INDIA'S TRADE NEWS AND VIEWS
1 May to 15 May 2018

[The double standards of US trade policy]
A high-profile US trade delegation appears to have returned empty-handed from its mission in China…

[India rejects US charge on price support steps breaching WTO rules]
India has categorically rejected a counter notification from the US that India's market price support…

[India giving rice and wheat production vast support, US tells WTO]
India is supporting its rice and wheat farmers with payments that are far higher than the amounts it has officially…

[India under-reported its market price support for wheat, rice, United States tells WTO]
The US has dragged India to the World Trade Organisation, alleging that it has "substantially underreported" its market price…

[India prepares to counter US charges on farm subsidy]
The government may challenge the US' accusation that India is under-reporting its food subsidies at the World Trade Organization…

['Under-stated support': India, US in another WTO tiff, on grain]
India has under-reported the massive support it offers to its wheat and paddy farmers to the World Trade Organisation…

[Donald Trump's two-front war for 'America First']
Is US President Donald Trump trying to unilaterally establish a Washington Trade Organization to replace…

[India notifies food subsidies to WTO, says it's within the 10% limit]
India has told the World Trade Organization (WTO) that its public procurement of rice stood at $2 billion in 2015-16…

[India's curbs on import of pulses: US, Australia, EU raise concerns at WTO]

Members of the World Trade Organization (WTO) including the US, Canada, Australia, European Union and Japan have raised…

US move to unilaterally hike tariffs may spiral into trade war, India tells WTO
India on Monday said that the US' move to impose higher tariffs on steel and aluminium products on grounds…

China-US trade imbalance won't last in long run: Ambassador
The Chinese Ambassador to the US, Cui Tiankai, has said that the trade imbalance between Beijing and Washington…

India refutes New Zealand's charge of fisheries subsidies breeding inefficiency
Fisheries subsidies such as sops for fuel, boat and gear, given by the Indian government, have come under fresh attack from…

India visit: EU FTA, defence coop top Dutch PM's agenda
Negotiations on stalled free trade agreement between India and the European Union (EU), boosting economic corporation and…

Trade remedies body will keep tab on dumping: Commerce Secretary
With the merger of the two separate bodies handling safeguards and anti-dumping to form the Directorate General of Trade Remedies…

India's trade surplus with US hits a high
The odds on India drawing the 'protectionist' US President Donald Trump's attention may have just shortened…

China's plans to import Indian drugs fail to enthuse Indian pharmaceutical firms
China's much-publicised announcement to slash tariffs on 28 medicines, including cancer drugs from India…

Concerns about high-tech companies
Technologists were imbued with the notion that they are building a wholly new world, that the laws of today are…

It's still not too late: How an avowedly "nationalist" government allows India to be digitally colonised by US and China
With great gusto, Prime Minister Narendra Modi had promised to convert our country into a digital superpower, a Start-up…

Architecture for privacy
The debate engendered by the identity project has propelled us from being a predominantly pre-privacy society to one in which…

India's AI strategy should be to create a data infrastructure
Hardly a week passes without yet another story about the Artificial Intelligence race between China and the US…

Disclaimer: India's Trade News and Views is a fortnightly e-bulletin that compiles and disseminates India-specific trade related news and featured articles. The stories covered do not necessarily represent the views of the Centre for WTO Studies (CWS) and have been put together solely for informational and outreach purposes.

Centre for WTO Studies, 7th Floor, IIFT Bhawan, B-21, Qutab Institutional Area, New Delhi – 110016
Tel: 91-11-26965124, 26965300, 26966360 Ext-725,710 Fax: 91-11-26853956
Email: cws@iift.ac.in

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.

Comments and queries may be directed to cws@iift.ac.in. If you no longer wish to receive this email, please reply to this message with unsubscribe in the subject line

The double standards of US trade policy

Live Mint, Doni Rodrik

May 15, 2018: A high-profile US trade delegation appears to have returned empty-handed from its mission in China. The result is hardly a surprise, given the scale and one-sided nature of the US demands. The Americans pushed for a wholesale remaking of China's industrial policies and intellectual property rules, while asking China's government to refrain from any action against Trump's proposed unilateral tariffs against Chinese exports.

This is not the first trade spat with China, and it will not be the last. The global trading order of the last generation—since the creation of the World Trade Organization in 1995—has been predicated on the assumption that regulatory regimes around the world would converge. China, in particular, would become more "Western" in the way that it manages its economy. Instead, the continued divergence of economic systems has been a fertile source of trade friction.

There are good reasons for China—and other economies—to resist the pressure to conform to a mould imposed on them by US export lobbies. After all, China's phenomenal globalization success is due as much to the regime's unorthodox and creative industrial policies as it is to economic liberalization. Selective protection, credit subsidies, state-owned enterprises, domestic-content rules, and technology-transfer requirements have all played a role in making China the manufacturing powerhouse that it is. China's current strategy, the "Made in China 2025" initiative, aims to build on these achievements to catapult the country to advanced-economy status.

The fact that many of China's policies violate WTO rules is plain enough. But those who derisively call China a "trade cheat" should ponder whether China would have been able to diversify its economy and grow as rapidly if it had become a member of the WTO before 2001, or if it had slavishly applied WTO rules since then. The irony is that many of these same commentators do not hesitate to point to China as the poster boy of globalization's upside—conveniently forgetting on those occasions the degree to which China has flouted the global economy's contemporary rules.

China plays the globalization game by what we might call Bretton Woods rules, after the much more permissive regime that governed the world economy in the early postwar period. As a Chinese official once explained to me, the strategy is to open the window but place a screen on it. They get the fresh air (foreign investment and technology) while keeping out the harmful elements (volatile capital flows and disruptive imports).

In fact, China's practices are not much different from what all advanced countries have done historically when they were catching up with others. One of the main US complaints against China is that the Chinese systematically violate intellectual property rights in order to steal technological secrets. But in the 19th century, the US was in the same position in relation to the technological leader of the time, Britain, as China is today vis-à-vis the US. And the US had as much regard for British industrialists' trade secrets as China has today for American intellectual property rights.

The fledgling textile mills of New England were desperate for technology and did their best to steal British designs and smuggle in skilled British craftsmen. The US did have patent laws, but they protected only US citizens. As one historian of US business has put it, the Americans "were pirates, too".

Any sensible international trade regime must start from the recognition that it is neither feasible nor desirable to restrict the policy space countries have to design their own economic and social models. Levels of development, values, and historical trajectories differ too much for countries to be shoehorned into a specific model of capitalism. Sometimes domestic policies will backfire and keep foreign investors out and the domestic economy impoverished. At other times, they will propel economic transformation and poverty reduction, as they have done on a massive scale in China, generating gains not just for the home economy but also for consumers worldwide.

International trade rules, which are the result of painstaking negotiations among diverse interests—including, most notably, corporations and their lobbies, cannot be expected to discriminate reliably between these two sets of circumstances. Countries pursuing harmful policies that blunt their development prospects are doing the greatest damage to themselves. When domestic strategies go wrong, other countries may be hurt; but it is the home economy that pays the steepest price—which is incentive enough for governments not to pursue the wrong kind of policies. Governments that worry about the transfer of critical technological know-how to foreigners are, in turn, free to enact rules prohibiting their firms from investing abroad or restricting foreign takeovers at home.

Many liberal commentators in the US think Trump is right to go after China. Their objection is to his aggressive, unilateralist methods. Yet the fact is that Trump's trade agenda is driven by a narrow mercantilism that privileges the interests of US corporations over other stakeholders. It shows little interest in policies that would improve global trade for all. Such policies should start from the trade regime's Golden Rule: Do not impose on other countries constraints that you would not accept if faced with their circumstances.

[Back to top]

India rejects US charge on price support steps breaching WTO rules

Live Mint, D. Ravi Kant

Geneva, May 10, 2018: India has categorically rejected a counter notification from the US that India's market price support (MPS) programmes for wheat and rice breached New Delhi's allowable levels of trade distorting domestic support at the World Trade Organization (WTO).

In the 12-page counter notification circulated on 9 May, the US alleged that India spent vastly in excess of its scheduled commitments for wheat and rice by breaching its de minimis limit of 10%.

The US counter notification, the first of its kind since the trade body was established in 1995, claimed that "India's apparent market price support for wheat appears to have been over 60% of the value of production in each of the four years (between 2010 and 2013) for which India has notified data." India's "apparent MPS for rice appears to have been over 70% of the value of production in each of the past four years ," according to the notification.

Although India recently notified its domestic subsidies for around 20 agricultural products, the US specifically targeted the two most sensitive items by saying that "India appears to be providing significant market price support, both in terms of absolute value and as a percentage of the value of production, for wheat and rice."

The US specifically targeted the minimum support prices provided by India which enable states and the central government to sustain/undergird its public distribution programmes. It also alleged that India has become a significant exporter of rice and wheat in the international market.

"The United States expects our trading partners to comply with the reporting requirements they agreed to when joining the WTO," said US Trade Representative Robert Lighthizer on 9 May.

“India represents a massive market, and we want greater access for US products, but India must be transparent and about their practices,” US agriculture secretary Sonny Perdue said.

In a sharp response, India’s trade envoy J. S. Deepak said “India has already rejected it because of the flawed assumptions and erroneous methodologies used by the US for its calculations.”

“During my meeting with US chief agriculture negotiator Gregg Doud in Geneva on 4 May, I told him categorically the US’s counter notification is baseless.” Besides, “I asked the US to submit its notification before finding fault with other countries’ notifications.”

“The US’s counter notification vindicates why the US had blocked India’s core demand for the permanent solution for public stockholding programmes at Buenos Aires in last December,” said an agriculture trade analyst from Paris, who asked not to be identified.

[Back to top]

India giving rice and wheat production vast support, US tells WTO

Live Mint, Tom Miles

Geneva, May 10, 2018: India is supporting its rice and wheat farmers with payments that are far higher than the amounts it has officially notified to the World Trade Organization, the United States said in a statement published by the WTO on Wednesday.

“It appears that India provides market price support (MPS) for wheat and rice vastly in excess of what it has reported to the WTO,” the US statement said.

“India’s apparent MPS for wheat appears to have been over 60% of the value of production in each of the last four years for which India has notified data. Its apparent MPS for rice appears to have been over 70%.”

[Back to top]

India under-reported its market price support for wheat, rice, United States tells WTO

Indian Express

Washington, May 11, 2018 : The US has dragged India to the World Trade Organisation, alleging that it has “substantially underreported” its market price support for wheat and rice.

US Trade Representative Robert Lighthizer and Agriculture Secretary Sonny Perdue in a joint statement said the US had submitted a counter notification in the WTO Committee on Agriculture (COA) on India’s market price support (MPS) for wheat and rice. Filed on May 4, this is the first-ever COA notification under the WTO Agreement on Agriculture regarding another country’s measures.

Based on US calculations, the Trump administration said it appeared that India had “substantially underreported” its market price support for wheat and rice. “When calculated according to WTO Agreement on Agriculture methodology, India’s market price support for wheat and rice far exceeded its allowable levels of trade distorting domestic support,” it said on Wednesday.

The US expects a robust discussion on how India implements and notifies its policies at the next COA meeting, which is scheduled for June 2018, a media statement said. Lighthizer said the US expected its trading partners to comply with the reporting requirements they agreed to when joining the WTO. “Accurate reporting and improved transparency of these programmes is an important step in ensuring that our trading partners are living up to their WTO commitments and helps achieve more market-based outcomes through the multilateral trading system,” he said.

American farmers are the most productive and competitive in the world, and with free and fair trade, they always do well in the international marketplace, Perdue said. “India represents a massive market, and we want greater access for US products, but India must be transparent about their practices. For trade to be free and fair, all parties must abide by their WTO commitments,” he said. Based on publicly available information, the US on May 4, submitted a counter notification in the WTO Committee on Agriculture on India’s market price support for wheat and rice.

The US has identified several areas of potential concern with India’s notification of its market price support for rice and wheat. These include issues with the quantity of production used in market price support calculations, the exclusion of state-level bonuses from calculations of applied administered prices, exclusion from India’s notifications of information on the total value of production of wheat and rice and issues with currency conversions.

[Back to top]

India prepares to counter US charges on farm subsidy

KirtikaSuneja,The Economic Times

New Delhi, May 11, 2018 : The government may challenge the US' accusation that India is under-reporting its food subsidies at the World Trade Organization (WTO) on grounds of amount of production which is eligible for support and the currency in which the country reports its subsidies.

The WTO Agreement on Agriculture defines subsidies on the total value of agriculture production while the US has challenged India on the basis of support given to individual products, namely wheat and rice. Similarly, the agreement doesn't state the currency in which countries have to report their subsidy dole-out. The US wants India to report in rupee terms while India submits dollar-denominated numbers to the WTO. The US has identified several areas of potential concern with India's notification of its market price support for rice and wheat.

These include issues with the quantity of production used in market price support calculations, the exclusion of state-level bonuses from calculations of applied administered prices, exclusion from India's notifications of information on the total value of production of wheat and rice and issues with currency conversions.

"Their calculations are incorrect and we will counter them on eligible production and currency issues," said an official aware of the development. Policies which amount to domestic support — both under the product specific and non-product specific categories at less than 10% of the value of production for developing countries — are excluded from any reduction commitments at the WTO.

Earlier this month, India informed the WTO that the outgo on minimum support prices was below the permitted levels for rice, wheat, coarse grains, cotton, pulses, groundnuts, sunflower and mustard seed. The limit for developing countries, including India, is 10% of agricultural production. "The US has talked about individual states giving subsidies.

Where is that written in the agreement? The agreement only talks of support given as a country," said Biswajit Dhar, professor at the Centre for Economic Studies and Planning in the School of Social Sciences at Jawaharlal Nehru University.

The US said it expects a "robust discussion on how India implements and notifies its policies" at the meeting of the WTO Committee on Agriculture scheduled next month.

"India represents a massive market, and we want greater access for US products, but India must be transparent about their practices.

"For trade to be free and fair, all parties must abide by their WTO commitments," US secretary of agriculture Sonny Perdue said in an official statement.

[Back to top]

'Under-stated support': India, US in another WTO tiff, on grain

Financial Express

New Delhi, May 11, 2018 : India has under-reported the massive support it offers to its wheat and paddy farmers to the World Trade Organisation (WTO) and its sops far exceed the permissible limit, the US has told the multilateral body. India had notified to the WTO market price support (MPS) of Rs 12,001.6 crore for rice in 2013-14, which amounts to 5.45% of the value of production, while the US has claimed that the apparent support was as much as Rs 1,78,018.5 crore, or 76.9% of output value. Similarly, in the case of wheat, while India had notified the MPS of Rs 4,947.8 crore in 2013-14, or 3.53% of the value of production, the US calculations suggest the apparent support actually stood at Rs 96,497.3 crore, or 65.3% of output value.

Citing WTO rules, the US said: "… if India provides product-specific domestic support, including MPS, for a specific basic agricultural product in excess of 10% of the value of production for that crop during a given year, India will be in breach of its AMS (aggregate measurement of support) commitments under the AoA (Agreement on Agriculture)." The US factored in India's support for the four most recent years that it had notified to the WTO — from 2010-11 through 2013-14. The claims were part of the US counter-notification on May 4 in the WTO Committee on Agriculture on India's MPS for wheat and rice. In March, the US dragged India to the WTO complaining that New Delhi had been offering illegal export subsidies, worth around $7 billion a year, that "harm American workers by creating an uneven playing field on which they must compete".

In an email response to FE, a US embassy spokesperson in New Delhi said: "WTO Members have raised almost 100 questions in the WTO Committee on Agriculture on India's policies over several years, but have received little substantive information in response." Interestingly, while the US claims India is offering massive subsidies to its grain farmers, in a joint paper submitted with the WTO last year, India and China said rich nations — including the US, the EU and Canada — have been giving huge, illegal and trade-distorting subsidies to their farmers.

Together, the developed world has cornered 90% of total entitlements, amounting to a $160 billion annually, they said in the paper. In fact, the massive farm subsidies offered by the developed world, including the US, has long been a sore point with developing nations at almost every ministerial conference of the WTO. In its latest submission, the US has said that India was the world's second or third largest agricultural producer but its farm exports jumped 22% between 2011-12 and 2013-14 during which it moved up from being the 10th to the seventh-largest exporter. India was the world's biggest rice exporter, with 20% of its supplies covering a third of the global market.

[Back to top]

Donald Trump's two-front war for 'America First'

Live Mint, D. Ravi Kant

May 9, 2018: Is US President Donald Trump trying to unilaterally establish a Washington Trade Organization to replace the multilateral World Trade Organization (WTO) in Geneva? Perhaps, that could well be a leitmotif dictating Trump's "America First" strategy. Otherwise, it is difficult to explain why he is pursuing "economically wrong-headed, diplomatically toxic and legally destructive negotiating position[s]" on two separate fronts.

On the first track, President Trump slapped unilateral trade measures on a range of products starting with photovoltaic cells, large washing machines, followed by steel and aluminium, and now on assorted items connected with intellectual property rights. He forced major trading nations to come and bargain with him in Washington to secure relief from his unjustifiable trade actions.

Leaders of Japan, Germany, France, Canada and several other countries paid visits to the White House to seek exemptions from the unilateral steel and aluminium duties imposed on national security considerations on 8 March. In case they refused to budge, he kept the sword of Damocles hanging on them.

"See you same time next month. After weeks of worry about whether Donald Trump would go ahead with his plans to impose steel and aluminium tariffs on trading partners, the White House pushed back the deadline until 1 June but kept the threat alive," wrote the *Financial Times* in its leader on "Dealing with Trump and his self-destructive tariffs" on 1 May.

South Korea hastily agreed to onerous conditions such as quotas for exporting steel and aluminium and even tweaks to the existing bilateral US-South Korea trade deal so as to increase import of American cars and light trucks. Effectively, Trump succeeded in introducing voluntary export restraints (VERs) that violate the multilateral trade rules it had helped to craft in the Uruguay Round of negotiations. Subsequently, the World Trade Organization was established in 1995 on the basis of the Uruguay Round results.

Even countries such as Brazil, which hitherto championed the G20 developing country coalition to address the unresolved asymmetries in the global farm trade, and Australia, which leads the Cairns group of farm exporting countries that want the elimination of trade-distorting subsidies, fell in with the Trump line.

China is the only country that crossed swords with Trump. Beijing simply refused to accept either the safeguard duties on crystalline silicon photovoltaic cells and large residential washers in January, or the tariffs of 25% on steel and 10% on aluminium in March. It imposed tit-for-tat retaliatory measures of up to $3 billion on a range of American products in response to the American steel and aluminium duties.

Subsequently, the US threatened to impose trade retaliatory measures of up to $60 billion on Chinese imports for addressing the alleged theft of intellectual property by Chinese companies under Section 301.

Last week, the US further raised the bar on China by asking Beijing to cut its trade surplus by $200 billion in two years with the US from the current $337 billion. Washington wants Beijing to scrap many of its domestic economic policies. China, in return, called on the US to drop its opposition to being treated as a market economy in the WTO. A high-level Chinese delegation led by China’s vice premier Liu He will visit Washington next week for further talks.

And on the second track, the US is systematically reducing the WTO in Geneva into a vegetable. It blocked the selection process for filling vacancies at the highest adjudicating body—the Appellate Body (AB)—for global trade disputes. In all probability, the AB will become defunct by the end of next year if the vacancies for judges remain unfilled because of the extraneous positions adopted by the US.

Washington is demanding radical changes in the architecture for special and differential treatment for developing countries so to paralyse the negotiating function of the WTO. It is viscerally opposed to China, India and South Africa, among others, availing the special and differential flexibilities. President Trump has repeatedly declared that the WTO is a “catastrophe”.

In short, by launching unilateral trade measures and forcing countries to seek relief for those illegal measures, and by systematically destroying the multilateral World Trade Organization , the US President seems determined to make Washington the global trade arbiter in place of the Geneva-based WTO.

This dangerous moment in trade history can only be reversed if other trading nations remain united against the rogue elephant.

[Back to top]

India notifies food subsidies to WTO, says it’s within the 10% limit

Live Mint, Asit Ranjan Mishra

New Delhi, May 2, 2018: India has told the World Trade Organization (WTO) that its public procurement of rice stood at $2 billion in 2015-16, or around 6% of the total value of paddy produced in the country, well within the 10% limit mandated by the multilateral trade body.

In the absence of a deal at the WTO ministerial meeting held in Buenos Aires in December to allow developing countries a free hand to procure staples for their subsidized food programmes, India seems to have fast-tracked its food subsidy notification obligations at the multilateral body to use an interim reprieve agreed in 2013 to ensure it does not violate WTO rules. So far it had notified its food subsidy programmes till 2013-14.

“We have notified food subsidies for 2014-15 and 2015-16. We are working on notifying subsidy levels for the remaining two years. Our food subsidy level was below 6% in 2015-16 and we do not see it significantly rising in recent years,” a commerce ministry official said on condition of anonymity.

The government’s total procurement for public distribution of food items, such as rice, wheat, pulses, and cotton, declined to $15.6 billion in 2015-16 from $17.1 billion a year ago as the rupee depreciated. India’s support for irrigation, fertilizers and electricity to low-income and resource-poor farmers, which is not actionable under WTO rules, also declined to $23.6 billion in 2015-16 from $24.8 billion a year ago.

WTO rules cap government procurement for subsidized food programmes by developing countries at 10% of the total value of agricultural production based on 1986-88 prices and are always reported in dollar terms.

India has secured an indefinite peace clause at the WTO under which its existing food subsidy programmes will not be challenged if they breach the 10% limit. However, the peace clause comes with onerous obligation under which countries need to notify their food subsidy levels to WTO till the previous year. Such countries are also not allowed to start any new subsidized food programme after those that existed till 2013.

India says it has covered all staple foods under its current public distribution system and does not need to add any new food item.

[Back to top]

India’s curbs on import of pulses: US, Australia, EU raise concerns at WTO

Live Mint, Asit Ranjan Mishra

New Delhi, May 1, 2018:Members of the World Trade Organization (WTO) including the US, Canada, Australia, European Union and Japan have raised concern over India’s quantitative restrictions on import of pulses.

India capped imports of green gram (*moong*) and black matpe (*urad*) at 300,000 tonnes and that of pigeon peas (*arhar*) at 200,000 tonnes in August in the wake of domestic harvest and concerns over the slump in prices of traditional pulses.

The issue came up in a 20 April meeting of the committee on import licensing at the WTO with countries alleging that quantitative restrictions by India on import of pulses distort global prices and put the future of farmers across many countries in peril. India has been the largest producer, as well as traditionally the largest importer of pulses to ensure steady supply of the protein-rich diet to its citizens.

A commerce ministry official speaking under condition of anonymity said India defended the import restrictions as they are compliant with WTO rules. “However, India promised to notify the quota allocations and procedures for 2018 and 2019 soon for the benefit of other countries,” the official said.

India’s agriculture ministry has projected that production of pulses would touch a record 24 million tonnes in 2017-18, up from 23 million tonnes the year before.

While WTO mandates elimination of quantitative restrictions covering all import- and export-related measures, exceptions are allowed under specific circumstances such as to safeguard the balance of payments, to protect an industry at an early stage of development or to prevent sudden increases in imports.

India’s decisions in November to raise import duties on pulses by up to 50% and put stringent fumigation requirements have also irked pulse exporting countries. Canada even raised the matter bilaterally during the visit of Canadian Prime Minister Justin Trudeau to India in April.

Canada used to supply pulses of around $1 billion to India every year. India gave less time to Canada to comply with the new fumigation norms compared to the US and Australia, prompting complaints of discrimination.

“We are extremely concerned over India’s increase in duties by 50% of all imported peas without providing any advance notice. The Prime Minister will undoubtedly be raising it at the first opportunity he gets,” Canadian agriculture minister Lawrence MacAulay told the House of Commons in November after India’s decision.

A joint statement issued after the meeting between Trudeau and Modi in February this year promised to finalize “mutually acceptable technological protocols” within 2018 to enable the export of Canadian pulses to India free from pests of quarantine importance.

[Back to top]

US move to unilaterally hike tariffs may spiral into trade war, India tells WTO

KirtikaSuneja, The Economic Times

New Delhi, May 7, 2018 : India on Monday said that the US' move to impose higher tariffs on steel and aluminium products on grounds of national security are an abuse of global trade provisions that could spiral into a trade war.

The US has imposed a 25% import tariff on steel and 10% on aluminium to protect its national security and domestic producers. "Such unilateral measures, on the grounds of security exceptions, are an open and blatant abuse of the World Trade Organization provisions," India said in an informal meeting of heads of delegations of the WTO, first after the US' action in March.

Raising the issue as a systemic one, India warned that this has a "clear risk of spiralling into a trade war" since it will prompt other countries to take retaliatory measures.

India also expressed "its deep concern on the unilateral trade policy measures applied on steel and aluminium products by one member".

The US department of commerce in February found that the quantities of steel and aluminium imports "threaten to impair national security," as defined by Section 232 of the Trade Expansion Act.

Investigations under this section help determine the effects of imports on the US' national security and give the US President the ability to address threats by restricting imports through tariffs. India stated that the security exception clause should not become a proxy instrument for applying a global safeguard in an opaque manner, and breaching bound tariff commitments made at the WTO.

he US' bound rates on core steel such as alloy and steel products is 0% and on aluminium products, including metals, is 0-5%. Bound rates are the legally-bound commitments on customs duty rates, which act as ceilings on the tariffs that countries set.

[Back to top]

China-US trade imbalance won't last in long run: Ambassador

The Economic Times

Washigton, May 13, 2018 : The Chinese Ambassador to the US, Cui Tiankai, has said that the trade imbalance between Beijing and Washington cannot and will not last in the long run.

Cui made the remarks at a panel discussion on "Forty Years of US-China Relations" hosted by the Centre for Strategic and International Studies (CSIS), a policy research organisation based here, reports Xinhua news agency.

Since the economies of China and the US were very interdependent, Beijing sincerely hopes that the US economy will continue to prosper. Likewise, the US has benefited from the development of the Chinese economy in the past four decades, Cui said.

As trade grows increasingly important in bilateral relations, Cui called for concerted efforts from China and the US to find solutions to short-term problems first and explore way-outs to long-term and structural problems at the same time.

Speaking about the bilateral trade imbalance, Cui said that it would be one-sided and too simple to see a deficit as a loss and a surplus as a gain.

Rather, the two sides were better advised to take into consideration such issues as industrial chains, value chains and international division of labor, he said.

[Back to top]

India refutes New Zealand’s charge of fisheries subsidies breeding inefficiency

Amiti Sen, Business Line

New Delhi, May 11, 2018 : Fisheries subsidies such as sops for fuel, boat and gear, given by the Indian government, have come under fresh attack from New Zealand at the World Trade Organisation for allegedly encouraging inefficiency.

New Delhi, however, refused to take the criticism lying down and said these were policy issues and it was free to decide on how to moderate or reform its policy.

“The disciplines on fisheries subsidies are being negotiated and the kind of subsidies to be prohibited is a subject matter of discussion under the negotiating group on rules,” India said in its reply to New Zealand’s observations made at the group on subsidies and countervailing measures.

At the WTO's Ministerial meeting in Buenos Aires in December 2017, members agreed to continue the fisheries subsidies negotiations and try and adopt an agreement by the next conference in 2019 on disciplines that prohibit subsidies that contribute to overcapacity and overfishing, and eliminate subsidies that contribute to illegal, unreported and unregulated (IUU) fishing.

New Delhi has been demanding flexibility in the form of special and differential treatment in the implementation of commitments as its subsidies to small fishers in the form of support for motorisation of fishing boats, fuel rebates and infrastructure support, all fall under the targeted subsidies list at the WTO.

New Zealand said in its submission to the WTO that it has been reported in the past that much of the rural economy in India, including coastal areas dominated by marine fishing, is lagging behind the rest of the economy. The fisheries sector is characterised by declining fish catches, depleted fish stocks, increasing conflict over fish resources, and mounting investment needs, particularly in the inshore sector.

"These factors are reported to trap the poor inshore fishers and processors into a cycle of perpetual low profits and debt, and some government welfare schemes such as fuel, boat and gear subsidies, may be encouraging participants to remain in a sub-sector that is already highly overcapitalised, particularly for inshore," it added.

It further pointed out that India's latest notification contains many of the same programmes included in its previous notification. "Can India explain what reforms it has underway to turn the fisheries sector into a sustainable and economic one, and reduce the reliance of the sector on government support?" it asked.

While affirming that such issues fall in India's policy domain, New Delhi pointed out that the World Bank report of 2010 cited by New Zealand to support its observations on India's marine economy primarily referred to the status of India's fishing in its coastal waters and does not reflect the state of affair in the exclusive economic zone (EEZ) waters, which is within the sovereign rights of a country to carry out its fishing.

[Back to top]

India visit: EU FTA, defence coop top Dutch PM's agenda

Huma, Siddiqui, Financial Express

New Delhi, May 11, 2018 : Negotiations on stalled free trade agreement between India and the European Union (EU), boosting economic corporation and cooperation in other sectors, including defence and space, will top the agenda of Netherlands Prime Minister Mark Rutte when he visits New Delhi later this month. With 20% of India's exports to Europe passing through the Netherlands, Prime Minister Narendra Modi and his Dutch counterpart will discuss the role of that country as India's 'Gateway to Europe'. The visiting prime minister will be accompanied by a high level delegation comprising Sigrid Kaag (minister for foreign trade and development cooperation), Carola Schouten (deputy prime minister and minister of agriculture, nature and food quality), Cora van Nieuwenhuizen (minister of infrastructure and water management) and Bruno Bruins (minister for medical care).

The two-day visit of Rutte commences on May 24. Prior to that, a Dutch delegation comprising government officials and representatives from various companies and institutions will arrive on May 22 and stay till May 25.

It may be noted that Modi visited the Netherlands last June. According to MEA officials, "The Netherlands is a leading foreign investor in India as a large number of Dutch companies are active here. Similarly, a significant number of Indian companies are based in the Netherlands." "The state visit will further boost the economic and political cooperation between India and the Netherlands while focusing on the existing and potential partnerships in agriculture, water management, healthcare, innovation and start-ups among several other sectors," said an official statement from the embassy of the Netherlands in New Delhi.

Both the countries are expected to seek expansion of cooperation in various areas such as agriculture, food processing, infrastructure, healthcare, science & technology and cybersecurity. Talks about the free trade agreement between India and the EU will be an important part of the discussion. The proposed FTA has long been delayed. Negotiations will also be on the proposed BTIA, which, though launched in 2007, has faced several obstacles, as India and the European nation have major differences on key issues like intellectual property rights, duty cut in automobile and spirits, etc. The Netherlands is the fifth-largest source of FDI for India. Partnerships have already been established in sectors such as agriculture, life sciences and healthcare, ports and logistics and renewable energy.

According to the India-Netherlands joint communique released at the end of Modi's visit to Hague in June 2017, a key ingredient in Indo-Dutch cooperation is the use of innovation and technology to improve water and waste management, thus contributing to the 'Clean India' campaign. Dutch agro-experts are involved in exploring ways to shift to crops that need less water and generate higher income for the farmer. A consortium of Dutch fruit chain companies is already working in hilly regions. Bilateral cooperation has flourished in the space sector as well.

[Back to top]

Trade remedies body will keep tab on dumping: Commerce Secretary

Business Line

New Delhi, May 10, 2018 :With the merger of the two separate bodies handling safeguards and anti-dumping to form the Directorate General of Trade Remedies (DGTR), it will now be easier for industry to take technical advice and support of the government in case there is a need to check imports of particular products, Commerce Secretary Rita Teaotia said.

"When we spread our resources thinly across agencies, it is not very efficient. The DGTR will have all expertise, including legal skills, people dealing with accounting, trade experts and revenue people, under one roof," Teaotia said adding that the need for such a body was felt for a long time.

So far, the Directorate-General of Safeguards under the Ministry of Finance was responsible for recommending safeguard duties which are penal duties on imports that witness a surge in a brief period of time hurting domestic industry.

The Directorate-General of Anti-dumping, under the Ministry of Commerce, had the responsibility of examining requests from industry to impose countervailing duties and anti-dumping duties which are penalties on imports which are priced lower than what they are sold at in the seller's own country.

Now, the functioning of the DGTR, which will be a national authority, will be under the Ministry of Commerce. The recommendation of DGTR for imposition of anti-dumping, countervailing and safeguard duties would be considered by the Department of Revenue.

"At times, the domestic industry, suffering due to cheap imports, is confused about approaching the DGAD or the DG Safeguards with its problem. It may end up filing cases with both which may lead to a lot of hassle as they are under different Ministries. Now, when a case is brought to a DGTR, domestic industry can be sure that the best possible remedy would be thought of as all expertise is available at one place," another government official said.

[Back to top]

India's trade surplus with US hits a high

Gayatri Nayak, The Economic Times

Mumbai, May 2, 2018 : The odds on India drawing the 'protectionist' US President Donald Trump's attention may have just shortened. New Delhi's trade surplus with Washington has risen to a record high, and Asia's thirdbiggest economy now ranks ninth on the list of trade partners for the US, climbing from 13 six years ago.

Ever since the US economy's outlook was reviewed in 2011 by ratings firm Standard and Poors, India's trade surplus with the US has been rising. From a merchandise trade surplus of $14.5 billion in 2011 when India ranked 13th in the list of large trading partners, India's trade surplus with the US reached a record $23 billion by 2017 end, with New Delhi climbing four notches to become the ninth largest trading partner.

India also has significant services surplus with the US, and is among the top trading partners in services.

But the US government is not too happy and is protesting with multilateral agencies. "The US has raised concerns over the import duties imposed by India in the FY19 budget, and is also challenging its export subsidies at the World Trade Organization," said Radhika Rao, India economist at Singapore-based DBS.

But the US government is not too happy and is protesting with multilateral agencies. "The US has raised concerns over the import duties imposed by India in the FY19 budget, and is also challenging its export subsidies at the World Trade Organization," said Radhika Rao, India economist at Singapore-based DBS.

"India remains on the list of countries that will face higher tariffs on its imports of steel and aluminium to the US. Material impact on India's trade…. might be limited as the US accounts for 10% of India's iron, steel, and aluminium exports.

The US treasury has put India on a watch-list along with China and many other developed economies for amassing huge reserves and what it calls unfair currency practices, said a report released to the US Congress last week. The report titled 'Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States' by the US treasury office of international affairs noted that India increased its purchases of foreign exchange over the first three quarters of 2017 and warned that further dollar purchases were not required given that reserves were adequate, going by popular benchmarks.

"India's current account is in deficit at 1.5% of GDP and the exchange rate is not deemed to be undervalued by the IMF," said the US treasury report. "Given that Indian foreign exchange reserves are ample by common metrics, and that India maintains some controls on both inbound and outbound flows of private capital, further reserve accumulation does not appear necessary."

[Back to top]

China's plans to import Indian drugs fail to enthuse Indian pharmaceutical firms

Financial Express

Beijing, May 12, 2018 : China's much-publicised announcement to slash tariffs on 28 medicines, including cancer drugs from India, has failed to create any buzz among the Indian pharmaceutical firms here as exports to China are possible only after lengthy field trials and approvals, which could take years, an official at an Indian firm has said. On May 4, China, the second largest market for pharmaceuticals after the US, said it has removed import duties on as many as 28 medicines, including all cancer drugs, from May 1, a move which would help India to export these pharmaceuticals to the neighbouring country. "China has exempted import tariffs (duties) for 28 drugs, including all cancer drugs, from May 1. Good news for India's pharmaceutical industry and medicine export to China. I believe this will help reduce trade imbalance between China and India in the future," Chinese Ambassador to India Luo Zhaohui said in a tweet. Luo's announcement generated optimism that India's persistent demand from China to provide opening for Indian pharmaceutical firms to market their economically priced drugs compared to the multinational firms may be realised.

However, the official with the Indian pharmaceutical company said it is surprising to see the reports from the Indian media that the move to reduce tariffs will pave the way for exports of Indian pharmaceutical firms. "For Indian pharmaceutical companies, it is not going to be much different as imports of Indian drugs both generic and anti-cancer is possible only with the approval of China Food and Drug Administration (CFDA)," the official told PTI on the condition of anonymity. The announcement has not created any enthusiasm among the Indian firms as for both oral and injectable drugs a lengthy process of clearances is required in China which may take anywhere between two and half years to three years.

India has been lobbying actively with China to ensure quick clearances but it has not worked so far, he said. Any exports to China at this point of time is possible only if Beijing accepts certification by US Food and Drug Administration, which has approved a whole host of Indian drugs. "As regards India benefiting because China has lifted import tariffs, I do not see it as a measure that is specifically favouring the Indian pharmaceutical products alone," V Viswanath, a Beijing based senior consultant for Indian, Chinese as well as multi-national pharmaceutical firms told PTI. "This will benefit all imported products irrespective of which the country of origin is," he said, highlighting the long drawn out struggle by Indian pharmaceutical firms to enter Chinese markets despite persistent campaign.

India has been asking China for long to open up its IT and pharmaceutical firms to reduce the trade deficit which has claimed to over USD 50 billion. But ahead of Luo's announcement, China's Cabinet or State Council on April 12 has approved a proposal that China will exempt import tariffs on all cancer drugs and encourage the import of more innovative drugs. From May 1, import tariffs on all common drugs including cancer drugs, cancer alkaloid-based drugs, and imported traditional Chinese medicine will be exempted, state-run Xinhua news agency quoted an official statement as saying. Value Added Tax in the production and import of drugs will drop by a large margin, it said. The authorities will reduce the prices of cancer drugs through centralised government procurement and eliminate premium prices for drugs by means of cross-border e-commerce, it said. Imported innovative drugs, especially much-needed cancer drugs, will be incorporated into the catalogue of medical insurance reimbursement, the statement said.

So as of now there is nothing specific for Indian pharmaceutical industry as such, the Indian pharma firm, the Indian pharma firm official said. The move is aimed at reducing exorbitant costs of medicines in general and cancer drugs in particular by the multinational firms in China, he said. The tariff reduction is also not going to amount much as it accounts to only about three to four percent, which is negligible, he said. In fact, the reimbursement for cancer drugs by the provincial and central governments is aimed at prevailing on the innovator multinational companies to reduce their prices, which they will considering the size of the Chinese market, he said. With reimbursement on cards the multinational companies are going to bring down their prices to cash in on the scheme, he said adding that this may even stop the rampant smuggling of Indian cancer drugs to China as prices will come down.

“Pharma companies in general and Indian Pharma companies in particular have struggled to get their products approved by the China Food and Drug Administration (CFDA) which is the first step in commercialisation of products. Pharmaceuticals can only be imported and sold in China if they are registered with CFDA,” Viswanath said. The announcement by China to import Indian drugs need to be “followed up with a more specific bilateral arrangement between China and India”, he said. This is necessary as quality pharmaceutical products which are at very affordable prices are given fast-track approvals in CFDA. “This could save China significant healthcare costs and also help the suffering Chinese patients to pay out of their own pocket for the treatment,” he said.

[Back to top]

Concerns about high-tech companies

Ajay Shah, Business Standard

New Delhi, May 13, 2018 : Technologists were imbued with the notion that they are building a wholly new world, that the laws of today are a pesky problem that must be brushed away. This is part of the `move fast and break things' philosophy. In previous years, the policy community was indulgent towards technologists when it appeared that valuable new things were being done. Then came the recent years, where the Internet was an accessory to the rise of authoritarian regimes around the world. The kid gloves are now off, and we have a collision of regulation with high technology. In India, this story turns on State capacity for regulation.

The early dawn of Unix and the Internet was driven by utopian dreamers. They set out to build a wholly new world with a new set of rules. There is much to admire about these philosophical underpinnings, as much as their remarkable engineering achievements. As the Internet revolution started spawning billionaires, it attracted a different breed of commercially oriented people. We have gone from trusted geniuses like Bill Joy (who was in the founding team of Sun Microsystems from 1982 to 2003) to people like Travis Kalanick of Uber or Mark Zuckerberg of Facebook.

The dreamers insisted that they were building a wholly new world, and that their capacity to innovate would be hampered by conventional notions of law and regulation. At first, the policy community was indulgent towards this new world. The idea was to foster innovation, and the disruption of complacent old economy industries. The technologists were seen as good guys, who were building a better world.

Things have changed on a few fronts. There are fresh concerns about competition policy, with the rise of network monopolies such as Facebook and Uber. There are concerns about privacy, and particularly the use of data in Russia and China for repressive purposes. Psychologists are raising the alarm about the extent to which Facebook and Twitter are harmful for their users. Finally, Facebook and Twitter have helped damage the political discourse worldwide, and were accessories to the rise of authoritarian regimes worldwide.

The Internet was invented by idealistic geniuses. It is a cruel turn of events when it has become a tool for authoritarians and monopolists. The climate of opinion has shifted worldwide. The question of the age is: How do we deal with this dystopian outcome?

There is a knotty array of problems of competition policy, associated with network monopolies. When well funded technology companies were subsidising consumers, that was welcome, but now many of these companies have achieved monopoly status and are embarking on recoupment through higher prices. Once recoupment gathers momentum, competition authorities worldwide will initiate investigations. The old toolkit of competition policy, which was useful when dealing with IBM, AT&T or Microsoft, may not be optimal. There is a search for new solutions, such as interconnection regulation through open APIs.

There is a privacy crisis. Technologists emphasise the useful things that can be done if a lot of information is observed about the user. But users and policy makers increasingly mistrust the firms. Most firms cannot be trusted to `do no evil'. Things are particularly problematic in non-democratic countries: the Internet is the dictator's dream panopticon. Dissenters are crushed based on information gleaned from the Internet. Perhaps the USSR would not have collapsed in 1989 if the Internet had come along a few decades earlier.

Psychologists see facebook and twitter as a public health problem, a bit like cigarettes and fast food. Happiness and mental balance in the world would increase if more people could avoid social media. The leading lights of the Internet are uncomfortable about their kids getting on social media. Parents have been warned about cigarettes and fast food for many decades, but are mostly unaware of the harm caused by social media.

When Unix and the Internet were in some virtual terrain, building a new world of computer networks and email and the web, this was cutoff from the physical world. But as software has come to `eat the world', there is a collision with public policy in the old economy. Taxis in Bombay are regulated, and so should Uber and Ola's cabs. FSSAI rules about food safety should apply for food purchased from websites. When drugs are sold online, there should be rules about safety and checkpoints about access to prescription drugs. Regulations need to, of course, do the right things.

The story of high technology companies in India will now turn on the interfaces between these companies and the regulators: RBI, SEBI, TRAI, the upcoming Data Protection Authority, CCI, etc. The uniquely Indian twist is the problems of State capacity that afflict regulators. Regulators in India have weak processes, and tend to defend incumbents and prevent innovation. A first taste of this is visible in the unhappy evolution of digital payments and fintech. These organisations will now shape the lofty questions described above.

As of today, nobody knows the answers to these lofty questions. We know one approach that is wrong: the China model. This replaces the domination of a foreign company (e.g. Uber) by an Indian company (e.g. Ola or Meru). This is mere nationalism. Replacing twitter with an Indian clone does not solve the problems of twitter. The China model harms the interests of consumers in India, if an Indian offering (e.g. Flipkart) is inferior to the global one.

The Indian technology policy community will need to rise to these challenges. The bottom of the stack is the toolkit for State capacity at regulators. The next layer is cross-cutting problems such as privacy, competition, psychological factors, etc. The top layer is domain knowledge in the field, such as payments, banking, telecom, etc. We require a new community which will develop knowledge, establish a high quality public discourse, and inhabit the revolving door between regulation, think tanks and the industry.

[Back to top]

It's still not too late: How an avowedly "nationalist" government allows India to be digitally colonised by US and China

Raghav Bahl, The Times of India

May 14, 2018 : With great gusto, Prime Minister Narendra Modi had promised to convert our country into a digital superpower, a Start-up India that would reconfigure the world with its tech smarts and savvy. Unfortunately, the bitter truth is encapsulated in these wounding words of Bob van Dijk, CEO of Naspers (Africa's biggest company, a media and internet conglomerate that is also the largest investor in China's Tencent) in a 26 February 2018 interview to The Economic Times.

According to van Dijk "India needs to make sure that it builds an ecosystem for the success of local businesses. If I am blunt about it, I think Europe is a digital colony of the US. There's no decision making in search, content, social or video, which basically means there is no ecosystem of capable internet entrepreneurs or professionals … if I were your prime minister, I would have that bent of mind."

Yes! Just as Chambal dacoits looted central India in the 1970s/80s, Shenzhen and Silicon Valley dacoits are savaging our digital landscape in the 21st century. We have already resigned ourselves to the astonishing dominance of Google and Facebook, without even a shrug of resistance. These American titans take nearly 90% of all digital ad dollars from India. They own the digital identities of over a billion Indians. They know what we search, buy, whom we date, where we live, what politics we follow, what we say, think, and everything we do!

It's a shame that this is happening on an avowedly "nationalist" government's beat.

But wait, don't we also have an 'Indian' counterweight to every foreign invader? If there's an Amazon, there's a Flipkart too, founded by local boys Sachin and Binny Bansal, right? Well, except for the fact that China's Tencent and other foreign investors own 70%, while the Bansal boys are down to 10%. And now Walmart is swooping in for the final kill.

So what, you will counter. See how Bhavish Aggarwal and Ankit Bhati's Ola has taken the fight to America's Uber? Yes, but Ola is now 60% owned by a clutch of foreign investors, including the unstoppable SoftBank (Japanese), which is also the largest investor in China's Alibaba. Talk about promiscuous parentage!

Hold on, we still have our own giant killer, Vijay Shekhar Sharma and his Paytm. Do you know that Alibaba owns 60% of Paytm's parent company, and Vijay's stake is in the teens? So who will eventually call the shots here? You must be utterly naive to believe that it would be anybody other than Alibaba founder, Jack Ma. To quote TV Mohandas Pai, "of the eight 'Indian' unicorns (startups valued at over $1 billion), seven are domiciled overseas, largely owned by foreign capital with most founders reduced to being 'managers' dictated to by overseas investors and overseas capital."

Even otherwise, these 'Indian' companies are puny and incredibly vulnerable: Tencent, with a market cap of half a trillion dollars, is training its sights on Hike, Practo, Byju's and MakeMyTrip; while Alibaba, with a $450 billion market cap, has got Zomato and TicketNew (plus Paytm) in its line of fire. RIP Indian digital companies.

Defenders of the faith will trot out one last argument. Jack Ma owns only 8% in Alibaba. It's almost the same with Pony Ma in Tencent, right? Heck, even Mark Zuckerberg owns only 20% of Facebook. So what are you fretting about?

Alas, Jack Ma owns economic benefits of 8%, but controls Alibaba almost 100% via an innovative structure called Variable Interest Entities (VIEs), which are trusts/ contracts listed on foreign bourses.

Zuckerberg does the same via differential voting rights vested in his Class A shares which allow him to unambiguously control Facebook.

Simply put, America and China enable their iconic founders to raise astronomical amounts of capital – cleverly, and ironically, Chinese companies scoop up landfills of dollars on American stock exchanges to build Chinese assets – even as they are assured of retaining control via specially designed financial instruments, structures, incentives and rights. As opposed to such aggressive institutional backing, Indian entrepreneurs are trussed up in archaic laws.

Not allowed to issue differential voting shares. Not allowed to issue non-voting stock. Severely constrained in issuing and pricing cross border quasi equity/ debt structures, perpetual bonds, warrants, convertibles, puts, calls, tracking stocks or options. Cannot list on overseas exchanges unless the entity is listed in India (there has lately been a marginal, grudging relaxation of this).

Clearly, there is just no effective legal framework in India that separates ownership and control via differential rights of two shareholders of the same entity.

If people like Vijay or Bhavish or Sachin (and dozens of other talented, hungry entrepreneurs) give hundreds of billions of dollars of "economic ownership" to foreign investors, even as they maintain "voting control" with their minority stakes, they can create Indian digital behemoths without ceding to American and Chinese acquirers. We will then see the blossoming of a genuinely digital India, with homegrown rivals to Facebook, Google, Alibaba, Amazon and Tencent.

Frankly, it's still not too late. Over the next decade, we could see a 13x growth in the e-commerce market, 4x in digital payments, and 4x in smart internet users. That's a humongous growth which could be harnessed and controlled by local entrepreneurs.

Provided blank expressions on Indian policy makers' faces are replaced by a can-do spirit to empower and liberate the architects of digital India. Otherwise, PM Modi and his bureaucrats will only encourage the ongoing DACOIT-y (ie, Digital America/ China Colonising & Obliterating Indian Tech).

[Back to top]

Architecture for privacy

Subhashis Banerjee, The Indian Express

May 5, 2018 : The debate engendered by the identity project has propelled us from being a predominantly pre-privacy society to one in which privacy protection in digital databases has emerged as a major national concern. The welcome and scholarly Supreme Court judgment on the right to privacy has made it abundantly clear that privacy protection is imperative, and any fatalistic post-privacy world-view is untenable. Informational self-determination and the autonomy of an individual in controlling the usage of personal data have emerged as central themes across the privacy judgment.

This provides us with a unique opportunity to take a fresh look at the design of digital services in India. On the one hand, we should have stricter provisions than the sector-specific standards in the US, where not only are identity theft rates unacceptably high, but also from where some of the world's largest corporate panopticons like Google and Facebook have grown more or less unchecked.

On the other hand, India should ideally have a more innovation-friendly setup than what the European General Data Protection Regulation (GDPR) can offer, which perhaps is unduly restrictive but is unlikely to be commensurately effective. Moreover, our designs need to be especially sensitive to our large under-privileged population, which may not have the necessary cultural capital to deal with overly complex digital setups.

Recording transactions with a digital identity projects an individual into a data space, and any subsequent loss of privacy can happen only through the data pathway. Hence data protection is central to privacy protection insofar as databases are concerned. The critical challenge in the design of a data protection framework is that the main uses of digitisation — long-term record keeping and data analysis — are seemingly contradictory to the privacy protection requirements.

The most common fear of digitisation is that of mass surveillance. Databases linked by unique identities can possibly create an infrastructure for totalitarian observation of citizens' activities across different domains. The mere existence of such infrastructure, if unrestricted, can potentially disturb the balance of power between the citizens and the state, stifle dissent and be a threat to civil liberty and democracy. Several commentators have used clichéd metaphors like the Orwellian big brother or panopticon to describe the situation.

A more common and subtle manner of erosion of privacy is by the way of losing control of informational self-determination both to the state and to other seemingly mysterious, uncaring and opaque bureaucracies. Often there is no obvious invasion of privacy, but one may sometimes become unsure about what information about her is being used by the state and other bureaucracies and for what purposes.

Kafkaesque is an appropriate metaphor that has sometimes been used to describe the situation. Not only can personal information leach out and be used by unpredictable entities in unpredictable ways, but one can also be mis-profiled, wrongly assessed or even influenced using out-of-context data, without being able to control such actions or sometimes even being aware of them. Indiscriminate or unethical use of machine learning can also lead to profiling and privacy violations whose consequences are not immediately obvious.

Exclusions and denials because of poorly thought out use cases, like perhaps because fingerprints do not match, are more direct violations. Such callous omissions can even be threats to liberty and life. Traditional approaches to protection of rights have been less than effective, anywhere, mainly because the enforcement methods have been weak.

When participation is voluntary, privacy self-management through notice and informed consent; collection, purpose and storage limitation; transparency; and individual participation through opt-in and opt-out have been advocated as foundational principles for privacy protection. However, notice and consent are usually ineffective because of information over- load, choice limitation and consent fatigue — as is often demonstrated by the customary negligent clicking of "I Agree".

The mandatory use of digital identities requires clearly establishing a legitimate state interest and enacting a proportional and just law. The role of consent in such situations is minimal, but collection and purpose limitation are important operative principles and citizen's basic rights still need to be protected. However, the state's understanding of and respect for this principle has often been questionable.

Also, in either case, recognition and acknowledgement of purpose extensions have almost always been problematic.
The European GDPR proposes the right to explanation as a countermeasure to indiscriminate and biased machine learning applications. However, predictive analytics rarely support causal reasoning and, without an expert audit of algorithmic and data biases, the explanations will most likely turn out to be inane.

Effective data protection in India will require a strong regulatory framework with a hierarchy of data regulators that can protect our basic rights irrespective of our understanding of complex digital setups and levels of consent. Also, any solution that is solely based on detection of privacy violations and subsequent punitive actions is unlikely to be effective, mainly because the causal effects of privacy violations, especially of the Kafkaesque types, cannot be easily and immediately determined. What is required is an online architectural solution that prevents privacy invasions in the first place.

Not only do the data regulators require independent authority, but they also need to actively participate in the data protection architecture. Apart from determining the fairness of algorithms and use cases, they need to play two other main roles. The first should be to determine, and explicitly list out, authorisations for data access for various data processing functions based on a rights-based principle in addition to consent. Purpose limitation needs to be built into such authorisations, and all-purpose extension requirements must be explicitly considered. The second role should be to ensure that data can be accessed only through audited, pre-approved and digitally signed computer programs after online authentication and verification of the authorisations presented. Both the data regulator and the data controller should maintain non-repudiable logs of all data accesses, and neither should be able to access the data independent of the other.

The technology to support such regulatory functions exists, what is necessary now is an effective and rights-based data protection law, and the will to build the required regulatory capacity?

[Back to top]

India’s AI strategy should be to create a data infrastructure

Vasant Dhar, Hindustan Times

May 3, 2018 : Hardly a week passes without yet another story about the Artificial Intelligence race between China and the US. China has allocated massive funding to AI to enable new capabilities in transportation, surveillance and weapons. China is “all in” on AI, with Chinese private funding in AI in the last decade growing seven-fold faster than US funding.

India has largely ignored AI. No Indian university or think-tank figures as a serious AI research entity measured by citations or other measures of innovation such as victories in prestigious AI contests, where algorithms compete on standard problems. China now increasingly features such winners and boasts two AI institutions in the top 10 globally who work closely with the government. In contrast, India lags behind in terms of vision, infrastructure and the funding required to become a major player in AI innovation. Is it too late for India to play catchup in AI?

Interestingly, the answer is that it isn’t too late. Indeed there could be advantages in letting others do the heavy lifting in creating the algorithms, and focus on vision and data instead. Why?

The truth is that algorithms make their way into the public domain almost instantly. For example, the various deep learning algorithms that have revolutionised image recognition and language processing are commonly available. In contrast, data, which powers the algorithms, are very difficult to obtain and almost never shared. Tesla and Google don’t share their autonomous vehicle data for good reason. Knowledge springs from a combination of unique data and general-purpose algorithms, and increasingly so when cloud power can be pooled and storage is cheap. Chinese companies and the government are focused on collecting their own data, leveraging the algorithms that were developed almost entirely in North America.

In reality, data are the bottleneck, the assembly of which usually takes up the majority of the work in AI projects. Indeed, the surge of novel machine learning algorithms in image and language processing was driven by the elimination of the data acquisition bottleneck — the fact that raw data from autonomous vehicles or smartphones can be streamed directly into algorithms without any human input has been a huge win for machine learning and AI. Availability of gobs of clean training data enable machines to improve their decision making without human intervention with each passing day.

If data are the bottleneck and the source of advantage, India’s focus should be on creating a data infrastructure in multiple areas. This will provide the grist for machine learning algorithms that will pay dividends in the years to come. Specifically, the real win for India would seem to be in creating a data infrastructure that will improve the quality of life at an everyday level, specifically in air, transportation, water, food, governance, and education. For example, Indian urban centres are a mess: polluted and chaotic. Better air quality and transportation would mitigate many basic health and quality of life issues. Imagine the impacts on health and productivity if air quality and commute times improve by an average of 10% or 20% over the next decade through more intelligent sensory and administrative systems driven by data coupled with sensible incentive systems.

Efficiency in governance is an equally pressing challenge in terms of the capacity of the State to provide basic services such as law and order, transportation and power. Surveillance technology offers huge promise in helping deploy scarce human resources “on demand” without sacrificing privacy or freedom at the individual level. If we can define sensible metrics such as crime reduction, problem resolution times, etc., progress will be well defined and measurable.

The good news is that India boasts the world’s biggest success in identity and real-time authentication through the Aadhaar platform. It would be fruitful for India to replicate this infrastructure success by creating similar data platforms that improve the lives of its people.

China was quick to copy the algorithms developed in North America and apply them to their own data in military and commercial applications. It has a draconian policy towards data ownership that ignores privacy or human rights concerns. That model will not work in India, but nor is it necessary to make progress towards what matters to India. Assembling the right kinds of data will be challenging, and requires careful planning and foresight. That is the place to start, and there is little time to waste.

[Back to top]