, saw a smart recovery in October (climbing to 14.7 cents/lb), thanks to news of lower exports from India, and Brazil shifting large quantities of its cane into ethanol manufacturing (reducing sugar output by around 10 million tonnes). But it didn't hold for long.

Beginning 2019, prices started to wilt again with worries over bumper sugar output in India and the huge stocks the country will be carrying. Global raw sugar prices are at 12.39 cents/lb now versus 13.85 cents/lb same time last year.

Low sugar prices are hitting the bottom-line of sugar exporters globally. Despite mills in Australia, Brazil and Thailand producing sugar at far below the cost of mills in India, they are not making much profit.

Raw sugar production costs are $302/tonne in Brazil, $338/lb in Thailand and $377/tonne in Australia. Cost for Indian mills comes to over $444/tonne. The average sugar selling price this year is $400/tonne.

While Australia, Brazil and others have complaints over all forms of subsidies that the Indian government offers cane farmers and mills, the bone of contention is FRP.

Bone of contention

It is the high price paid for cane in India that has pushed more farmers into the crop, resulting in large surplus output of sugar, believe global sugar mills.

As per the agreement under WTO - Article 6, paragraph 4 of the AoA (Agreement on Agriculture), India can provide a product-specific AMS (Aggregate Measurement of Support) for sugarcane of up to 10 per cent of the total value of production of cane. However, according to a communication from Australia to the Committee of Agriculture, WTO, over the five-year period from 2011-12 to 2016-17, it appears India has provided sugarcane AMS vastly in excess of the limits.

In 2016-17, this stood at Rs. 656,163 million — that amounted to 94.4 per cent of the total value of cane production. If the SAP programme of the three large States — Uttar Pradesh, Maharashtra and Karnataka — is included, the MPS (Market Price Support) increases further, it adds.

It is the MPS value that decides if India is compliant with WTO rules or not. MPS is the gap between a fixed external reference price and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price. To put it simply, it is the current FRP less the external reference price multiplied by total sugarcane produced (as all the cane produced in the country is eligible for FRP). The 'fixed external reference price (ERP)' is defined in Annex 3, paragraph 9 of the AoA, which states that this price shall be the average of the years 1986 to 1988.

Based on this, India's ERP is Rs. 156.16/tonne (as per the Supporting Tables Relating to Commitments on Agricultural Products in Part IV of the Schedules).

So, if we take the year 2016-17, against ERP of Rs. 156.16/tonne, the FRP offered was Rs. 2,300/tonne and multiplying it by the total cane production of 306.069 tonnes for the year, the total support offered comes Rs. 656,163 million, which is 94.4 per cent of the total value of production of Rs. 695,260 million (value of cane production based on current prices as reported by the government of the year).

India's defence

India refutes claims made by the complainants. It argues that it is only the mills (private limited or co-operatives; cane crushed by public sector mills is negligible) that offer the FRP support to farmers and not the government, and therefore MPS offered for sugar by the government is zero.

Not convinced by this argument put forth by India, the giant sugar exporters are now wanting a solution from the Dispute Resolution Panel of WTO. If the complainants get a judgement in their favour, India has to stop all the support it is offering to cane farmers and mills.

Even if one buys the argument of the complainants that FRP is only a programme of the government that is done indirectly through sugar mills, the method of calculating MPS is not acceptable.

Way out

When working out the difference between ERP and FRP, inflation is not taken into account and this results in MPS turning out to be an unrealistic number. So, is there a way out of this, for India?

In the paras 10 and 11 of Annex 3 of the AoA of WTO, there is solution, says Sachin Kumar Sharma, Associate Professor, Centre for WTO Studies, Indian Institute of Foreign Trade, New Delhi. "This alternate provision allows to calculate the support offered as a price gap, which will help show India's support in realistic numbers and bring it within the allowed limits of WTO." To calculate price gap, there is requirement of two prices — (a) target price, which will be the price that is being administered by the government to support the agricultural product; and (b) another price such as market price. In the case of sugarcane, target price would be FRP. Market price would be derived from current sugar prices, the relevant conversion cost, value of by-products and recovery rate.

Rather than using the market price support methodology, where the reference price is price of 1986, if the price gap system is followed, it will reflect the actual level of support to the sugar sector, says Sharma. "Under the price-gap system, workings show that from 2013-14 to 2016-17, the actual product-specific support for sugar ranged between 0.62 and 2.92 per cent during the same period, which is much below the de minimis level of 10 per cent under WTO."

India has to, sooner or later, switch to a revenue-share model in cane-pricing and link it to the market value of sugar. This is good for the Centre and the mills. Immediately, however, to save itself from backlashes at the WTO, it can consider showing subsidies as per the price-gap approach.

**Indicators of growth: Prioritising GI in 2020-25 trade policy will accord India certain advantages**

Abhishek Jha & Seema Bathla**,** The Financial Express

November 13, 2019: India's foreign trade policy 2020-2025 is expected to roll out early next year. The mandate is to accelerate exports from current $331 billion to $1 trillion, this is also echoed by the commerce and industry minister, Piyush Goyal. Geographical indicators (GI) can be one of the most crucial and pragmatic instruments to achieve this target.

The WTO Members and their nationals are progressively recognising that geographical indicators are valuable marketing tools in the global economy. Basically, GIs, let's goods be identified as agricultural goods, natural goods or manufactured goods on the basis of location, thereby attaching a

quality and reputation. This definition flows from Article 22.1 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The concept emerged after certain countries started counterfeiting products for quick profits, thereby tarnishing the image of genuine products. This translated into a loss for producers and consumers both. A few examples of international Geographical Indicators include champagne (France), port wine (Portugal), etivaz and gruyere Cheese (Switzerland), Idaho potatoes (USA), Vidalia Onions (USA) Darjeeling tea (India), Long-Ging Tea (China) and Jasmine Rice (Thailand). A few more include cheese and wine-spirits, meat and meat products like ham and salmon followed by oil and fat products such as olive oil. Many food processing industries like cocoa and chocolate and tea processing are reaping the benefits of the GI policy.

India has also recently come out with a GI logo, in consonance with the GI Act, 1999. In contrast, European Union (EU) developed three GI logos way back in 2002. India does not restrict its GI to focused categories, but extends it to the handicrafts, clothing and manufactured products. This is also extended to those who provide eclectic varieties for export but lack concentrated efforts. So far, India has registered 361 products as GI, out of which 15 belong to the foreign nations, four of which are from the EU.

Going by the success of EU in leveraging geographical indications, we find that it was to protect the consumers by offering reliable information about the goods they wish to purchase. It was thought that the GI could also afford protection to the producers, by fighting against reputation theft and unfair competition. The GI concept was subsequently expanded to foster rural development by sustaining and enhancing economic opportunities in rural communities in the European Union. This is in contrast to India. The EU GIs legally protect more than 3,400 names of products in order to promote the unique characteristics and defend the traditional expertise of their producers. Each GI has a specific legal standards on how the product is made, while also serving as a guarantee for the quality of the products.

Two key categories which distinguish the European products as GIs are Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI). PDOs are the product’s qualities or characteristics which are due to the geographical environment with its natural and human factors. PGI are the products which have specific quality, characteristics or reputation attributable to its geographical origin. During 2017, the EU exported $17 billion of GI produced goods, while it sold $70 billion worth of GI goods in the domestic market. To further add to this, the Italian “Toscano” oil received a 20% premium over commodity oil and a PDO cheese in France got more than 25% premium against average price for all cheese in the previous years. In the EU, Protected Geographical Indication (PGI), Protected Designation of Origin (PDO) and Traditional Specialty Guaranteed (TSG) seals are used to encourage and protect the reputation for quality of agricultural products and food.

When it comes to the GIs of third/foreign countries in EU, a total of 33 accepted GI exists and China has maximum presence by having 10 GIs in the EU market. Next to China are Thailand, Turkey, Cambodia and Norway with four, three, two and two GIs, respectively. From India, only Darjeeling tea is successfully registered so far and basmati rice is still in the process of getting the GI status. The process of getting a GI under third country in the EU is a modest process. Non-EU application are sent directly to the Commission, together with the proof of protection in the country of origin. Government interventions or initiatives are not required for approaching to start a GI process from the third country. Rather, Association members of that product from the third country can directly apply for registration and then the case is examined by the European Commission. GIs are an area for technical cooperation between India and EU as there will be interest in protecting each other’s GIs.

By prioritising the GI in the upcoming foreign trade policy–(2020-2025), India will have certain advantages including growing interest of consumers in the origin of food, its quality and the way it is

made, awareness across world food market as it will have a PDO/PGI logo. Not to forget, the EU as a region is the largest food importer, the bloc imported commodity worth $128 billion in 2018, of which 80% was imported from the developing economies. Thus, by pushing agri and food and GI for getting the status of EU's GI, India can immediately escalate its exports not just to the EU but also to other nations. Products like alphonso mangoes, feni of Goa, Mizo chilli can be the immediate picks.

**SMEs and intellectual property rights: Long-awaited pairing to improve legal values, boost employment**

The Financial Express

November 4, 2019: MSMEs in developing countries like India typically focus on protecting tangible assets such as land or machinery and leave the domain of intellectual property rights (IPR) to larger enterprises. This propensity is set to change with the introduction of the L2Pro platform, launched in the second week of October 2019. India's base of more than 63 million MSMEs will now be able to utilise this e-learning platform that is designed to guide them on IPR and how they can leverage it to expand their business operations.

For small businesses, concepts like IPR have often been beyond their means and dreams. Without a proper understanding of the subject, or training in it, IPR can be a daunting domain for MSMEs to operate in.

However, the newly launched L2Pro platform is looking to change that. Working on it behind the scenes is a mix of private players – Qualcomm; government-led public bodies [the Cell for IPR Promotion and Management (CIPAM) of the Department for Promotion of Industry and Internal Trade (DPIIT)]; and academia [Centre for Innovation, Intellectual Property and Competition (CIIPC) at the National Law University Delhi (NLUD)].

Through the unique contribution of each party, the L2Pro platform is designed to help MSMEs understand the IPR domain, file for copyrights and patents, and leverage IPR to enhance their business models and R&D efforts.

The Need for IPR Training For MSMEs

With many MSMEs operating in overlapping and crowded markets, the need for competitive advantages and unique selling propositions has long existed. IPRs provide just that, especially for businesses that operate in the manufacturing or engineering space. Filing patents, copyrights or trademarks can prevent other business owners from simply copying an idea, and it can help MSMEs boost their technological gains. Moreover, it can convince MSMEs that knowledge-based innovations can be just as profitable as raw material or labour-based ones, and that intellectual research is crucial for commercial success.

It also protects them from exploitation – which is the single biggest threat that Indian MSMEs have had to deal with. Left at the mercy of notorious loan sharks, or vulnerable to larger enterprises copying a unique idea, MSMEs have often had to deal with lost business opportunities, merely because they did not have the awareness or the expertise to file for patents, copyrights or trademarks for their products.

With the right IPR training, such situations can be avoided. Platforms like L2Pro can put MSMEs in charge of their destiny and give them ownership of their unique ideas or products. Every small contribution made by IP training to innovation or competitiveness can benefit the overall MSME sector in the long run. Thus, this is an area that needs suitable attention and resources. The coming together of the private, public and academic sectors for this cause is a good step in the right direction, and its long-term impact is sure to be positive.

In Sync with Global IPR Policies

Indeed, even in a global context, it is essential to protect a country's indigenous and small-scale industries. They provide employment to a large number of people and contribute significantly to a nation's national output. However, they remain vulnerable to competitors – big and small – and thus need all the protection they can get. IPR training and platforms are a great way to offer them such protection and enable them to protect their investments and business ideas.

All 164 members of the World Trade Organisation (WTO) are also in agreement with basic IPR protection systems being an essential requirement. This is significant in an international trading context as well. Research indicates that IP-intensive industries generate 72 per cent more value-per-employee than non-IP-intensive industries globally. There is universal agreement that good IPR policies lead to more jobs, more productivity and more skills. The L2Pro platform has already seen success in developed countries such as the UK, Germany, Italy and France.

Roadmap for the Future

However, effective IPR training does not simply constitute educating MSMEs about trademarks, patents and copyrights. It also demands entrepreneurial training on how to commercialise and market innovations, how to monitor and enforce IPR, how to collaborate with other MSMEs, and how to create contracts. Without such holistic training in the IPR space, MSMEs will always struggle to make sense of IPR and how it can benefit them.

The Indian government is also recognizing the need for better IPR training and development for MSMEs. In September 2019, it announced reductions in fees of more than 50 per cent for various rights like patents and designs for MSMEs to promote innovation. With the right support from regulatory bodies, MSMEs can hope to make the most of fast IP applications, streamlining of procedures and augmentation of manpower in the future. The intention is for MSMEs to begin viewing intellectual property as assets. This can help MSMEs include IP in their balance sheets, get better investment and interest rates, and control their destiny.

This is why launches such as L2Pro are a welcome measure in the MSME domain. With its 11 modules ranging from basic to advanced levels and varied multimedia offerings and a mobile app, the platform is poised to transform IPR understanding for MSMEs. It will not only improve the legal and ethical values of the India MSME space but also strengthen the employment and national output figures of the MSME sector in the long run.

**CACP is right, open-ended procurement must go**

The Financial Express

November 4, 2019: If the visuals of rotting grains over the years had not made this clear, the Commission for Agricultural Costs and Prices (CACP) has recommended that the government review (read scrap) its open-ended grain procurement policy. As of October 1, against a buffer requirement of 30.8 million tonnes (mt) of wheat and rice, the total central pool stock, including stock in transit, stood at 64.2 mt—109% more than the requirement. With paddy procurement yet to happen, this quantity will shoot up. The government has taken steps to liquidate 15 mt of stocks, but hasn't met much success here. CACP, in its latest report for rabi season, has batted for direct procurement by private players, as envisaged under the Private Procurement Stockist Scheme. While the purpose of open-ended procurement was to provide support to farmers, given the MSP hikes, this seriously weighed down the government's finances. The Centre has made the Food Corporation of India shoulder this burden. Even as the economic cost of wheat increased 31.3% between FY14 and FY19, despite a 10-15% fall in the sale of subsidised grains, with no change in selling price via ration shops, the subsidy bill doubled from Rs 92,000 crore in FY14 to Rs 1,71,298 crore in FY19. This is the

reason why long-term debt levels for FCI stand at Rs 200,000 crore, with an additional Rs 80,000 crore of short-term debt.

While CACP suggestion of reviewing open-ended procurement and shifting towards private procurement to correct market inefficiencies is worth serious consideration, these measures still not don't address the more significant issue. As long as the government continues with MSP as its primary tool for farm support, kindling private players' interest in procurement of grains will prove difficult since no private trader will be willing to procure grains at a price higher than the market price, which is usually the case with MSP. Apart from quality issues with grains, the MSP regime also hinders liquidation of stocks through export since it will trigger violations of WTO norms. Given how MSP benefits only a small pool of farmers from a handful of states while distorting agricultural production in favour of a few crops, the government will be meaningfully supporting farmers if it were to give per-acre support. Along with the quasi-universal basic income scheme, PM Kisan, and the insurance scheme, PM Fasal Bima Yojana, a per-acre support will mean the farmer will be able to make choices based on market requirement, rather than producing to benefit from an open-ended grain procurement policy. This will also, perhaps, mean judicious use of resources, if the choice of crop shifts from a water-intensive one to one more suited to water availability in a region; the success of Punjab's experiment with water and DBT shows how well the plan can work. While MSP guarantees that farmers grow only certain kinds of crops, and subsidies on fertiliser and electricity mean indiscriminate use of these resources, a fixed per-acre support scheme will help cut down wastage. More important, it shall also address demand-side constraints. FCI can still maintain its buffer stock, but the PDS can be disbanded, as a NITI Aayog study shows that people tend to graduate to a higher quality of grains once they are allowed freedom and flexibility to choose.