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US slams slow, opaque Indian trade policy

Tom Miles, Reuters

Geneva, Sept 14 - The United States attacked India's trade policy on Wednesday, criticising its barriers to agricultural imports and retail sector investment and warning that it may not have shaken off the red tape and trade restrictions that has long plagued foreign business. The broadside from U.S. Ambassador Michael Punke was part of India's trade policy review, a regular examination of trade liberalisation that every member of the World Trade Organization (WTO) has to go through at the hands of its peers. Punke said the lack of transparency helped explain why India was ranked 165th out of 183 in the World Bank's "Doing Business" report. Stumped U.S. trade officials had repeatedly been forced to ask India to explain its policies to prepare for the review. "We, ourselves, became increasingly amazed at how many matters we found to be important and for which we were unable to obtain answers independently," Punke said, according to a transcript of his remarks. The U.S. criticism was far stronger than a WTO report issued as a starting point for the debate, which had largely welcomed India's efforts to open trade, while disapproving of its frequent tweaks to trade policy for political reasons. In a list of criticisms, Punke decried "exceedingly high" tariffs in agriculture and a "severely restricting" government procurement regime. *INFLATION* Recognising India's need to fight inflation, he called for a strategy of lowering food prices with significant, long-term reductions in agricultural tariffs and the removal of "unjustifiable" impediments to agricultural imports based on health concerns and other technical barriers to trade. While its policy in agriculture, India's biggest employer, was doing "a disservice to consumers and producers", it had also done little to develop the largest sector of its economy, services, with multiple policy initiatives stalled for several years, Punke said. Market opening had helped the information technology sector to flourish, so it was disappointing to see India charting a different course in other areas, Punke said. "For example, the past year has witnessed policies, already adopted or being considered, that explicitly shut out imports entirely ... or require private entities to source a significant amount of their purchases from manufacturers in India, as in the case of policies on electronic products and telecom equipment. "Although India has expressed its intention to continue on its successful trajectory of liberalization, these types of initiatives tend to evoke comparisons to trade-restrictive policies pursued in previous, poorly-performing periods of India's economic development."

The United States was also worried by recent signals that India might limit foreign direct investment in sectors such as pharmaceuticals and banking, which had previously flourished thanks to more open policies. Plans to update India's laws on intellectual property also "fell well short of best practices", Punke said. India should avoid export restrictions and minimum export prices, he said, since access to global markets had been increasingly important for its economy. "It is unfortunate, however, that India has chosen to push exports in the past year through a series of new trade-distorting export incentives," the U.S. trade envoy said. "The United States considers these measures particularly troubling when afforded to the textile and apparel sector, given India's obligation to gradually phase out export subsidies in that sector starting no later than 2007."

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Indo-US trade talks: India to seek withdrawal of visa fee hike

Amiti Sen, The Times of India

20 September 2011, New Delhi: India will ask the Barack Obama administration to end its restrictive trade practices that have made exports to the US more expensive and raised costs of Indian IT companies operating there. Commerce and industry minister Anand Sharma will meet US trade representative Ron Kirk next week and is expected to make a strong case for withdrawal of the steep increase in professional visa fees and the additional duties imposed on government imports. He is also expected to ask for speedy restoration of the generalized system of preferences scheme that allows duty-free imports of specific goods from developing countries like India. "The US has not responded to India's demand that the hike in visa fees and imposition of extra duties on government imports should be withdrawn. We want them to take notice this time," a government official told ET. Finance minister Pranab Mukherjee and Sharma will both be part of a CEO forum together with the USTR and treasury secretary Tim Geithner in Washington on Thursday. "We expect the issues bothering us to be taken up strongly as CEOs from both sides are also hit by the measures ," the official said. The increase in fees for H-1 B and L1 visas for funding domestic programmes such as enhancing border security and meeting health needs of 9/11 victims is bothering India as these implicitly target and discriminate against IT companies. India feels that these could be inconsistent with the US multilateral commitments under the General Agreement on Trade in Services. The additional 2% duty imposed on government purchases from countries like India that are not part of the government procurement agreement of the WTO could also be against US commitments. "Minister Sharma has already written to the USTR about India's concerns on these issues but there has not been any satisfactory response so far," the official said. The issue of negativity towards Indian professionals and attempts to restrict free flow of services and professionals may also be taken up. "IT body Nasscom has reported increased negativism in granting visas and harassment at the port of entry in the US and this may be a point of discussion," he said. Nasscom had written to the US ambassador in India, Timothy Roemer, in November, on rejection of a larger number of business visas and visa interviews taking the form of interrogation. India is expected to invite US pension funds and insurance companies to invest in its infrastructure debt fund and call for collaborative projects in energy-efficient buildings, water, agriculture and health care.

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Big gaps in US-India trade positions

Indira Kannan, Business Standard

Washington Dc September 26, 2011, 0:34 IST: The United States has ruled out signing a Totalization Agreement with India for now, despite an intensive push by the Indian government and the country's information technology sector in that direction.

These agreements are signed by the US government for avoiding double taxation of income on social security taxes. These agreements must be taken into account when determining whether any alien is subject to US social security/medicare tax.

In an interview via email to Business Standard, US trade representative Ron Kirk said the US was permitted to enter into totalization agreements only with countries that met certain objective statutory conditions. This was not the case with India.

An agreement would enable Indian professionals working in the US to benefit from their contributions to American social security programmes even if they return to India after working for fewer than 10 years in the US, the case for several Indians who go to the US on H1B visas.

After his meeting with Kirk here on Thursday, Indian commerce minister Anand Sharma had told Business Standard he'd pressed for a totalization agreement, noting both India and the US had similar agreements with several European nations, and should be able to work out an agreement with each other as well.

However Kirk said, "We look forward to changes in India's social welfare regime that could form the basis of further discussions. Until then, however, the United States will not be in a position to negotiate a totalization agreement with India."

On complaints about the higher rate of rejection of H1B and L1 visa seekers from India this year, Kirk said the state department (the American foreign ministry) was responsible for consular affairs. Adding: "I appreciate that this is of serious concern to many in India but I know that our consular officers in India have been working harder than ever to review a record number of visa applications so that qualified applicants can enter the United States."

Other irritants

The USTR's office noted after the latest meeting between Sharma and Kirk that the value of trade in goods between the two countries had increased over threefold in the past decade. However, several irritants remained, including the old complaint from the Obama administration about restrictions faced by American solar energy firms trying to do business in India.

On that issue, Kirk suggested India might be breaching World Trade Organisation (WTO) rules. "We continue to have serious concerns about the local content requirements under India's National Solar Mission, including with respect to their compatibility with WTO rules," he said. "We are particularly disappointed that India recently chose to expand the scope of those requirements for Phase-1, Batch-2. We look forward to working constructively with India in its Phase-2 guidelines to ensure it can meet its clean energy objectives in a manner that does not discriminate against imports."

Asked about expectations from the US administration and business groups for India to open its multi-brand retail sector to foreign direct investment, Kirk said, "We share the hopes of several Indian ministers that a favourable policy can be announced in short order."

Sharma had told Business Standard on Thursday that this issue would have to take a back seat to the New Manufacturing Policy, his top priority at this time. Kirk did not demonstrate much optimism for quick progress on multilateral trade talks, either.

There is, clearly, considerable distance between the Indian and American positions on reviving the deadlocked Doha Round of WTO talks. India contends there is enough on the table for developed and developing countries to take a staggered approach and work out a series of smaller agreements. Kirk disagreed, saying there were obstacles to reaching agreements even on smaller issues.

“The United States worked very hard with WTO members, including India, over the past six months, trying to reach outcomes on Doha, including some type of small package outcome. But divergent views on all issues under discussion have continued to inhibit a positive outcome,” Kirk said. He called for WTO members to recognise that “business as usual is not working, and have an active, structured consideration of next steps” leading up to the December Ministerial meeting.

Kirk and Sharma are scheduled to co-chair the next round of the India-US Trade Policy Forum next January. A USTR statement after their meeting here noted the TPF is the primary bilateral mechanism for addressing trade and investment issues, playing a critical role in promoting trade and investment flows to higher levels that better reflected the importance of the bilateral economic partnership.

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US Congress may revive trade benefits to India, others

PTI

New Delhi, Sept 27: The US Congress is likely to approve trade preferences for the least developed and developing countries in the next few weeks, a move which will help Indian exporters as well. "The GSP Bill was passed last week out of the Senate. The House of Representatives is likely to approve it next month...it is actually going to be retroactive," Chad Kreikemeier, advisor to US Senator Jeanne Shaheen, said here. The Generalised System of Preferences (GSP) expired on December 2010 under which imports from developing and least developed countries were allowed preferential access to the US market. Under the GSP, Indian handicraft items--brass lamps, carpets and engineering products--power generators were allowed duty-free access to the US to the tune of USD 3.5 billion in 2010. Kreikemeier, Defence and Foreign Policy advisor to the US Senator said, it is most likely that GSP Bill would be passed and signed by the US President Barack Obama in the next few weeks. "...this (GSP) is a part of larger trade package... so it is going to be extended, reauthorised is the right word," the advisor said. Commerce and Industry Minister Anand Sharma had earlier raised the issue of revival of GSP. The US used to provide GSP for up to 4,800 products from 129 designated beneficiary countries and territories. Total imports to US under GSP from these nations were worth USD 22.5 billion in 2010. The US Trade Representative Ron Kirk and Secretary of State Hillary Clinton had also urged Congress to reauthorise the GSP, at the earliest opportunity and for the longest period possible.

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US raises concerns about India’s solar tech policies

Elizabeth Roche , Livemint

7 November, New Delhi: The US expressed concern over certain Indian policies that it says inhibit investments by foreign firms, keen on collaboration with local companies, in renewable energy and clean technologies.

Such measures, aimed at protecting specialized domestic industries, would be harmful in the long term, said Francisco Sanchez, US undersecretary for international trade in the department of commerce.

“There is clearly a lot of opportunity for collaboration. We encourage India to address concerns that many have about its business environment,” Sanchez told a business meeting organized by the Confederation of Indian Industry in New Delhi on Monday. “In particular, there is increasing concern about some recent action that seems to tilt the playing field here in India away from US businesses and other foreign firms.”

Sanchez is in India on a three-day visit with a delegation of US firms specializing in clean technologies. Specifically naming India’s national solar mission, which requires local power producers to source photovoltaic cells and modules from Indian manufacturers, Sanchez said,
“My concern is that many of the policies designed to protect Indian industries will only hurt them in the end.”

“For example, in clean technology, local content requirement explicitly discriminates against the imports,” he said. “Local content requirements deny Indian entities from accessing quality solar products from outside the country.

India has an ambitious target of generating 20,000 megawatts of solar power by 2022. The US is especially keen on taking a slice of this market against the backdrop of US President Barack Obama’s aim of doubling US exports by 2015. Collaboration in renewable energy was one of the themes discussed between India and the US during Obama’s visit to India last November.

Sanchez said he understood that India was trying to protect its fledgling solar power equipment manufacturers. “That is a good approach, but the path India appears to be following will force India to miss out on innovative products. This in turn could end up hindering growth and result in missed opportunities,” Sanchez said.

This isn’t the first time US trade officials have raised the issue. Last month, at a meeting of the Committee on Trade-Related Investment Measures (TRIMs) at the World Trade Organization (WTO), the US expressed concern about what it said were mandatory local content requirements of India’s solar mission. “It said the guidelines require that all projects use modules manufactured in India. The EU (European Union) shared the concern. India maintained that the guidelines in question did not violate the TRIMs agreement,” the WTO website said.

Sanchez is expected to meet Indian commerce secretary Rahul Khullar in New Delhi before heading to Hyderabad for more meetings with representatives of Indian industry. The US business delegation includes representatives of Azure Power, Serious Energy, A123 Systems Inc., Amonix Inc., Picarro Inc. and Sopogy Inc., PTI reported.

A senior official in the ministry of new and renewable energy, however, said India has allowed all technology options for solar power producers. “It is only those companies that are supplying to the government on whom there is this demand, and they are very few in number. So I don't think the objections are quite valid," he said.

Ronen Sen, a former Indian ambassador to the US, noted that the US had raised issues relating to a particular sector while India-US relations spanned an entire spectrum of subjects. "There is an ongoing dialogue between India and the US on relations, so it can be sorted out."

The India Semiconductor Association (ISA) said it supports the government's policies. "We feel that this would be a shot in the arm for local products," said P.V.G. Menon, president, ISA.

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Indian basmati rice consignments held in US being cleared

Press Trust of India

New Delhi December 02, 2011: The US government is in the process of clearing Indian consignments of basmati rice held at its ports for traces of pesticide called tricyclazole, a senior official of the agri-export promotion body, the Agricultural and Processed Food Products Exports Development Authority (Apeda) said.

Tricyclazole is a widely used pesticide in rice-growing countries, including India, Thailand, Japan and China.

“The US has cleared the maximum containers of basmati rice. It is in the process of examining the remaining few. The problem is easing," the official added.

As some containers of basmati rice had presence of a pesticide named tricyclazole, the US Food and Drug Administration (USFDA) had detained all consignments without physical examination, he said.
Tricyclazone, a pesticide manufactured by a US company, is, however, not registered and not found in the pesticide list that USFDA checks while detecting pesticide residues in the imported food items. If not a registered pesticide, the USFDA considers it illegal and not safe for human consumption.
According to the government sources, out of 150 containers (20 tonnes each) of basmati rice from India that have been detained since July at various ports of the US, 85 per cent have been cleared.
Noting that domestic exporters have been facing hurdles in shipping basmati rice to the US due to the pesticide issue, the Apeda official said: “There is no panic situation. The issue is being resolved."
Meanwhile, the All India Rice Exporters Association (AIREA) has taken up the issue with the US authority and has requested it to consider registration of tricyclazole.

“About 10-15 per cent of our detained containers have traces of tricyclazole, which is not registered in the US. We have informed them the traces of tricyclazole found in our containers are much lower as compared to other countries," AIREA President Vijay Sethia said.

The presence of tricyclazole in the aromatic grains are within safety levels of 0.02-0.04 ppm (parts per million) set by the Indian government. In comparison, Japan and Europe allows a maximum pesticide residual level of one and three ppm, respectively, he said.

India exports around 80,000 tonnes of basmati rice to the US annually. 50,000 tonnes has been shipped this year.

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Before knocking on WTO doors, India seeks talks with US on steel duty

Amiti Sen, ET Bureau

Dec 3, 2011,NEW DELHI: India has decided to seek consultations with the US on the 'wrongful' imposition of penal duties on its steel exports, a first step that a country takes before dragging another to the dispute settlement mechanism of the World Trade Organsiation or WTO.

The US imposes steep penal levies in the form of countervailing and anti-dumping duties on Indian steel companies such as Essar, Tata, Jindal and Sail making exports from these companies unviable. Earlier this week the US initiated fresh investigation against steel pipes from India despite New Delhi objecting to such duties on other steel products on the ground that the basis for calculating domestic prices of steel for imposing penalties was faulty. Commerce secretary Rahul Khullar, who is on an official visit to Washington, is likely to ask the US to begin consultations with India on the issue, a government official told ET.

"We have had our legal firms examine the issue and we are sure that the basis for their calculation of the penal levies is faulty," the official said.

Once bilateral consultations begin, India will give its legal views to the US on the issue and if the talks are unsuccesful, it could take the next step of discussing the issue at the WTO. If bilateral consultations at all levels fail, a country can then ask for setting up of a dispute settlement panel to settle the issue.

"The US is continuing its practice of faulty pricing calculations and if not checked India will never be able to export any steel products to the country," said a representative from a steel company that has stopped all exports to the US.

The US has been imposing countervailing duties or CVD, a levy to neutralise government subsidies, on steel for the last decade. Duties on Indian companies range from about 18% on Essar to over 500% for companies such as Tata and Jindal.

It also imposes antidumping duties, a penal levy on imports that are sold at higher prices in the home market of the exporter, of over 20%. India wants to challenge the US department of commerce's assumption that the iron ore sourced by Indian steel makers from NMDC is supplied at subsidised rate because it is a public body.

"This is a wrong assumption as NMDC always sells at the prevailing market prices which is determined by their exports to Japan and South Korea," the official said.

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Government, IT industry demand parity for Indian business in US

Economic Times

New Delhi,13 December: The government and the IT industry are understood to have demanded parity between Indian and local businesses in America at the 11th US-India ICT Working Group meeting held here today. Both Indian and US services firm are supplying similar services in the US market but because of PL 111-230, Indian service suppliers are being meted different treatment, a Department of Commerce official is believed to have said, according to sources who attended the meeting. "This is violation of US commitment under mode 3," the official is believed to have said at the meeting. Public Law 111-230 was signed by US President Barack Obama, under which a visa seeker is required to submit an additional fee of USD 2,000 for certain H-1B petitions and USD 2,250 for certain L-1A and L-1B petitions. The official said at the meeting that this regulation, under mode 4, nullifies and impairs US commitments to the WTO. James Zadroga levies 2 per cent tax and levies on services procured from certain WTO countries and not from other WTO countries. Again this is an issue which erodes basic WTO principles, the official is believed to have said. Under the James Zadroga 9/11 Health and Compensation Act last year America had imposed 2 per cent tax on US government procurement from foreign companies and also extended the present visa fee on certain categories from 2014 to 2015. The official highlighted that Indian professionals working in the US are suffering because of mis-match in the US domestic regulation. "Your regulation for social security and visa makes difficult for professionals to survive who contributes from his salary month after month but is not entitled to commensurate benefit that according to us is more of ethical issues," the official noted. Similar issues were raised by representative from Nasscom, the software services industry body. "Ohio has banned offshore IT projects. There is 2 per cent excise tax on goods and services purchased by foreign suppliers. Our market is open and we want similar access for Indian companies into other markets," said a Nasscom official. Indian industry and government representative requested their counterparts in the US present in the meet to take note of the issue and resolve as early as possible.

"Knowledge is global and workforce is global. They plenty to talk about immigration (rules)on both sides, in both countries. Because of the importance of economic relationship we firmly recommend high level dialogue," said representative of United States India Buisness Council (USIBC).

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US call centre bill: Indian BPOs not too worried

John & Pranav Nambiar, TNN

The general feeling in the Indian BPO industry is that the proposed new bill tabled in the US House of Representatives to discourage movement of call centres overseas will not become law.

Dec 22, 2011, Bangalore: There's a tinge of anxiety, but the general feeling in the Indian BPO industry is that the proposed new bill tabled in the US House of Representatives to discourage movement of call centres overseas will not become law. If it indeed becomes law, it could negatively impact the BPO sector, but not necessarily the bigger players. The bill seeks to stop federal grants and contracts to US companies that offshore call centres. It will mandate a 120-day advance notification before moving a call centre overseas. Such measures could hold back at least some who might otherwise consider offshoring. Sameer Dhamrajani, country head, Fidelity National Financial India, said the move would be detrimental both to the BPO industry and US corporates. For US corporates, offshoring brings significant savings, and those who depend on government grants and contracts will have to consider if the savings from offshoring will offset the negative impact of any federal withdrawals.

S Nagarajan, co-founder of BPO firm 24/7 Customer, does not foresee any serious pull back on account of the bill. "It will only increase cost for US consumers, and US corporations wouldn't want to do that" D Swaminathan, MD of Infosys BPO, said BPOs were innovating, and improving cost competitiveness, which would make it even more difficult for US corporates to ignore them. The bill would mandate that customer service representatives working abroad for US corporations have to disclose locations upon request, and they should have option of being transferred to call centres back in US. For bigger players, this would be less of an issue as some have established and others are in the process of establishing centres in the US. A spokesperson of BPO firm Aegis said the bill would have no implication on its operations. Aegis has over 5,000 people spread across 9 centres in the US. Over 90% of employees there are local US citizens. Keshav Murugesh, group CEO of BPO company WNS, said the company has been ramping up and opening delivery centres around the world to mitigate risks from legislation that could affect location of clients/delivery centres in a single country. "We have also been evaluating opening of a delivery centre in the US to cater to the onshore outsourcing requirements of our clients," he said. Infosys BPO is also ramping up its US operation. Everybody slammed movers of the bill for their "protectionist" move. "It restricts free trade, it's discriminatory. Protectionism is always answered by protectionism," Nasscom president Som Mittal said.

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India to review subsidy list to pacify US

Amiti Sen, ET Bureau

27 Dec, 2011 New Delhi: India will review all the subsidies that Washington claims New Delhi has "hidden" from the World Trade Organization (WTO) in a bid to counter the US accusations. The US has listed about 50 subsidies that India provides as being against the WTO rules. Some of these do not exist anymore, but the commerce department will see if there are any that need to be notified at the WTO, a government official told ET. US trade representative Ron Kirk had in October accused India of hiding about 50 central and state government subsidy programmes from the world trade body in violation of WTO's free trade rules. He had said the situation was intolerable. The WTO requires member countries to notify specific subsidies that are directed towards items from a certain geographic location or given to a particular industry or sector. The requirement is aimed at ensuring transparency in subsidy regime of the countries. "We are very sure that most subsidies out of the 50 identified do not need to be listed. If there are a handful that we think should be notified, we will go ahead and do so," the official said. The subsidies agreement of the WTO prohibits subsidies for import substitution and exports. It allows all other subsidies which become actionable if they are specific i.e. limited to a firm, industry or group of industries and found to cause adverse trade effects, such as material injury to a domestic industry. Non-specific subsides that are not directed towards a special group, like the duty drawback scheme for input tax reimbursement, are non-actionable. Merely notifying a subsidy does not make a difference to legal characterisation of a subsidy in terms of whether it is actionable or non-actionable, points out Abhijit Das, head, Centre for WTO Studies, Indian Institute of Foreign Trade. "The US has in the past imposed countervailing duties on subsidies such as DEPB despite the fact that it was not notified," Das said. So, there is no question of India trying to hide its subsidies by not notifying them at the WTO, he added. Many of the subsidies on the US list do not exist anymore such as the DEPB or the tax incentives to software technology parks of India. Some are subsidies to neutralise input taxes that is allowed by the WTO and need not be listed. Subsidies for providing infrastructure are also not notifiable. "Even if there are some subsidies that India ought to notify to the WTO, these are very small in amount, and nothing compared to the bailout packages that the US is giving to its industry," a trade expert from a Delhi-based research body told ET.

The US has also complained against India's solar energy generation programme, the Jawaharlal Nehru National Solar Mission, stating that its 30% local sourcing requirement violated multilateral trade rules.

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India-US trade talks postponed indefinitely

Asit Ranjan Mishra & Elizabeth Roche, Livemint

Three days before the crucial eighth round of US-India Trade Policy Forum talks were to begin, the meeting has been deferred indefinitely by US officials. This is the second postponement of the talks by the US since October.
The US was convinced that the talks were being held at the wrong time with India unlikely to yield to its demands for greater market access, according to commerce ministry officials who did not want to be identified.

United States trade representative (USTR) Ron Kirk was scheduled to visit New Delhi on 12-13 January to hold bilateral talks with his counterpart, Indian commerce minister Anand Sharma. But late Saturday, US officials informed the commerce ministry that Kirk was deferring the visit.
A commerce ministry official said the US may have realized that it wasn't going to get any significant market access assurance from India immediately. Copyright piracy has also been high on the US agenda. The US has voiced its concern about Indian authorities failing to protect its producers of pharmaceuticals, films, computer software and other copyrighted material from widespread piracy.
"If you want to talk to us about intellectual property and piracy, then you must be able to talk about issues concerning us like market access in services, restrictions on service suppliers, visa fees, tax on procurement and totalization agreement," the official cited above said. "Everything that we ask for they say no. If you do not address our concerns, we will not yield to your demands."

A recent report by the USTR in December identified Nehru Place in New Delhi as among the 30 most notorious IT markets of the world dealing in goods and services that infringe intellectual property rights.

The US embassy in New Delhi had not responded to an e-mail query at the time of going to press.The elections in five states next month also played a role in delaying the trip, said another person familiar with the development on condition of anonymity.

"There are issues of investment in retail that the US would want to discuss with us. But with the government stating that a consensus on FDI in (multi-brand) retail being taken up only after the polls, I guess the US side had decided to delay the visit," this person said. "There are some policy decisions that have to be taken, but with polls announced in the five states, these decisions cannot be taken now."

In July 2005, the US and India announced the establishment of a bilateral committee, the United States–India Trade Policy Forum that replaced the US–India Working Group on Trade, which was established in 2000. In November 2005, both sides set up five focus groups on agriculture, tariff and non-tariff barriers, services, investment and innovation and creativity to resolve outstanding issues and promote bilateral trade and investment.

When two major economies such as the US and India are involved, there has to be mutual give and take, said Biswajit Dhar, director general at Research and Information Systems, a New Delhi-based think tank. "You cannot negotiate with your hands tied. Unfortunately, the US government finds itself in such a place where they cannot take any major trade policy decision due to domestic economic uncertainties."

If Kirk had come now, he would have had to answer difficult questions on bilateral trade issues which he must have wanted to avoid, Dhar said.

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Protectionism to hurt both -- US and India, warns Pranab

Himani Kumar, PTI

Chicago, January 30, 2012: Worried over the adverse fallout of protectionism, Finance Minister Pranab Mukherjee today said if the US stops outsourcing jobs to India, profitability of both the economies will be hurt.

"...if US stops outsourcing jobs from India to some extent profitability of the economies will be affected," Mukherjee told reporters here.

Speaking at the end of a two-day visit, he said that nations were free to adopt policies that suited their requirements, but the policies should not lead to protectionism.
Moreover, he stressed, the World Trade Organisation (WTO) too is working to free flow of goods and services across the globe.

US President Barack Obama had earlier said that the companies which provide jobs at home would get bigger tax breaks but those outsourcing work would have to pay more.

Mukherjee, however, pitched for uninterrupted flow of goods and services and removal of tariff and non-tariff barriers arguing that these measures have yielded desired results for all.

"Protectionism ultimately does not help the country that resorts to it", he said, adding "there is merit in giving up protectionism and I do hope the countries will not resort to it."

Mukherjee attributed the high growth in the past to liberalisation of international trade by reduction in tariffs.

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Exporters & refiners a worried lot as US-Iran standoff rages on

Sutanuka Ghosal & Rajeev Jayaswal, ET Bureau

Feb 16, Kolkata/New Delhi: The US-Iran standoff over Tehran's nuclear programme flared on Wednesday, rattling Indian refiners, who fear a jump in crude prices if supplies are hit, while exporters of rice and tea are panicking as Iranian buyers have started defaulting and banking channels will dry up after a week.

Indian diplomats, oil firms and commodity traders warily watched the escalating confrontation after Iran flaunted a breakthrough in nuclear technology. Crude oil prices hit a six-month high of $120 a barrel after Iran's state TV said the country had stopped exporting oil to six European countries.
Iran subsequently said there was no immediate move to do so, but markets remained on tenterhooks after reports the US wants to block Iran's access to a clearing house called "SWIFT" that is used by Iranian banks for financial transactions, including oil exports.

TEA, RICE EXPORTS TO PLUNGE

The escalating tension is bad news for India, where state oil firms are selling transport and cooking fuels below market prices and rice traders count on Iran for half of India's total exports of the commodity.

Indian tea and rice exports to Iran through Dubai are expected to plunge as Dubai-based banks will stop working with Iranian banks from February 23, traders said. Indian exporters have been selling basmati rice invoiced in dollars to Dubai-based traders, who then supply the grain to Iran.
India is the biggest supplier of rice to Iran apart from being the biggest buyer of Iranian crude as other Asian buyers scaled back purchases from Iran. India's purchases have also fallen over the years as companies such as Reliance have completely stopped buying Iranian crude, but Essar Oil and state-run MRPL buy significant quantities.

India's biggest state-run refiner Indian Oil Corp, a relatively small buyer, plans to continue importing crude oil from Iran. "We import about 1.5 mt crude oil from Iran and we intend to renew our term contract for the same quantity," IOC Chairman RS Butola said.

An oil ministry official said the US-Iran conflict was a big source of worry even for refiners that had shifted to other suppliers. "Even if India is not directly influenced by the US or EU sanctions, the Iranian crisis would certainly disrupt global crude oil supplies, which would in turn push up international crude oil prices. We may see crude oil prices soar to a new peak due to tensions in the Gulf," said the official, who did not want to be identified.

The US-Iran standoff has already added up to $15 a barrel to the price of Brent crude, and oil prices may jump to $200 if oil cargoes are interrupted, Societe Generale SA said, according to a Bloomberg report.

For commodity traders in India, the situation is already alarming. Iran buys half of the rice exported from India. Sources said the UAE central bank has told lenders to stop financing trade with Iran. Western economic sanctions have devalued the rial, raised the cost of imports for Tehran and made it more difficult for Dubai-based middlemen to process payments.

"Banks in Dubai have been asked by the UAE central bank to stop issuing letters of credit to finance trade deals with Iran. Before the sanctions, the central bank used to monitor trading with Iran on regular basis," said a banker based in Dubai.

About 8,000 Iranian traders are registered in Dubai, and re-export trade between Iran and the UAE totalled 19.5 billion dirhams ($5.32 billion) in the first half of 2011, according to the latest figures from the UAE Customs Authority.

Vijay Setia, president of All India Rice Exporters Association, said: "The possibility of exporting rice through Dubai will diminish as we have been informed that Dubai banks will not be working with Iranian banks from February 23 onwards. This is a major jolt to rice trade. We supply around 1 million tonnes of basmati rice to Iran, which meets almost 70% of the country's requirement. Nearly 70 - 80% of these exports is routed through Dubai. We have to work out some other mechanism."
Iranian buyers have defaulted on payment for about 200,000 tonnes of rice that have been supplied from India. The defaults, totalling about $144 million, were for shipments under term deals in October and November free-on-board Indian ports, traders said. Most Indian rice exporters allow 90 days' credit.

Some rice exporters have already stopped sending consignments to Iran in view of the payment crisis. Rajesh Sehgal, managing director of Sky Exim Ltd, an export house, said his company had stopped transactions with Iran in view of the impending crisis. "I used to send 50 containers of rice each containing 23 tonnes to Iran directly and indirectly. I will only send consignments to Iran if the Dubai trader now provides letters of credit from European and US banks that are approved by Indian banks," he said.

Tea exporters are also worried as India ships about 15 million kg of orthodox tea to Iran, earning about $50 million. "There has been a squeeze in the Dubai banks dealing in dollar-denominated currency for the last 3-4 months. But we had continued with the trade though the volumes had trickleda It is really a matter of concern if Dubai banks stop dealing with Iranian banks as tea exporters had always used the Dubai route to export teas to Iran," said CS Bedi, chairman of Indian Tea Association and managing director of Rossell Tea Ltd.

The Iran crisis has pushed down orthodox tea prices by 14 per kg as there is hardly any buyer for it in the domestic market.

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WTO ruling to help Indian shrimp get out of US anti-dumping duty net

C. J. Punnathara, Business Line (The Hindu)

17 February 2012: Indian shrimp exporters are hoping to get out of the US anti-dumping duty net. In a notification dated February 14, the International Trade Administration coming under the US Department of Commerce said that they will be doing away with zeroing methodology on imports. This, the Seafood Exporters Association of India (SEAI) said, could be first step in getting out of the US anti-dumping duty for Indian shrimp exports.

The US Department of Commerce's move comes in the wake of several adverse rulings from the World Trade Organisation. Countries including Argentina, Brazil, Canada, Ecuador, EU, Japan, Mexico, South Korea and Thailand had taken the process of zeroing to the WTO and were relieved of the need to pay anti-dumping duty for their exports to the US. The Government of India was yet to take the issue to the WTO and Indian shrimp exporters had been paying anti-dumping duties on their shrimp consignments all this while, SEAI sources said. Zeroing is the practice under which a very small percentage of the country's exports are sold at sub-fair value prices because of some extraneous consideration or other - often under distress conditions. Under the previous practice, the US Customs used to zero in on these consignments and charge all consignments from that exporter with anti-dumping duty. This practice was deemed unfair by the WTO and countries which had approached it earlier were granted relief. In earlier judgments, the WTO had ruled that the US was violating global trade rules in using its controversial “zeroing” method to impose anti-dumping tariffs on shrimp from Vietnam. The decision by a three-member panel of WTO was one among several such rulings in which zeroing had been found illegal under WTO agreement. The panel said the US had acted inconsistently with provisions of the Anti-Dumping Agreement and the GATT and said the US should bring its calculation method in line with the two agreements.

Now the US Department of Commerce has recommended revocation of the practice, SEAI said. They said that India would have got relief earlier if the Government had taken the matter to the WTO. Successive administrative review of Indian shrimp imports to the US was found to carry sub-minimus status; the anti-dumping duty level would be 0.5 per cent or less. Indian shrimp exports to the US would not have carried the anti-dumping duty burden in the absence of zeroing, SEAI sources said.
But for the current move of the US Department of Commerce to abide the WTO ruling, India would have had to pay anti-dumping until March 2014 when the results of the Seventh Administrative Review would have been published, SEAI said. We are currently paying anti-dumping duty of 1.69 per cent on shrimp exports to the US.

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US hikes dumping duty on Indian shrimp imports

C.J. Punnathara , Hindu Business Line

Increase unlikely to impact trade, says exporters body

Kochi, March 2: The Sixth Administrative Review on shrimp exports to the US has fixed a 2.51 per cent anti-dumping duty on Indian shrimp consignments, up from 1.69 per cent awarded last year. However, what is noteworthy of the latest review is that another company, Falcon Marine, has been awarded de-minimus status - they have been awarded duty of 0.5 per cent or less, sources in the Seafood Exporters Association of India (SEAI) said.

Earlier, Devi Seafood had already come under the sub-minimus status. While there have been a small increase in the rate of duty for the country as a whole, SEAI sources said that it will not have any serious implication for trade.

The findings of the Sixth Administrative Review were announced in the US on February 29 and India is still to get the detailed report.

What is salutary, SEAI source pointed out, is that Indian shrimp exports to the US should be out of 'zeroing' at the end of the Seventh Administrative Review period – February 2012 to January 2013.

What is zeroing

While it is inevitable that every country would be forced to sell a very small portion of its export consignment beneath fair-value price mainly under distress conditions, the practice of the US Customs to identify these specific consignments and charge anti-dumping duty on all shipments is known as zeroing.

The World Trade Organisation, in recent rulings ,has declared zeroing as an illegal practice under the WTO guidelines as it was found violating several international and multilateral trade rules.

The removal of zeroing will be welcomed by the Indian trade and is expected to strengthen the country's shrimp exports further.

India's seafood exports increased to Rs 12,191 crore during April-December 2011, with shrimp exports contributing the bulk.

Frozen shrimp

Frozen shrimp exports constituted over 51 per cent of the total value of seafood exports during the period. What is further noteworthy is the fact that US was the single most important shrimp export destination during the period.

The US accounted for 33 per cent of India's total shrimp exports and realised 42 per cent of the shrimp export realisations.

The low rates of anti-dumping duty and positive moves on zeroing would have far reaching positive impact on India's seafood exports.

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U.S. asks India to lower tariff wall

Hindu

March 26, New Delhi: High tariff barriers on U.S. products can harm economic ties between India and the U.S. and prove detrimental to bilateral trade, visiting U.S. Commerce Secretary John Bryson said here on Monday Stating that import duties levied by India were ‘too high', he sought lowering of high duties to strengthen the ties between the two economies. Mr. John is here on a five-day official visit to India.

He specifically asked India to ease restrictions on imports of products such as medical equipment, fruits and capital goods.

“It would be a remiss, if I would not mention about the barriers which still exist in building our economic relationship. For example, there are many tariffs on American products that are still too high," he remarked at an interaction, organised by Federation of Indian Chamber of Commerce and Industry (FICCI), between the 16-member U.S. Infrastructure Mission and Indian business leaders.
Mr. Bryson said if India did not accept U.S. products and strategic investments, the progress together could slow down and in the long-term could cause meaningful harm. He also held a meeting with Union Commerce and Industry Minister Anand Sharma, who raised concerns over the high rate of visa rejections by the U.S. and levy of high visa fee. “There have been concerns over the high rate of visa rejections last year. There is a 28 per cent decline," Mr. Sharma said after the meeting.

Mr. Bryson, who will visit Jaipur and Mumbai, said capital goods such as power generation equipment faced a basic duty of 7.5 per cent and an effective rate of 22 per cent. Grapes, citrus and other fruits faced a 30 per cent duty. “India's sourcing provisions in sectors such as IT, electronics and solar energy are also tough. This makes it harder to invest in India, if India is not able to readily accept the U.S. products," he remarked.

He said India also needed to build on its effort to support more accountability, transparency and integrity in its commercial actions.

“India should join the Government Procurement Agreement of the World Trade Organization (WTO). Allow more competition by joining the WTO agreement on government procurement. This agreement has important provisions that support greater openness," he added.

On India's massive demand for infrastructure, he said both the countries could work together in sectors such as rail, road, aviation and energy. The U.S. had the largest road system in the world. American businesses were ready to help India improve energy transmission and distribution besides developing renewable energy and expanding road network," he added.

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US ignored India's anti-protectionist objections: Govt

Financial Express

March 26, 2012, New Delhi: The government today said it has raised issues relating to US protectionist policies that are hurting the Indian IT industry with the US government.
"India has raised issues relating to US policies impacting Indian industry, including IT and IT-enabled services industry at various levels with the US government,"
Minister of State for Commerce and Industry Jyotiraditya Scindia said in a written reply to the Lok Sabha.

Scindia was replying to a question whether the government has raised objections with the World Trade Organisation (WTO) and the American authorities about the policy on outsourcing and other protectionist policies being followed by the US.

He said the Indian government has raised the issue at commerce secretary-level commercial dialogue, at ministerial-level trade policy forum and on the sidelines of WTO meetings.
On the response of WTO and the American government, he said: "The government of USA has not reversed such policies, so far."

Replying to an another query, Scindia said that negotiations across various sectors including cars are ongoing on India-EU Free Trade agreement.

"The government of India is negotiating a bilateral Broad-Based Trade and Investment Agreement (BTIA) with the European Union in which so far 13 rounds of negotiations have been held," he said.
He was replying to a query that whether the import duty relaxation for luxury cars from the EU under the proposed FTA proposed to have some riders, including a cap on the number of cars allowed to enter the Indian markets from Europe by using the low tariff regime.

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India challenges U.S. visa rules at WTO, eyes steel case

Workers are seen at their workstations on the floor of an outsourcing centre in Bangalore, February 29, 2012.
Matthias Williams, Reuters, Reuters/Vivek Prakash/Files

NEW DELHI, April 11, 2012: India is challenging a U.S. law that raised visa fees for high-skilled foreign workers as a violation of global trade commitments and is planning another case against U.S. import duties on steel pipe, Indian officials said on Tuesday in the latest sign of prickly trade ties between the two allies.

The complaint at the World Trade Organization against the 2010 U.S. visa fee increase, which India protested at the time, is at the level of "consultations" between the two parties, the last stage before entering a full-fledged legal dispute.

"India is taking up consultations on this issue and hopes to solve it amicably," an India trade ministry official said, asking not to be named because of the sensitivity of the matter.

Trade Minister Anand Sharma raised the visa issue during a meeting with U.S. Commerce Secretary John Bryson, who visited India late March, the official added.

India's complaint is about a U.S. law from 2010 that almost doubled visa fees for skilled workers to $4,500 per applicant. The bill's sponsor, Senator Charles Schumer, a Democrat from New York, said at the time that the move was aimed at a small group of companies exploiting U.S. law to import workers from abroad.
India's economy has benefited greatly from information technology firms doing offshore work for U.S. companies, but such outsourcing has become an issue in the U.S. presidential campaign, with President Barack Obama vowing to woo jobs home from overseas.

Nkenge Harmon, a spokeswoman for the U.S. Trade Representative's office, said the United States had not yet received a formal request for consultations from India and "therefore is not in a position to comment."

"However, the United States takes its WTO obligations seriously," she added.

Once a country formally request consultations, WTO rules require it to wait 60 days before asking a dispute settlement panel be formed to hear its complaint.

"I think the government of India is right that this is a barrier to trade," Vineet Nayyar, CEO of large Indian software services exporter Tech Mahindra, told Reuters.

A senior Indian trade ministry official, who also declined to be identified because of the sensitive nature of the issue, said India waited so long to bring its complaint because "there was always the belief, constantly held out (by U.S. officials), that this would be handled somehow."

However, the way the Obama administration has implemented the provision has made it harder for Indian technology workers to obtain visas, not easier, he said.

“Now what has happened over the years is, notwithstanding all the assurances that have been held out, the rejection rates (for visas) have steadily climbed," the senior official added. "Please explain to me why in 2007/8 the rejection rate was 1 percent and today it is 50 percent. If you can give me a good explanation for that, then fine."

Commercial ties between India and the United States flourished after India's economic liberalisation in 1991, but in recent years each side has accused the other of erecting unfair barriers to trade and investment growth.

Last month, the United States began the same type of action at the WTO to open India's market for poultry meat and eggs, saying an Indian ban on U.S. imports intended to stop the spread of bird flu was not based on sound science.

India is also preparing to challenge a U.S. import duty on steel pipes, the senior official told Reuters.
The United States Commerce Department in March set a preliminary import duty of nearly 286 percent on a certain type of steel pipe from India to offset government subsidies. A final decision on duty rates is expected by August.

"They are in absolute and total breach of the WTO," the official said, referring to U.S. Commerce Department action. "There is no subsidy involved."

The official said Washington has imposed the duty because a portion of the iron ore used to produce the Indian steel pipes is provided by state-run miner NMDC, the country's largest.

Washington concluded that "because NMDC is a public sector undertaking, it is selling this iron ore ... for a song, and therefore implicitly subsidising a private-sector enterprise. This is the allegation," the Indian official said.
The allegation is baseless as NMDC is one of many producers of iron ore in the country, the official said.

Gilbert Kaplan, a lawyer at Spalding & King who represents U.S. industry in the case, said the Commerce Department was well within its rights to set the high duty on Indian imports.

Both U.S. law and WTO rules allow the Commerce Department to set duties based on based on "facts available" when foreign companies and governments do not respond to requests for information, Kaplan said.

The Commerce Department found that the government of India failed to provide information on a number of subsidy programs that it was asked about, he said.

"I think it's unjustified (for the Indian government) to go to the WTO. They certainly should not try by this unusual move to overcome their failure to cooperate in the case," Kaplan said.

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U.S. Envoy Seeks Lift in Trade with India

Amol Sharma, The Wall Street Journal

28 April 2012, NEW DELHI -- In her first public remarks since taking over as U.S. ambassador to India, Nancy Powell said the two countries can expand their commercial ties by negotiating a bilateral investment treaty and reducing barriers American businesses face.

"I firmly believe the partnership between the U.S. and India can deepen in every sense in coming years," Ms. Powell told a meeting of the American Chamber of Commerce in India on Friday. "The business of the U.S. mission in India is business."

Ms. Powell's stint as ambassador comes as U.S. companies and investors are becoming skittish about India's regulatory environment, especially proposed capitals-gains tax liabilities for transactions involving foreign companies, some retroactive to 1962.

The U.S. government also is concerned about India's purchases of oil from Iran despite international sanctions on the country. Iran supplies 12% of India's crude.

India, for its part, is expected to lodge a complaint soon in the World Trade Organization about a U.S. law that nearly doubled fees for skilled-work visas, according to a senior Indian official. That U.S move hit the bottom lines of Indian outsourcing firms.

Ms. Powell said her priorities in India during her tenure are to bolster trade relations as well as defense and counterterrorism cooperation, and to work closely with India to enhance its roles in the Indian Ocean region and international and multilateral groups.

"It is an incredibly important agenda for both countries," she said.

She noted that trade has grown substantially between the countries in recent years. U.S. goods exports to India jumped to $21 billion from $3 billion since 1995. "It can only go up," Ms. Powell said.
Among the most promising areas of cooperation for the U.S. and India are defense, infrastructure, homeland security, nano-technology and bio-technology, she said.

But U.S. firms and institutional investors are among the foreign players put off by a spate of proposals recently in Delhi—including a tax on international mergers in which Indian assets are transferred. They also are frustrated by New Delhi's slow pace of opening sectors such as retail, insurance and defense to boost foreign investment.

Ms. Powell said she has heard such concerns from U.S. executives and said the Indian policy moves have "dampened sentiment about India's investment climate."

She said the two nations could "enhance transparency and predictability" by striking a bilateral investment treaty. Washington recently announced a new model for such pacts.

The Indian tax proposals will come to Parliament for final passage next month as part of a budget package, and foreign investors from around the world have been lobbying India to relax the measures.

Addressing the same event on Friday, C. Rangarajan, chairman of the economic advisory council to Indian Prime Minister Manmohan Singh, said that India "must continue to make an environment where foreign capital will be coming into the country" and that the government will "allay the fears and concerns" of foreign investors.

Ms. Powell presented her credentials to India's president on Tuesday. She has previously served as U.S. envoy to several South Asian countries, including Pakistan, Bangladesh and Nepal, and had diplomatic positions in New Delhi and Kolkata. Coming to India "feels like a homecoming," she said.

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India protests US's move to put it on IP rights watch list

Asit Ranjan Mishra & Vidya Krishnan, Mint

May 8, New Delhi: The government strongly objected to the US placing India on a priority watch list in its latest trade representative's report, which raises concerns over the country's enforcement of intellectual property rights.

In a letter to the US trade representative Ron Kirk, commerce minister Anand Sharma termed the move "unilateral, unfortunate and unjustified".

India has a stable intellectual property regime fully compliant with trade-related intellectual property rights (TRIPS) and a strong enforcement mechanism, Sharma wrote in the letter, which Mint has reviewed.

In the US trade representative's Special 301 report published last week, it urged India to continue to work to streamline its patent opposition proceedings. "The US will closely monitor developments concerning compulsory licensing of patents in India following the broad interpretation of Indian law in a recent decision by the Controller General of Patents, while also bearing in mind the Doha Declaration on TRIPS and Public Health," it said.

Trade between India and the US has soured in the recent times with both the countries taking each other to the World Trade Organization (WTO) to fight out differences in policies.

The US approached the WTO seeking a consultation with India after the country in March banned imports of the US poultry. India followed this with seeking a consultation with the US over import duties levied on Indian steel products. India also said it will take the US to WTO against what it calls a discriminatory visa fee regime against Indian information technology firms. Consultations at the WTO is the first step towards resolving a disagreement before entering into a full-fledged legal dispute. Both sides have already postponed twice the crucial eighth round of US-India trade policy forum talks.

In March, India's Controller General of Patents passed an order allowing Hyderabad-based Natco Pharma Ltd to manufacture and market a copy of Bayer AG's liver and kidney cancer drug Nexavar—the first time an Indian firm was granted a so-called compulsory licence, which permits a generic drug producer to make and sell its version of a patented drug without the consent of the patent holder. The US raised concerns over the development holding that this may weaken the global patent regime under TRIPs.

"The world is eagerly watching India and if we give in now it will only lead to recolonization. The Indian government is favouring Indian drug makers, but if we succumb to US pressures, we will go back to the 1970s—when we had to depend on other countries for life-saving drugs," said Chinu Srinivasan, public health activist and managing trustee of the non-governmental organisation Low Cost Standard Therapeutics.

"This is a battle between Indian companies and global giants. In any case, it is disheartening to note that people or public health does not figure in this debate and (the focus) remains purely on trade," he added.

Sharma said India was found to be compliant with all WTO regulations in a recent review of the country's trade policy at WTO. India's intellectual property regime has seen many steps in the recent times to improve efficiency and transparency and measures have been taken to accede to the Madrid Protocol, he added.

The Madrid Protocol is an international treaty adopted in 1989 enabling owners of trademark applications and registrations to extend their rights to dozens of other member countries. Also, “legal developments in the copyright field are at an advanced stage and are awaiting the required parliamentary approvals,” Sharma said.

A US report in December identified Nehru Place in New Delhi as among the 30 most notorious IT markets of the world dealing in goods and services that infringe intellectual property rights.
Sharma assured the US trade representative that the intellectual property regime in India will continue to be responsive to the country’s needs, especially on public health issues, within the parameters of flexibilities available under TRIPS.

“The application of law will be equal across residents of all countries including India,” he said.

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India, US see differences widen over trade, diplomatic issues

Asit Ranjan Mishra & Elizabeth Roche, Mint

Ties lose momentum as tensions grow between the two countries on matters ranging from Iran to import duties

New Delhi, May 14: After reaching a high-water mark in 2008 with the signing of a civil nuclear deal, the relationship between India and the US has seen a downward spiral, with widening differences on trade and diplomatic issues.

The nuclear pact, which was pushed through by the US and helped India throw off its 34-year-old nuclear pariah status and become eligible to buy atomic reactors and technology from the international market, was seen by analysts as the catalyst, making the two countries so-called engaged democracies—a far cry from the days of the Cold War when they were on opposite sides and known as estranged democracies, when India was perceived closer to the erstwhile Soviet Union.

The civil nuclear deal was expected to open the doors for US businesses but has made little progress because of India's stringent liability conditions. This was followed last year when the US lost to France a lucrative $12.6 billion contract for 126 fighter aircraft for the Indian Air Force.

More recently, the two countries are being seen on opposite sides over ties with Iran, with Washington keen to see New Delhi reduce its oil imports from the Persian Gulf country, till recently India's second-largest supplier after Saudi Arabia. Washington wants New Delhi to cut its oil trade with Iran to ensure that the financial sanctions it announced in December take effect.

The sanctions are aimed at crippling revenues generated by Iran's oil industry that Western countries say is funding Teheran's disputed nuclear programme.

During a visit to New Delhi last week, US secretary of state Hillary Clinton pressed India to do "even more" to reduce its oil purchases from Iran, even as foreign minister S.M. Krishna highlighted Iran as an important source of oil. To sort out the differences, the US is despatching top energy diplomat Carlos Pascal to India for further talks starting Monday.

However, it is the growing tension between the two countries on trade that has taken analysts by surprise. The US in March took India to the WTO seeking a consultation on India's ban on the import of poultry products from the US. On Friday, the US approached the WTO asking it to set up a dispute settlement panel on the matter, holding that the consultations between the two countries had failed.

A consultation at the WTO is the first step towards resolving a disagreement before entering into a full-fledged legal dispute.

India says it has the right to impose import restrictions on countries, whenever they report outbreaks of low pathogenic avian influenza, the only kind of avian influenza found in the US since 2004.

India, meanwhile, took the US to the WTO for consultations over import duties levied on Indian steel products. India has announced that it will seek consultations at WTO against what it calls a discriminatory US government procurement and visa-fee regime.

India alleges that the US' visa fee hikes are targeted towards its information technology companies, who are widely perceived in the US to be taking away jobs from native Americans.

Through the James Zadroga 9/11 Health and Compensation Act of 2010, the US imposes additional 2% tax on countries that are not signatories of its government procurement agreement.
India considers this law a violation of the most favoured nation status under the WTO, which seeks to ensure non-discrimination among trading partners. Both sides have also postponed twice the crucial eighth round of US-India trade policy forum talks.

"We are currently in the process of preparing the brief through a lawyer. Once the brief is ready, we will take up the issue at the WTO," a commerce ministry official said under condition of anonymity. The law is in spirit, not by design, against Indian interest, he said.

When asked about the souring of economic relations between the two countries, the official said: "The relationship between the two countries had great promise on trade front. But wrong policy choices by the US trade officials have spoiled the relationship. Because they know they cannot get anything from countries like India and China, they have gone ahead and started pricking us."

A questionnaire sent to US embassy officials in India did not elicit any response.

The US is India's third largest trading partner after the United Arab Emirates and China, with bilateral trade standing at $45.6 billion in 2010-11.

The US has also raised concern over India allowing Hyderabad-based Natco Pharma Ltd to manufacture and market a copy of Bayer AG's liver and kidney cancer drug nexavar—the first time a local firm was granted the so-called compulsory licence.

The US has placed India on a priority watch list in its latest trade representative's report, which raises concerns over the country's enforcement of intellectual property rights. Trade minister Anand Sharma has strongly objected to the US move, writing a letter to his US counterpart Ron Kirk that termed the move as "unilateral, unfortunate and unjustified".

Anwarul Hoda, professor and a trade expert at the Indian Council for Research on International Economic Relations, said there are deep-rooted problems between the two nations although the ongoing presidential election process in the US has aggravated the situation.

"The White House has to show to its domestic constituencies that it is very tough with its trading partners," Hoda said. "The government is basically playing to the gallery,"

He said unlike the Republic Party, the incumbent Democratic Party are not pro-trade. "They are totally confused about their trade policy," he said.

The Obama administration has often been accused of lacking a trade policy and has widely been blamed for not showing any resolve to complete the Doha round of multilateral trade agreement under the WTO.

Hoda said the malaise in the trade relationship is deeper than it appears. "The US is losing its competitiveness. In the 80s, they were losing competitiveness against Japan. Now they are losing competitiveness in manufacturing to China and in services to India," he said. "They have the usual habit of blaming the other side for their own problems."

Hoda who is also a member of the India-US private sector advisory group, said, "We have been trying to improve the relationship between the two countries, but it is only worsening."

However, Biswajit Dhar, director general at Research and Information System for Developing Countries, said he does not think it is proper to see the recent developments as worsening of economic relationship and sees the US move to hike visa fees as a step to win electoral mileage with US votes.

On India threatening to take the US to WTO on the visa fee hike, Dhar says this is an attempt by India to avoid any crisis in its external payment situation. “India is trying to ensure that its balance of payment problem does not further worsen,” Dhar said. “The dollar outflows are hurting us more now than in the past.”

Taken together with growing differences on diplomatic front, it is perceived as signs of the ties between the two countries losing momentum.

Former Indian ambassador to the US Naresh Chandra conceded that ties had “plateaued” but he attributed this to domestic reasons in India and the US with the US busy with presidential polls in November and Indian government seemingly caught in a series of scams that has paralysed policymaking.

“Neither side is in a position to make gestures to the other,” Chandra said. “So this situation will continue at least till the end of this year.”

“But to say that India-US relations will be severely affected or slide back to what they were two decades ago is far-fetched,” Chandra said.

Uma Purushotaman, an analyst at the Observer Research Foundation in New Delhi was of the view that the differences across the board—economic and strategic—were containable. “There will be differences, but it will not go to the point of straining ties too much,” she said. “There is too much at stake for both sides.”

“Given the changing global scenario, the geo-politics of Asia in the sense of the changing balance of power—the emergence of China, the imminent change in leadership there and the emergence of India—the US and India both have a lot in common. What the US can bring to the table, no one else can,” she said.

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India says ban on US poultry products lifted in September 2011

Amiti Sen, Economic Times

May 21, 2012, New Delhi: Reacting to the US government approaching the global trade body, WTO, against India imposing a ban on US agricultural products, including poultry meat and chicken eggs, the government clarified that it had already revoked the ban on imports from the US last September when it was declared free of avian influenza, a government official said.

"We already removed the ban on poultry and poultry products imports from the US in September last year as it was declared free of avian influenza. But we do carry out tests to ensure that the items that are imported meet international safety standards and we are ready to defend these at the WTO," a government official told ET.

The US' request on the matter will be taken up by the dispute settlement body of the WTO when it meets in Geneva on May 24.
New Delhi will try to defend its interpretation and application of provisions on restricting trade of poultry products and other farm goods as specified by the World Organisation for Animal Health or OIE (formerly the Office International des Epizooties) that has been challenged by the US and termed as too restrictive.

The US poultry industry, which has identified India as a big market for chicken eggs - a product that doesn't find much favour with the Americans - estimated that its exports could be as much as $300 million every year if restrictive standards are removed. Right now, US exports of processed poultry products to India are negligible as these can't meet India's 'conformity assessment' norms.

India had clarified to the US that import restrictions on poultry products were applicable only for countries reporting Notifiable Avian Influenza (NAI) which includes both low pathogens and high pathogens during its consultations in Geneva last month.

The US, however, differed with India regarding the applicability of provisions of OIE relating to restrictions on trade., and also expressed concern on the lack of sufficient scientific justification in India's risk assessment and consequential restrictions on trade in other products.

"The US' commercial interest in India is huge, no doubt. I think it is seeking much more than just a simple lifting of import ban. It wants the WTO to declare that the safety standards being followed by India are much more than what is laid down by the OIE, so that market access becomes easier," a WTO expert from a Delhi-based trade research organisation told ET.

India claims that its risk assessment procedure is purely scientific and is based on OIE standards, but the US contends that it goes much beyond what the OIE lays down.

"If the WTO dispute panel agrees with the US, India may have to revise its standards. But if India can prove that its standards are purely backed by science as it claims, then the US can't do anything about it," the expert added.

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India changes stance on rise in US visa fee

Nayanima Basu, Business Standard

Says rise in fee discriminatory disputes on steel, poultry trade intensify

New Delhi May 22, 2012:
To strengthen its case against the US, India has changed its stance on the issue of rise in visa fees, saying the higher professional visa fees were targeted only towards Indian technology firms, not those from other countries.

India would now officially seek consultation with the US by sending a notification by the end of this week. A couple of months earlier, it had moved the World Trade Organization (WTO)'s Dispute Settlement Body (DSB) on this issue, but could not firm up the case due to its "technical and complex nature", a senior official in the commerce ministry told Business Standard.

India has said the US was using a particular law, Public Law 111-230 (Border Security Act), which substantially enhances fees relating to applications for L1 and H1B visas for companies (with at least 50 employees) for whom non-immigrants account for more than half their US workforce. As a result, Indian information technology (IT) giants like Tata Consultancy Services (TCS), Wipro, Infosys and Mahindra Satyam have come under the net.

The Bill nearly doubles the fees for skilled-worker H-1B and L1 visas to $4,500 per applicant (from about $2,320), for such companies.

"This is a complex and highly technical case. So, we are fine-tuning our consultation case. We are going to challenge that this 50-50 rule is a discriminatory move only against India, as it accounts for the major share of the IT and ITeS (information technology-enabled services) sectors in the US. This is not affecting any other country. We are going to send an official notification to the US on this soon," the official said, on condition of anonymity.

On May 31 and June 1, both India and the US are going to fight yet another dispute over the US' imposition of countervailing duties on steel imports from India. Both sides would sit for consultations in Geneva. The US, which believes the prices of steel products made by Essar Steel are doctored, has already been served a notice on this issue.

India also plans to consult WTO on the James Zadroga Act, under which US authorities have the right to impose two per cent tax on goods imported from non-government procurement countries. India is still not a party to the WTO's government procurement agreement, but the Indian government says imposition of this additional tax is a violation of the National Treatment Policy exercised under WTO trade laws.

India and the US, which have a trade relationship worth $100 billion, are also engaged in a bitter clash over poultry imports. The consultations on this case were wrapped up last month. However, it ended in a bad note and US has now notified the WTO DSB to set up a panel, which would be in place by June. If this process fails to find an amicable solution, the case would reach the WTO's appellate body.

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US hikes duty on Indian steel pipe

Reuters

Washington May 25, 2012: The United States piled another layer of preliminary duties on Thursday on a certain type of steel pipe from India, one month after New Delhi complained at the World Trade Organisation about an earlier US round.

The US Commerce Department said it had determined that Indian companies were selling circular welded carbon-quality steel pipe in the United States at 48.43% below fair market value.

The duties will require importers to post bonds or cash deposits based on the preliminary rates until a final decision on anti-dumping duties is made later this year. The department also set preliminary anti-dumping duties on this kind of pipe of zero to 27.96% for Vietnam, 5.59% for Oman and 3.29% to 11.71% for the United Arab Emirates. US companies Allied Tube and Conduit, JMC Steel Group, Wheatland Tube and United States Steel Corp petitioned the government last year for import relief. In March, the Commerce department set preliminary "countervailing" duties of nearly 286% on the same type of steel pipe from India to offset government subsidies. That prompted India to request consultations with the United States on the action at the WTO, the first stage in filing a formal trade dispute. India rejects the US view that Indian manufacturers are subsidized because a portion of the iron ore they use to produce the steel pipes comes from India's top iron ore miner NMDC, a state-run company. The United States in 2011 imported about $64.5 million of the steel product from India, $53.9 million from UAE, $50.1 million from Vietnam and $28.0 million from Oman.

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US lawmakers against India's market access policy

Indira Kannan, Business Standard

June 15, 2012, Toronto: The United States Congress has joined the battle against India’s new Preferential Market Access rules for procurement of electronic goods announced earlier this year. On Tuesday, members of Congress from both the Democratic and Republican parties wrote to India’s ambassador, Nirupama Rao, asking the Indian government to reconsider its PMA policy and its impact on the information and communications technology (ICT) sector.

In a strongly worded letter signed by 21 lawmakers, the co-chairs of the Congressional High-Tech Caucus, Doris Matsui and Michael McCaul, wrote: “Top-down industrial policy mandates… will only serve to stifle investment and stymie manufacturing and job creation.”

The US ICT sector has been up in arms about the PMA policy, and is strongly lobbying the administration and Capitol Hill to address the issue. Michael Froman, the deputy national security adviser for international economic affairs, is believed to have raised this subject when he met External Affairs Minister S M Krishna in Washington, DC this week.

In an interview, John Neuffer, vice president of global policy at the Washington, DC-based Information Technology Industry Council, a leading business group for the ICT sector, said US industry wants the PMA policy rescinded immediately.

He said this was a high priority for American companies because India is a critically important market. The ITIC cites studies showing India’s information technology (IT) and telecom markets are expected to grow to nearly $300 billion by 2015. American companies have also taken note that India continues to be one of the fastest growing telecom markets despite the global economic slowdown, with the country’s total telephone subscriber base growing five-fold in the past six years.
But the concern is not limited to India alone. “India is a very important economy. Other economies watch what it’s doing and often mirror what it’s doing. We’re quite concerned that this PMA sets a very unhelpful precedent around the world,” says Neuffer.

Another major concern is that the policy could apply to the private sector. As the Matsui-McCaul letter noted: “This application of local content requirements to private sector entities, in particular, represents an unprecedented interference in the procurements of commercial entities.”

US industry plans to keep lobbying to roll back the PMA policy, and Neuffer also pointed to recent talks between industry representatives and Indian government officials at the India-US ICT Dialogue earlier this month. “The upside is the dialogue was constructive and friendly but I did not sense that there was any significant change of course in the policy. We’re hopeful the Indian government will make the right choice but we’ve got no indication so far that that’s going to happen,” said Neuffer.
This has become the latest irritant in bilateral trade, with the letter from members of Congress pointing to other problems: “Our concerns with the PMA take on greater urgency, given other problematic, discriminatory measures that the Government of India has adopted or is considering in this and other sectors.”
The complaints are not one-sided. In his speech at the US India Business Council’s annual summit in Washington, DC, this week, Krishna listed pending grievances on India’s side: “For our businesses, too, there are pressing issues: whether it is the worsening environment for mobility of professionals, the protectionist sentiments against the global supply chain in services industry, the refusal to even consider a Social Security Agreement that affects the lives of 300,000 non-immigrant Indian professionals in the United States, the unresolved market access issues, or, the persisting presence of India in the Super 301 Priority Watch List and the US Department of Labour’s list.”

While the two sides reported some progress at the strategic dialogue towards implementing the civilian nuclear agreement with the signing of an MoU between American company Westinghouse and the Nuclear Power Corporation of India, it appears the ICT sector will have to wait its turn.

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US steps up lobbying efforts against compulsory licensing

C.H. Unnikrishnan, Mint

The US has stepped up efforts to lobby with the Indian government to restrict the country's use of a global trade law that allows local companies to make and sell copies of patented drugs or other products in special circumstances.

The move has irked activists, patent experts and drugmakers in India, who have written to the government protesting the US's campaign.

The US was the most annoyed when India in February issued its first compulsory licence to Hyderabad-based Natco Pharma Ltd to make a cheaper copy of German firm Bayer AG's patented cancer drug Nexavar.

The decision inspired other emerging economies, including China, to follow suit. China amended its patent law in June to allow so-called compulsory licensing to keep healthcare affordable.

The US's deputy under secretary of commerce for intellectual property and deputy director of the US Patent and Trademark Office (PTO), Teresa Stanek Rea, admitted in a 27 June meeting of the US house committee that the office had "someone on the ground in the embassy in Delhi who constantly engages with all of the respective officers in India to discuss with them the importance of not granting CL (compulsory licence) in a situation where it is not wanted."

Mint has reviewed a copy of Rea's statement to the house committee.

Kalpana Reddy, first secretary, intellectual property, at the US embassy in New Delhi could not be reached for comment.

According to patent experts in India, the grant of a compulsory licence by a country, invoking its statutory rights as a member of the World Trade Organization (WTO), is the equivalent of a court decision based on submissions from all the parties involved, including the patent holder.

Compulsory licences are granted when a patent is proved to be not working for the benefit of the public. In Bayer's case, the provision was invoked because the patented drug is too expensive to be afforded by a sizeable population that needs it, they said.

"Any intervention in this process either by engaging government offices or individual officials will be considered unwarranted and it is in violation of the judiciary practices," said a New Delhi-based patent attorney who declined to be identified as he works with several US pharma clients.
The Indian Pharmaceutical Alliance (IPA), a lobby representing top Indian drugmakers, has written to foreign secretary Ranjan Mathai asking if it was legitimate for diplomats stationed in India to indulge in such lobbying to protect the commercial interests of private companies.

"Foreign trade or diplomatic missions in any country can have dialogues with local government on protecting their own interests and it's nothing illegitimate as Indian decisions are in the best interest of this country ultimately," an official in the ministry of foreign affairs said.

"As far as the compulsory licensing of (Bayer's drug) is concerned, government of India has already made its stand very clear to the US government and such decisions will take place even in future if need arises," said this official, who was assigned to respond to a Mint query on behalf of Mathai.

Tapan Ray, director general, Organisation of Pharmaceutical Producers of India, a lobby representing foreign drugmakers in India, said it was only natural for the US government to discuss the issue with New Delhi.

“Compulsory licensing in India had raised concerns among the innovative companies in the world including US, and that government seems to have clarifications on this. Naturally, when there are concerns raised by domestic industry, the government will try to engage in dialogues with the respective government,” he said.

Rea said in her statement to the house committee that India’s grant of compulsory licence did not satisfy international norms that allow for the provision to be invoked in a national crisis.
The Trade-Related Aspects of Intellectual Property Rights (TRIPS) that has set the international IP standard for WTO members, “very much allows compulsory licence as one of the flexibilities that can be used in case of national requirements, including emergencies,” said Gopakumar Nair, a patent lawyer and managing partner at patent law firm GN Associates.

“These unfortunate comments by the deputy commissioner of the US PTO are reflective of a growing tendency by developed countries to demonize compulsory licensing—a perfectly legitimate legal tool,” said Shamnad Basheer, an IP law professor at the National University of Juridical Sciences, Kolkata.
“More importantly, compulsory licensing is not restricted to public health emergencies, as many would have us believe. In fact, the US itself routinely resorts to compulsory licencing, albeit through its courtswhich refuse to issue injunctions against infringers in many a case,” Basheer added.
The February order of the former controller general of India’s patent office, P.H. Kurian, to allow the compulsory licence generated positive responses from the international IP community.

The 62-page order “has sent a clear signal that the provision of compulsory licence in Indian patent law have teeth and that a patent holder selling medicine at unduly high prices faces real prospect of entry of low-cost competitors,” Arvind Panagariya, a professor at Columbia University, wrote in a column in The Economic Times on 30 May.

IPA said Rea had briefed the house committee only about one of the factors—the absence of local manufacturing of the drug—for India’s decision to grant the compulsory licence. But there were two other “compelling factors that forced India to grant the compulsory licensing of Bayer’s drug. These include poor access of the drug to patients even after three years of the patent grant and the unaffordable high price,” said Dilip G. Shah, secretary general, IPA.

Natco sells the Nexavar copy at Rs.8,800 for a month’s treatment, way lower than Bayer’s monthly dose price of Rs.2.8 lakh.

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Visa, poultry issues on the agenda

Nayanima Basu, Business Standard

June 13, 2012, New Delhi: Even as the third India-US Strategic Dialogue is held in Washington tomorrow, contentious areas relating to the recent spate of disagreements between the two countries are likely to significantly feature in the talks.

The past few months have seen both countries engaged in a bitter fight over several trade-related issues, with each dragging the other to the World Trade Organization (WTO)'s Dispute Settlement Body. While the US had taken India to the WTO over restrictions imposed by India on poultry products from the US, India had complained against the US for increasing professional visa fees, which hit the operations of Indian information technology firms. It had also lodged a complaint against duties on Indian steel imports.

The dialogue tomorrow would be chaired by External Affairs Minister S M Krishna, who would meet US Secretary of State Hillary Clinton in Washington DC. In 2009, both countries had decided to establish the dialogue process. The first meeting was held in Washington in 2010, while the second was held here in July 2011.

"When bilateral issues would be discussed, the recent WTO disputes would undoubtedly feature high on the agenda. After all, both countries are soon going to surpass $100 billion worth of bilateral trade. So, even minor trade irritants like these matter a lot for both parties," a senior government official told Business Standard. The irritants notwithstanding, two-way trade in goods and services between the two nations increased almost five-fold in the last decade — from $18 billion in 2001 to nearly $90 billion in 2011. This year, bilateral trade is expected to stand at $100 billion. "The US-India bilateral relationship has truly experienced a quantum jump in the past decade. Job creation and value addition have been the bedrock of business partnerships between the two countries. But much remains to be done," said Adi Godrej, president, Confederation of Indian Industry, who is leading a delegation of chief executives to the US as part of the dialogue. The US had yesterday exempted India, South Korea, Taiwan, South Africa, Turkey, Malaysia and Sri Lanka from sanctions on oil imports from Iran. India is the third-largest buyer of Iranian oil, according to US Department of Energy. During her visit to India last month, Clinton had urged India to buy less oil from Iran. Starting June 28, the US plans to implement sanctions against banks that finance oil imports from Iran. India has, however, maintained it would only follow decisions taken by the United Nations, not the foreign policy of a particular country.

"Governments in market economies do not create or run businesses, but we can help create the environment that allows entrepreneurs to take smart risks that catalyse new business—by strengthening investor protection, providing export financing and supporting investments in infrastructure and high technology," said Robert Blake, US assistant secretary of state for south and central Asian affairs. Both sides would also discuss cooperation in public, private and scientific sectors, energy security, women's empowerment and health.

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US plays spoilsport, to nix India's wheat export plan

Amiti Sen, Economic times

New Delhi, July 2, 2012: The United States has put a spoke in India's attempts to export wheat even before the government can get its act together on the proposal to ship two million metric tonne of wheat.

Washington has indicated that it will oppose the grain exports by India if they are sold below cost, as export subsidies are not permitted by the World Trade Organisation.

In a recent meeting of the agriculture committee of the WTO, the US asked India about the exports.
"The US asked us detailed questions on the minimum support price paid to procure food grain and the price at which it could be sold in the overseas market," a government official told ET.

The government has over 50 million tonne of wheat in the central pool as on June 1 against the buffer norm of 32 million tonne on July 1. Much of the grain is stored in the open, exposed to elements and is at high risk of loss.

It is keen to export some of the stock at $228 a tonne(Rs.12,500) against the overall cost of about $300 a tonne (Rs. 16,500) to clear the way for the new crop as without the subsidy it will not find takers in the world market.

However, commerce department officials are apprehensive that once India starts exports at a subsidised rate, the US may create a greater noise at the multilateral forum against the move.
India may be able to defend the exports claiming that subsidies would be given only for a short period, but the US concern reflects a growing global glare on India's food export policy that the government needs to be weary of, a commerce department official told ET.

"India's flip-flop on cotton exports has already been criticised by a number of nations and discussed at length at the WTO. Now the focus is shifting to export subsidies. We need to be careful," the official said. Even in forums such as the G-20, there has been criticism of domestic policies that affect international prices of food grain.

"Although India need not fear action against it at the WTO for its proposed subsidised wheat exports as these would be withdrawn by the time a dispute is launched, we need to ensure that it does not get projected as a country that distorts world food prices," a Delhi-based trade expert told ET.
Interestingly, even the finance ministry in India is reportedly against the food ministry's proposal of selling wheat at $228 per tonne as it will add to the subsidy burden that the government is desperately trying to reduce.

However, since the export price was arrived at after a bidding process and the global prices of wheat are also ruling low, the food ministry is of the view that exports cannot happen if it is not heavily subsidised. The issue is likely to discussed at a meeting of the Union Cabinet scheduled on July 2.
The country could have got a much better price if it had exported some months earlier when global prices were higher, but the decision to export wheat is always a sensitive one because of food security issues and the government often takes long to decide.

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US ups the ante on Nexavar Generic, threatens to take India to WTO

Divya Rajagopal, Economic Times

Mumbai, 5 July,2012: The US House of Representatives and the US Patent and Trademark Office (USPTO) have threatened to drag India to the World Trade Organisation's dispute panel for issuing the first ever compulsory licence to a domestic company to manufacture generic version of Bayer's cancer drug Nexavar, saying the move violates international trade laws. "As opposed to criminal activity, these international patent trade problems in the civil laws space seem to be driven directly by the foreign government to benefit their domestic industry," said Bob Goodlatte, a Republican Party member and member of the House sub-committee on intellectual property. "It seems that they are getting a free pass as they devalue the patented innovation of the American companies. A WTO case can be brought on this dispute if the appeal doesn't work," he added. Compulsory licence (CL) is a provision under Trade Related Intellectual Property law (TRIPS), which empowers the government to allow someone else to produce the patented product or process without the patent owner's consent. In March this year, the Indian patent office issued compulsory licence to Hyderabad-based Natco Pharma on grounds that the patented version of Nexavar was too expensive for Indian patients, and by merely importing the drug to India, Bayer doesn't necessarily get a working patent in the country. The compulsory licence order reduced the price of Nexavar from Rs 2 lakh to Rs 8,800. Bayer has appealed against the order, but the hearing is yet to begin. USPTO, in a testimony to the House of Representatives, has said by granting licence, India has not compiled with the international standards of patent laws. "I was quite dismayed and surprised when India decided to grant CL... I think it didn't meet international standards and it was also not due to national crisis," said Teresa Stanek Rea, deputy director of the US Patent and Trademark Office. "We have someone on the ground in the embassy in Delhi who constantly engages with all the respective officers in India to discuss with them the importance of not granting CL in a situation where it is not wanted," she explained. However, legal experts back home have completely rubbished the claim that India's compulsory licence violates any international law, arguing Indian laws have such provisions which are permissible under TRIPS. "Whoever is saying that CL issued by India should be a subject matter of dispute in the TRIPS dispute panel needs to read the law properly," said Anand Grover, senior advocate, Lawyers' Collective. "The criticism of the US Representative is completely misplaced and ignorance can no longer be an excuse for making such remarks," he added.

Grover says since the patent order is quasi-judicial in nature, and not a government order, the issue cannot be termed as a bilateral dispute. However, the US patent office has gone on record saying they are lobbying with Indian drug regulators and the patent office to revoke the licence decision. "We are trying to continue our discussion with India's equivalent of USFDA and with regulatory authorities , engaging in discussions with them. Outside the US patent office context, we are doing everything we can to respect the rights of US innovators," said Stanek Rea. But DG Shah of the Indian Pharmaceutical Alliance says these 'threats' are mere pressure tactics by the US. "China, Thailand and Argentina have issued CLs taking a cue from India, and such public statements are the only option left with the US to impose its protectionist measures," he says.

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US asks Govt not to raise duties on power gear imports

Arun S., Hindu Business Line

New Delhi, July 12: The US Government has expressed concern over the proposed duty hike on power equipment imports.
The US Trade Representative, Mr Ron Kirk, has written to the Prime Minister, Dr Manmohan Singh, asking the Centre not to increase duties on import of such equipment, official sources told Business Line.

The 21 per cent duty hike proposed by the Power Ministry — meant mainly to protect local equipment firms such as L&T and BHEL from ‘cheap and low quality’ Chinese imports as well as create a level-playing field — will also hurt American equipment majors such as GE, it is said.
It is learnt that Mr Kirk has written that the duty hike will make power equipment imports more costly and, in turn, result in higher electricity costs for consumers.

Recently, the Association of Power Producers had written to the Power Ministry saying that increasing customs duty on equipment imports would further increase electricity tariffs and also lead to delays in capacity addition. About half of the coal-based capacities are dependent on power equipment imports, it pointed out.

The private power producers’ body also said that financial problems, fuel availability concerns and the distribution utilities being in bad shape had already resulted in higher generation costs. It added that if import duties were hiked at this point, it would adversely affect not only the sector but also the economy.

The Prime Minister’s Office had directed the Power Ministry to circulate a Cabinet note on the proposed duty hike. Currently, the Ministries of Commerce, Finance, Heavy Industries and Power are holding discussions on the issue, the sources said.

As of now, there is a 5 per cent customs duty on equipment imports for below-1,000 MW projects. The proposal to hike duties would also affect ultra mega power projects that are exempted as of now, the sources added.

Differences

Mr Kirk’s letter assumes significance in the backdrop of the recent differences between India and the US on a host of trade and investment issues. The US had already taken India to the World Trade Organisation (WTO) on the ban on poultry imports from the US, while India moved the WTO on US’ ‘high’ visa fee for skilled workers as well as duties on some steel products.

The US Secretary of Commerce, Mr John Bryson, during his visit to India in March, had also raised the issue of India’s “high tariffs” on capital goods such as power-generating equipment, some medical products, grapes, citrus, and other fruits. He had termed these as ‘barriers’ to building US-India economic ties and also said local sourcing requirements in sectors such as solar energy and IT/electronics (telecom) “makes it harder to invest in India.”

The US Ambassador to India, Ms Nancy J. Powell, in April expressed concerned over ‘challenges' to trade and investment in India, including “high tariff and non-tariff barriers, restrictions on foreign investment, lack of transparency, and defence offset requirements”.

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India escalates US steel duties dispute at WTO

Reuters

July 13,Geneva: India has asked the World Trade Organization to set up a panel to adjudicate on its dispute with the United States over US duties on some imports of Indian steel products, the WTO said on Friday. India complained in April that Washington had wrongly slapped punitive tariffs, so-called countervailing duties, on certain hot rolled carbon steel flat products from India. Countries impose countervailing duties when they believe their manufacturers are suffering because of competition from unfairly subsidised imports.

In its complaint India challenged countervailing duties going back to April 2001, as well as the United States Tariff Act of 1930 and the US Code of Federal Regulations, which it said were inconsistent with WTO rules. By asking for a dispute panel to be set up, India is indicating that it has failed to resolve the issue via consultations with the United States. The United States is also in dispute with China over the US use of countervailing duties on a range of imports, including several types of steel products. China requested consultations on May 25 but has not yet asked for a panel to be set up.

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US, EU, Japan pile pressure to remove local content clause

Amiti Sen, Economic Times

July 20, 2012, New Delhi: India's majortrade partners-the US, the EU and Japan-have stepped up pressure to remove local content requirement clause in the ambitious national solar mission project and manufacture of certain electronic products.

However, New Delhi is preparing to defend its policies strongly at the World Trade Organization right till the dispute panel level.

"There is a possibility that US may launch a formal dispute against India, especially for the domestic content clause in the National Solar Mission, but we will fight it," a commerce department official told ET.

The US, the EU and Japan recently asked for a special meeting of the Trade Related Investment Measures or Trims committee of the WTO to address concerns on domestic content requirement or compulsory local-sourcing clause in some policy measures in India, Brazil, Indonesia and Russia.

India's decision to grant preference to domestically manufactured electronic products on security grounds, taken earlier this year, and the 30% mandatory domestic sourcing requirement in the JNSSM were strongly criticised by the three members.

The US expressed concern about telecom licensees in India having to purchase telecom equipment locally and wanted to know if the domestic sourcing requirement covered all private agencies.

"The US wanted to know which clause of security exceptions was being invoked and how security concerns are addressed by domestic content and value addition requirement," the official said.

India maintained that security issues are sacrosanct for all WTO members, and a detailed discussion was not possible since these issues are sensitive and confidential and are dealt on the basis of advice from security agencies.

The EU asked for a timeline on when detailed guidelines of the IT policy was expected, but India refused to give any date.

"We do not expect much trouble on electronic goods sourcing as we are well within our rights to take such measures for security reasons," the official said.

The ground, however, may be a bit wobbly when it comes to defending the requirements under the JNSSM that asks all investors to compulsorily use solar modules manufactured in India and source at least 30% of input locally. The Trims does not allow any member to impose sourcing restrictions without ample justification. New Delhi is now waiting for the next Trims committee meeting to see what the US, the EU and Japan plan to do on the matter. "We are prepared to fight it till the end, and we will do so," the official said.

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U.S. Blocks India's Request for WTO to Rule on Steel Duty

Jennifer M. Freedma, Bloomberg

July 23, 2012: The U.S. blocked a request by India for World Trade Organization judges to investigate the legality of American countervailing duties on some Indian steel products. A second request would be automatically accepted.

India complained at the Geneva-based WTO on April 24, saying U.S. anti-subsidy duties on certain hot-rolled carbon- steel flat products violate global trade rules. India is challenging a U.S. finding that Indian steel producers got an illegal subsidy by paying too little for iron ore from a state- owned producer.

The U.S. first imposed the tariff in December 2001 and extended it six years later. The duty is fixed at 102.7 percent, according to a notification submitted by the U.S. to the WTO. The two governments held consultations in an unsuccessful bid to resolve the dispute without resorting to a panel.

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Are India, US on the brink of trade war?

Nayanima Basu, Business Standard

New Delhi, August 2, 2012: After many years, the world's oldest and largest democracies, India and the US, have locked horns in an unprecedented manner over a series of trade disputes that have left a question mark on trade relations between the countries. The imbroglio, on issues such as poultry exports, duty on steel rods and professional visa fees, has seen both approach the World Trade Organization (WTO)'s Dispute Settlement Body (DSB) to put an end to the bitter dispute.

However, some experts believe the dispute is about more than what meets the eye. Others feel the situation is normal, one akin to any between strong trading partners. Over the last couple of years, as the US gradually saw a change of regime, trade ties between India and the US have seen a paradigm shift. A look at what is happening behind the curtains reveals significant factors influencing the US' stance with its leading Asian trade partners. A large part of it is political rhetoric aimed at winning the confidence of the US citizenry, which loves to see their leader raise a strong and stern voice in global matters.

In March, the US commerce department had imposed a 286 per cent countervailing duty on specific steel rods imported from India, arguing these products were heavily subsidised and, therefore, led to an unfair pricing mechanism. In 2010, the US had increased fees for professional visas — H1B and L1 — for applicants of firms in which more than half the employees were immigrants. India challenged both the moves in the WTO, while the US moved the WTO's DSB against India for restricting its poultry exports into the country.

"Since the economic downturn, lobbies in the US have been quite active in securing their interests. Often, in the name of securing jobs for American citizens, the prevailing mood in the administration is to aggressively secure incremental market access, ostensibly to remedy the bulging current account deficit. The former dimension has found expression through actions taken against service providers in India or select industries in China that have, or could have, a sizeable presence in the US market," says Biswajit Dhar, director-general of the New Delhi-based Research and Information System for Developing Countries. He adds action taken by the US administration on trade can, therefore, be quite independent of the political relations US shares with its partners.

According to a senior official from the ministry of commerce and industry, the US has become "extremely protectionist" in the last couple of years, and is linking just about everything to the coming Presidential elections in that country. "They are entirely playing to their domestic constituency. It is their way of jingoism," the official told Business Standard, on condition of anonymity.
In stark contrast to the rising friction in trade between the countries, US President Barack Obama's visit to India in November 2010 had seen much bonhomie between the nations. Obama had then scouted for greater access for US companies to the Indian market, signing deals worth billions of dollars.

Some trade analysts view the recent trade disputes as indirect fallout of the Doha round of global trade talks in the WTO, stalled for more than a decade. Recently, the US had urged emerging countries like India and China to take more responsibility in giving market access to goods and services from developed countries. But some say the US is simply jittery over India's success in the information technology sector. Some states in the US have also called for a ban on outsourcing.

Manoj Pant, professor at the Centre for International Trade and Development (School of International Studies, Jawaharlal Nehru University), believes the tensions are part of the continuing dispute in WTO meetings in which demands for a cut in duties and non-tariff barriers in developed countries, particularly the demand for reduction in agricultural subsidies, have been getting support. "It is well known that he (Obama) is employing this rhetoric as his popularity rating is falling and anti-

outsourcing is his known position against Republican (Mitt) Romney. Remember, he had employed the same rhetoric before the last election," Pant said.
Protectionist tendencies in the US usually gain traction during presidential elections. Democrats are particularly known to whip up national sentiment and step up the offensive against foreign entities. This is evident from President Obama's campaign in which he spoke of bringing back "jobs that have moved overseas".

"These recent tensions are, to some extent, due to the ongoing financial crisis. The administration needs to play to the gallery and show it is strong. While it says it is fighting for the interest of its citizens, at the back of its mind, the measures are to win elections. I believe all these issues will be resolved once the elections are over," said Anwarul Hoda of the Indian Council for Research on International Economic Relations.

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