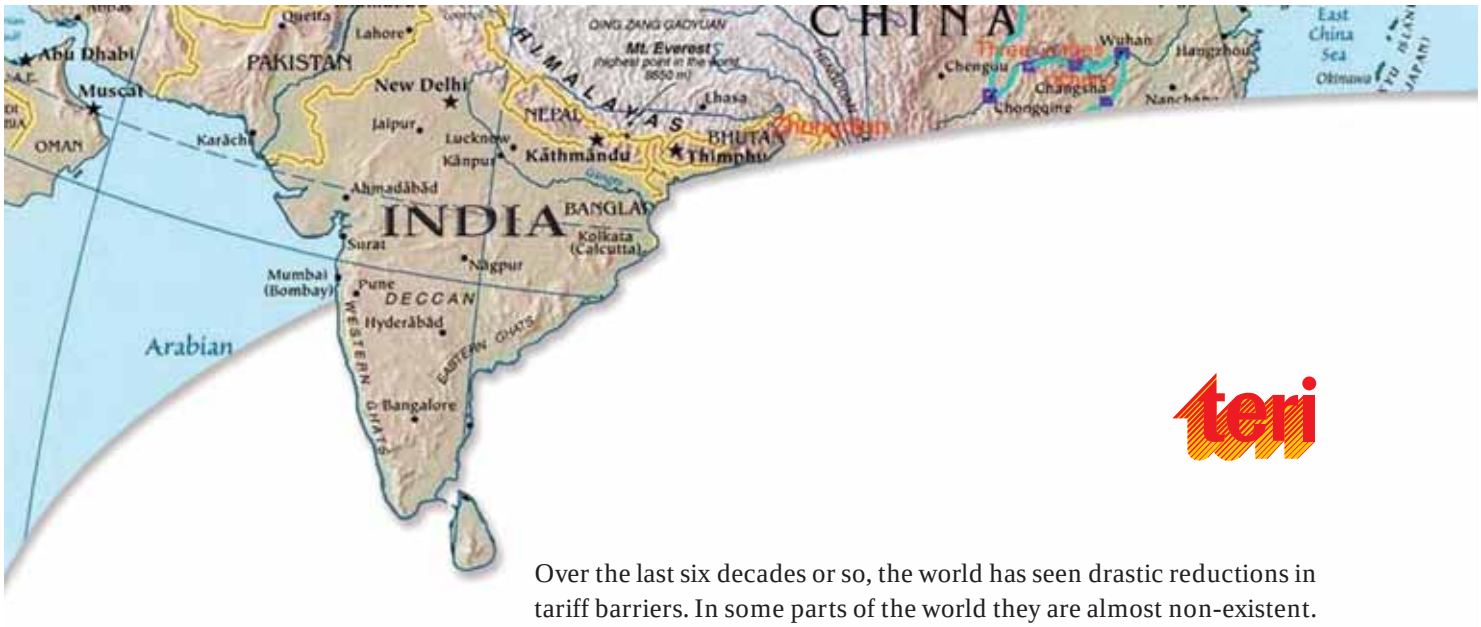

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GALT Update

Barriers to trade

Over the last six decades or so, the world has seen drastic reductions in tariff barriers. In some parts of the world they are almost non-existent. But does that mean that international trade has been liberalized to the same extent? The answer is no. Concerns have been expressed in several quarters that along with the reductions in tariff barriers, the use of NTBs (non-tariff barriers) have gone up. A larger proportion of the use of NTBs has been in the developed world, with developing country exporters as the major victims. Interestingly, the WTO (World Trade Organization) and the trade agreements have played an important role in bringing down the trade barriers but they have not been so successful in case of NTBs due to the complex nature of the latter. Although there are rules on NTBs, they are not so effective.

It is true that countries have a legitimate right to maintain some non-tariff measures, to achieve some social or environmental objectives, however, there are serious doubts if all the measures that are used are necessary to achieve those objectives. It is also important to note that most developing countries find it difficult to retaliate through NTBs as that would mean adopting higher technical, safety, sanitary or environmental standards for their domestic producers as well due to the national treatment (same treatment for both domestic and foreign goods) principle at the WTO. But, their domestic producers may not be able to adopt such standards. Thus, tariff liberalization along with rising NTBs has placed the developing countries at a disadvantageous position.

What makes the situation more damaging is the fact that apart from government mandated standards, there are private and voluntary

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standards also. Such standards vary from country to country and often within countries. These standards are not just high, but arbitrary, and change frequently. The developing country exporters find their choice of export destinations limited, as they are not always able to cope up with multiple standards, which also lead to price disadvantage for them. Often the cost of certification of standards is also too onerous for them.

Another important trend has been the growing use of environmental standards. These are mostly used on a non-binding basis and mainly through private initiatives. But, they can have similar impacts. For example, even if use of eco-labelling is not mandatory, sustained campaigns can make the situation difficult for developing countries. Even if such schemes may be justified on environmental grounds, they must be reasonable, predictable, and transparent. Moreover, arrangements must be made for developing countries to get certification of adherence to such standards with the lowest possible costs. With the growing concerns over climate change, there are apprehensions that there will be proliferation of such barriers in the future. The global community, thus, must ensure that developing countries, and in particular, the small producers do not lose out in the game.

In recent decades, there has been growing importance in trade in services, in particular, due to the development of information and communication technology. In the services, there are no tariff barriers, but NTBs are abound. Since the GATT (General Agreement on Tariffs and Trade)/WTO framework was developed, mainly to deal with trade in goods and tariff-barriers, the mere inclusion of services in the WTO did not really help much in dealing with barrier to trade in services. Moreover, the WTO rules on services have mostly dealt with foreign investment in services, rather than cross-border trade, which is much more feasible now because of the development of technology. This again has tilted the balance in favour of the developed countries. Any further liberalization of the global services trade regime must address this concern.

Nitya Nanda, Fellow, TERI

Agricultural trade barriers in the globally linked 'village' economies*

Prof. J George#

Amidst reports of shrinking export in April 2009, for the seventh month in a row, due to demand recession in major global markets, namely, the US and Europe, principal commodity group exports during April–January 2009 in the agriculture and allied products category showed about 27% growth over the same period in 2008. This is a truncated comparison to highlight that NTB's (non-tariff barriers) still determine how agricultural trade moves between globally linked villages across economies.

Landscape differential

The trade barriers arise as the movement of merchandise from the production landscape to the trade landscape across geographies is not smooth for a variety of reasons. The dominant amongst these are the environment of production, as well as the structure of production, which determines the scale of production. The developing countries are dominated by marginal and small-holder producers, thereby requiring special and differential treatments for food, as well as livestock security consideration. On the other hand, in developing countries, factory farms are as structurally and environmentally diverse as the profit maximizing opportunities permit. The loss of biodiversity, as well as increase in vulnerabilities severely impacts the health and life of human, plant, and animal kingdom.

Take the swine flu pandemic that was upgraded from phase 4 to phase 5 by the WHO (World Health Organization) on 29 April 2009. It is important to juxtapose this event with the knee-jerk responses to SARS (severe acute respiratory syndrome) and avian influenza pandemics. All international agencies, responsible in these pandemic episodes, have been accused of 'crying wolf' for unnecessarily damaging the global meat industry, be it poultry, pork or beef. In fact, US officials have estimated that the pork industry would suffer losses to the tune of $7 million a day in anticipated sales and, hence, succeeded in redesignating 'swine flu' to 'A(H1N1)' virus infestation having a combination of human, avian, and porcine genetic material upon mutation.

The flu virus has traversed different production landscapes and has attracted humongous public attention for finding an antidote. Trade has been affected most severely due to the outbreak of the epidemic. The producers are paying a price for this. In case of avian flu, they are forced to cull and destroy the whole bird stock as a non-pharmaceutical measure. The cause and effect relationship, between production and trade, that influences the consumption pattern, under the factory farm scenario rarely makes engagements with the production and process methods that could lead towards determining the root cause of enhanced vulnerability to all forms in general and humans in particular.

Process and production methods

The PPMs (process and production methods) of primary commodities certainly need to be brought into the centre of the pandemic discussion without much delay. This is the sole pivot, allowing easy host, hibernation, and transmission facilitation to the virus. The efficient supply chain management protocols demand it. Public policy options and public health interventions must indeed rise above epidemiological niceties to save the human kind unforeseen 'social distancing', as well as being objects for profiteering.

PPM is a very important lexicon in trade debate and has attracted rich contribution from trade law makers and academics. PPM defines the way in which a product is made and has industrial revolution and subsequent technological upgradation as historical baggages. Hence, the term has acquired a crucial distinction of

• This paper borrows heavily from the monograph entitled 'Sequencing Food Safety Measures in Developing Countries' (under-publication).

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difference between a product-related PPM and a non-product related PPM. Both are treated differently under the trade law.

What determines the distinction between the two? The key to distinction lies in the PPMs effect on the final product. A number of examples are available to illustrate the difference between the two, but suffice to say that recycled content process largely in the industrial sector falls under the non-product related PPM, while product related PPM mainly come from the agriculture and food sector production landscape. For example, organic and non-organic products, under the SPS (sanitary and phytosanitary) Agreement, incorporates rules about the process of discrimination, based on international standards in setting restrictions, say on pesticide residue levels. However, non-product related PPMs do not make out any distinction for commercial or practical substitutability of the products to determine likeness of the products.

In the specific instance of 'swine flu' and A(H1N1) virus, Dr Michael Greger's investigation reveals that six of the eight viruses arose from North American swine flu strains circulating since 1998, a time when the first strain of H1N1 strain was identified on a factory farm in North Carolina. He further identifies that close confinement predisposes pigs to infection and locating swine in close proximity to poultry farm factory increased the odds for testing positive for swine flu by a factor of 16.7.

Hence, it is interesting to note that most of the environmental discourses, particularly multilateral environmental agreements, highlight PPMs. Terms like 'race to the bottom', 'pollution haven', and 'polluter pays' has encouraged PPMs currency in trade and environment discussion.

Rejections in exports and charges for refusal

The main and unfortunate state of affairs in the recent flu pandemic is the silence at the OIE (World Organization for Animal Health) and the FAO (Food and Agriculture Organization) on this pandemic. Both these international organizations have been active members of the resolution seeking group at the WTO in the past pandemic episodes. It is, therefore, imminent to look at the WTO's food safety and standards regulation entities in trade.

The 2007 salmonella-driven health and food safety inadequacies of standards in the US have seen gradual shifting of burden towards customers, rather than the integrator-processor combine. For instance, during March 2009, the US rejected 218 food consignments from China and 141 from India. During June 2008, 158 consignments from China and 126 from India were refused import permission into the US on food safety measures. What needs to be noted in this June 2008 refusal to Indian consignments are reasons for food safety breach. Notably, there are 172 documented reasons that invite refusal label from the food safety authorities in the US. That the dominant grounds for refusal during June 2008 are 'Salmonella' and 'Filth' that together accounted for more than half the charges for refusal. However, what must be noted, particularly, is that vague charges like 'no English', 'unusual names', 'poisonous', and other factors, though few, accounted for about 20% in a residual group called 'others'.

Similar analyses of refusal charges, during June 2007, indicated that 'Salmonella' accounted for a mere 10% of the total (141) refusal. Pesticides, interestingly, accounted for about one-third refusal charges during June 2007.

In order to put a time perspective, it was found in April 2003 that across all commodity groups, food products having 97% share, 'Filthy' was shown in 31% cases as the main charge for refusal. Incidentally, it was also a common reason in the multiple reason refusal strategy. During April 2003, four-fifths of refusals were on multiple charges.

The EU too has a similar set of purported upfront reasons for detaining agricultural and food consignments at their borders and ports of entry. The scientific merit of these stated 'charges' for refusal, notwithstanding,

Table 1 *Refusal profile of Imports from India during June 2008.*

Main charge for refusal	Number of consignments refused	Percentage of total refusal
Salmonella	33	26.19
Filth	31	24.6
Unsafe colour	16	12.7
Unapproved	15	11.9
List ingredients	09	7.14
Others (like poisonous, no english, not listed, unusual names, among others)	25	19.84
Total	**126**	**100**

Source: http://www.fda.gov/ora/oasis/ora_ref_cntry.html

harmonization, equivalence, transparency, and risk assessment clauses of the SPS agreement, indeed defies all promises of smoother market access to agricultural products from developing countries.

A close examination of the relevant discourse leads to the inevitable conclusion that obvious efforts and postures for removal of tariff barriers on one platform and ascendancy of new and vague forms of NTBs on the other has consigned the market access discussion into the 'Standards' domain.

We know that standards and regulations have distinct turfs, and yet, have dependency on legal niceties, as well as lend itself to myriad interpretations. 'Risk Assessment and Traceability' are two such terms that has informed the discussion on ALOP (appropriate level of protection), as far as SPS measures are concerned. Both these have scale biases and weigh heavily on enforcement cost. Thus, the compliance cost escalation regime in developing countries is either underplayed by design or refusal to access the market as the major end result. The vital fact is to distinguish between the direct and hidden cost elements to figure out the true cost of compliance. For instance, it has been estimated that true cost of compliance in the leather industry is higher than the direct cost estimated by a factor of 21.2.

The risk assessment framework is mired within the perceptive differences between the risk managers, scientific rigour, and regulation bureaucracy. It is easy to locate the smallholder producer in this scenario, to hazard the guess on the cost burden due to compliance requirements of the new regulations on food safety.

Ascendancy of NTMs and private standards

The ascendancy of NTMs (non-tariff measures) as the major concern in international trade and market access is indeed recognized by all the global stakeholders. The Secretary General, UNCTAD (United Nations Conference on Trade and Development), sensing the urgency and criticality of the concerns in July 2006, constituted a GNTM (group of eminent persons on NTMs). The MAST (multi-agency support team), constituting the FAO, the IMF (International Monetary Fund), the OECD (Organization for Economic Cooperation and Development), the UNIDO (United Nations Industrial Development Organization), the WTO, the World Bank, the USAD (United States Academic Decathlon), the USITC (United States International Trade Commission) and the ITC (International Trade Centre), was requested to provide necessary technical support to, GNTM. A dedicated web-portal, Trade Barrier Reporter (http:// ntb.unctad.org), was inaugurated to collect and identify the trade barriers experienced by the business sector. Obviously, the perception of traders has come into sharper focus through this mechanism. There are three main objectives of this online initiative.

- To provide more transparency on NTBs for exporters and importers;
- To help trade policymakers to identify the problem areas for the business sectors, to formulate national policies and develop stronger negotiation capacity at the international level; and
- To provide analysts and researchers with supplementary information on NTBs in order to assess their impact on international trade and development.

The GNTM and MAST proposed a new classification on NTMs that is based on the early-1990's NTM classification of UNCTAD. Naturally, concerns for the ground realities in the policy making domain have proved elusive, despite introduction of SPS measures in the WTO Agreement. However, the legacy of TBT (technical barriers to trade) a la Article XX (b) of GATT, 1947 continues to be the driver of discourse.

For instance, the GNTM, after a series of consultations across stakeholders and the MAST decided on three major issues that is expected to serve the three objectives mentioned above. The trinity of the new mantra is: (1) clear distinction of technical measures between the SPS and the TBTs; (2) incorporation of government procurement, intellectual property rights, subsidies, among others, and (3) implementation problems arising out of 'procedural obstacles' to be considered as NTMs. Annex 1 provides a listing of these new identities that are expected to be considered as NTMs.

Widening lag in the relevant WTO committee support

There is an urgent need to make a wide-ranging engagement with this new classification. First, the examination must begin with the institutional efficacy as provided for in the WTO agreements. For instance, what do these recommendations imply to the SPS Committee and the TBT Committee that report to the TNC (Trade Negotiations Committee)? Have they been floundering in fulfilling their mandated role? The Doha Round had identified several implementation issues requiring a fast track resolution. What has been the plight of those issues?

The GNTB-MAST (Annex 1) has identified 16 issues to be considered as NTMs. Out of these, eight have been those measures that are contentious for being either part of the 'Singapore issues' or form part of separate agreements within the WTO framework.

It may be premature to go deeper into this classification, but suffice to say that a 'TBTized' view of the entire NTMs may be fallacious, as well as, counterproductive to the whole area of international trade, particularly in agricultural commodities.

It is opportune at this juncture to review the implementation issues identified in the Doha Round. The DDR (Doha Development Round) in their work programmes have identified six point implementation issues under the SPS measures. The point for our examination with respect to the SPS Committee and the GNTB-MAST proceedings narrows down to a disturbing question like what has become of these six points?

Indeed, it is a tragedy that US food companies, though try their hardest, are unable to guarantee safety to consumers. The companies are failing and have been found wanting by the apex US body, the CDC (Center for Disease Control and Prevention). And yet, the SPS Committee, after two mandated reviews, since its establishment in 1995, has moved on vigorously in the direction of private food safety and health standards.

Notably, upto April 2009 (beginning 1995) over 10 000 notifications have been issued by the member countries on the SPS measures under the transparency clause of the agreement. It is often said that the SPS Committee has the main charter so as to provide an opportunity for the members to raise concerns about measures that impinge on trade with other members due to certain notified measures. As an illustration and further reinforcment of the 'bread and butter' syndrome of the SPS Committee during 2008, a total of 29 STCs (specific trade concerns) were brought to the committee in which 16 were new issues. It has been reported that 24 cases could not be resolved during the year.

Future challenges

Against this backdrop, certain challenges can be flagged that may pave the way for agricultural commodity trade to become smoother and healthier. The third review of the SPS measures, to be undertaken during 2009, must be broad-based and transparent, such that fresh inputs are attracted as well as discussed. This is relevant, considering the path-dependency syndrome observed in the first two review reports. Secondly, the SPS measures have been separated out from the TBT measures and the distinction must be maintained. The TBT spectacle must not be used to view SPS STCs. This principle needs to be operationalized. The precautionary principle and some oversight clauses do provide the developing countries and the LDCs (least developed countries) an opportunity to ward off health and food hazards. Have these opportunities been gainfully utilized or allowed to be used by the relevant members? An affirmative answer is not forthcoming, as repeatedly scientific merit and evidence is being questioned or challenged. Such exclusive use of a particular type of scientific rigour may be suicidal for the trade to impart any benefit to the society at large.

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Annexe 1

GNTB-MAST suggested Classification of NTMs

Code	Remarks	NTM Title
A000		Sanitary and phytosanitary measures
B000		Technical barriers to trade
C000		Other technical measures
D000		Price control measures
E000		Quantity control measures
F000		Para-tariff measures
G000		Finance measures
H000		Anti-competitive measures
I000		Export related measures
J000		Trade related investment measures
K000	*	Distribution restrictions
L000	*	Restriction on post-sales services
M000	*	Subsidies
N000	*	Government procurement restrictions
O000	*	Intellectual property rights related measures
P000	*	Rules of origin

Note: * Until further decisions by MAST members, no efforts need be made to collect measures under these categories from official sources. These categories have been created in order to reflect potential concerns by traders through surveys and questionnaires.

The WTO Agreement on technical barriers to trade: obligation and opportunities for the members

Chanchal C Sarkar*

Introduction

With the successive rounds of the former GATT (General Agreement on Tariffs and Trade) and the present WTO (World Trade Organization) negotiations, the average applied tariff levels across the globe have come down significantly. However, at the same time the global trading regime has also experienced increased incidence of NTMs (non-tariff measures), especially from the developed countries. As NTMs erode away the potential, increased market access through decreased tariff, the issue of NTMs has emerged as a major concern to the exporting communities from the developing countries like India. There have been instances when certain NTMs have been used and are being adopted and used by many developed countries in a manner, which is not fully consistent with the basic rules and principles of the WTO. The question, therefore, is whether the existing WTO system is enough to address the issue of NTMs. To understand this, let us see the kind of NTMs used and the corresponding WTO Agreement to deal with them. All NTMs can broadly be divided into two categories, namely, the TBT (technical barriers to trade) and the SPS (sanitary and phytosanitary) measures. While SPS measures are dealt with within the Agreement on SPS, the TBT measures are within the TBT Agreement under the WTO. Here, we shall confine ourselves in the area of TBT only.

The TBT Agreement

The agreement on TBT entered into force with the establishment of the WTO on 1 January 1995. The Tokyo Round of trade negotiations (1973–79) resulted in a series of agreements on NTBs (non-tariff barriers to trade). Among these limited membership agreements the Tokyo Round Agreement on Technical Barriers to Trade, signed in April 1979, had 47 signatories.

The basic objective of the TBT Agreement is to ensure that technical regulations, standards, and conformity assessment procedures do not constitute a barrier to international trade. It seeks to achieve a balance between allowing the members to take any appropriate regulatory measures to protect legitimate interests, and assure that technical regulations, standards, and conformity assessment procedures do not become unnecessary obstacles to international trade. It also promotes the use of international standards. With a view to achieving the basic objectives, a number of clauses/ provisions have been built in within the TBT agreement.

The difference between the TBT and the SPS measures

It is important to know that the scope of the two agreements is different. The SPS agreement covers all measures, which aim to protect (i) human or animal health from food-borne risks, (ii) human health from animal-or plant-carried diseases, and (iii) animals and plants from pests or diseases. The TBT Agreement, on the other hand, covers all technical regulations, voluntary standards, and procedures to ensure that these are met, except when these are sanitary or phytosanitary measures, as defined by the SPS Agreement. It is, thus, the type of measure, which determines whether it is covered by the TBT Agreement, but the purpose of the measure, which is relevant in determining whether a measure is subject to the SPS Agreement. It is also important to know the difference between technical regulation and standard. As per the TBT Agreement, technical regulation is a 'document, which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols,

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packaging, marking or labelling requirements, as they apply to a product, process or production method'. And standard stands for 'a document approved by a recognized body that provides for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements, as they apply to a product, process or production method'. So, the main difference between standard and regulation pertains to the level of enforcement.

Major provisions/articles of the TBT Agreement are as follows.

- *The principle of non-discrimination* The principle of non-discrimination, as stated in Article 2.1 of the TBT Agreement, incorporates elements of both the MFN (most-favoured-nation) principle (Article I of GATT 1994) and the principle of national treatment (Article III of GATT 1994). In a nutshell, members shall accord to products, originating in the territory of any other member of the WTO, treatment that is no less favourable than that accorded to like products of national origin and to like products originating in any other country.
- *Avoidance of unnecessary obstacles to international trade* Article 2.2 of the TBT Agreement contains a general requirement that technical regulations are not to be prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. The concept of necessity has never been tested in dispute settlement proceedings in the context of the TBT. The examination of whether or not a measure is 'necessary' has proved to be a crucial step in panel practice in the context of GATT (Article XX, paragraphs (b) and (d) in particular).
- *Transparency provision* Transparency is a core principle of the WTO and features in many WTO agreements such as the GATT (Article X), the TRIPS (Article63), the GATS (Article III), and the SPS Agreement (Annex B of Article 7). Although it is not clearly mentioned what exactly is the definition of transparency in these agreements, it is normally used to mean a greater degree of clarity and predictability. The TBT Agreement contains detailed transparency obligations, which appear in various places, including Article 2 and 3 (technical regulation) and Article 5, 7, 8, 9 (conformity assessment procedures).

As per the transparency obligations of the TBT Agreement, each WTO member country requires to notify all its new or amended TBT-related standards/ regulations, including labelling requirements, which are either not based on the relevant international standards or have a significant trade effect (both positive and negative) or where no international standards / guidelines exist. Members are also obliged to notify such TBT measures to the WTO at an early, appropriate stage and provide at least 60 days time to other WTO members to offer their comments on the same. The member country shall consider such comments and accommodate them before the standards / regulations are put in force. So, the transparency provision provides an opportunity to all the countries/exporters concerned to comment on the proposed regulation that may have trade implications. If any member country has reasons to believe that the proposed regulations are not based on appropriate risk assessment or not based on any scientific evidence, and hence, would become unnecessary trade barriers, then the member can ask the other member to revise their requirements/regulations, so that the same becomes least trade restrictive and WTO-TBT Agreement compliant. In such cases, the member country, going to adopt the proposed regulations shall have to revise their requirements/regulation, unless it has provided appropriate scientific evidence, justifying the proposed regulation. So, transparency provisions include the following elements.

- Publish notification on proposed new or amendment of the existing TBT- related standards/ regulations or conformity assessment procedures appropriately.
- Notify such notifications to the WTO at their draft stage when amendment can still be made and provide time of at least 60 days to offer comments by other WTO members on the same.
- Consider the comments received from the members on the proposed notification, before the same is enforced. In India, the BIS (Bureau of Indian Standards) has been designated as the WTO-TBT EP (enquiry point).

Who notifies TBT standards/regulations to the WTO?

As per the TBT Agreement (Article 10.10), a single central government authority, to be designated by the members, is responsible for all issues related to the notification procedures. In India, it is the Department of Commerce, Ministry of Commerce and Industry,

Government of India, which works as the NNA (National Notifying Agency). The BIS is the national TBT- related EP.

A member is required to inform other members about its notifications in a WTO-prescribed format, which is given below.

The notification format

WTO G/TBT/N/-(00-0000)

Committee on TBT

Notification

The following notification is being circulated in accordance with Article 10.6.

1 Member to agreement notifying:
If applicable, name of local government involved (Articles 3.2 and 7.2):
2 Agency responsible:
Name and address (including telephone and fax numbers, e-mail and web-site addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:
3 Notified under Article 2.9.2 [ ], 2.10.1 [ ], 5.6.2 [ ], 5.7.1 [ ], other:
4 Products covered (HS or CCCN where applicable, otherwise national tariff heading.
ICS numbers may be provided in addition, where applicable):
5 Title, number of pages and language(s) of the notified document:
6 Description of content:
7 Objective and rationale, including the nature of urgent problems where applicable:
8 Relevant documents:
9 Proposed date of adoption:
Proposed date of entry into force:
10 Final date for comments:
11 Texts available from: National enquiry point [ ] or address, telephone and fax numbers, e-mail and web-site addresses, if available of the other body:

There are 11 sections in the notification form, and each section has to be filled-in appropriately. Now, if one looks at the format, he/she would find all possible information, including the addresses, comments, periods, relevant documents, and links from where the details of the notification can be obtained. So, this notification, while for a notifying country, is an obligation but for those who are interested in exporting to these markets are certainly opportunities. Therefore, it depends entirely on the country concerned, how effectively it can make use of these provisions and gain from it. So far, the developed countries have raised many more concerns, as compared to the developing countries, even though the number of notifications issued by the latter are far less than those by the former. So, clearly as of now the developed countries have made use of the WTO system, better than the developing countries.

As far as the EP is concerned, under the TBT Agreement, two provisions mandate members to create EP's. As a first step, an EP shall acknowledge the receipt of the enquiry without further request. The EP should answer all reasonable queries from the members. An enquiry should be considered 'reasonable' when it is limited to a specific product or a group of products. It should not refer to an entire business branch or field of regulations or procedures for assessment of conformity. The EP shall provide (i) any technical regulations, adopted or proposed, within its territory by central government bodies; local government bodies; non-governmental bodies, which have legal power to enforce a technical regulation; or regional standardizing bodies, of which central, local or non-governmental bodies, which have legal power to enforce a technical regulation are members or participants;(ii) any conformity assessment procedures or proposed conformity assessment procedures operated within its territory by central government bodies; local government bodies; non-governmental bodies, which have legal power to enforce a technical regulation; or regional bodies, of which, central local or non-governmental bodies, which have legal power to enforce a technical regulation, are members or participants; (iii) any standards, adopted or proposed, within its territory by central government bodies; local government bodies; by non-governmental standardizing bodies; or regional standardizing bodies, of which, central, local or non-governmental bodies are members or participants; (iv) the participation in the provisions and membership of the international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements, within the scope of this agreement, of the following bodies: the member; relevant central government bodies; relevant local government bodies; or relevant non-governmental bodies.

Pursuant to Article 13.1, a TBT Committee has been established. It is composed of representatives from the various member countries. Under its mandate, the TBT Committee meets when required, but not less than once a year. In practice the Committee meets three to four times a year. The TBT Committee gives an opportunity to its members to consult the required

authority on any subject relating to the operation of the TBT Agreement or the furtherance of its objectives (Article 13) and also carries out such responsibilities as assigned to it under the TBT Agreement or by the members (Article 13.1). The TBT Committee meeting takes place as per the prior fixed agenda, which includes a provision of raising specific trade concerns by the members. Normally, about one third of each meeting of the TBT Committee is dedicated to the discussion of specific trade concerns that members may have in relation to the technical regulations or conformity assessment procedures adopted by other members. Following are a few trade concerns raised by members in the recently held TBT Committee meeting.

(i) US country of origin labelling (G/TBT/N/USA/281 and Add. 1) requirements

The Canadian delegation expressed concerns about the US mandatory COOL (country of origin labelling) programme as set out in the 2008 Food Conservation and Energy Act. Concerns had been raised at TBT Committee meetings in June 2002, March and July 2003, March and June 2005, and July 2007 about the same. Comments had also been submitted to the formal USDA's (United States Department of Agriculture) rule-making process, requesting that flexibility be applied in implementing the rule, so as to minimize any disruptions for the Canadian industry.

The intent of the measure was to provide consumers with additional information on which to base their purchase decisions. However, the US has yet to provide evidence on whether the mandatory COOL programme would benefit consumers, as a retail labelling programme. On the contrary domestic support for the programme did not appear to be consumer-driven, but rather producer-driven. The mandatory COOL requirements, implemented for fish and shellfish in 2005, had created considerable administrative burdens for fishing industry, especially in small and medium enterprises. It had also created a competitive disadvantage for these protein products.

In Canada's view, the mandatory COOL programme imposed an unnecessary technical barrier to trade and could, therefore, be inconsistent with the US obligations under the TBT Agreement, particularly as voluntary alternatives existed. Mexico supported these views espoused by Canada. In comments sent to the US on 29 September 2008, Mexico emphasized that this system did not appear to have the intention to protect the consumer, but rather the manufacturer. Additionally, the US regulation was not based on the relevant international Codex standard on pre-packaged goods and food.

(ii) Brazil – Imported toys (G/TBT/N/BRA/259)

The European communities had expressed their concerns about the conformity assessment systems, applied to imported toys in Brazil. The EC is of the opinion that those rules granted less favourable access to the Brazilian market for foreign toy suppliers, compared to the domestic toy suppliers. At the previous meeting of the TBT Committee, the representative of Brazil had indicated that changes to the rules were under consideration. The representative sought an update from Brazil on the state of play, an indication of what types of measures had been considered, and also of the timeline for their adoption.

China believed that the measures taken by Brazil violated the provisions of non-discrimination and less trade restrictiveness under the TBT Agreement. The Chinese industry had indicated that the new Brazilian procedures added another 70 days for the products to flow from the plant to the warehouse, which made the process 140 days long. Moreover, the certification process had added an additional 25 days. The Chinese industry estimated that the value of lost sales was $20 million due to the difficulty to meet the regulation requirements. His delegation understood that Brazil would notify the amended regulation and comments would be made on this new notification.

The representative of Thailand recalled that comments had been sent to Brazil and concerns raised at TBT Committee meetings in March and July 2008. In the comments sent in January 2008, Thailand had stressed that the Brazilian decree was inconsistent with the TBT Agreement. In particular, it was stressed that enforcing the Certification System 7 only on importers was discriminatory in practice, and recognizing only tests carried out by INMETRO (The National Institute of Metrology, Standardization and Industrial Quality) laboratories created unnecessary trade obstacles to importers. Brazil had been requested to consider accepting the testing of foreign laboratories, accredited to ISO/IEC 17025 or adopting alternative quality control approaches, such as market surveillance, for both imported and local products that would ensure both safety objective and equal treatment. A subsequent request had been made on 26 February 2008 for cooperative direction to help ease the problems of Thai exporters.

(iii) European communities – Napropamide (G/TBT/N/EEC/203)

The representative of India raised concerns about the non-inclusion of napropamide in Annex 1 of Council Directive 91/414/EEC. He also raised objection about the withdrawal of the authorization for plant protection products containing this substance. Indian industry believed that the measure was not based on concrete scientific evidence and on an appropriate risk assessment. He stressed that the Indian industry had provided all the available scientific findings in favour of inclusion of napropamide in Annex 1 for continued authorization of plant protection products containing this substance. While Denmark had accepted these finding, they had not been duly considered in the report of the European Communities Food Safety Authority. India believed that this measure was more trade restrictive than necessary, and thus, in contravention of the basic principles of the TBT Agreement and requested the European communities to examine this issue, and to reconsider the non-inclusion of napropamide in Annex 1 of the Council Directive 91/414/EEC.

(iv) US – detection of contaminants in fuel containers

The representative of India raised a concern with respect to the detection of contamination in fuel containers, of casting and fencing material, being exported from India to the US. The contamination was said to be caused by Cobalt 60, an isotope-causing radiation in stainless steel capsules. As a result, all the exports of steel and castings from India were currently being checked for contamination. India pointed out that the main problem was that there was no tolerance limit supplied by the US for contamination of Cobalt 60. India's understanding was that there were no international standards in this area. In the absence of an international standard, India questioned US' stand of fixing the tolerance limit at zero. The Indian industry believed that the zero limit was more trade restrictive than necessary, and thus, against the basic principle of the TBT Agreement.

Conclusion

From the above case studies of trade concerns, it may appear that the developing countries raise their concerns on a regular basis. But in practice, not many developing countries raise their concerns due to a number of constraints. It is not that these countries do not want to raise their concerns, but they are often not endowed with adequate infrastructure and system, by which they can rise. Concerns have been voiced by the least developed and developing countries, which inter alia, includes the following.

- The most developing and the least developing countries lack the technical, administrative, and other related infrastructural capacities to comply with emerging standard/regulations/conformity assessment procedures of developed nations in food, agricultural, and environmental sectors as these require a lot of financial and other commitments.
- High cost of compliance with the emerging standards and related requirements of developed nations in certain crucial sectors, such as food and manufactured goods, would at least in the initial phase undermine the competitive advantage of developing countries in the international markets.
- Institutional weakness and resource constraints in the smaller and weaker countries may not support compliance with these standards, resulting in further marginalization of such economies in the international trade scenario.
- Dicriminatory treatment of food safety, agricultural health, and environment related standards and measures under the WTO regime. In the event of discriminations, most developing countries would find approaching the DSB difficult as the same would involve high cost.
- Inadequate support system for capacity building along with the paucity of technical manpower.

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Environment-related trade barriers: an analysis of the Indian leather sector

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Introduction

The leather industry occupies an important place in the Indian economy in terms of employment and export potential (NMCC 2006). India tops the list of major livestock-holding nations, and thus, has a rich endowment of raw materials. The leather units in India belong both to formal and informal sectors, producing a comprehensive range of products from raw hides to value-added products and garments. While tanning units in India are generally distributed in Tamil Nadu, Kanpur, Kolkata, and Jalandhar, the footwear industry is concentrated in Agra, Kanpur, New Delhi, and the surrounding areas of Haryana, UP, and Chennai. Leather garment units are located in Delhi and Chennai, while other leather goods are produced in Kolkata, Chennai, and Kanpur (FISME 2007).

Given the predominance of the small and medium players in production (about 60%–65%), emphasis is being laid on planned development of this sector, by ensuring optimum utilization of available raw materials, for maximizing the returns, especially from exports. Export of leather categories is, however, witnessing a decline in Indian export baskets. It is observed that the share of raw hides and skins (HS Code 41) in the export basket has declined from 0.89 % in 1996/97 to 0.51% in 2007/08, while the same for articles of leather (HS Code 42) has declined from 2.35% to 0.86%, over the same period.

Since the inception of the WTO (World Trade Organization) in 1995, the tariff barriers on leather products have declined considerably and currently are in the range of 3%–4%. However, the imposition of the NTBs (non-tariff barriers), especially on environmental grounds–both voluntary and mandatory– have sharply increased in recent times. For instance, Germany had taken a leading role in the imposition of environmental sanctions on Indian exports. The German ban on the import of leather items containing more than 5 mg/kg of pentachlorophenol in 1989/90, and the ban on the import of leather (and textiles), treated with azo dyes (benzidine) in 1994 (Chakraborty and Singh 2005) are worth mentioning. It has been argued that the latter sanction was neither consistent regionally nor compatible to the WTO framework (Mohanty and Manoharan 2002).

Figure 1 shows the importance of the EU and the US market for Indian leather exports vis-à-vis total leather exports. It is observed that the importance of the EU market, for raw hides and skin exports (HS Code 41), which was considerable in the mid-nineties, is declining over the years. The proportional export of that category to the US, which was however quite low, during the mid-nineties as well, has also declined. The proportional export of articles of leather (HS Code 42) to the EU has shown a u-shaped curve over time; it declined during the late nineties, but recovered afterwards. Interestingly, the proportional decline in the EU's share coincides with the increasing stringency of environmental barriers

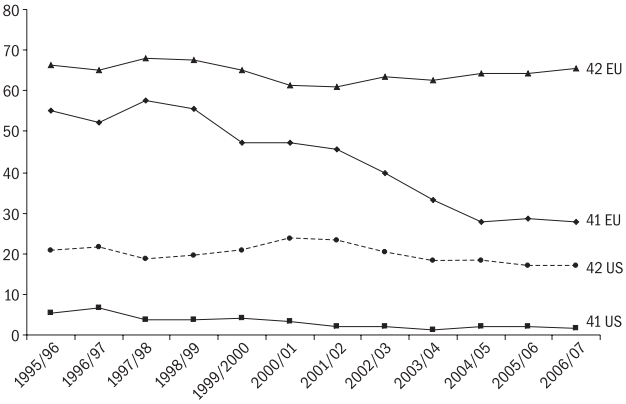

Figure 1 Share of India's export of leather products to developed countries

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in that market. Currently, more than 60% of Indian exports, under articles of leather category, finds their place in the EU market. The reliance on the US market for leather articles is, however, declining since the late nineties.

Given this background, the current analysis undertakes a brief survey of literature on the environment-related NTBs in developed countries in general and the leather-related provisions in particular. The recent attempts for ensuring compliance with environment-related barriers are then mentioned, followed by the findings of a questionnaire-based interaction with select leather units on the compliance cost.

Problems for exporters

Indian export interests of leather products get considerably affected by eco-labeling and the TBT measures barriers in the EU and the US. Eco-labeling tries to ensure that the exports from a country are harmless for the consumers and the environment of the importing country, considering the entire life cycle of the product and analysing the production and process-related criteria. However, the set criteria often reflects the environmental preferences of the developed country devising the eco-label but not those of the exporting developing countries. The cost implications are often redundant with additional costs, for research and certification systems, and this compliance requirement acts as a significant market access barrier (OECD 1997; ESCAP 1997; RGICS 2001; Chakraborty and Singh 2005; Chakraborty, 2005; CUTS 2005).

For Indian environment-sensitive exports, the US TBT measures, often far-exceeding international standards, have increasingly become a serious issue. The standards are enforced through testing of goods before entry, certification, labeling requirement, and examination of complaints on standards related to health and sanitation, which often crosses the required level of protection. Moreover, third-party certification is becoming increasingly important for a wide range of products (US Trade Policy Review, various issues). The same is true at the state-level as well. The Science, Technology, and Economic Policy Board of the National Research Council of the National Academics of Science and Engineering (in the EU) has termed the US system as complex, costly, and burdensome with tests being duplicated by authorities at different levels of governments (EC USBTI, various issues).

Recently in the US, product standards introduced by companies and NGOs are gaining importance, as there is a price premium for the labeled products (Wiemann 2007). The federal agencies have adopted nearly 2500 private-sector standards (ESCAP 1997). In 2003 only, federal government agencies had substituted 185 private sector standards for government-developed standards (US TPR 2006). This officialization of private sector standards, prone to be more stringent, is likely to increase the cost for Indian leather units.

The widely differing standards and non-transparent testing and certification procedures for a number of environmentally sensitive products, including leather, among the EU members is also worth mentioning (ECO Trade Manual 1998). If the exporters decide to follow the overall EU standard, they stand to lose markets in countries with higher standards like Germany, France, and other developed nations. Here, the presence of various national eco-labeling schemes, with differing criteria, leads to market fragmentation and additional economic costs of adapting products to different markets (USTR Report, various issues). The 'Blue Angel' of Germany, which involves testing of the product requirements every three years, for a number of environmentally sensitive products, is considered most restrictive in terms of stringency.

The incidence of NTBs in the leather sector in the EU and the US markets is observed from Table 1. In the first column, select leather product groups at HS 6-digit level are noted and the percentage incidence of NTM on these groups in the EU and the US are

Table 1 The NTM problem in the leather sector

	NTM incidence (%)	
Product code (HS 6-digit level)	E U	U S
410210	50	25
410221	50	100
410229	50	25
410320	50	25
410390	50	33
420211	50	0
420221	100	0
420231	50	0
420291	25	0
420310	50	0
420329	33	0
420330	50	0
420340	50	0
420500	50	0

Source http://cs.usm.my/untrains/trains.html

reported in the following two columns. Interestingly, a number of product items, under raw hides and skins (HS Code 41), are facing incidence of some barriers both in the EU and the US markets. While in the case of prepared leather goods (HS Code 42), the incidence of NTMs in the US is not a major problem, the same is quite considerable in the EU market. Although the table does not necessarily imply that all Indian exports, within these product categories, are facing the NTMs in these markets, the potential problem for the leather exporters, especially in the EU in HS 42, given India's dependence on this market for export is obvious.

The problem for the Indian players gets multiplied, owing to the nature of the domestic industry, characterized by typical small-scale units, with limited resources available for expansion, modernization, and marketing. Moreover, lower productivity rate, poor quality consistency, and inadequate development of supporting infrastructure results in a poorer performance, vis-à-vis other global players like China (Sankar 2006).

Compliance in production

In this background, the Indian players can adopt a two-fold strategy. On one hand, they can unilaterally adopt environmental compliance in line with domestic standards, and may fulfill the testing and certification requirements for exports to the EU and the US on the other. The other possible course of action would of course be the decision to not merely comply with the domestic regulations, but seek alternate export markets with less stringent environmental standards.

The first option is currently being ensured through government assistance to the SSIs (small-scale industries) for operationalization of the CETPs (common effluent treatment plants) where the central and the state governments each provide a subsidy of 25% of the total project cost of installing the CETP. The remaining cost is met partly by loan from financial institutions like IDBI (30% of the total project cost) and partly through entrepreneur contribution (20%). It has been observed from the prominent leather clusters with operational CETPs that the quality of discharges from the units in the post-CETP phase has improved, although exceptions in some places were also noticed (Schjolden 2000; Tewari and Pillai 2005; CPCB 2005; Sankar 2006). Ministry of Commerce subsidy scheme, initiated in 2000, for technological upgradation in this sector and replacement of the obsolete machinery also contributed positively in this regard. The scheme initially provided a subsidy of 25% of the total investment in modernization to leather firms with a ceiling of Rs 3.5 and Rs 2.8 million for large and small firms respectively. When the scheme was renewed in 2002, the subsidy limit was revised upward to Rs 10 and Rs 3.5 million for large and small firms respectively (CUTS 2002). The judicial intervention has also facilitated the process, through closure of leather units and fines on them (Antony 2001).

Compliance with the testing standards

One major problem for compliance, during the late nineties, has been the lack of transparency in accessing information on testing procedure and standards. The problem has resolved partly, owing to the MoC collaborations with industry bodies for ensuring greater dissemination of environmental standards. The recent MoC-UNCTAD-DFID-FISME (Federation of Indian Micro and Small and Medium Enterprises) handbook on the mandatory and voluntary standards on leather and footwear products, which provides detailed information on the commodities subject to restrictions, the mandatory and voluntary requirements in India's trade partners like the EU and the US and the other developed / developing countries (including test procedures and permissible limits) and the relevant ISO (International Organization for Standardization) certification norms is worth mentioning. The Ministry of Commerce has also organized awareness-developing workshops on SPS-TBT issues in association with industry organizations like FICCI (Federation of Indian Chambers of Commerce and Industry) and CII (Confederation of Indian Industries), on several occasions. The active help from the importers and chemical companies has also helped Indian entities to comply with the standards (Chakraborty and Chakraborty 2007).

Currently, the leather consignments for exports need to be certified, either by international or Indian agencies. The certification is buyer-driven, that is, if the importer insists for testing for presence of certain chemicals / dyes in the consignment, the testing needs to be performed. The international agencies involved in the testing procedure are the DIN (Deutsches Institut für Normung or German Institute for Standardization), the SATRA (Shoe and Allied Trade Research Association), and Oeko-Tex, while the Indian testing entities include SGS India (Société Générale de Surveillance), Intertek, the CLRI (Central Leather Research Institute), FDDI (Footwear Design and Development Institute), and other research institutes.

In order to understand the impact of the compliance cost on Indian players, a survey of 16 leather units located in Bantala Leather Complex in Kolkata and NCR has been undertaken. The surveyed units include tanneries and manufacturers of leather products. It is learnt from the survey that two types of tests for leather products are usually followed, namely component testing and random pick testing. The component testing may take place in one of the Indian laboratories, as per the buyer's requirements, and the report is forwarded to the importing company. However, duplication of fee occurs at times. For instance, if the firm is sending the same consignment to multiple importers and one of them is not registered with the testing agency, then additional charges need to be paid. Also if the same product (like jackets, produced by the same type of threads, buttons, stitches, and other materials) is dyed with different colours, it is sometimes argued that different procedure and separate certification is required, which adds to their cost.

Component testing for a leather garment consignment may attract an approximate charge of $2200, which leads to a relatively moderate per-unit compliance cost for a thousand piece set. The per-unit compliance cost is usually lower for the US market, since the order from the US importers is usually placed in bulk. However, in the European markets, the order is comparatively smaller in volume, which increases the per-unit cost of compliance for the exporters. One additional problem is that all the laboratories of the Indian testing agencies are not equipped to perform both physical and chemical tests. Hence, depending upon the buyer's demand, the absolute and time cost increases. For instance, if a Delhi-based firm needs to send its leather consignment to the Bangalore laboratory of SGS for testing, due to non-availability of the required services in a Gurgaon laboratory, the cost will increase.

The random pick test of the consignment is usually conducted both in India and abroad (one sample each). Although the cost of testing in the foreign laboratory is generally borne by the importer, the time cost is a major barrier. Moreover, at times, although the test in India reveals traces of no harmful chemicals, the test report in the foreign laboratory may slightly differ and the export order, thus, gets affected.

Table 2 shows the summary of the survey findings. It is observed that most of the surveyed firms are facing environment-related NTBs. The majority of them have already adopted for some certification standard, eco-label criteria or are linked with CETPs. The high compliance level has been facilitated through the help received from the buyers and chemical companies. Although the firms have noted an increase in the cost of production in the post-compliance period, the willingness to follow the regulation has been much higher, as compared to the inclination among the firms not to do so.

Table 2 Summary findings of the survey (in Per cent)

Particulars	Yes	No
Regular exporter in last three years	87.50	12.50
Export-sales ratio greater than 80%	50.00	50.00
Whether NTBs faced	87.50	12.50
Impact of environmental standards on export in long run	87.50	12.50
Buyers as a main source of information on environmental standards	100.00	0.00
Significant role played by chemical companies in promoting the use of substitutes of the restricted chemicals	87.50	12.50
Different pollution standard follow	87.50	12.50
ISO or BIS certification	87.50	12.50
Adoption of eco-labels	50.00	50.00
Adoption of labour standards	81.25	18.75
CETP / Use any other abatement	75.00	25.00
Increase in time cost and supervision cost after the ban	93.75	6.25
Labour labels beneficial to exports	81.25	18.75
Willingness to follow environmental regulations	87.50	12.50

Compiled from the survey results conducted by the authors

In the questionnaire, the firms were also asked to comment on the importance of the compliance cost of the environment-related NTBs. It is found that sometimes while placing the orders, importing firms ask the exporters to purchase specific machines, from their country, for producing the final product, in order to avoid hassles at later stages. It is also learnt during the survey that the European importers sometimes insist on importing components (like buttons in case of jackets) from their approved units (like a producer located in Hong Kong), which considerably add to the production cost.

On the whole, compliance requirements have increased both the fixed cost and variable cost for the exporters. The surveyed firms generally reported that the cost of complying with the eco-labels has been around 50% of the cost increment, while the same for complying with voluntary standards has been around 30%. The involved costs could be classified under time

cost (approximately 15% of the total cost), supervision cost (around 15%), legal cost (around 4%), and other costs.

Table 3 shows a mixed result on the compliance with voluntary standards. While in case of odour, colourant, chrome, and formaldehyde, the standards are being complied by the surveyed units, there is still scope to enhance the same in case of standards relating to PVC (photovoltaic cell) and Nitrosamines. In addition, a number of firms feared that the new regulation REACH (Registration, Evaluation, Authorization, and Restriction of Chemical Substances), which has come into force in 2007, is likely to be used for protectionist purposes.

Towards the future

A section of Indian leather firms have already adopted new technology – both for meeting the environmental standards in developed countries and complying with the domestic environmental regulations. The requisite testing and certification requirement for exports is also being followed. Compliance with the restrictions imposed by developed countries on the use of certain harmful chemicals, by substituting them with environmentally acceptable substitutes, has so far been quite successful for two reasons – one, is the considerable presence of producers of these alternate chemicals in India and two, zero-capital equipment requirement for making this switch (Joseph and Nithya 2009). However, the compliance scenario in a segment of the industry, especially smaller units is still forthcoming, owing to the high cost of machines and high cost of accessing the required capital.

Table 3 Compliance with voluntary standards

Voluntary standard	Compliance scenario
Odour	Yes
PVC	Yes (relatively less in Kolkata)
Nitrosamines	Yes (relatively less in Kolkata)
Blue colourant	Yes
Chrome	Yes
Formaldehyde	Yes (subject to buyers specification)
Aqueous extract	Yes
Substances washing out procedure in an environment-friendly manner	Yes

Compiled from the survey results conducted by the authors

Given the challenges to the Indian leather exporters, the government should adopt a three-point strategy. First, negotiations in the WTO and other relevant multilateral forums should be undertaken to minimize the effect of the environmental standard-related barriers on Indian exporters. Second, there should be increased focus on information dissemination on existing standards is required, so as to help the leather firms to cope with the testing and certification requirements. Finally, due encouragement needs to be provided to the smaller leather units for enhancing the compliance level within that segment.

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Barriers to trade in services: the case of India

Dr Arpita Mukherjee*

The role of the services sector in the growth and development of the Indian economy is now well-recognized. It contributes to around 60% of the country's GDP (gross domestic product) and the organized sector employment (WTO 2007). Between 2002/03 and 2006/07, services contributed 69% to India's overall GDP growth (WTO 2007). The performance of services, such as logistic services, has major spillover effects on the performance of other sectors such as manufacturing and agriculture. Social services such as education and health together with communication services have contributed to manpower development and made India a knowledge hub.

Prior to the reforms of the 1990s, many services for example, telecommunication, finance and energy were under public monopoly. Since 1991, the sector has been an integral part of the overall reform and liberalization process and currently, apart from a few services, such as retail and insurance, where there are partial FDI (foreign direct investment) restrictions, there are no major entry barriers to FDI in India. In fact, post-liberalization, this sector has the largest share in total FDI inflows (more than 20%). Foreign companies, which are facing a saturated market at home, have shown interest in investing in the emerging Indian economy. The country needs FDIs and technology in certain services, especially infrastructure services, and the successive governments have and are progressively liberalizing this sector to attract foreign investment.

Service sector is now a growing component of India's international trade. Before 1995, India was a small player in the global trade in services. Post-liberalization, India's trade in services, as a percentage of total trade, has increased from 20% in 1995 to 30% in 2007. Services exports as a percentage of total exports have more than doubled since 1995. Unlike goods, India enjoys a favourable trade balance in services. Over the years, with a huge pool of English-speaking skilled-manpower at competitive prices, India has created a niche for itself in exports of knowledge-based services. In the year 2000, India's exports and imports of commercial services was around $16 billion and $19 billion respectively. In 2007, it increased to $ 89.7 billion and $77.2 billion respectively. In 1995, among the WTO (World Trade Organization) member countries, India ranked 34th and 28th respectively in commercial services' export and import, which improved to the seventh and 13th respectively in 2007 (WTO 2008 and Mukherjee A 2008).

India's share in the world services exports and imports was around 1% respectively in 2000, which increased to around 2.7% for exports and 2.3% for imports in 2006 (IMF 2008). Comparatively, India's share in the world merchandise trade is around 1%. In recent years, India's export of commercial services has increased at a much faster rate than the world's average (WTO 2008).

To sustain this, it is important for India to address the barriers to trade in services. The barriers can be classified under two categories: (a) external barriers (i.e., the barriers that Indian companies and service providers face in markets of export interest) and (b) internal barriers (i.e., our own constraints that are affecting our global competitiveness). While external barriers are addressed through multilateral negotiations at the WTO and through bilateral regional agreements, internal barriers are addressed through domestic reforms. There are a large number of studies (for instance, Planning Commission (2008)), which identify the domestic barriers to growth in services and its exports. These include infrastructure constraints, shortage of right skills, quality and standards, outdated regulations, among others. These studies have also made sector-wise recommendations on domestic reforms that are required to enhance productivity, efficiency, and global competitiveness of the Indian services sector. This paper specifically focuses on external barriers to trade. It tries to identify the different types of barriers that Indian service providers and companies face by different modes of service deliveries by sectors and

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major markets. It also suggests strategies and measures to address them.

Trade and trade barriers by major markets, sectors and modes of delivery

Services can be delivered through four different modes. These are.

- *Mode 1 or cross-border supply of services* This refers to the delivery of services across countries such as the cross-country movement of passengers and freight, electronic delivery of information and data through e-mail, and other modes of communication.
- *Mode 2 or consumption abroad* This refers to the physical movement of the consumer of the service to the location where the service is provided and consumed. For instance, a person going from India to the UK for a heart surgery or for training.
- *Mode 3 or commercial presence* This refers to the establishment of foreign affiliates and subsidiaries of foreign service companies, joint ventures, partnerships, representative offices, and branches. It is analogous to FDI in services.
- *Mode 4 or presence of natural persons* This refers to natural persons who are themselves service suppliers, as well as natural persons who are employees of service suppliers temporarily present in the other member's market to provide services. It does not include permanent migration.

Since services is an evolving sector and technology is changing, the modes of delivery are also undergoing changes. In the past, with the large pull of educated manpower, Mode 4 was the most important mode of service delivery for India. With the development of information technology, global value chains and innovative business practices, Mode 1 has now become an equally important mode of trade. Of late, Indian companies in sectors such as IT (offshore delivery centres) are establishing offices abroad, both in developed and developing countries. Outward FDI in services has increased since 2000.

Barriers to trade in services are also classified under four broad categories.

- *Market access barriers* A country is said to have imposed a market access restriction if it does not allow (or partially allows with some restrictions) foreign service providers to enter and operate in domestic market. For instance, a full or partial FDI restriction.
- *National treatment barriers* A national treatment restriction exists when foreign services or service providers are allowed to enter the market, but are treated less favourably than domestic service providers. For instance, tax benefits can only accrue to local companies.
- *Regulatory barriers* These barriers arise due to cumbersome regulations in foreign markets. Unlike market access and national treatment barriers, both foreign and domestic service providers may face these barriers, but it may sometimes affect the foreign players more than the domestic ones. For instance, multiple clearance requirements or cumbersome licensing procedures.
- *Other barriers* These include barriers like lack of local market knowledge, strong local competition, foreign language, corruptions and bribes, political instability, security, financial instability, among others.

Disaggregated data on trade in services by different sub-sectors of services is not available in India. The existing services trade data covers broad categories like transport, travel, finance, and communications. The RCAs (revealed comparative advantage indices) in different categories of services based on IMF (International Monetary Fund) Balance of Payments Statistics show that overtime India's global competitiveness in traditional services, such as transport and travel, has reduced while that in knowledge-based service, such as communication and computers, has increased. In 2006, India ranked fourth among the major exporters of communication services, second in computer and information services and sixth in other business services WTO (2007). In India, bilateral trade data on services is not available from official sources. The information collected by some of the major countries (for instance, the US and EU) on bilateral trade with India and industry associations, such as NASSCOM (National Association of Software and Services Companies), shows that English speaking countries and countries with large non-resident Indians and South Asian population are India's major trading partners in services. The US has the largest share, followed by the EU (especially the UK). Other OECD (Organization for Economic Cooperation and Development) countries such as Australia, Japan, Canada and ASEAN (Association of South East Asian Nations) countries such as Singapore are important trading partners. For certain services like construction,

Gulf countries and other South Asian countries are prominent trading partners. The major part of India's services trade is with the developed countries and the share of developing countries is low. The bilateral trade data also confirms that India primarily exports knowledge-based services and imports infrastructure services.

Since developed countries are the major trading partners in services, barriers in these markets restrict India's trade. These countries have few market access restrictions under Mode 3, but the bulk of the restrictions are in Modes 4 and 1 where India has major export interests. Moreover, developed countries are gradually replacing market access barriers, which can be addressed in multilateral forums such as the WTO with regulatory barriers, which are more difficult to identify and address.

One of the most common market access restrictions is the rigid work permit and visa regimes. This includes delays in visa processing, difficulties in getting multiple entry visas and/or extending the period of stay, multiple documentation requirements, non-transparent and discretions in visa approvals, entry quotas (for example, the US for H1B visas), among others. Non-recognition of professional qualifications (US, EU), requirements to reappear for professional examinations in host countries, requirements of registering with local professional bodies (in some countries like Germany, engineers have to register at the local level), and other entities restrict movement of professionals. Other barriers include nationality/citizenship requirements (US, EU), minimum wage requirements (Germany), requirement to contribute to social security even if the person is going on a temporary basis (US, Belgium), economic needs tests (ENTs)/labour market tests (in EU to demonstrate that no local labour has been displaced), conditions of prior employment/experience, local staffing requirements, among others. Some countries (Middle East countries, Malaysia, and other countries) have mandatory requirements to have a local sponsor.

Each country has a different definition of service providers and their period of stay and there is no universally agreed definition. For instance, some allows business visitors for six months, while others restrict it to three or even one month. The immigration policies of many countries do not distinguish between permanent and temporary migrations (for instance, in the US although H1B visa is a route to temporary entry it also allows individuals to stay in the US permanently) and due to this, countries tend to restrict temporary entry, even though it may not have adverse implications. Movement of temporary personnel is often linked to commercial presence. While some EU member countries and countries such as Canada have shown interest to ease the movement of business visitors and intra-corporate transferees, the restrictions are more rigid for IP (independent professionals) and CSS (contractual service suppliers).

Mode 4 is closely related to the economic condition of the country (slowdown, joblessness, unemployment, and other economic hardships) and, therefore, it is politically sensitive. Domestic policy objectives, like providing employment to locals, restrict temporary movement of service providers. In recent years, due to security concerns, countries have imposed various barriers to restrict and monitor the entry of foreign service providers. Regulatory barriers like cumbersome licensing procedures, requirements to know local language and stringent labour laws adversely affect Mode 4 trade. Other barriers such as cultural differences, difficulties in getting visas for spouse or restrictions on employment of spouses, also restrict Mode 4 trade.

Some of the barriers listed above, such as non-recognition of professional qualifications for professions such as legal; accountancy; and health; restrict the ability of Indian service providers to provide services through Mode 1 (telemedicine, legal transcriptions, and other procedures.). In many countries, including many EU member states, there are residency and nationality requirements for offering certain services, such as legal and accountancy services through Mode l. Data protection, confidentiality, privacy, and non compatible intellectual property right regimes are often used as reasons to restrict outsourcing.

Indian service providers also face Mode 4 and Mode 1 barriers in developing markets but the nature of barriers are different. For instance, qualification-related barriers are more prominent in developed countries than in the developing countries. Over dependence on a few developed country markets, such as the US and the UK, have made India's services exports susceptible to the business cycles of those countries.

While establishing presence abroad, Indian companies are facing various barriers. Developing countries tend to impose more FDI restrictions than developed countries (for instance, in Kuwait foreign companies are not allowed to invest in the upstream segment for oil exploration). Both developed and

developing countries have regulatory barriers. One important barrier, faced by Indian companies, is differential treatment for different forms of operations. For instance, in the EU, a wholly-owned subsidiary of a foreign company is treated like an EU company, while a branch does not get an EU company treatment. Other barriers such as local incorporation requirements (Gulf countries), nationality and residency requirements, minimum capital requirements or requirement to make a minimum investment, restrictions on ownership of real estate (Italy), restrictions on advertising (EU), limitation on foreign exchange and profit repatriation, limitation on the type of projects undertaken by foreign service providers, higher taxes for foreign companies than locals (Kenya, Indonesia), requirement to employ locals (Nigeria for oil and gas), non-transparent government procurement practices and direct discrimination against foreign players in the procurement practices (requirement to have local agent to bid for government tenders, buy national policy of the government, and other pre-requisites.) subsidies to local firms restricts Mode 3 trade. Cumbersome application procedures, delays in getting approvals, multiple licensing requirements and inadequate regulatory and legal framework also affect Mode 3 trade. Requirements to have certain quality certifications and stringent environmental standards increase the cost of operation. Since Indian companies are small, compared to established global multinationals, they face intense competition from these multinationals and large local companies. High cost of setting up offices, lack of local market knowledge, bid document in local language, and other factors restrict the ability of Indian companies to establish their presence abroad.

Addressing the barriers

The GATS (General Agreement on Trade in Services), which was established during the Uruguay Round of the WTO negotiations provides a framework to multilaterally negotiate for the removal of barriers to trade in services. The GATS covers all services, except those supplied in the exercise of government authority. It primarily covers market access and national treatment related barriers. The GATS (Article XVIII) provide scope for making additional commitments in regulatory areas, such as licensing, qualifications and standards, applicable to services. As of date, regulatory commitments have been undertaken only in telecommunication services.

India has been trying to address some of the barriers to trade in services in the on-going Doha Round of the WTO negotiations. In fact, with the growing importance of service sector in trade, India's negotiating position at the WTO has changed. India had a defensive position in the Uruguay Round and it opposed the inclusion of services in the WTO negotiations. In this Round, India is a major proponent of service sector liberalization and especially, removal of barriers to Mode 4 and Mode 1 trade. It is actively participating in both the bilateral request offer process and also in the plurilateral negotiations. India is the coordinator of the plurilateral requests in Mode 4 and Modes 1 and 2. In this Round, India wants developed countries to bind their existing regime in all sectors in Mode 1 (barring sensitive ones like financial services) and offer commitments for CSS and IP under Mode 4. It also wants trading partners to undertake commitments in Mode 4, delinked from commercial presence, remove/substantially reduce ENTs, remove wage parity conditions, extend duration of stay with provisions of renewal, increase transparency in Mode 4 commitments, among others. India is pushing for developing disciplines on domestic regulations in Mode 4. In Mode 1, India wants commitments at two-digit level for certain sectors such as computer-related services to take into account technological developments.

On its part, India offered to make significant improvements over its Uruguay Round commitments in the Revised Offers, submitted to the WTO in August 2005, to demonstrate its strong commitments towards liberalization of trade in services. India is also willing to bind the existing unilateral liberalization in the WTO in most sectors provided its trading partners undertake liberalization commitments in Mode 4 and Mode 1. Although some of its trading partners have indicated that they can offer liberal commitments in Mode 4, the US is not keen to broaden its Mode 4 commitments. Moreover, negotiations in services in the Doha Round have taken a back seat to negotiations in agriculture and non-agricultural market access. This has raised concerns about whether the Doha Round would lead to meaningful services liberalization.

The slow progress of the Doha Round has prompted India, like other countries, to entry into bilateral/regional agreements. These agreements are comprehensive and they encompass not only liberalization of trade in goods, but also trade in services, investment, harmonization of standards, and procedures among others. With high domestic tariffs, India realized that the country may not gain much from liberalization of goods alone. The India-Singapore CECA (Comprehensive Economic

Cooperation Agreement), signed on 29 June 2005, is the first comprehensive agreement signed by India and so far India's only agreement covering services. This agreement focused on liberalizing knowledge-based services and Modes 4 and 1. The CECA eased the entry requirements for business visitors and short terms service suppliers. It also provided greater market access to CSS and IP and had the provision for a grant of up-to-a-year long visa for 127 recognized professions, including information technology, doctors, engineers, architects, and financial analysts. The two countries have expressed interest to enter into mutual recognition agreements in selected professions. The offers made by Singapore in the areas of India's trade interest (especially Mode 4) are much beyond its Uruguay Round commitments and the Revised Offer in the Doha Round (Mukherjee A. 2008). In this context, India has gained from this bilateral agreement. India is in the process of negotiating bilateral agreements with other trading partners such as Korea, Japan, and the EU. Liberalizing Mode 4 and Mode 1 will be an integral part of these agreements. India is also raising regulatory issues in its bilateral agreements and is working with its trading partners to reduce these barriers.

With global slowdown, countries such as the US and the UK are contemplating new regulations that would restrict the entry of professionals. It is therefore, important for India, than ever before, to secure binding commitments from these countries, either multilaterally or through bilateral engagements. Indian professional bodies should also actively explore the possibilities of signing mutual recognition agreements with professional bodies of these countries. This will ease the qualification- related barriers. On its part, to develop as a knowledge-based economy, India needs to invest in educational system of international standards and world class infrastructure.

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Cambridge University Press and WTO

NEWS IN BRIEF

Trade winds

'Access to medicine', issue resurfaces at the WTO

Recent developments suggest that the poor countries' access to affordable medicines is back on the agenda of the multilateral trading system. On 4 December 2008, a shipment of losartan potassium from India-based Dr Reddy's Laboratories to a Brazilian client was confiscated by the Dutch customs authorities on suspicion of infringing upon an intellectual property right. The action has been denounced by several developing countries as a grave threat to the poor countries' access to medicines and legitimate trade in generic, not counterfeit drugs. Concerns have been raised about the EU's extraterritorial application of patent rights, and their non-compliance with the WTO's (World Trade Organization) principle of territoriatlity and the Doha Declaration on TRIPS (Trade-related Aspects of Intellectual Property Rights), and public health.

Bridges, Volume 13, Number 1, March 2009
http://ictsd.net/i/news/bridges/44203/

Indo-ASEAN FTA postponed

The India and ASEAN (Association of South-East Asian Nations) FTA (Free Trade Agreement) that was scheduled to be signed in April is now postponed due to general elections in India. It is also unlikely to be finalized by the June 2009 deadline, as agreed before. Since the new government will be in place in June, it will not be ready to take a call on such agreements before July, as it will need at least one month to settle down. The FTA, which was to be signed late last year, could not be ratified because of political problems in Thailand, one of the 10 members of the ASEAN group.

The FTA provides elimination of tariffs on 80% (about 4000 items) of traded products, both agricultural and industrial, like consumer electronics, a range of farm products, metals, and chemicals in a phased manner by 2015. For about 10% (500 items) of the additional products that have been placed on the sensitive track, the tariffs will not be eliminated, but brought down to 5%. India has 489 items, mostly farm products, on the negative list, which will not be subject to tariff cuts.

The Economic Times, 24 March 2009

Growing protectionism

Despite promises to shun protectionism, emanating from a variety of international fora, evidence is mounting on a significant rise in the use of instruments that curb imports or boost exports. According to the World Bank, some 78 trade measures have been proposed and/or implemented since the onset of the financial crisis.

The increase in tariffs account for about a third of these actions, the rest consist of subsidies and NTMs (non-tariff measures such as licensing requirements or port restrictions. Some countries have made use of the 'water' in their WTO schedules of commitments to raise tariffs, as well as established non-tariff import measures, including outright bans in some cases.

Then there have been subsidization programme in some developed countries that favour domestic manufacturers. The most vivid example of that policy is the 'Buy America' provision in the stimulus package in the US, which was intended to ensure that only the US manufacturers benefited from the public spending projects.

The Bridges, Volume 13, Number 1, March 2009

Global trade to shrink by 9%

The WTO economists have claimed that global trade will contract by 9%, in terms of volume in 2009, due to the prevailing financial crisis; widespread demand slowdown; and the consequent recession, in many economies. This will be the sharpest fall in global trade, since the Second World War, said their report, '*World Trade 2008, Prospects for 2009*'. Interestingly, this predicted fall is much sharper, compared to a similar outlook by the IMF (International Monetary Fund) that predicted a fall of around 3% in world trade this year.

According to the WTO economists, though the global demand collapse will equally affect both developed and developing countries, the rich countries are likely to be badly hit with their exports, set to fall by 10% this year. The developing countries will see a 2%–3% contraction in their shipments as they have become more reliant on trade for growth, the study said. Among the developing countries, China is likely to be among the worst sufferers.

Financial Express, 25 March 2009

China-India row over toys

China raised the issue of Indian ban on import of Chinese toys in the WTO meeting on technical barriers, where it said, the ban was discriminatory and violated basic WTO principles. India had banned, import of Chinese toys on 23 January this year. But the curbs were partially relaxed later, by allowing import of Chinese toys that conformed to certain international quality standards. China raised the issue that the ban was directed only at their toys and not against other countries. A top Indian official, however, clarified that the standards would be extended to all countries and domestic manufacturers as well.

Meanwhile, both the sides have agreed to set up a joint panel to deal with issues related to trade between the countries. This has been done in the backdrop of a surge in export of a large number of products from China to India. The Indian government has initiated investigations on these import surges and is planning to impose safeguards duty.

Business Standard, 20 March 2009

Investment currents

Decline by ICSID Tribunal of a claim on MFN Clause

The ICSID (International Centre for Settlement of Investment Disputes) Tribunal has rejected a claim made by a German firm against the Government of Argentina. The allegation was that the Government of Argentina has taken measures violating the MFN (most-favoured-nation) clause and norms of a BIT (Bilateral Investment Treaty) between Germany and Argentina that has adversely affected the German firm. According to the allegation, the measures of the government have affected the oil and gas operation of the German firm by blocking the dividend payments that were to be made by the Argentine subsidiary firm to the German firm, Wintershall Aktiengesellschaft. As per the German firm, this action by the Argentine government violates the norms of the BIT between the two nations.

Source – Investment Treaty News published by International Institute for Sustainable Development, www.investmenttreatynews.org, last accessed on 1 March 2009

Global international investment agreement system becoming more complex, atomized

UNCTAD (United Nations Conference on Trade and Development) report entitled '*International Investment Rule-Making: stocktaking, challenges, and the way forward*' concludes that the global international investment agreement system is gradually becoming more complex and atomized. This is due to the rise in the number of overlapping, multilayered agreements that are of different types—bilateral, sub-regional, regional, inter-regional, sectoral, plurilateral, and multilateral. The report also mentions that there is a trend towards larger investment arbitration with a larger contribution of developing countries towards investment rule making.

Source http://www.iisd.ca/publications_resources/human_devt.htm#international last accessed on 2 March 2009

Expectation of higher Chinese FDI in natural resources

According to a statement by Beijing Axis Managing Director, Kobus van der Wath, there is a larger chance of Chinese FDI (foreign direct investment) being channeled to countries, endowed with high natural resource reserves in the coming years. According to a news statement, the huge surge in Chinese FDI would continue in the coming years. Chinese outward non-financial FDI has reached a figure of $ 40.5 billion in 2008 from $ 700 million in 2001. 90% of the FDI in natural resources in Australia has come from China in 2009. Close to $ 200 billion Chinese sovereign wealth funds are being directed towards investment in natural resources after facing financial losses from investments in US private equity giants like Blackstone Group and the Wall Street Bank, Morgan Stanley due to the present meltdown. The China Investment Corporation is focusing on investing sovereign funds in mining assets in Europe. One of the motivations behind such investments by the Chinese sovereign wealth fund in natural resources is to get long-term assured returns from mining assets in the graving investment situation that is prevailing in the post-financial meltdown across the world market.

International Herald Tribune, 19 February, 2009.

Minor role of bilateral investment agreements towards attracting FDI

The stakeholders of the UNCTAD intergovernmental expert group meeting concluded that presence, absence of investment agreement acts as an insignificant factor towards determining inward FDI into various developing countries. The stakeholders from the developing countries in the meeting concluded that bilateral investment agreements have inequities, inadequacies that are built in the BITs (bilateral investment treaties). The consensus that emerged in the meeting was that the BITs should take account of the national laws, social conditions of the developing countries that signs the BITs.

Source - Http://Www.Twnside.Org.Sg/Title/Bil-Cn.Htm Last Accessed On 3 March 2009

Countries gain from FDI: findings from a study

A paper entitled 'The Economics of a Multilateral Investment Agreement' by Willmann and Che shows that with the presence of multilateral investment agreement, an expropriation leads to an united reaction from the multinational enterprises. The paper also highlights that although industrialized countries face an exodus of capital, they still gain from profits that are repatriated. According to the paper, the middle income countries gain by receiving larger inward FDI, whereas the least developed countries loose as they receive less FDI.

Source - http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1349793 last accessed on 3 March 2009

Greenfield FDI is better for growth

A paper titled, "Growth Eff ects of FDI: Is Greenfi eld Greener?" by Nitya Nanda shows that Greenfield foreign investment is more beneficial to host countries as compared to the FDI that comes through the merger and acquisition route. The current economic thinking has been dominated by the argument that such a distinction is meaningless, though there has not been any concrete evidence to the contrary. Given this context, this study tries to assess the impact of both types of FDI on the growth rates of host countries. The study looks into the theoretical possibilities, conducts an econometric analysis, and as a result, finds that not only is the merger and acquisition-related FDI less beneficial, compared to Greenfield investment, it may also have an adverse impact on growth.

Perspectives on Global Development and Technology, **8**(1), 2009.

Energy and Resources

Energy cooperation in West Asia

Iran is taking initiatives for energy cooperation with its neighbours. The Iranian energy minister had announced that a quadripartite electricity network will be formed among Syria, Turkey, Iraq, and Iran. The proposed power generation capacity is 120 000 MW. The four neighbours will meet soon in Baghdad to discuss this proposal. The project will make these countries powerful in the field of energy generation. The cooperation process had already started with Iranian initiative in Syria's Tashrin power plan project (Syrian investment) and establishment of two thermal power plants in Iraq (one joint venture and one with Iraqi investment).

http://steelguru.com/news/index/2009/03/03/ODQ2NjM%3D/Iran%252C_Syria%252C_Turkey_and_Iraq_power_network_to_be_formed.html

Metal park in Rajasthan

Hindustan Zink, part of the Vedanta Group, has requested the Rajasthan government to allow them to establish a metal park in Rajasthan. The metal park will comprise of ancillary units, downstream metal product manufacturers, and silver jewellery industry. Rajasthan has been given preference over other states, because the government had shown a keen interest in the project, and because most of the metal units of the company are situated in Rajasthan. The company has assured the government a continuous supply of zinc, copper, and silver, as well as electricity at a concessional rate. The government is interested in the project due to huge employment generation potentials.

http://www.commodityonline.com/news/Hindustan-Zinc-mulls-Metal-Park-in-Rajasthan-15724-3-1.html

Bleak future of Indian iron ore export

As per the ABAER (Australian Bureau of Agricultural and Resource Economics) report, India will experience a huge decline in iron ore export. ABAER reported that Indian iron ore export may be halved from 81 MT in 2008 to 40 MT in 2013. Huge demand and high spot prices in China had resulted in a strong increase in Indian iron ore export in the past few years. But due to infrastructure constraint and export taxes, Indian iron ore has higher effective cost than Australian and Brazilian iron ore. Due to high land transportation costs (from mines to port) and poor port infrastructure, Indian iron export may face tough competition from Australia, especially in a bear market.

http://steelguru.com/news/index/2009/03/05/ODUwMDE 3D/ABA RE_report_sees_decline_in_India_iron_ore_export.html

ICSG forecast on copper

According to the ICSG (International Copper Study Group), the financial crisis will lead to a surplus in global copper stocks by 345 000 tonnes in 2009 and 400 000 tonnes in 2010. They also expect that global copper mine production will rise by 3.8% in 2009 (relative to 2008) to 16 MT and by 7.5% in 2010 to 17.2 MT. Even if capacity utilization is expected to decline to about 81%, a reduction in operational constraints can instigate the increase in production. On the other hand world production of refined the copper is projected to decrease by 3.7% in 2009 (relative to 2008) to 17.6 MT in 2009. A significant portion of the above decline is attributed to reduction in secondary production, caused by a global shortage of copper scrap.

http://www.commodityonline.com/news/Copper-mine-output-to-rise-consumption-to-drop-17389-3-1.html

Namibian initiative of biodiesel production from used vegetables

O&L (Ohlthaver and List) and Sustec Biofuel, Namibia have started an initiative to produce biodiesel from used vegetables that are not suitable for further human consumption. The biodiesel can be used in vehicles, directly as well as indirectly, in addition to normal diesel. Biodiesel use can reduce the carbon monoxide release up to 48%, relative to the use of conventional petroleum diesel. The project is being run in coordination with O&L's subsidiaries and Sustec, which collects the used oil and converts it into biodiesel. Sustec currently has 10 000 litres of the biofuel stock but it can increase production, depending on future demand from potential consumers. At present, the cost of biodiesel production by Sustec is around N$5.70 per litre, with a installed capacity of 2500 litres.

http://www.newera.com.na/article.php?articleid=3418

Energy cooperation initiative between Turkmenistan and German RWE

A memorandum on long-term cooperation in energy sphere was signed between the Turkmenistan government and the German energy concern RWE (Rheinisch-Westfälisches Elektrizitätswerk). This cooperation will facilitate the training of Turkmen, specialist in the leading scientific-educational centers of Germany, with the assistance provided by the German company. Under this initiative, the German company will also share the technical know-how for the energy sector and gas industry with Turkmenistan. It has also been reported that RWE has plans to take part in exploration and production operations on the Turkmen shelf of the Caspian Sea, specifically at Block 23. Under that memorandum, RWE will also start negotiations with the Turkmenistan government regarding a long-term contract for the sale and transportation of Turkmen natural gas to the world energy markets.

http://english.siamdailynews.com/asia-news/central-asia-news/turkmenistan-news/turkmenistan-german-rwe-sign-memorandum-on-cooperation.html

Environment and Development

Climate change talks at Pozna

The fourteenth CoP (Conference of Parties) to the UNFCCC (United Nations Framework Convention for Climate Change) was held in Pozna from 1–12 December 2008. The CoP concluded with a clear commitment from governments to shift into full negotiating mode next year, in order to shape an ambitious and effective international response to climate change, to be agreed in Copenhagen at the end of 2009. The parties agreed that the first draft of a concrete negotiating text would be available at a UNFCCC gathering in Bonn in June 2009. Another highlight of the CoP was the ministerial round table on a shared vision on long-term cooperative action on climate change. It provided the opportunity to lay the foundations for further work on the components of an agreed outcome at CoP 15 in Copenhagen. Further, it sent a clear message regarding the need to continue building momentum on the many points of convergence among all nations.

Official website of UNFCCC<http://unfccc.int/meetings/cop_14/items/4481.php>

2009 declared as the 'Year of Gorillas'

The UN along with several other international conservation agencies made a decision to declare 2009 the 'Year of the Gorilla' with the aim of raising the profile of gorillas across the globe and focusing international attention on implementing programmes and activities that will improve their safety. The YoG is aimed towards education, co-operation, promotion, and enhancing the technical capacity of the people involved in this work.

Press Release, Uganda Wildlife Authority http://www.yog2009.org/YoG_Downloads/Uganda_launch_press_release .pdf

Protests at Fifth World Water Forum

The Fifth World Water Forum was held in Istanbul, Turkey, from 16–22 March 2009. The Forum, one of the largest international event on freshwater, is aimed to enable multi-stakeholder participation and dialogue to influence water policy-making at a global level. This year's main theme was 'bridging divides for water'. Some 100 discussions or roundtables were held during the event with a variety of topics, including climate change, trans-boundary waters, water-related risk management, managing and protecting water resources, and water investment.

As the opening ceremony began, the representatives of the International Rivers' South Asia unfurled a banner reading 'No Risky Dams' in protest of what they believe to be the World Water Forum's promotion of destructive dams. They were arrested and deported the next day.

Environment News Service <http://www.ens-newswire.com/ens/mar2009/2009-03-16-01.asp>

Swine flu affects trade

Amid reports of outbreak of swine flu and growing panic, several countries have already banned or are considering a ban on pork products from Mexico and some parts of the US. But critics in the two countries argue that the bans are unfounded, and health officials agree the illness cannot be contracted by eating pork. On grounds of public health and safety, China, the Philippines, and the United Arab Emirates have already imposed bans on pork or pork products from Mexican and the US. Russia has banned all meat and meat products from Mexico and some of the US states.

Bridges Trade BioRes Volume 9, Number 8, 1 May 2009 http://ictsd.net/i/news/biores/45953/

Should importers pay for embedded carbon?

China has suggested that carbon emissions, incurred during the manufacture of exported goods, should be shouldered by the country where they are consumed. The proposal was made at a Washington meeting between top US climate policy-makers and their counterparts from China, the EU, Japan, and Mexico on 16 March 2009. Gao Li, who heads the climate change department of the Chinese National Development and Reform Commission, told the gathering that his country was 'at the low end of the production line for the global economy. This share of emissions should be taken by the consumers, not the producers.' This, he said, would be a 'very important item' in reaching a fair post-Kyoto global agreement on greenhouse gas reductions.

According to statistics, China has already overtaken the US as the world's largest emitter of CO_2, although its per capita emissions are thought to be just one-fifth of the amount of CO_2 emitted by every American. Dr Li estimated that the carbon 'embedded' in Chinese exports accounted for some 15%–25% of the country's total emissions.

Bridges,Volume 13, Number 1, March 2009

Is global warming slowing down?

A new study has claimed that global warming may have hit a speed bump and could go into hiding for decades. Following a 30-year trend of warming, global temperatures have flatlined since 2001 despite rising greenhouse gas concentrations, and a heat surplus that should have cranked up the planetary thermostat.

According to Kyle Swanson and Anastasios Tsonis of the University of Wisconsin-Milwaukee, a series of climate processes have aligned, conspiring to chill the climate. In 1997 and 1998, the tropical Pacific Ocean warmed rapidly in what Swanson called a "super El Nino event." It sent a shock wave through the oceans and atmosphere, jarring their circulation patterns into unison.

The discrepancy gets to the heart of one of the toughest problems in climate science - identifying the difference between natural variability from human-induced change. But just what's causing the cooling is a mystery. However, it is also feared that when the climate kicks back out of this state, there can be explosive warming.

Times of India, 5 March 2009.

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http://itec.nic.in/, http://www.teriin.org/

TERI (The Energy and Resources Institute) is offering six courses for the academic year 2009/10 under the ITEC (Indian Technical and Economic Cooperation)/SCAAP (Special Commonwealth African Assistance Programme) of the Government of India.

Integrated approach towards sustainable development **07.07.2009-25.07.2009**

The course aspires to offer knowledge and skills to incorporate sustainability concerns in policy/managerial decisions utilizing systematic approaches.
Course coordinator- Dr Arun Kansal (akansal@teri.res.in)/Dr Suresh Jain (sureshj@teri.res.in)

Applications of biotechnology and its regulation **04.08.2009–21.08.2009**

The course aims to provide a unique blend of theory and practice in biotechnology and other relevant fields.
Course coordinator – Dr Vibha Dhawan (vibhad@teri.res.in)

Climate change and sustainability **20.10.2009–10.11.2009**

The course aims to provide an understanding of the various aspects of climate change and its implications for sustainability.
Course coordinator – Dr.Kamna Sachdeva (kamna.sachdeva@teri.res.in)/Ms Shilpa Nischal (shilpah@teri.res.in)

Decentralised energy solutions – planning and implementation **02.11.2009–20.11.2009**

The course aims at sensitizing participants on decentralized generation (DG) technologies and to study the extent to which DG can fill the demand–supply gap created by the limitation of grid extension.
Course coordinator- Mr Debajit Palit(debajitp@teri.res.in)

Trade and sustainable development – issues for developing countries **23.11.2009–12.12.2009**

The course provides an introduction to multilateral and regional trade regime, global institutions and sustainability, multilateral environmental agreements and trade linkages.
Course coordinator – Mr Nitya Nanda (nitya@teri.res.in)

Renewable energy and energy efficiency **04.01.2010–22.01.2010**

The course aims to develop an understanding of the existing and emerging renewable energy technologies, and energy conservation and efficiency improving techniques.
Course coordinator – Mr Sunil Dhingra (dhingras@teri.res.in)

Eligibility

The courses are designed to meet the needs of early/mid-career government/nongovernment officials. For eligibility criteria for the participants please visit- http://www.teriin.org/

How to apply

Fill up the ITEC/SCAAP application form (downloadable from http://itec.nic.in/form.htm), and submit it to the nodal government department/agency designated to nominate candidates. The nodal department/agency will in turn forward the applications to the Embassy/High Commission of India. Selected participants will be informed by the Indian embassies of the respective ITEC/ SCAAP countries.

ITEC (Indian Technical and Economic Cooperation, Ministry of External Affairs) will meet the costs of the courses, travel and stay of the selected participants.

About TERI

A dynamic and flexible not-for-profit organization with a global vision and a local focus, TERI is deeply committed to every aspect of sustainable development. From providing environment friendly solutions to rural energy problems to tackling issues of global climate change across many continents and advancing solutions to growing urban transport and air pollution problems, TERI's activities range from formulating local and national level strategies to suggesting global solutions to critical energy and environmental issues. With staff of over 700 employees drawn from diverse disciplines, the institute's work is sponsored by ministries and departments of the government, various bilateral and multilateral organizations, and corporations of repute.

About GALT

The Centre for GALT (Global Agreements, Legislation, and Trade) is an area within the Resources and Global Security Division of TERI. The broad objectives of the area are.

- To engage in research on trade, investment, resource development and use, and sustainability issues from a multidisciplinary perspective;
- To engage in capacity building through training programmes, workshops, and seminars;
- To create awareness through an effective dissemination of knowledge and dialogue amongst policy-makers, academia, practitioners, and other stakeholders.

Thrust Areas

- Trade and environment (such as linkages between the World Trade Organization, trade agreements, and multilateral environmental agreements including on climate change, and their implications on national and international regulatory regimes of governance).
- Resources, trade and development (such as trade implications to poverty, inequality and economic development, minerals & metals security, trade in commodities, globalization and vulnerabilities of countries and groups).

For subscription, contact

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