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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.

Boosting exports: Standards matter more than schemes

Financial Express

September 19, 2019: Finance minister Nirmala Sitharaman's announcement of a slew of measures to boost exports has come at a time when the sector seems to have lost its way. Since the beginning of the decade, exports have grown at an annual average of just 4%, which includes a slump of over 15% in 2015-16. The recovery, since then, has been patchy, and in the previous fiscal, exports grew by an unsatisfactory 8%. In the first five months of the current fiscal, exports have declined by nearly 2% on a year-on-year basis. With the prospects of the global economy looking gloomy, Indian exporters may face serious headwinds going forward.

The finance minister's announcement, thus, holds out some hope for the struggling export business. The measures are aimed at partly reworking the export incentives regime, introducing export facilitation measures, and providing a roadmap to address the critical issue of conformity of product and process standards in international markets.

India's export incentives regime came into focus after India was barred from using them by the Agreement on Subsidies and Countervailing Measures (ASCM) of the World Trade Organisation (WTO), after the country's per capita GNP exceeded $1,000. India continued to use its subsides, like the Merchandise Exports from India Scheme (MEIS), arguing that the ASCM allowed a transition period of eight years to developing countries to remove export subsidies. However, the United States has challenged India's arguments regarding the use of these export incentives before a WTO dispute settlement panel.

The finance minister has announced a new export incentives scheme, Remission of Duties or Taxes on Export Product (RoDTEP), which will replace MEIS. The announcement says that the scheme will "more than adequately incentivise exporters than existing schemes put together". The minister has also indicated that the revenue foregone for implementing RoDTEP would be Rs 50,000 crore.

Whether this new scheme will be consistent with the provisions of the ASCM is a moot point. This is because the definition of subsidies that WTO members are not allowed to use, the so-called "prohibited subsidies", are subsides that are "contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance". An example of such "prohibitive subsidies" given in the ASCM is "exemption or remission, in respect of the production and distribution of exported products, of indirect taxes in excess of those levied in respect of the production and distribution of like products when sold for domestic consumption". The provision becomes effective if a product receives incentives when it is exported, and doesn't when it is marketed in the domestic market; in other words, exported products are preferred over domestically marketed products for the grant of incentives. Thus, RoDTEP can also be challenged in the dispute settlement body of the WTO, as MEIS has been.

There are similar concerns about the Interest Equalisation Scheme (IES) on pre- and post- shipment rupee export credit, providing interest equalisation at 3% to exporters on 416 products, and for all micro, small and medium enterprise (MSME) exporters. The Export Promotion Council of India (EEPC) had given a useful suggestion that IES should be made available to the entire MSME sector, so that the export linkage of the scheme is done away with, thus making it compatible with the provisions of the ASCM.

However, the good news for India is that WTO will be unable to force India to comply with its commitments, should the dispute settlement panel in the on-going dispute with the United States rule that India is in violation of the ASCM by granting export incentives. This is because the Appellate

Body of WTO's dispute settlement body, which enforces the decisions on WTO members, will become dysfunctional from December 11, 2019.

While the government could safely provide export incentives without the encumbrances of the WTO for the reasons stated above, there is a need for an in-depth assessment as to whether export promotion schemes are justified. This is needed for two reasons: One, export incentives have been in place for a very long time, but India's export performance has remained an area of concern. Two, the revenues of the central government are under considerable stress, and, therefore, the benefits of the revenue foregone on export incentives need greater scrutiny now.

Improving performance of the ports for reducing transactions cost has been on the agenda of successive governments for at least two decades. The critical aspect, here, is investments for port modernisation, including the timely implementation of the Sagarmala project. By doing so, export business would get the intended boost.

The finance minister's announcement has possibly flagged the most critical area for exports, namely, compliance with standards. Market access barriers have shifted from the conventional instrument of tariffs to standards compliance, and this has hurt Indian exporters. The inability of domestic producers to meet the exacting standards in international markets is a well-established fact. The finance minister has proposed a roadmap for the adoption and enforcement of standards, which seems to be the way forward. It may, however, be pointed out that the issue of standards has been discussed by the Department of Commerce on several occasions in the past. The critical issue now is to examine the non-implementation of past recommendations, in particular, the institutional and other bottlenecks.

Standards must be enforced in every sector, and, therefore, the finance minister's focus on only the engineering sector is somewhat inadequate. This appears more so because exports of agricultural, and agro-processed products are among the worst performing in terms of standards compliance. Late last year, the government announced the Agriculture Export Policy, in which it was admitted the country was unable to export its vast horticultural produce due to lack of uniformity in quality and standardisation, among others reasons. The potential that India has in improving its exports of agricultural products has long been recognised. Critical support from the government will help realise this potential.

US asks for WTO panel to settle dispute with India over retaliatory duties on 28 products

Amiti Sen, Business Line

September 25, 2019: The US has asked the World Trade Organisation (WTO) to set up a dispute panel to settle its disagreement with India over retaliatory import duties imposed by the country on 28 American products which include walnuts, apples, almonds, chemicals, chickpeas, pulses and some steel products.

New Delhi imposed higher duties on select items imported from the US in June this year in response to Washington's decision to increase import duties on Indian aluminium and steel by 10 per cent and 25 per cent respectively in 2018 on the ground of security concerns.

"The additional duties measure applies only to products originating in the United States. The additional duties measure does not apply to like products originating in the territory of any other WTO Member, and thus appears inconsistent with the most-favoured nation obligation in Article I of the GATT 1994," the US said in its submission to the Dispute Settlement Body (DSB) of the WTO.

Moreover, the additional duties measure results in rates of duty greater than the rates of duty set out in India's schedule of concessions, and thus appears inconsistent with multilateral trade rules, the submission added. The DSB will respond to the request possibly in its next meeting.

The US had requested consultations with India on the matter in July which is the first step that a complainant needs to take before it requests for a dispute panel to be formed. “Unfortunately, these consultations did not resolve the dispute,” the US submission said.

India has been defending its move on the ground that retaliatory tariffs are permitted under the WTO’s Agreement on Safeguards. The US, however, argued that the additional import duties imposed by it on Indian steel and aluminium were not safeguard duties (imposed when there is a surge in imports on a particular commodity) but were taken on grounds of national security.

The WTO panel, once constituted, will now take a call on whether India was justified in imposing unilateral duties on American products in response to Washington’s penal duties on its aluminium and steel. Interestingly, India too has filed a case against the US for its duties on alunimium and steel.

India’s increase in import duties for certain American products is relatively substantial. While import duty on walnut has been hiked to 120 per cent from 30 per cent, duty on chickpeas, Bengal gram (chana) and masur dal were raised to 70 per cent, from 30 per cent. Import duty on lentils was increased to 40 per cent.

India set to lose major WTO dispute to the US

D. Ravi Kanth, Live Mint

Geneva, September 29, 2019: India is set to lose a major trade dispute with the US at the World Trade Organization (WTO).

A WTO dispute settlement panel has upheld a US complaint that export subsidy programmes provided by the Indian government violated provisions of the trade body’s subsidies and countervailing measures (SCM) pact, several people familiar with the final ruling said on condition of anonymity.

The ruling, which has been shared with the two parties in the dispute, will be released to all the WTO members around 10 October.

The three-member dispute settlement panel comprising Jose Antonio S. Buencamino, Leora Blumberg and Serge Pannatier has struck down Indian export promotion schemes on the grounds that India is not entitled to provide such subsidies because its per capita gross national product (GNP) has crossed $1,000 per annum, said one of the people cited above.

Once the panel’s final report is made public, India will have a month to challenge the ruling before an appellate body, the highest court for global trade disputes. If the appellate body upholds the panel’s ruling, India will be required to discontinue the existing export promotion schemes.

The programmes that could be affected are export-oriented units scheme, electronics hardware technology parks scheme, bio-technology parks scheme, merchandise exports from India scheme, export promotion capital goods scheme, special economic zones and duty-free imports for exporters.

In 2018, the US complained that India’s export-related programmes violated Article 3.1(a) of WTO’s SCM agreement. Under Article 3.1, developing countries with gross per capita of $1,000 per annum are not entitled to provide export subsidies that are contingent upon export performance.

India has maintained that in 2015 it had announced it would discontinue export subsidies soon. Subsequently, the government made another announcement in 2017 that it would end the export subsidies. Despite these pronouncements, the government has continued with export subsidies.

The ruling comes at an opportune time for Washington, which is piling pressure on New Delhi to open the Indian market for medical products, particularly heart stents and knee implants, dairy items and other products, as part of an interim trade deal, according to a legal analyst, who asked not to be identified.

With WTO's appellate body set to become dysfunctional from 11 December because of a US decision to block the selection process for filling six vacancies at the appellate body, it remains to be seen how India's challenge against the panel ruling will be adjudicated, said another legal analyst who asked not to be named.

"We are now entering a dark phase of adjudication of trade disputes at WTO in the absence of the appellate body," the legal analyst said.

Though the US has scored a significant victory against India, Washington has not implemented the appellate body's ruling in favour of India against the US's countervailing measures for carbon steel products until now.

A compliance panel is expected to issue its report whether the US fully implemented the findings of the appellate body in the case.

WTO dispute over India's tariffs on ICT goods: US seeks setting by up of dispute panel

Financial Express

September 22, 2019: The US has sought establishment of a dispute panel by the World Trade Organization's (WTO) in a case against India's import duties on certain ICT products, including mobile phones. The US sought consultations in July under the WTO's dispute settlement mechanism over imposition of import duties by India on certain information and communication (ICT) products, alleging breach of global trade norms. As both the countries failed to resolve the dispute through the consultation process, the US has sought setting up of the dispute panel. Bilateral consultation is the first step towards resolution of a trade dispute under the WTO norms. "The US held consultations with India on August 1, 2019. Unfortunately, these consultations did not resolve the dispute," according to a communication of the US to the WTO.

Several countries including the European Union, Singapore, Canada, China, Taiwan and Thailand have sought to join in the dispute as they have claimed significant trade interest in the ICT products over which India has imposed import duties. The EU has challenged introduction of import duties on a wide range of ICT products, for instance, mobile phones and components, base stations, integrated circuits and optical instruments.

Seeking consultation is the first step of dispute settlement process as per the WTO rules. If the consultations requested with the complainant do not result in a satisfactory solution, they can request that the WTO sets up a panel in the case to give ruling on the issue raised. In separate communications to the WTO, these countries have stated that they have substantial trade interest in these consultations as they are major players in the ICT sector.

The US has said that it exports of these goods to India were valued at about USD 490 million in 2018. "Despite its (India) earlier legally binding commitment in the WTO not to charge any duties on these products, India has been applying duties ranging from 7.5 per cent to 20 per cent. These import duties are therefore in clear breach by India of WTO rules. The levies affect EU exports worth Euro 600 million per year," the EU had said.

India can't have a prominent voice in regional affairs by distancing from trade

Amitendu Patil, Financial Express

September 27, 2019: India seems close to agreeing to conclude the RCEP after more than seven years of prolonged negotiations. While this will bring relief to some quarters, it is likely to disappoint several more, particularly those who feel India should have stayed away from RCEP.

Many arguing that India should not join RCEP are also of the view that India should not be part of trade agreements—regional or bilateral. Some of these views argue that only the WTO is worth joining, and no other trade agreement is worth the effort. Others suggesting that India should back off from RCEP are generally anti-trade. There's no denying that between the WTO's rules-based global trade order, of which India has been a member since the beginning, and any other FTA, however large in scope, the former is the superior choice. Global rules are always preferable to selective regional rules. However, the two are not mutually exclusive. Belonging to the WTO doesn't mean disengaging from FTAs, particularly since WTO itself encourages these FTAs, if they can obtain greater trade liberalisation. The latter can be significant for a large FTA, like RCEP, which includes some of the world's largest economies. Thus, commitment to WTO can't be a reason for not joining RCEP. However, if engaging in trade itself is considered a wrong priority, then, rather than backing out of RCEP, India should, ideally, quit WTO, of which it is a founding member.

One of the most trenchant criticisms of the RCEP is the adverse effect it will have on India's domestic markets through a deluge of imports. India's FTAs with SE Asia, Japan, and Korea are cited as examples for driving home the point. These criticisms fail to note a simple point: why would imports be necessary if the products were available at home at the same prices? Even if they were available at slightly higher prices, imports would've been much less required.

India needs to import bulk consumer goods, and intermediates because of their insufficient availability, and higher prices. Even after tariffs, these imports remain competitive vis-à-vis domestic products. This is because of the inherently high costs of domestic production in India. Such costs make imports necessary, both for producers and consumers. In many cases, producers find intermediate inputs costlier at home than abroad, and are forced to import the same. It is hardly surprising, therefore, that imports have been high, particularly from SE Asia and Asia-Pacific, as these regions enjoy greater competitiveness in manufacturing.

Is India's lack of success in bringing down costs of production a good enough reason for not engaging in trade, and running away from RCEP? In the entire tirade over RCEP, while a lot has been written and spoken on the deluge of imports, there has hardly been much mention of the gains that RCEP can bring for Indian exports. Exporters themselves, ironically, have been reticent to RCEP. Perhaps, as producers, they continue to suffer from high costs, and harbour the fear of not being able to penetrate other markets, notwithstanding preferential tariffs. The fear is genuine, but not a good enough reason for avoiding RCEP. More so, at a time when the government is trying to incentivise exporters through various measures, the most notable being reduction in corporate tax rates, which puts tax liabilities of Indian businesses on par with those in the region.

The most unfortunate part about the negative discourse on RCEP in India has been the fact that India's inefficiencies, and limitations have been taken as grounds for avoiding RCEP. If manufacturer-exporters had lobbied with the government for a positive agenda in RCEP, with the precondition of obtaining incentives through lower taxes and access to credit, India could have looked at RCEP differently. It is sad that no such efforts were made by industry. It is equally sad that state governments in India have also refrained from looking positively at RCEP. Indeed, several states, particularly India's coastal states, should have been at the forefront of negotiations on RCEP through positive efforts. On the contrary, they have been conspicuously quiet.

India's trade engagement has traditionally suffered from absence of 'pro-trade' constituencies. This is unfortunate. Trade doesn't simultaneously benefit everybody. But, eventually, open trade, facilitated by enabling trade agreements, brings numerous benefits that are difficult to visualise at one go. Apart from getting cheap imports for both consumers, and producer-exporters, trade deals are great facilitators for investment. Coming at a time when the trade war is ripe, supply chains are fragmenting to scatter across the Asia-Pacific, and India is looking to revive export demand for coming out of an economic slump, RCEP can be a great instrument for attracting trade-inducing investments. Recent Indian policies, like liberalising sourcing norms in single-brand retail, backed by RCEP, create right conditions for drawing more manufacturer-retailer investments to India, like Apple and Samsung. Much of these investments would also be export-oriented, particularly to the rest of South Asia, as well as West Asia. The grand aspiration of India being a global player, with a prominent voice in regional affairs, cannot be realised by distancing itself from trade. Trade is a great confidence and strategic trust builder, a fact that India—shifting from non-alignment to multi-alignment—can ignore only at its own peril.

RCEP: India readies tougher rules to curb dumping

Banikinkar Pattanayak, Financial Express

September 23, 2019: India is preparing for any "irrational spike" in imports ahead of a potential deal at the 16-nation Regional Comprehensive Economic Partnership (RCEP) negotiations in November, with commerce and industry minister Piyush Goyal having cleared critical changes in anti-dumping, countervailing and safeguard rules to better protect the domestic industry.

As part of the proposed changes, lesser duty rules (LDR) — under which authorities typically impose import duties at a lower level than the margin of dumping if this is adequate to remove "injury" to the domestic industry — would be scrapped, a source told FE. The abolition will allow authorities to slap anti-dumping and countervailing duties to the full extent of dumping and illegal subsidies enjoyed by foreign exporters, respectively.

The move is aimed at allaying the domestic industry's fears that any free trade agreement with China through RCEP (Beijing is a member) will result in massive dumping of highly-subsidised items, mostly diverted due to the ongoing trade war.

But at the same time, the proposals suggest India's greater willingness now than earlier to clinch the RCEP deal.

Similarly, the government will also introduce tariff rate quota in safeguard rules, which will provide greater flexibility to it in operating and administering the mechanism whenever required. Usually, the tariff rate quota allows stipulated quantity of imports at a lower duty and once the ceiling is breached, higher impost kicks in on the additional imports.

The changes would be notified by the revenue department of the finance ministry soon after legal vetting, the source said. The new provisions are WTO-compliant, the source claimed.

The government will likely introduce anti-circumvention provision in the countervailing duty rules. Circumvention typically takes place when an exporting nation seeks to get around its WTO commitments (such as the pledge to limit farm export subsidies) or evade anti-dumping or countervailing duties of an importing country, among others, to push its products that are priced much cheaper through illegal dole-outs.

The RCEP is a proposed mega trade pact between the 10 Asean members and their six FTA partners, namely Australia, China, India, Japan, South Korea and New Zealand. According to initial estimates, it accounts for 25% of global gross domestic product, 30% of trade, 26% of foreign direct investment flows and 45% of population.

Earlier this month, trade ministers from the RCEP grouping pledged to address any contentious issue and clinch a deal this year.

Recently, Goyal said India was in favour of early conclusion of the RCEP pact if its interests were protected. Simultaneously, he added that one or two domestic industries couldn't hijack FTA talks to suit them and that their interests would be protected to the maximum extent possible.

The minister also sought to play down domestic resistance to RCEP, saying the industry is vertically split in its opposition. While some in the pharmaceutical sector see vast opportunities for exports if they get credible market access in China through the RCEP, some others, notably the steel and dairy industries, are opposed to the deal for fears of cheaper dumping, especially from China and New Zealand, respectively. MSMEs, too, have been opposing any RCEP deal.

However, many consuming industries, including bulk buyers of steel, have endorsed the mega trade deal.

"It's all about balancing conflicting interests, both internal and external," another source said. Earlier this month, the government also announced a slew of steps to help exporters, including a Rs 50,000-crore scheme to replace its existing flagship export scheme and easier and cheaper credit for them.

Even without the deal, India's merchandise trade deficit with the RCEP grouping hit $105 billion in FY19 (roughly 60% of its total deficit). China alone contributed as much as $53.6 billion. New Delhi has now linked meaningful market access from Beijing in key sectors — including IT, pharma and agriculture — to its endorsement of the RCEP deal.

Opinion | Tough love would not speed up progress on trade talks

Rajrishi Singhal, Live Mint

September 29, 2019: Global trade is a many-splendoured thing. Its history spans millennia, with ancient civilizations trading goods, stories, customs and the occasional marital vow across continents. Trade is also the camouflage that allowed a joint stock company to subjugate an entire country and enrich the home country. Trade is perhaps the modern age's most engaging diplomatic encounter, with negotiations stretching endlessly amid multiple rounds of talks. Look at the Doha Round, which was kicked off under the aegis of the World Trade Organization (WTO) in November 2001, but still remains inconclusive due to successful filibustering by rich countries.

Eventually, in this game-theoretic chessboard of non-cooperative parties and Nash equilibria, what matters is who blinks first. This has particular relevance for India.

Trade is also a double-edged sword. It particularly paints politicians into a corner: They are leery because trade creates immediate economic dislocation for their political constituencies, but they also understand its significance for economic growth. The dilemma is of balancing short-term political pain and the broader economic benefits that flow in later. Politicians live from election to election and anything long-term is an inherently unfeasible economic goal.

This predicament has become all the more acute, with many countries—especially developing countries—balancing domestic political exigencies with ambitious bilateral or plurilateral deals that go beyond the WTO framework. Many of these—such as the Trans Pacific Partnership, rechristened as Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) after the US crashed out—have been criticized for compromising sovereignty in favour of multinational corporations. The CPTPP has become the new gold standard for trade agreements across goods, services and investments, with rules on investment, dispute settlement systems, intellectual property rights, government procurement or a reduced role for state-owned companies.

Many other regional trade agreements are now in progress with CPTPP as the template. These include the Regional Comprehensive Economic Partnership (RCEP)—being negotiated by 16 nations, including India. The RCEP's lofty ambitions have amplified India's trade quandaries for two reasons:

One, these goals seem misaligned with India's current state of development; and two, uneven agreements sought by other countries through higher market access for goods—while dissembling on services, India's strongest suit—seem to be holding up progress.

And, yet, India wants in because trade is critical for any economy. Merchandise trade is about 30% of India's gross domestic product (GDP); add services and it's about 40%. The RCEP is the world's largest economic bloc and it is estimated that by 2050, RCEP member states will have a GDP close to $250 trillion, with India and China expected to contribute a significant share.

But here's the thing. India's free trade agreement with Asean has been a political embarrassment, with our trade deficit growing every year. In 2018-19, India's imports from Asean grew by close to 26%, while exports to the bloc increased by only 9.5%. The other elephant in the RCEP room is China, which has a disproportionately large trade surplus with India. At a recent Singapore panel discussion, foreign minister S. Jaishankar even alluded to this misaligned trade relationship as one of the sticking points in the RCEP talks.

Services trade negotiations help highlight the RCEP's asymmetric landscape. India has, of course, high hopes from its services trade, but has found an uneven response from other members. India has also drawn lessons from the unsuccessful Asean Free Trade Area, under which services trade talks were postponed and a stand-alone goods agreement was finalized. Also, there are examples where common members of the RCEP and Asia-Pacific Economic Cooperation have agreed to a mechanism for free movement of people and professionals under the latter agreement, but are blocking a similar initiative in the RCEP.

In the end, the quality of negotiations is what matters most. India's record has not been particularly commendable, starting with missteps during the Uruguay Round of WTO talks. Two things are to be avoided.

Pressure from different spheres is one. In the skewed narrative coming out of countries wanting to conclude a skewed RCEP, India has been painted as obstructionist. It was thus uncharacteristic of India for commerce minister Piyush Goyal to recently lose his cool and hit out at the domestic industry, specifically at the steel and dairy industries, for ostensibly trying to "hijack" the national interest. Equanimity and balance have to be constant travel companions.

The second trap is deceptive optics. The bonhomie between Prime Minister Narendra Modi and US President Donald Trump at the recent Houston event, and the related literature, might tempt observers to believe that both nations are entering a new phase in their relationship. But reality bites sharper: A report in this newspaper highlighted how both Modi and Trump failed to sign even a limited trade agreement because US trade officials presented Indian trade negotiators with a long and intractable list of demands.

India's upcoming foreign trade policy may consider integration of Codex practices on mass scale

Abhishek Jha & Seema Bathla, Financial Express

September 24, 2019: The latest WTO's Monitoring Report on G20 trade measures shows that the coverage of new import-restrictive measures introduced during October 2018 to May 2019 is more than 3.5 times the average since May 2012. These measures considerably affected trade coverage worth $335.9 billion during October 2018 to May 2019. It is observed that in case of trade in food and beverages, countries, mostly the developed, are becoming over-sensitive, perhaps due to stringent quality and safety standards.

The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) sets out the basic framework and standards for food safety, animal and plant health standards. While giving a platform to countries for framing own standards, it notes that regulations must be justified through science, i.e. regulations should be implemented only to the extent necessary to protect the animal, human or plant life or health, and also not unjustifiably discriminate between countries where identical or similar conditions prevail. Although member countries are encouraged to use international standards, guidelines and recommendations, they may use measures that result in higher standards if there is a requisite scientific justification. Besides, they can set higher standards based on an appropriate assessment of risks so long as the approach is consistent, not arbitrary.

The question, however, is which standards are practised globally in terms of implementing food safety? Is it the Codex standards or individual country's standards? One must recall the acrimonious saga of 1989-90 when the EU banned beef import from the US due to the quality of hormones of beef. This incident signalled that harmonisation of food safety standards is indispensable for spurring food trade globally in an eloquent atmosphere. When the WTO was set up in 1995, the SPS agreement was framed to assure harmonisation, provide risk-assessment and bring transparency under articles 3, 5 and 7, respectively. Codex Alimentarius food safety standards are referred under the SPS agreement for practising and designing trade polices as these are scientifically justified. The Codex process involves broad international input and sound scientific support from expert panels. Codex food safety standards thus guide countries in adoption of national food safety standards and regulations that protect public health within their respective territories and promote fair practices in food trade. Ironically, even today, economies digress from the Codex standards.

Till date, 188 countries are Codex members (187 countries, and the EU as a group) that participate annually to discuss food safety issues and methods to adapt them unanimously. To illustrate, the maximum residual limits (MRL) of carbendazim in orange juice is different for each country. In Canada, it is 500-600 (parts per billion, ppb), in the EU 100-700 ppb, and in the US barely 10 ppb. Apparently, the US gives justification for this to ensure a continued safety of orange juice that is fit for human consumption. This, in a way, is an articulation of divergence from Codex standards and proliferates barriers for developing and less developed countries aspiring to export. Maintaining and satisfying each country's food safety standards have become a costly affair and also ambiguous for member countries. During early 2000s, the African economies lost sizeable exports worth $670 million to the EU due to strict aflatoxin MRL acceptability. The risk on human health due to this strict food safety measure was estimated at 1.4 deaths per billion in a year.

This is something each member country has to work out, otherwise agricultural trade will continue to experience a protectionist wave. Harmonisation of food standards is commonly viewed as a prerequisite to the safety of consumer health and to allow the fullest possible facilitation of international trade.

Harmonisation can only be attained when all countries adopt same standards. The General Principles of the Codex Alimentarius specify the ways in which member countries may "accept" Codex standards.

The emerging interests in all Codex activities do indicate a global acceptance of the Codex philosophy, embracing harmonisation, consumer protection and facilitation of international trade. However, in practice, it is difficult for many countries to accept such standards in the statutory sense. Differing legal formats and administrative procedures, varying political systems and sometimes a growing influence of national attitudes and concepts of sovereign rights impede the progress of harmonisation and hence deter acceptance of Codex standards.

Notwithstanding these, the process of harmonisation is gaining stimulus by virtue of strong international desire to facilitate international trade. Countries are increasingly aligning their national food standards, or parts of them (especially those relating to safety), with those of the Codex Alimentarius. This is particularly so in case of additives, contaminants and residues.

Policymakers need to address and solve the challenge of implementing holistic approaches and constructing bridges between different disciplines as well as different sectors, including agriculture, environment, public health, tourism and commerce/trade. This is of special importance with changing consumer behaviour and international travel in addition to trade taking place at all levels in the food chain. Often, non-transparent international supply networks make it difficult to track the origin of all commodities and ingredients used in food products. Respective governments have a crucial role to play in adopting the vision for developing and facilitating implementation of national good agricultural practice (GAP) standards that are consistent, germane with international requirements, and adapt to local policies and environment. The public sector in tandem with support from the private sector can be instrumental in delivering the skills and infrastructure required for maintaining the safety and level of quality in the agri-food chain. India's upcoming five-year foreign trade policy 2020-25 can consider the integration of Codex practices on a mass scale.

China insists it is still 'a developing country' despite being second largest economy

Financial Express

September 25, 2019: China, the world's second largest economy after the US, on Wednesday asserted that it is "still a developing country", arguing that it continued to grapple with the problems of inadequate and unbalanced development. Threatening to pull the US out of the World Trade Organisation (WTP) over what he described as its unfair treatment of America, President Donald Trump last month said that India and China are no longer "developing nations" and are "taking advantage" of the tag from the global trade body.

Earlier this week, Australian Prime Minister Scott Morrison during his visit to the US criticised China's continuing status as a developing country under the WTO rules, bolstering Trump's claim. Addressing the Chicago Council on Global Affairs, Morrison said it was time for China to accept greater responsibility.

Countering Morrison's assertion, Chinese Foreign Ministry spokesman Geng Shuang said, "China is still a developing country. There is an extensive widespread consensus. So, sticking to our position of our status as a developing country is the basic right for developing countries and upholding international justice."

Underlining that the WTO's present classification for the developing countries is "reasonable", he said, "China still has the problem of inadequate and unbalanced development. We are faced with the difficulty of improving our development quality and effectiveness." "Who is the developing country of the WTO and what are the standards and procedures we should follow, such questions needs to be decided by members of WTO," Geng said.

Development is a multi-dimensional concept and as the biggest developing country, China will continue to make contributions in line with its own capability and development level, he said. China, Geng said, will also help other developing countries to achieve common development and to ensure the right development of the WTO reform.

Morrison had characterised China as a "newly developed" economy, and argued that the status conferred developed-world obligations on the Chinese leadership.
"Having achieved this status, it is important that China's trade arrangements and participation in addressing important global environmental challenges, with transparency in their partnerships and support for developing nations, reflect this new status and the responsibilities that go with it as a world power," the Australian prime minister said. He said global institutions "must adjust their

settings for China, in recognition of this new status. That means more will be expected, as has always been the case for nations like the US".

Observers say the WTO does not have a framework defining which countries are developing and which are already developed. Instead, nations are left to classify themselves as they see fit. As a self-identified developing country, China receives a range of perks. For example, it gets more time to implement WTO commitments, procedural advantages in disputes and access to subsidies in certain economic sectors, a report by the news.com.au said. This is a real sore point for Trump, who believes the size of the Chinese economy should disqualify it from such special treatment, it said.

A recent World Bank report said since initiating market reforms in 1978, China has experienced rapid economic and social development. The GDP growth has averaged nearly 10 per cent a year — the fastest sustained expansion by a major economy in history — and more than 850 million people have lifted themselves out of poverty.

China reached all the Millennium Development Goals (MDGs) by 2015. Although China's GDP growth has gradually slowed since 2012, as needed for a transition to more balanced and sustainable growth, it is still relatively high by current global standards, the report said. With a population of 1.3 billion, China is the world's second largest economy and the largest if measured in purchasing price parity terms, the report said.

Explained: The US-EU jet subsidy row that threatens transatlantic trade war

The Indian Express

September 28, 2019: The United States and European Union are edging closer to a tit-for-tat tariff war over aircraft subsidies as a 15-year-old dispute at the World Trade Organization reaches its climax.

Here is what's at stake.

What is the dispute about?

The United States and EU accuse each other of paying billions of dollars in subsidies to Boeing and European planemaker Airbus and in a pair of cases dating back to 2004. It's the largest dispute tackled by the Geneva-based WTO, which has backed some of the claims and rejected others.

The disputed subsidies include cheap government loans to Airbus from Britain, France, Germany and Spain and Washington State tax credits supporting Boeing. Planes affected include the Boeing 787 and Airbus A380.

What does the law say?

The WTO tries to resolve disputes on two types of subsidy:

1) "Prohibited subsidies" are viewed as the most damaging and are always illegal. They are tied directly to exports or the use of local goods instead of imported ones. Despite initial successes, neither side made this charge stick in the core case.

2) "Actionable subsidies" cause harm or "adverse effects" to another country or its industry, but the burden of proof is higher and rules for compliance are less severe. They are only illegal if the complaining nation can prove it was harmed. Such subsidies dominated the thousands of pages of evidence and will drive any retaliation rights awarded to both sides.

Who won?

According to many, the lawyers and multiple expert witnesses. Costs of the cases are estimated to top $100 million.

In the cases themselves, both sides have won partial WTO rulings but nobody can agree which side came out on top. Each has said its own subsidies were smaller or less harmful than those abroad. Both say they have removed any harmful aid, but the WTO says neither has complied fully.

Now WTO arbitrators must decide on mutual claims of billions of dollars of harm inflicted on each side by “actionable subsidies” in order to determine the amount of tariffs allowed.

How big are the tariffs?

The United States seeks tariffs on EU goods with an annual trade value of $11.2 billion. The EU seeks tariffs on US goods worth around $10 billion. People close to the case say the WTO is set to allow Washington to impose around $7.5 billion in tariffs. The EU will find out how much it can impose next year.

Which goods are vulnerable?

WTO rules allow counter-measures to be applied to any goods but both sides will be under pressure from domestic importers to be selective, especially when hitting non-aircraft industries.

Both sides included planes, helicopters, wine, foods and leather goods on their provisional target lists. Both lists exceed the value of tariffs sought, so will have to be reduced.

What happens next?

A report from WTO arbitrators authorising the United States to impose tariffs may be made public next week. This must be signed off by the WTO’s Dispute Settlement Body.

It appears too late for the DSB to do this at its upcoming meeting on Sept 30. Its next regular meeting is due on Oct. 28 but the United States could request a special meeting no earlier than 10 days after the arbitrators’ report is published.

Can the EU retaliate?

Under WTO rules, the EU cannot retaliate directly but it is expected to win permission to impose its own tariffs when its parallel case catches up in 2020. There has been some EU talk of reviving a $4 billion war chest of tariffs from an earlier case, to be used at once, but this is sure to provoke a new debate.

Can a transatlantic tariff war be avoided?

There have been various overtures about talks, but none has been successful. The dispute is moving from a phase in which the industry and the WTO judges took centre stage to a political phase widely seen as less predictable. Several sources say the United States, believing it is winning a tariff dispute with China, is ready to act, but some analysts still see a delay.

The EU hopes to persuade the WTO to reopen a procedure to let it demonstrate compliance with earlier rulings. The United States opposes this and doubts exist about whether it can delay sanctions.

India: Country meets criteria for preferential trade status, US should reconsider

The Indian Express

September 19, 2019: Amid trade tensions between India and US, Foreign Secretary Vijay Gokhale Thursday said India met the criteria under the Generalised System of Preferences (GSP), a concession that the Donald Trump administration withdrew in June, and asked Washington to take a call on the matter.

"Generalized System of Preferences (GSP) is a unilateral decision, given by countries to other countries based on certain criteria. We are a developing country, we meet those criteria. I do not recall our ever stating that we are not interested in GSP," Gokhale said at a media briefing.

In June, the US withdrew duty-free benefits accorded to India under the country's Generalised System of Preferences Programme (GSP).

Underscoring the importance of trade concessions for the Indian industry, Gokhale said, "The US unilaterally withdrew that concession from us, we believe that GSP is something which is important for our industry but ultimately it is a matter for the US to take a call on."

With exports worth over $6.3 billion under GSP in 2018-19, India was the largest beneficiary of the scheme. After the US decision in June, India retaliated a few weeks later by increasing the tariffs on 28 products imported from the US, including high-value products like almonds and fresh apples—a move that the US has disputed at World Trade Organization (WTO).

The India-US trade tensions have been building up over the last two years. The US last year hiked tariffs on its steel and aluminium imports, a move that hit Indian exports and prompted it to approach the World Trade Organisation's (WTO) dispute settlement body.

The US raised issues with India's moves to slash the maximum retail prices of essential medical devices and demands that dairy product exporters certify their produce was derived from animals, not fed food containing internal organs. Trump has long been critical of Indian tariffs on products like Harley Davidson motorcycles, at one point even calling the country a "tariff king".

Trade talks stall as US raises bar on market access in India

D. Ravi Kanth, Live Mint

Geneva, September 25, 2019: Trade talks between India and the US on Tuesday broke down for the time being after Washington made asymmetrical demands for market access in India, while refusing to restore benefits accorded to Indian exporters under the Generalized System of Preferences (GSP), analysts said.

"Lack of parity, reciprocity and asymmetrical demands from the US stalled the trade talks that could have resulted in an interim agreement on Tuesday," said a US-based person familiar with the discussions, requesting anonymity.

The US raised the bar very high for market access in India, covering a whole lot of tariff-reductions for American products, including the removal of duties India had placed in retaliation for steel and aluminium products that the US had imposed under section 232 provisions last year, and changes in Indian rules, including sanitary and phyto-sanitary provisions. The US also demanded sweeping changes to e-commerce laws, including storing of the data as well as for access to cloud-computing, the analyst added.

The list of tariff reductions sought by the US include a range of agricultural products, dairy products, pricing of pharmaceutical stents used by cardiac patients and knee implants, among others medical devices, and information and technology products.

In return, Washington was willing to restore only 50% of the benefits accorded to Indian exporters under the GSP scheme that was terminated by President Trump on 5 June.

India maintained that it was improper to link the removal of the retaliatory tariffs on American products that were imposed in response to the US's action last year, to the partial restoration of the GSP benefits, according to several people familiar with the talks.

Under the World Trade Organization (WTO) rules, India is entitled to impose retaliatory tariffs on American products, following withdrawal of the GSP scheme, as it was inconsistent with the US's obligations under the Enabling clause of WTO rules, said a person familiar with the discussions.

But India did not impose retaliatory measures in response to the termination of the GSP scheme. India had imposed retaliatory duties on American products in response to the US' tariffs on steel and aluminium under Section 232 provisions. Therefore, the US' insistence to link the removal of benefits accorded under the GSP scheme to India's retaliatory duties on American products in response to the Section 232 tariffs on steel and aluminium was asymmetrical.

Moreover, at a time when the US is currently engaged in a trade dispute with India over the tariffs on Information Technology Agreement (ITA) products at WTO along with the European Union and Taipei among others, the US negotiators pressed India to eliminate tariffs on various ITA products for concluding the interim agreement, analysts said.

"It is a classic case of US's trade negotiating strategy where in Washington raises the bar so high that it would become difficult other parties to agree to even a quarter of their demands," said an European analyst, who asked not to be identified.

If the negotiations on the interim deal are any indication, India will have tough time negotiating a bilateral trade agreement with the US, given the long list of demands that the US had delivered to India, several analysts said.

Beyond 'Howdy'

Business Line

September 24, 2019: By any metric, the 'Howdy Modi' rally in Houston on Sunday was a high-on-optics spectacle that projected political power — with a sprinkling of kitschy culture. Prime Minister Narendra Modi had President Donald Trump — and an assemblage of bipartisan US lawmakers and governors — alongside him onstage, to the cheering adulation of some 50,000 Indian-Americans. In their respective speeches, Modi and Trump referred to each other as immensely popular leaders whom destiny has chosen to restore their countries to their erstwhile greatness. In that enterprise, both the leaders have inverted the rules of the political game with their distinctive style and populist rhetoric. On Sunday, they basked in mutual admiration — and in the adoration of their political constituents in the US. For Modi, who once faced the ignominy of having his US visa revoked by the State Department, the glowing messages from several US lawmakers and politicians at the Houston event count as yet another endorsement on the global stage of his unquestioned supremacy as India's leader.

Yet, for all the feel-good effect of such optics in projecting bilateral bonhomie, their utilitarian value in bending the arc of the broader relationship between the two countries is somewhat limited. In the past, too, Modi's image managers had amped up his personal chemistry with Trump, but Modi's hands-on "hugplomacy" bore at best limited results. It did not, for instance, inhibit Trump from calling out India during the hardball negotiations over bilateral trade tariffs and at the WTO, and in the context of Trump's expectation that India must do some heavy lifting in securing Afghanistan in order to facilitate US troop withdrawal from there. Similarly, the Trump administration has not fully accommodated India's legitimate concerns under the tightened H-1B visa regime, which delivers on his 'America First' campaign promise.

Even on the chessboard of geopolitics, it is not clear that the strategic interests of India and the US are always congruent. India may momentarily be looking to capitalise on the full-scale trade war with

China that Trump has unleashed. And Trump's invocation of the phrase "radical Islamic terrorism" at the 'Howdy Modi' rally may have heartened Modi to the extent that it tied in with the objective of painting Pakistan as a hub of *jihadi* terror. But given Trump's short attention span, and the sheer realpolitik compulsions that will require the US establishment to work with both China and Pakistan over the long term, embracing Trump publicly and wholeheartedly, as Modi did at Houston, only offers limited upside. That's not to suggest that India ought not to engage actively with the US: in fact, the fruits of the deeper engagement over the past decade between the two erstwhile 'estranged democracies' have been bountiful. But all such engagements must be steered by level-headed pragmatism. One of history's lessons is that there are no permanent friends or enemies, only permanent interests.