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The Centre for WTO Studies was set up by the Department of Commerce, Government of India in 1999. The intent was to create an independent think tank with interest in trade in general and the WTO in particular. The Centre has been a part of the Indian Institute of Foreign Trade since November 2002. The Centre provides research and analytical support, and allied inputs to the Government for WTO and other trade negotiations. The Centre also has its own body of publications, and conducts outreach and capacity building programmes by organizing seminars, workshops, and subject specific meetings to disseminate its work, create awareness on recent trade topics and build consensus between stakeholders and policy makers.

What WTO shutdown means for India, what can be done to save it

Aashish Pandey, Financial Express

December 10, 2019: The shutdown of the WTO's appellate body, which acts as an arbiter in trade disputes, leaves nations including India unable to reach a final resolution on several issues. After Tuesday, the 24-year old Geneva-based international body will not have the quorum needed to hear on trade disputes including the US-China trade war. However, it's important for developing economies such as India to ensure that the WTO survives as there is no other platform as neutral and democratic as the WTO, Vikramjit Singh Sahney, President of International Chamber of Commerce (ICC) – India told Financial Express Online. A single country (US) can't be allowed to hold a multilateral body such as WTO to ransom, Vikramjit Singh Sahaney also said, adding that the other countries should come together and exert pressure on the US. Since it is a much better and neutral platform for developing nations as compared to several other emerging blocs, the WTO shouldn't be allowed to die, he added.

"India has several critical trade disputes currently pending at the WTO. For India, the spotlight will now firmly be on Regional Trading arrangements like the ASEAN. In parallel, India will look to pursue bilateral arrangements with U.S.A. and the EU," Rohan Shah, India's Representative and Governor on the board of Economic Research Institute for ASEAN and East Asia said. The interesting issue will be whether a Dispute Settlement Mechanism can be created within these arrangements, which will have the stature and enforceability of the WTO Dispute Settlement Mechanism, Rohan Shah added.

WTO shutdown issue

The term of two judges at the WTO, an international body with 164 nations as its members, ends on December 10, 2019, leaving the panel with just a single member. Since a minimum of three judges is required to rule on an appeal, the arbiter of the global trade issues will cease to exist since January 1, 2020. The US blocked the fresh appointments to the body claiming the WTO has breached its mandate. The Donald Trump administration has also threatened to block the WTO's budget.

Among the various roles that WTO plays, it operates a global system of trade rules, acts as a forum for negotiating trade agreements and settles trade disputes between its members and it supports the needs of developing countries. It was established on 1 January 1995.

Trade may regress to an era of power politics, warns India

D. Ravi Kanth, Business Line

December 9, 2019: Many countries, including India, have said that they remain anguished over the eclipsing of the World Trade Organization's (WTO) Appellate Body, the highest adjudicating arm of the dispute settlement system for resolving global trade disputes, by the United States.

"The cynical strangulation of the Appellate Body and the attack on the principles of non-discrimination and special and differential treatment" have cast a pall of hopelessness on the WTO, India's trade envoy Ambassador J S Deepak warned on Friday (6 December).

At an informal trade negotiations committee meeting, Deepak delivered the strongest statement yet, by saying that "with 4 days to go before curtains come down on the WTO Appellate Body, it is clear that the binding, two-stage, independent dispute settlement mechanism that gave teeth and credibility to rule-based multilateral trading system is well and truly dead."

Without naming the US, which repeatedly blocked efforts to break the impasse at the AB, India stated: "It is also distressing to note that every effort of almost the whole WTO membership has been rebuffed."

As many as 163 countries at the WTO are considering accepting a package of reforms to improve the functioning of the Appellate Body, but the US is not prepared to lift its blockage to fill the six vacancies at the Appellate Body that will become dysfunctional on December 11.

One judge to remain

The highest court for global trade disputes will be reduced to one judge instead of the mandatory requirement of three judges.

"This will undo one of the biggest achievements of the Uruguay Round and trade will rapidly regress to an era of power politics," India warned, suggesting that while New Delhi agrees that the WTO's dispute settlement system does require improvement, "we believe that the systematic assault on its very existence is neither appropriate nor was uncessary."

"This kind of brinkmanship apparently originating in pique and prejudice rather than in a desire to reform is leading to a total breakdown of trust within the WTO, and will have a debilitating effect on other pillars as well," said India.

Many countries concurred with India's position about the eclipsing of the WTO's Appellate Body. "The biggest risk is that powerful countries may exert pressure to make smaller members to implement panel rulings," said South Africa's trade envoy, Ambassador Xolelwa Mlumbi-Peter, urging members to continue efforts to address the impasse and restore an independent, impartial two-stage system that served members well.

"Next week, the Appellate body will not be able to hear new cases due to the continued impasse over the selection process," said China's trade envoy, Ambassador Zhang Xiangchen.

"To make matters worse, the budget has been used as a leverage to further stifle the system which brings more uncertainties to solve the AB and also could cause a new systemic challenge to this organisation," the Chinese envoy maintained.

The European Union stated, "not only the discontinuation of the Appellate Body's work has become an evident prospect, but attempts to obstruct the functioning of this organisation through the budget discussion shattered Members' confidence in the WTO." The US, however, remained unrepentant in the face of mounting criticism. "We have asked repeatedly, if the words of the DSU are already clear, then why have the practices of the Appellate body strayed so far?"

"This is not an academic question; we will not be able to move forward until we are confident we have addressed the underlying problems and have found real solution to prevent their recurrence," said the US' deputy trade representative, Ambassador Dennis Shea.

WTO chief hopeful

The WTO's chief, Roberto Azevedo, acknowledged that the AB will be left only with one member next week.

"Paralysis of the AB does not mean an end of the trading system," said Azevedo, suggesting that the existing rules will apply and the dispute settlement panels will continue.

Why the US has chosen to paralyse WTO

D. Ravi Kanth, Business Line

December 13, 2019: By blocking the functioning of the Appellate Body, the US has neutralised any possible challenge to its unilateral trade policies

In the western world, wearing a black tie for funeral is a normal practice. But, for a Chinese trade envoy to openly declare that he is wearing the black tie at an important meeting in Centre William Rappard (that houses the World Trade Organization) on the banks of Geneva Lake, is unusual. The Chinese envoy said he "foresaw the result" that is coming at the WTO, thanks to their bête noire — the US. The envoy was referring to the result centring on a decision taken by the US to block the selection process for filling vacancies at the highest adjudicating body of the WTO. With this, Uncle Sam chose to take the oxygen out of the highest adjudicating arm for global trade body, which was regarded as the "crown jewel" of the WTO system.

The Appellate Body has served the WTO members well for the past 25 years. Its binding rulings since 1995 were never easy. They dealt with complex trade issues and tensions arising from mennu ki faida (what benefits me most) trade policies/measures for maximising dollar-and-cent gains in the international trade.

The AB, as it is referred to in trade lingo, was one of the final pieces of the jigsaw puzzle called the Uruguay Round of trade negotiations, that established the WTO in 1995. Ironically, the US played a major part in creating the two-stage dispute settlement system. In the first stage of a dispute, countries would invoke panel proceedings which would take place almost for more than a year. The panel's verdicts — if not acceptable to either of the parties — can be contested before the Appellate Body, which is the second and final stage.

However, rulings by the AB members seldom satisfied the two sides — complainants and defendants — in equal measure.

Rigid rulings

The US has increasingly regarded the AB as a threat to its unilateral decisions and 'America First' trade policies, including billions of dollars of revenue collected from anti-dumping and counter-vailing (anti-subsidy) duties. Earlier, the US was able to turn its back to the GATT (General Agreement on Tariffs and Trade) panel rulings because they were not binding. But once the AB started functioning, there was a qualitative change.

From bananas to cotton, airplanes to shrimp turtles and beef, internet gambling to renewable energy, and brooms to gasoline, the AB has until now handled complex trade disputes. Two former members — former commerce secretary AV Ganesan, who is now living in Chennai; and Ujal Singh Bhatia, who left recently on December 10 — served the AB well with distinction. Ganesan is still remembered for his powerful ruling, as part of the AB panel, against the US in acotton dispute raised by Brazil. The AB found that the US cotton subsidies violated global trade rules.

In the anti-dumping dispute over bed linen between India and the European Union, the AB ruled against the use of zeroing methodology, which inflated anti-dumping margins. Subsequently, the ruling against zeroing methodology became a benchmark for rejecting US' anti-dumping measures in various trade disputes raised by different countries.

But, where the AB rulings were favourable for its trade interests, the US was ready to pounce on losing countries to change their practices or imposed billions of dollars of trade sanctions. Unsurprisngly, this hypocritical stance — welcoming favourable AB rulings while maligning it for adverse ones — has caused a grave crisis.

Appeasement bid

In fact, the US chose not to implement several rulings by the AB for more than 17 years, causing lawlessness in the global trade order. Of course, with the advent of the Donald Trump regime, the lawlessness took the ugly form of unilateral actions and complete disregard for rules.

Even as 163 members condemned the US for spiking the AB on Tuesday, there was a deliberate attempt to appease Washington, which came from none other than the Director-General of the trade body, Roberto Azevedo. He suggested that more needs to be done to address the concerns raised by the US about the functioning of the AB. The DG did not even mention once, much less criticise, the US 'actions that caused the impasse over filling AB vacancies, ending the two-stage binding dispute settlement process for the time-being.

"We work closely with the very-able Director-General, Roberto Azevedo," the US Trade Representative Ambassador Robert Lighthizer told the US Senate on March 12, "to achieve our objectives at the WTO". The US has now ensured that its "might" will become "right" at the WTO, as well as a steep descent of the body to the GATT 1947.

WTO: Interim arrangement in the works to resolve global trade disputes

D. Ravi Kanth, Business Line

Decebmer 16, 2019: Attempts are being made to set up a “stop-gap” arrangement to resolve global trade disputes through arbitration, even as members mourned the loss of the highest adjudicating body at the World Trade Organization, said trade envoys.

The European Union, along with several key members, has intensified its efforts to finalise a “multi-party interim appeal arbitration arrangement” in the absence of the Appellate Body at the WTO.

The WTO’s Appellate Body has become dysfunctional from December 11 with the US blocking the filling of six vacancies at the disputes settlement body. Consequently, the Appellate Body will not be able to take up new appeals, thereby, undermining “the members’ right, under the WTO agreements, to a binding adjudication of disputes and their right[s] to appeal review,” it is argued.

Two initiatives

Nevertheless, two contrasting initiatives are being pursued by the European Union on the one hand, and Australia on the other to erect an interim arbitration mechanism.

The EU is pressing ahead with its “interim appeal arbitration arrangement” under Article 25 of the dispute settlement understanding (DSU), said a trade envoy, who asked not to be quoted.

Significantly, the EU’s multi-party interim appeal arbitration initiative seeks to operate at an arm’s length — without involving the WTO’s Director-General and also deploy former Appellate Body members as arbitrators to ensure “independence and impartiality of the arbitration awards”, the envoy said.

In contrast, Australia and Brazil are pursuing a “plurilateral initiative” to make it palatable to the US in which the WTO Director-General would play a major role in the arbitration process, said another trade envoy, preferring not to be quoted.

At a meeting of more than a dozen countries hosted by the EU on Friday , a two-page “confidential” proposal called ‘towards a multi-party interim appeal arbitration arrangement” was discussed.

The proposal, seen by *BusinessLine* , says: “the objective of the multi-party interim arrangement would be to offer a stop-gap solution, pending the resolution of the issue of appointments, by closely replicating the

Appellate Body review process in the framework of Article 25 of the DSU. The stop-gap solution would apply within a group of interested members. It will preserve both the access to a binding adjudication of disputes and the right to appeal review."

The proposal makes it clear that "the objective is not to reform the system." It argues that "reform will be pursued on a separate track, including through maintaining or building on the "Walker process", in order to restore the functioning of the WTO dispute settlement system that includes all WTO members. This remains the priority objective."

The EU and other proponents, which include Canada, Norway, and possibly China and Russia among others, want to "put in place" the "stop-gap" as quickly as possible." "The negotiations should focus on how to make this operational quickly while relying on the tested features of the WTO dispute settlement process," it is emphasised.

The "vehicle" for "the multi-party interim arrangement would be in the form of communication to the DSB where the group of members would take a political commitment to apply model appeal arbitration procedures, based on Article 25 of the DSU, in disputes among themselves," the proposal suggested, pointing that "the model appeal arbitration agreement would be annexed to the communication".

The proposed "interim" arrangement "would apply to all future disputes and to all pending disputes that have not yet reached the stage of interim panel report."

US, China reach 'phase one' deal to halt trade war. What's in agreement?

Live Mint

14 December, 2019: The US and China announced Friday that they reached a phase-one trade deal but provided little detail on what exactly will be part of the agreement.

US Trade Representative Robert Lighthizer brought a print-out of the 86-page agreement to a briefing with reporters Friday afternoon as a "show-and-tell" to prove that it's all done and written up. Lighthizer said it's an important step forward for the two countries, while acknowledging that a lot of big issues are outstanding and need to be addressed in future negotiations.

Here's what we do and don't know:

Tariffs

As part of the deal, the US will halve its 15% tariff on about $120 billion in Chinese goods. It will also suspend indefinitely planned duties that were set to take effect on Sunday that would have covered consumer favorites such as smart phones and laptops. That leaves roughly $250 billion taxed at 25% and $120 billion that will be subject to a 7.5% duty once the agreement takes effect. Any further tariff reductions by the US will be linked to the conclusion of future phases, Lighthizer said.

China, on the other hand, didn't agree to specific tariff reductions in the deal. Instead, the nation's obligation is to make the purchases and to have an exclusion process for its tariffs. The country has in recent months lowered some retaliatory tariffs including some on cars imported from the US.

Purchases

A USTR fact sheet refers to this part of the deal as the Expanding Trade chapter. According to the US, China has agreed to increase its total purchases of U.S. goods and services by at least $200 billion over the next two years. Also included is a commitment by China to increase its buying of US agricultural products to $40 billion to 50 billion in each of the next two years. Lighthizer told reporters "these are numbers that are realistic and that we arrived at together." The specific breakdown of targets for individual commodities will be classified and not disclosed to the public.

IP, Forced Tech Transfer

The deal will center around what a senior administration official called "state-of-the-art" IP commitments and a breakthrough on forced technology transfer. Those issues are also at the heart of an investigation that led President Donald Trump to raise tariffs on China in the first place.

Among the specific commitments USTR announced Friday: China has agreed to end its long-standing practice of forcing or pressuring foreign companies to transfer their technology to Chinese companies as a condition for obtaining market access, administrative approvals, or receiving advantages from the government. China also commits to provide transparency, fairness, and due process in administrative proceedings and to have technology transfer and licensing take place on market terms.

Enforcement

The agreement will include a dispute-resolution mechanism that will serve as the enforcement arm. That process is in line with how other US trade agreements are enforced. Complaints of one party will be brought to a US-China working group and if officials can't resolve their dispute, a decision will be made at the ministerial level of what action to take. That action could include tariffs or other measures, Lighthizer said, though he sounded optimistic that he thinks China will keep their promises.

What Comes Next?

Lawyers are now reviewing the text so that it’s ready to be signed in the first week of January. It’s also being translated. Lighthizer and his counterpart Vice Premier Liu He will likely do the signing in Washington. Once it’s inked, the deal will take effect roughly 30 days later.

Phase Two?

The president announced Friday that negotiations for the next phase would start immediately, though his trade chief said no date for future talks had been set. The first phase leaves contentious issues unresolved, including US demands that China curb subsidies to state-owned firms. The US says future talks will also focus on digital trade, data localization, cross-border data flows and cyber intrusions.

Opinion | Trade truce

Livemint

15 December, 2019: On Friday, the US and China reportedly reached a trade deal billed as the first phase of a final pact. The details that have dribbled out are under study. The US, it seems, has agreed to lower some of its punitive tariffs on imports from China and withheld levies about to take effect on Sunday. This, in exchange for China’s promise to purchase more US services and goods, farm produce especially, along with a set of other concessions. The news lifted sentiment across financial markets. Beijing announced peace measures, too, and stated that the deal covered intellectual property and matters of technology transfer as well. On these, by US reports, it looks as if China has admitted a need to go by regular market rules.

Trump began slapping tariffs on Chinese imports two years ago. This, he said, was an effort to secure a “level-playing field" globally. He had grumbled that China was not playing fair and stealing US intellectual property to gain an undue competitive advantage. China retaliated and the hostilities caused havoc in global business ties. Every whiff of a truce since has sent ripples of excitement through markets. Now a real one may be here.

Trade war goes digital: Countries eye tariffs on Internet economy

Geneva, Live Mint

December 6, 2019: A 20-year global moratorium on imposing tariffs on digital trade could end next week if India or South Africa makes good on threats, according to trade officials and documents, potentially forcing people to pay duties on software and movie downloads.

Since 1998, World Trade Organization (WTO) members have renewed a ban on import duties on so-called "electronic transmissions", worth up to $255 billion a year by one estimate.

Some think this favors rich countries, given it received strong backing from Washington at the outset and most of the lost customs revenues are thought to be born by developing countries.

Pressure is now growing to lift the ban as more books and movies become digital, potentially reducing revenues further.

India and South Africa circulated an internal WTO document, reviewed by Reuters this week, saying that rising digitalization compelled "a rethink of the role of the temporary moratorium" last year, citing the potential of 3D printing to manufacture products. It will be decided on next week and renewal requires full consensus.

Asked about its position, South Africa's WTO Ambassador Xolelwa Mlumbi-Peter said in an emailed response this week that it was "still consulting on this important decision."

India did not respond to a request for comment.

"At the moment there are a number of countries that feel confident they can stand aside from the global consensus," said the International Chamber of Commerce's (ICC) Secretary General John Denton. "It could break the Internet."

A proposal backed by 21 countries including China and Canada seeks to extend the ban for at least six months when it expires at year end. Deal-broker Switzerland said "a large part of the WTO has signaled its support for the Moratorium".

Such duties could be difficult to apply and it is not clear how it would be determined where the digital product originated from and whether it is an import.

"How do you put a tariff on a byte? How would you capture millions of data flows from multiple sources flowing across countries' borders every minute of every day," asked Denton.

However, the first possible answers are emerging. Indonesia created tariff codes for digital goods in 2018, fixing the level at 0 percent for now.

LOST REVENUES?

Should the moratorium end, it does not mean that tariffs will immediately follow, and Mlumbi-Peter stressed that. But this is seen as more likely in a new culture of permissiveness following the expected paralysis of the WTO's top ruling body after Dec. 10.

"If someone tries to experiment putting customs duties on even a limited set of products or services, then there is a risk of immediate retaliation absent of the dispute settlement function," said the ICC's Andrew Wilson.

Estimates of the ban's effect vary. At the top of the scale, a recent U.N. report said potential annual tariff revenue losses could be up to $10.4 billion a year, with more than $10 billion lost by WTO developing countries.

"More and more production is going to be digitized in future so developing countries will lose tariff revenues," Rashmi Banga, the report's author, said.

However, an OECD study questioned these assumptions, arguing that the revenue gains from lifting the ban would be relatively small and tariffs would lead to higher prices for consumers among other costs. (Reporting by Emma Farge; Editing by Toby Chopra)

Global trade slugfest

Business Line

C. Gopinath, December 16, 2019: We saw another spat between France and the US recently, when France announced a 3 per cent tax targeting about 30 large companies engaged in 'digital activities.' The US retaliated, announcing a 100 per cent tariff on champagne, handbags, cosmetics and other French goods imported into the country. The US complained that France's action seemed to be targeted at US companies like Alphabet, Apple, Amazon and Facebook.

This is not another trade war, but it certainly indicates that our rules-based system needs fixing.

A rules-based order (RBO), a term prominent in defence and strategic studies, signifies that there are set rules that guide international engagement. RBOs in several areas are said to have guided and allowed the expansion of globalisation. Ironically, while they can serve as a euphemism to mean that the powerful cannot do what they want and are guided by the same rules as everybody else, RBOs seem to work only when they assist the rich and powerful.

Let's see an earlier effort at an RBO. The Treaty of Westphalia — really, a series of treaties in 1648 — is praised in many standard history textbooks as the forerunner of a new international system. It ended series of wars between European powers by creating the idea of sovereignty, which included non-interference in each other's domestic affairs. Sure, but it did not prevent those same countries from invading and colonising territories in Asia, Africa and Latin America.

The OECD, for some years now, has pointed out how digitisation is a source of tax avoidance by multinational companies. A company pays taxes only where it is located, even though it may digitally be serving clients or selling ads in another. Since 2016, about 135 countries have been engaged in drawing up rules to govern global taxation of such activities. France got tired of the delay in approving the new rules and decided to act. It promised to repeal its digital services tax once a global agreement is reached.

Meanwhile, the US is sore at another RBO where it wants major reform. The WTO's dispute settlement mechanism is expected to gradually grind to a halt, since the US has blocked appointments to its Appellate Body. The US hopes intransigence will push the WTO to fix aspects of its operations the former does not like. Thus, unilateral action seems to be a new strategy to get others to pay attention and revise rules. But this cannot work for those who do not have the leverage to back their unilateral action.

Companies are trying it too. Huawei, the Chinese telecom giant, has been subjected to a series of pressures by the US. Its Chief Financial Officer is awaiting extradition from Canada to the US on charges that the company violated US sanctions on Iran. US telecom companies were warned not to use Huawei equipment out of concerns that it may be used by the Chinese government to spy. The company has denied this, and offered its technology as open source for others to use, but there were no takers. The government then restricted the company's ability to buy important components from the US. Now, Huawei has decided not to wait for an RBO. It has begun filing defamation lawsuits in the US and France against those whose statements and actions it says have harmed its reputation and ability to do business. Meanwhile, it has also found alternate suppliers for the components it was getting from the US.

Huawei has the global size and muscle to act unilaterally. So, the next time someone talks about a rules based system, think about what rules and for whom.

Withdrawal of additional export sop to hit farm, marine, leather product shipments

Business Line

New Delhi, December 12, 2019: The government's decision to withdraw by the year-end the additional 2 per cent incentive given to exporters under the popular Merchandise Export from India Scheme (MEIS), is likely to hit shipments of agricultural goods, marine products, carpets, leather, handicrafts, electronics and engineering goods.

"The withdrawal of additional benefit under MEIS doesn't augur well for a situation where exports are already down because of low global demand and intense competition from countries such as Bangladesh and Vietnam. As this will hit labour-intensive sectors such as farm and marine products, carpets and handicrafts, leather goods, as well as electronics and engineering items, it may also result in more job losses in the country," a Delhi-based industry official told *BusinessLine* .

Last week, a notification issued by the Directorate-General of Foreign Trade (DGFT) said the additional 2 per cent MEIS announced for various products last May and August, will be available only till December 31, 2019, except for garments and made-ups.

"The main problem with the sudden withdrawal of the additional incentive is that exporters have orders in the pipeline, the prices for which have been finalised factoring in the benefit. It may not be possible for exporters to ship all the orders by December 31. If there is a delay beyond the stipulated date, they will lose the additional benefit and may have to suffer losses," the official said.

Job losses

Exporters of electronics have already reached out to the finance, IT and Commerce Ministries, pointing out the problem they would face because of the government's sudden move. They also warned of possible job losses as companies may have to lower their manpower.

"Electronics exporters have an additional problem with the MEIS withdrawal as the replacement scheme that is being planned by the government will not fetch them an incentive higher than 2 per cent, as there is hardly any electricity consumption or other such expenditure of the sector, which could be compensated through the new scheme," the official said.

The DGFT's notification, however, did not mention discontinuation of the regular MEIS scheme under which incentives of 2 per cent, 3 per cent and 5 per cent of the export value is provided to various sectors. The Finance Ministry had earlier said the MEIS scheme, which is not compatible with WTO norms, will be replaced by Remission of Duties or Taxes on Export Products (RoDTEP) from January 1, 2020.

In April-October 2019-20, exports fell 2.39 per cent to $185.95 billion, while imports declined 8.37 per cent to $280.67 billion.

India's bane is its non-competitiveness

Ajay Shankar, Business Line

December 11, 2019: Traders, throughout history, have sought new markets and been natural globalisers. Traders, producers and consumers, all parties gained from trade. Spices from India were so valuable in Europe that the voyage of Christopher Columbus to find a shorter sea route to India was financed. The East India Company, too, was formed for trade. Colonisation was a later consequence. The benefits of free trade and production based on comparative advantage became key tenets of economic theory.

A fundamental change, however, occurred with the advent of the Industrial Revolution. Competitive advantage in industrial production was created through technology and innovation, and thus gradually lost linkage with natural endowments. Now, first movers and leaders sought global markets and gained disproportionately through trade.

Advent of industrialisation

India's impoverishment began in the 19th Century, with the beginning of the industrial revolution in England and the completion of the colonisation of India by the East India Company. As industrialisation matured in England, poverty in India became extreme, with the large-scale destruction of artisanal jobs, especially in textiles, with thriving cities like Dhaka experiencing depopulation. This was captured eloquently in the economic writings of Indians at the end of the 19th and the early 20th Century, and provided the intellectual underpinning of *Swadeshi* and *Khadi* in the freedom struggle.

The bloody Civil War in the US is now popularly understood as a battle led by the virtuous President Abraham Lincoln, in a bid to abolish slavery, against the southern states who seceded as they wanted to continue with the practice. But an underlying economic dimension is not so well known. The north-eastern states of the US had begun to industrialise. Import duties were imposed on manufactured goods coming in from Europe. The southern states, on the other hand, were exporters of agricultural produce and preferred free trade. With the imposition of duties on imports, the terms of trade shifted against them; they had to pay more for manufactured goods. There was, therefore, an economic rationale behind their decision to secede against the north.

In the 20th Century, as Japan industrialised, it followed the example of England and began to colonise its neighbouring areas — Korea and western China — creating a larger captive market for its industrial goods; similar to what England had done in India. Later, after World War-II, the US — as the leader of the West and the pre-eminent global industrial and intellectual power — promoted free trade. This culminated in the WTO agreement in 1994, thereby ending the era where countries, after decolonisation, were trying to industrialise with infant industry protection, which had been used successfully in the past.

China’s success

The extraordinary success story of industrialisation and the biggest beneficiary of globalisation of the last few decades has been China. In 1991 — the year of Indian economic reforms and opening up of the country to globalisation — the per capita incomes of India and China were the same. Technological capacities were at similar levels. China is today the factory of the world. It has eliminated poverty. Its GDP and per capita incomes are five times that of India. China chose to craft its own pragmatic path to success.

Western economic commentary throughout the 1990s tended to be critical of China which was not acting according to the prevailing economic paradigm, and foresaw dire consequences as a result. China became a member of the WTO only in 2000, and that too with difficulty. But being outside the WTO did not slow China’s phenomenal rise.

It is ironic that the US has now got the G20 to change the formulation in their joint statements from ‘free trade’ to ‘ fair trade’ . Trump’s unambiguous ‘America first’ policy and his trade hostilities with China have strong appeal with many Americans. Having conquered global markets, China is now the proponent of free trade and globalisation at Davos. The OBOR and the RCEP are being promoted by China, which is on its way to becoming a superpower.

Free trade agreements

It is useful to have a larger historical perspective, as India confronts a critical juncture. In the run-up to the RCEP negotiations, hardly any producer group in India saw benefits from joining the RCEP. They only saw adverse consequences and asked for carve-outs and protection. Mainstream commentators, however, argued that India should join; it just could not afford to stay out. The experience of India's FTAs with Asian countries has shown that the Indian industry has not experienced the anticipated gains. It also may not have lost on balance, though sections of industry feel that they have lost.

The real loss in this period, however, has been through the growing trade with China. There is the widespread view that India did not gain from its FTAs as it did not undertake the reforms needed to improve competitiveness. By that implication, joining the RCEP would pose a problem. But it would then compel India to undertake requisite reforms and become competitive. The straightforward proposition would be to argue for first becoming competitive, and thereafter consider joining the RCEP.

Growing imports of consumer goods, thermal power plants — and now solar panels and exports of primary products like iron ore and cotton — constitute India's trade with China. All that is imported was being made, and can be made in India. Globally, there is stagnant demand in the West, excess, competitive manufacturing capacity in China and a huge growing demand in India. The logic of free trade is for India's growing demand to be met by China's excess capacity and India's inefficient, non-competitive capacities to close down without need for creation of new capacity. This has been happening. Joining the RCEP would only accelerate the process. This may be a major factor in the structural nature of the present severe economic downturn.

India needs to take a hard look at its choices. Creating global competitiveness and doing all that it takes to do so, including abandoning conventional ways of thinking, cannot be delayed. Better-functioning factor markets and reducing costs for businesses are overdue. Smarter, creative policies for developing and nurturing the nation's industrial and technological capacities need to be crafted. Economic nationalism and greater ambition is the need of the hour.

WTO panel report: India needs a fresh debate on trade policy framework

Himanshu Tewari, December 10, 2019: Recent global events have significant implications for reshaping India's trade policy framework. The first important trigger for change occurred in 2013-14 when India's per capita GNI (Gross National Income, earlier referred to as GNP or Gross National Product), assessed by the World Bank, breached the threshold of $1,000. This development had a ripple effect in India's status as a 'developing country' under the WTO's Agreement on Subsidies and Countervailing Measures (ASCM), which regulates, among other aspects, export subsidies. In 2017, after three consecutive years of India's per capita GNI exceeding $1,000, India graduated out of the list of 'developing countries' under

Annex VII of the ASCM, which basically meant losing the space for foreign trade policy manoeuvrability that India had enjoyed till then as a developing country.

This was the genesis of the second trigger—a dispute challenging India's export subsidy schemes that was initiated by the US at the WTO in March 2018. The initial consultative phase did not lead to any resolution, and therefore the US sought the establishment of a panel for dispute settlement at the WTO in May 2018. At the core of the dispute was the contention that 'export incentives' granted by India under the DFIS, EOU, EPCG, MEIS and SEZ schemes are 'export subsidies' that are prohibited under the ASCM. The WTO panel report, published on October 31, 2019, held these schemes to be prohibited 'export subsidies'. The panel recommended that India should withdraw these schemes in a time-bound manner.

The WTO dispute mechanism allows for countries the right to appeal panel reports with the WTO's Appellate Body and India has exercised this right. But while an appeal can provide some tactical advantage in the short run, domestic reform is inevitable.

In anticipation of the inevitable, the government has been undertaking suitable steps, such as emphasising that Indian industry should reduce its reliance on export incentives and has to reinvent itself by increasing its competitiveness in the global market based on increased productivity of resources, improved quality, better efficiency and increasing reliance on data-driven business strategies.

The government has also announced December 31, 2019, as the sunset date for the MEIS (Merchandise Exports from India Scheme). There is also anticipation of the launch of a new scheme, the RoDTEP (Remission of Duties or Taxes on Export Products). Another significant initiative by the Indian government was the setting up of a group consisting of SEZ stakeholders under the chairmanship of Baba Kalyani, which has made significant recommendations for SEZ reforms that the government is considering.

These developments need to be seen in the context of India's positioning in the global trade scenario. This includes recent events such as: (a) India taking a strong stand regarding its crucial and sensitive demands at the RCEP negotiations, while keeping its options open regarding its continued engagement with the RCEP as well as other free trade agreements (FTAs) with strategic trading partners; (b) India's embracing of the tenets of the WTO's Trade Facilitation Agreement, which, apart from ensuring compliance with our WTO obligations, has contributed to improving India's ranking in the World Bank's Ease of Doing Business report; and (c) India's adoption of disruptive technologies for trade automation and reduction of transaction costs, which has a role to play for making it an attractive destination for trade and investment.

Seen against this overall backdrop, the tactical and strategic response in appealing the WTO panel report on export subsidies is only a short-term solution. In the long-term, as a member of the WTO, and as party to various FTAs, course correction with regard to formulating WTO- and FTA-compliant incentives and subsidies is inevitable.

Firstly, India's trade policy of the future ought to consider distinct approaches for trade in goods and trade in services. This aspect has also been highlighted among the recommendations of the Baba Kalyani report on SEZ reform. The distinction between goods and services will also enable designing separate incentives and subsidies for services exports, which neither the WTO nor India's FTAs currently regulate. With services commanding increasing relevance for India's growth story, and with the increasing 'servicification' of manufacturing, carefully-designed and WTO-compatible services subsidies are an important way forward. Equally, carefully-designed incentive schemes and subsidies for goods, which are compatible with our international obligations, are also essential. There exists sufficient space under both the WTO agreements and FTAs for this.

Secondly, a meaningful trade policy framework needs to be rooted in an evidence-based approach, and rely on microeconomic data from the industry to enable targeted decision-making based on trade data analytics. Early indicators that the government has also recognised and is acting on this imperative is evidenced in the request from the government for microeconomic data from export promotion councils, for quantifying the rate of RoDTEP. In order to be able to respond to such a request and benefit from the scheme that is eventually put in place, Indian industry will also need to be proactive and establish appropriate mechanisms to capture data at the granular level, through innovative changes in accounting systems, IT systems and MIS, as well as ensure auditable record-keeping of the information required to benefit from the scheme. With increasing growth of the digital economy and blurring of lines between the physical and digital economies, the centrality of data-driven insights in informing policymaking is that much more crucial. This necessarily has to be an evolving approach, with the industry informing the design and outcome of the government policy by sharing qualitative data over a period of time.

And finally, the trade policy of the future will have to forego its three-decade old preoccupation with export obligations and foreign exchange earnings. The shift from export growth to broad-based employment and economic growth was highlighted in the Baba Kalyani report as well. This will also enable the new policy to shed the legacy of India's 1991 balance of payment crisis and look at the world with a new and aspirational approach and a perspective of global leadership.

The ability of the government's policy to have real benefits will also depend on the extent to which Indian businesses can provide crucial strategic inputs to the government, a theme which was discussed at a recently held CII conference in Mumbai, on the Global Trade Scenario, aptly titled 'Navigating the New Normal'. Large industry houses, especially, will need to be better equipped with research and appropriate skill-sets, and apportion resources to be able to compliment and supplement government efforts. The government reaching out to industry for collating microeconomic data for informing and refining the RoDTEP scheme is an important starting point. Greater collaboration between the government and the private sector, for developing trade-smart schemes and incentives that have long-term sustainability and contribution to the growth of Indian industry, is the only sensible way forward.

Government mulls new duty on imports

Sidhartha, The Economic Times

New Delhi, December 16, 2019: Ahead of the Budget, the commerce department has asked the finance ministry to levy border adjustment tax (BAT) on imported goods to offset the impact of levies such as electricity duty, clean energy cess, levies on fuel and royalty that are not part of goods and services tax (GST).

"Such taxes (which are not part of GST), while resulting in an increase in the cost of production of domestic goods, also place them on an unequal footing vis-a-vis imports rendering our exports uncompetitive," commerce secretary Anup Wadhawan has proposed to the revenue department.

An estimate suggested that coking coal, which faces clean energy cess, constituted 40% of the raw material cost producing steel, officials told TOI. An analysis shared by a steel manufacturer with the commerce department has estimated that the share of non-creditable taxes in the sale price of hot-rolled coil may be as much as 5% of the sale value, while in case of imports it could be around 3% of the price.

The commerce secretary has sought an urgent status report to brief commerce and industry minister Piyush Goyal on the proposal. Since taking charge six months ago, Goyal has been seeking a series of steps to discourage imports, especially of "nonessential" items, to boost local manufacturing.

When GST was introduced in July 2017, a number of levies at the state and the central level were merged into it and some of the taxes, such as those imposed in mandis in Punjab and Haryana at the time of procurement, were done away with. While some of the levies are back in some form or the other, the commerce department is of the view that many were not included in GST, resulting in a situation where input credit on these taxes is not available.

As a result, two options were considered by the department, with the first one — to levy border adjustment tax — seen to be preferable. This will require amendments to the Customs Act, with an elaborate exercise needed to put in place rules for identification and quantification of such levies. Officials said that the proposed additional tax of customs is compatible with World Trade Organization (WTO) rules as it can be imposed like taxes on domestic products or on an article from which the imported product is mqanufactured.

The second option is to allow for refund of non-creditable taxes, which many believe will be possible under Remission of Duties or Taxes on Export Products (RoDTEP). But that only addresses a part of the problem and does not benefit goods being sold in the domestic market.

India needs to demonstrate willingness to become part of global supply chain: US

The Economic Times

December 12, 2019: India needs to demonstrate its willingness to be a part of the global supply chain by taking steps towards resolving larger market access issues, a top US diplomat has said, expressing hope that a bilateral trade deal being negotiated can be a "stepping stone" to more ambitious trade liberalisation.

Speaking at a programme to commemorate the 60th anniversary of President Eisenhower's Historic Visit to India, Acting Assistant Secretary of State for South and Central Asia, Alice G Wells, said the trade talks between India and the US are going on well.

“The talks are in a better place. They take much longer than we would like. The deal will be modest but hopefully a stepping stone to more ambitious trade liberalisation,” Wells said during the programme organised jointly by the South Asia Center of the Atlantic Council and The Asia Group.

She said India needs to demonstrate to the international community its willingness to become a part of the global supply chain.

"But this is something we really see India needing to demonstrate, not just to the United States, but to the international community, its willingness to become a part of that global supply chain. This could, we hope, also be a first step towards resolving larger market access issues, including in sectors affected by India's data localisation and e-commerce policies," Wells said.

“Our goal remains to continue expanding trade and investment in a way that's fair, balanced and reciprocal,” she added.

Noting that the bilateral trade between India-US grew to USD 142 billion, Wells said that the two countries are doing well and increasing the amount of trade, with the deficit decreasing largely due to strategic investments by India in energy imports.

She said there is an intense interaction between US Trade Representatives and India.

In September, US President Donald Trump said that America will soon have a trade deal with India to boost economic ties between the two nations.

India is demanding exemption from high duties imposed by the US on certain steel and aluminium products, resumption of export benefits to certain domestic products under their Generalised System of Preferences (GSP), greater market access for its products from sectors, including agriculture, automobile, auto components and engineering.

The US, on the other hand, wants greater market access for its farm and manufacturing products, dairy items and medical devices, and cut on import duties on some information and communications technology (ICT) products.

“I think there's a high expectation based on the conversations between President Trump and Prime Minister (Narendra) Modi that a deal will be finished and that will serve as a stepping stone for what need to be broader conversations," she said.

"We spend a lot of time talking to private sector who are very focused on emerging legislation in India on data localisation, privacy, e-commerce. These are issues that we're all grappling with,” she said.

Wells said in general, the US is concerned about the growing data protectionism that is seen worldwide.

The two countries have demonstrated phenomenally what they can accomplish when there is free flows of data.

“We estimate about eight per cent of India's GDP can be attributed to IT companies that rely on this free flow of data that we should be able to propel forward a data relationship that sets a high standard for the free flow," Wells said.

Asserting that nobody can doubt that under the Trump administration “trade is strategic”, Wells said having a fair and reciprocal trade is the “foremost issue” for President Trump.
“When I speak to major companies and they talk about how they assess, everyone's excited about India and wants to be in India and part of what's going to happen in India. But it shouldn't just be for producing for the domestic market,” she said.

“If India wants to be an exporter, if India wants to use trade to drive job production and to address some of the economic challenges it's currently facing, it needs to be competitive in its exports, which many companies say right now, it's not because of the tariff barriers,” Wells said.

“So, this is not just a US-India trade issue. It goes to the very ambitions of what India wants to achieve and what we want to achieve with India,” Wells said.

India's exports to the US in 2018-19 stood at USD 52.4 billion, while imports were USD 35.5 billion.

India must open borders; My-Country-First attitude will hurt businesses

Prachi Gupta and Shaleen Agarwal, Financial Express

December 10, 2019: Trade, Imports, Exports for MSMEs: Strong government leaderships across the world may do more self-harm rather than help their own business communities, with their vehement stand on protecting own interests. As more governments across the globe turn inwards instead of promoting free trade, the same will hurt innovation and business efficiency as well, John Denton, President, International Chamber of Commerce, told Financial Express Online in an interview. “Multilateralism is critical for businesses to operate,” he said, adding that participation in global supply chains has given success opportunities to small businesses, such as SMEs, MSMEs, services sector, and database businesses. These businesses struggle and suffer in the absence of multilateralism, he added.

Protectionism is NOT the way forward

Closing the borders will hurt effective production of goods and services. “The need is to actually open economies to enable efficiencies, innovation, and investments. So, there is a contrast between the rhetoric and the reality of the void which global economy actually functions,” John Denton said. Commenting on India’s recent decision to pull out of RCEP deal, which would have led to open trade between 16 countries, John Denton said that RCEP brings together very significant economies. “There is value in opening borders up to each other to enable supply chains to operate,” he said. India decided against joining the deal because its demand of “significant market access” and protection against import surge wasn’t met.

Meanwhile, India and the US are also in the middle of a trade talk to negotiate upon concessions on various items such as medical devices, agricultural goods, etc. The two countries are also discussing reduction of import duties on various items.

India is one of the countries that have joined the chorus of protectionism. Speaking on India's decision to not join RCEP, Commerce and Industry Minister Piyush Goyal had earlier said that the government will protect the interest of domestic industry, and that the country will now engage in multilateral negotiations from 'position of strength'.

Ten ASEAN members namely Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam, and their six free-trade pact partners viz Australia, China, India, Japan, South Korea and New Zealand were to sign the RCEP before India decided not to become a member. The government had received immense pressure from farmers, especially those in dairy, to not sign the deal.

Non-tariff barriers: What government should do to ensure MSMEs remain competitive globally

Financial Express

December 3, 2019: The future of the World Trade Organization (WTO) as the global body for multilateral trade is in limbo following the objection taken by the United States vis-à-vis the role of the WTO Appellate Body. While this impasse has already impacted on-going multilateral trade negotiations as well as the WTO Dispute Settlement mechanism, at stake are the gains accumulated over the last 25 years with respect to the administration of global trade. If the present impasse is not resolved, going forward things may become more difficult.

The current crisis at WTO could not have come at a worse time given that many countries are resorting to policies which are protectionist in nature. As tariff rates on multiple products have been reduced globally pursuant to the conclusion of the Uruguay rounds of trade negotiation in 1993 which led to the establishment of WTO, many countries often resort to Non-Tariff Barriers (NTB) to protect domestic manufacturers and safeguard national interests. This has led to the imposition of NTBs in the form of Sanitary and Phytosanitary (SPS) standards and Technical Barriers to Trade (TBT) standards by many countries.

Impact on Small Businesses

While the imposition of NTBs may or may not have legitimate goals, it often poses a challenge for enterprises in developing countries and least developing countries (LDC) to comply with NTBs in order to export. Specifically, the burden is felt most by small and medium enterprises (SME) in these countries who often are unable to comply with these NTBs and the same impede their integration into the global value chains.

Studies show that TBT measures cover 30 per cent of international trade barriers with about 60 per cent of agricultural produce being subject to SPS measures. Ensuring compliance with the ever-changing NTBs of each export market requires SMEs to make costly investments in terms of adapting to requisite production processes, packaging and labelling specifications or undergoing multiple certifications for a singular product. This can sometimes lead to them becoming non-competitive as they grapple with lack of financial resources, time to adapt, and technical/ scientific knowhow.

For example, agro-based SMEs in India contribute immensely to employment generation, food security, and poverty reduction. With globalization and liberalized international markets, the global agri-food economy is experiencing a transformation like never before. While it offers several new opportunities for these SMEs, it also poses significant challenges, such as being unable to ride the growth wave for being non-compliant with the exacting quality and safety standards prescribed by advanced markets in the west.

In fact, the SME Competitiveness Outlook published by the International Trade Centre (ITC) in 2016, highlighted that, the sectors with the highest number of technical regulations per imported product and the highest share of imports subject to such regulations are fresh and processed food. This is more so because food consumption has a direct effect on human health and life.

NTBs Must Not Hinder SMEs

A case for reference is the issue of Maximum Residue Levels (MRL) of pesticide allowed in food or feed products. In this respect, the European Union (EU) has stringent norms. The EU follows a hazard-based approach, that is, if a chemical used in the cultivation of a crop is hazardous, it is not weighed against potential exposure risks. Thus, even very low levels of residue in the produce can be a cause for rejection. This is a departure from the 'hazard times exposure' approach followed by CODEX to determine the risk.

In view of the position taken by EU, various countries including India have raised concerns about EU notified MRLs on various pesticides at the WTO. It has been contended that EU has based their decision on a hazard approach and scientific evidence for conclusions on potential health hazards have not been considered. Instances that have been reported in media include a strikingly low MRL of 0.01 mg/kg prescribed for 'Imazalil' for bananas against a CODEX threshold of 2.0 mg/kg. Additionally, shorter time frames for adjustment to new standards are also being contended.

Given the rise in protectionist measures specifically the NTBs, it is important to ensure that the gains from the last 25 years on mutual recognition and convergence of regulatory standards are not done away with. Specifically, for developing countries like India, it is in their interest to support a holistic global effort in this regard to ensure that NTBs do not become a hindrance in their growth and specifically of SMEs. According to the CII, the Indian SME sector created the most jobs in the last four years. Given the opportunities available, it is in India's interest to support and ensure the convergence of NTBs to ensure that the SME sector in India is not at a disadvantage.