ECONOMIQUITY

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Interim Steel Tariff Rulings: US in Threatening Mood

Last month, a WTO dispute panel found, in an interim ruling, that punitive US steel tariffs slapped on imports breach global trade rules. The interim ruling is the latest in a string of high profile and politically sensitive cases to find the US at fault, once again. The two recent cases are Byrd Amendment and Foreign Sales Corporation (FSC).

The problem of the US steel industry is not new. And, this is not for the first time the US has lost a dispute in the WTO over steel tariffs. Altogether, on six previous occasions, the US had to face reverses at the hands of the dispute body over steel tariffs. Earlier, the US applied anti-dumping duties to protect its steel industry. When that drew a hue and cry, it started applying 'safeguard' duties, an instrument used when imports surge, as against anti-dumping, when sellers are charged with selling at a lower price than they sell at home.

Last year, in March 2002, the US President slapped hefty tariffs, which went upto 30 percent tariffs, on a range of foreign steel imports to help protect its domestic steel industry.

There was another reason why the US did not use anti-dumping duty this time. At Doha, the US had reluctantly agreed to clarify and improve disciplines under the Anti-dumping Agreement. It is already facing the world's ire on dragging its feet on the commitment under the deal on Trade Related Aspects of Intellectual Property Rights (TRIPs) and Public Health.

The US reacted very angrily over the interim WTO ruling on steel tariffs. The tone of some of the US congressmen was really very hard-hitting, as if the WTO has challenged their might. They even threatened that this outrageous decision, unless reversed, would undermine America's participation in the world trading system.

Representative Sander Levin of Michigan, the ranking Democrat on the House Trade Subcommittee, said: "The US must take a hard look at flaws in the WTO dispute settlement system and the Administration should get serious about ensuring that the US retains the right to use the hard-bargained-for trade remedies in the face of unfair trade and damaging import surges."

Down To Earth

The United Steelworkers of America President, Leo Gerard, blasted the WTO's ruling, labelling it "an unalloyed assault on United States sovereignty". He asserted that the US trade laws and the steel tariffs imposed by President Bush in March 2002 are in line with the WTO laws.

However, steel consumers have vainly urged the Administration to end the "safeguard" programme, which has two more years to run. They have complained that the high tariffs have cost their companies 200,000 jobs over the past year

Not unlike its bravado in Iraq, instead of looking at the merits of the case, the US has only been flexing its muscles. So far, the US has won only two of the 76 cases brought against her at the WTO, while 33 have been lost, through February 2003.

Furthermore, the US record on compliance with dispute panel rulings has been very poor. Last year, when the US was pulled up on account of massive subsidies handed down to the US companies under the Foreign Sales Corporation Act, the European Union got a relief from the WTO by way of $4.043bn of retaliatory duties. The EU has not yet used it, while the US is yet to make the necessary change in its tax laws.

The Byrd Amendment, a bizarre US anti-dumping law, grants the revenue generated through anti-dumping duties to the complainants. The US instead of repealing it straightaway, appealed to the Appellate Body of the WTO in October 2002. Alas, in January 2003, the Appellate Body confirmed the Panel's central finding that the Byrd Amendment is WTO-inconsistent.

Reacting to this ruling, there was an uproar in the US Congress. "In our view, the WTO has acted beyond the scope of its mandate by finding violations where none exists and where no obligations were negotiated", said a group of Congressmen. History has shown that these types of utterances will continue to be uttered by the Ugly Americans, whether one likes it or not. Over time, things will only get worse.

INSIDE

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Anti-dumping – A Contagious Disease?

Provisions in the GATT allow WTO member-countries to take action against unfair trade practices. The Anti-dumping (AD) Agreement under the GATT/WTO is one such 'safeguard' agreement that has generated intense controversy in the multilateral trading system. The inherent ambiguity in its conceptual framework and misinterpretation of its applicability by WTO members has made it a widely used tool *for* unfair trade practices, rather than a tool for protection *against* such practices.

Numerous concerns have been raised in this regard: Are the anti-dumping measures undertaken by countries justified at all times? Does the Anti-Dumping Code mandated under the WTO make any economic sense? Is money spent on anti-dumping investigations a sheer waste of scarce development money?

Let us discuss the issue of anti-dumping in detail.

An exporting country is said to be dumping when it sells goods abroad for a price lower than it would sell domestically, or if it sells these goods abroad at a price lower than the per unit cost of the good/s. This is often undertaken with the intention of capturing a foreign market and eliminating competition. Dumping is considered unfair practice in international trade and the GATT authorizes counteraction by the importing country if dumping causes or threatens 'material injury to an established domestic industry'. Under the Anti-dumping agreement, an anti-dumping action involves imposition of an anti-dumping duty by the importing country on the 'dumped' import.

WTO members have been increasingly using anti-dumping actions as tools of protection, by filing investigations even when their imports do not constitute 'genuine' dumping. Such actions have produced considerable threat to exporters who have often fallen victim to extensive misuse of the Agreement. Developing countries, in particular, have been at a distinct disadvantage as many have lacked the financial capacity to fight anti-dumping actions levied on them. Historical evidence reflects that developed countries have been the traditional 'misusers' of anti-dumping measures. However, the 1990s have seen developing countries resort to such actions extensively, many of which have been initiated in retaliation to investigations imposed on them by developed countries.

India has faced a large number of anti-dumping investigations, generating uncertainty amongst Indian exporters, especially in cases where the duration of the investigation has been prolonged. However, India has also emerged as one of the most frequent users of anti-dumping. Box 1 highlights some interesting facts and statistics.

Anti-dumping as a protectionist measure

- According to an OECD study, in more than 90 percent of the cases in which the US and the EU imposed anti-dumping actions in the 1980s, the imports actually posed no real threat to the domestic industry.
- As per a BBC investigation in April 2002, "India has overtaken the US as the most active user of anti-dumping measures against foreign imports".
- A recent study (Dec 2002) reported the US, the EC, Australia, India and Canada to be the largest users of anti-dumping measures.
- A 2001 study in India concluded that, as in most other countries, protection was the dominating factor behind the levying of anti-dumping actions in India.

The operational meaning of the term 'injury' in the AD agreement is obscure. What constitutes 'dumping' in practice is open to a member's own interpretation of the law. In particular, the task of proving a causal link between an act of dumping and 'injury' caused to the domestic industry is fraught with both conceptual and practical difficulties. The questions to ask are: Will the domestic industry be 'injured' even if the good was imported at its 'normal price'? To what extent has the domestic industry's own competitive inefficiency led to its injury, due to competition from cheaper goods?

The economics of dumping suggests that dumping is harmful only if it leads to monopolistic practices, restricting competition in the domestic market and hurting consumers through monopoly pricing in the long run. In several instances price discrimination (selling goods abroad at a lower price than the home market price) can be a very rational business practice, without harming the competitive spirit of the domestic industry.

Scarce development resources are so often wasted in 'reactive' and 'revengeful' anti-dumping actions, spurring an anti-dumping spiral. Anti-dumping duty can be imposed up to a maximum of the margin of dumping, which is the difference between the export price and the normal price of the import. The procedure entails adjusting available data on these prices in order to make them comparable. Both the procedure of detecting dumping and that of calculating the quantum of dumping is cumbersome and leads to wastage of resources.

The heightened extent to which anti-dumping law has been misused is revealed by the enactment of the Byrd Amendment by the US in October 2000. The Byrd Amendment (Continued Dumping and Subsidies Offset Act) directs the US customs office to distribute the collected anti-dumping duties (and anti-subsidy duties) to the 'injured' US companies that had initially filed the cases. Such offset payments are offered as compensation for 'injury' caused, covering expenses such as investment in manufacturing facilities and acquisition of technology for the domestic companies.

However, in a way, offset payments amount to a remedy in *addition* to the imposition of anti-dumping investigations. Not only do the exporters end up 'subsidising' the domestic industry by paying an anti-dumping duty, but they also lose competitive advantage in the foreign market, since the duty makes the imported product more expensive now. Hence, in effect, such an Amendment confers an advantage on the domestic industry and constitutes an illegal response to dumping. It creates further incentives to 'misuse' anti-dumping measures. The WTO Appellate Body has condemned the Byrd Amendment as being incompatible with WTO rules, requiring the US to repeal the amendment.

For developing countries, including India, anti-dumping actions are harmful, both as victims and as users. A cure to the anti-dumping disease has to be found soon. It is argued that the Anti-dumping Agreement should be revised for a more precise definition of the term 'dumping'. There have also been suggestions that a more sustainable solution would be if the anti-dumping law is merged or replaced with an effective competition policy, which would adequately check anti-competitive practices.

FORUM

Enriching and Source of Information

Thank you very much for the response in sending us the details on benchmarking. We are aware that CUTS, Jaipur is a source of information. We would like to continue our association with CUTS in future also for the well being of industries of Karnataka.

We look forward for your active assistance and association in all respects.

A. Ramakrishna
Managing Director
Karnataka Council for Technological Upgradation (KCTU)
Karnataka, India

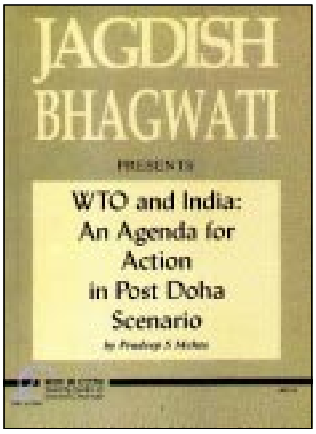
I write this congratulatory letter relating to your two publications – ReguLetter and Economiquity. These quarterlies were recently drawn to my attention for the first time. I found them extremely rich, not only in terms of presentation but their contents also.

I would appreciate receiving complementary copies of the said publications on a regular basis and any other publications/ documents you may have pertaining to trade issues.

Clement J. Rohee
Minister
Ministry of Foreign Trade and International Cooperation
Guyana

I just received copies of ReguLetter and Economiquity. I congratulate you on your work; I found Economiquity to be especially useful for my research on the political economy of trade policy.

I am interested in buying a copy of Pradeep Mehta's book "WTO and India" for the CIDE library. Please inform how I can buy it.



Dr. Antonio Ortiz Mena L. N.
Director
División de Estudios Internacionales
Centro de Investigación y Docencia Económicas, A. C. (CIDE), México

Thanks for including our consumer organisation, the Consumers Federated Groups of the Philippines in your mailing list.

Various newsletters like Economiquity, ReguLetter, Policy Briefs, Briefing Papers as well as the monographs and booklets that were received from your CUTS Centre have been very, very helpful to us. These documents became our references especially on matters of international trade, economics and environment.

(Atty.) Zenaida S. Reyes
President
Consumers Federated Groups of the Philippines (F.G.P.)
Philippines

Looking for Fruitful Collaboration

The Association of African Women for Research and Development (AAWORD) is a pan-African regional gender research organisation. In the framework of its activities, AAWORD also publishes a certain number of scientific documents, namely books and a quarterly bilingual bulletin – ECHO – which may be of great interest to your organisation.

It is through its documentation centre that AAWORD would like to enter into an exchange of publications arrangement with your institution, which has now been included in our networks mailing list.

AAWORD works in both English and French and, if this is the case with your institution, we would appreciate receiving your publications in both languages.

We look forward to a fruitful collaboration. Any observations or comments you might have on our publications would be most welcome.

Dr. Aïcha Tamboura-Diawara
Executive Secretary,
Association of African Women for Research and Development
Dakar, Senegal

I thank you for informing me about all your activities especially in connection with the WTO. I personally feel that WTO legal regime can be well exploited by a nation provided it has a strong knowledge base, research expertise, efficient production-oriented and resource generating economy.

India has full capacity, though we lack in our ability to do intensive research and issue-based preparation for negotiations. If we have learnt from Doha in its true perspective, we have learnt that unless we prepare our research and economic ability we will always lack behind, after all in a free trade legal regime, every nation has to determine its own economic advantage and negotiate accordingly. I have found your literature simple and therefore, very commutative.

We have now established a Centre for WTO Studies & Research headed by Dr. Jose Verghese. The Centre shall have my personal attention. I have promised Ministry of Commerce that we will work intensively and develop special skills for reviewing all WTO studies and accordingly we will send our opinion to the Ministry.

In this regard, we propose to cooperate with your organisation and take mutual benefit to empower ourselves more effectively.

Prof. N. L. Mehta
Vice Chancellor
National Law University, Jodhpur, India

Consumer Pessimism

The survey of 5500 consumers on consumer confidence conducted by the credit card giant, MasterCard, over 13 markets in Asia-Pacific region reflected visible consumer pessimism in ten territories, while optimism groomed up among the consumers of Hong Kong, Mainland China and India. The survey rested on a country's economic indicators like employment, income and movements in stock market, as also on general quality of life.

Ratings were on a scale of 0 to 100, with scores below and above 50, corresponding to consumer pessimism and optimism, respectively. Although the emerging pessimism emanated mainly out of the tensions in Iraq, West Asia and the US, the South Korean economy showed the biggest decline in score, from 76.5 in the June 2002 survey to 39.2 in December 2002.

The overall pessimism resulted in reduction in consumer spending, in the face of mounting unemployment and bleak job prospect. *(ET, 29.01.03)*

US Growth Plan

The Bush Administration proposed a $2.23tn budget for fiscal 2004, representing an increase of 4.4 percent in defence spending, 8 percent in homeland security and 6 percent in education. However, the Labour Department and Environmental Protection Agency had not been allotted larger funds. Following the Columbia space shuttle disaster, the US Government committed its support in continuing the space programme with a 23.9-percent increase next year to $3.97bn.

Before the budget, there was also an announcement of $674bn tax cut plan, mainly through the scrapping of taxes on stock dividends. But, no decision had been taken on tax treatment of the dividend for non-US shareholders. The tax cut plan would also provide relief to married couples and families with children and encourage small businesses investing in new equipment and there would be aid for the unemployed.

(WSJ, 04.02.03 & FT, 08.01.03)

Reactions to the Iraq War

In the special EU summit on Iraq, finance ministers from all the 15 EU members had a discussion on possible relaxation in the stability and growth pact against the backdrop of Iraq war where France and Germany asked for a more lenient approach from EU economic authorities. Other issues covered were preparations to kick-start plan to make EU world's most competitive economy by 2010 and approval by all 15 governments to set EU-wide common minimum energy taxation.

Against the simmering instability of war, the International Monetary Fund (IMF) urged South Korea to take fiscal stimulus steps in a situation when the economy is deteriorating faster than expected, amid higher oil prices and falling semiconductor prices.

In the opening plenary of the World Economic Forum (WEF) in Davos, the US initiative against Iraq had been highly criticised for being solely responsible for the current economic and social crises all over the world. The WEF also highlighted the four challenges before global leaders as geopolitical, economic, corporate governance and diffusing the "time bombs" of poverty, AIDS, population growth, water shortage and climate change.

(FT, 18.02.03 & BS, 24.01.03)

Repressing Banking Secrecy Rules

In an attempt to eliminate banking secrecy and curb tax evasion and fraud, by taking advantages of different tax regimes across different countries, the EU has agreed to implement new rules. But, a uniform EU regime is not taking shape, as three countries – Luxembourg, Austria and Belgium – are going to retain their banking secrecy for at least another six years.

These countries will begin to exchange information with other governments provided, Switzerland, which is not a EU member, complies with international standards of banking disclosure.

To counter accusations of its tight secrecy law encouraging terrorists and money launderers to hide their money in Swiss banks, Switzerland has introduced "know-your-customer" rule claiming proof of identity, nationality and date of birth for ultimate beneficial owners of Swiss bank accounts. *(FT, 22.01.03)*

France Frowns on EU Rule

Not adhering to the stringent EU rules and defying official order to reduce its budget deficit in the next four years, France is ignoring the obligations of the growth and stability pact, underpinning the euro. Under the pact, the EU can initiate formal proceedings and eventually fine any country whose deficit is above three percent.

France's forecasted budget deficit of 2.9 percent of GDP for this year is teetering on the verge of breaching the limit of three percent. But France argued that considering instability and global economic slowdown it would not be proper time to hamper growth by cracking down on public expenditure, for maintaining the ceiling of budget deficit. *(FT, 22.01.03)*

China's Growth Momentum

China contributes more than 15 percent of global economic growth and there exists optimism that it will surpass economic supremacy of Europe in the next 10-15 years. The economy also sucked in $52bn of FDI in 2002 leaving behind the US – the highest investment hub in the world.

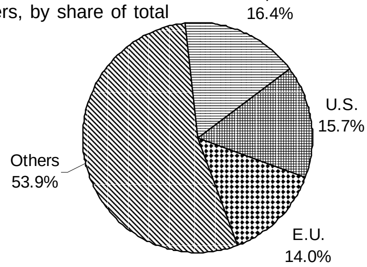
Setting the goal to boost farm incomes for the 800 million agriculture based people, Chinese government proposed to improve financing, guarantee long-term land-use rights as also to increase funding for health and education services in rural areas. The Government believes that higher farm income will stimulate domestic demand and propel up country's growth momentum.

Chinese economy also poised for a high export growth, rising to 30 percent in 2002, penetrating big markets of US and Japan even amid slumping global demand. Such a commendable performance was possible mainly because of its competitive pricing and meticulous working in increasing product quality.

(WSJ, 13.01.03 & FE, 25.01.03)

Market Share

China's leading trade partners, by share of total



China's total trade for 2002: **$620.79bn**

Sources: China's General Administration of Custom; Xinhua News Agency

Looming Crisis in EU

With the EU's capital and labour market reform process not yielding desired results, the business and consumer confidence has slipped down further. Although the labour market reform aims at 70 percent rise in employment by 2010, in reality, labour productivity declined to around zero in 2002 with a very marginal reduction in unemployment. Gloomy prognosis of economic growth is apprehended with the inclusion of ten new states in the EU by mid-2004, whose weaker economies will make it more difficult to achieve the reform target.

Strict labour laws, red tapism, high taxes and weak investment in research and development are pointed out as the root causes for the EU slowdown. The European Commission believes that the coming one year will be crucial and at national level, utmost efforts must be made to push the pace of change.

(FT, 13.01.03 & WSJ, 08.01.03)

More Black Empowerment

Reversing the effects of apartheid, the South African Government has decided to introduce legislation to transform its white-dominated economy into a significant black empowered one. The underlying factor was to bring South Africa's black majority into the economic mainstream for the country's long-term stability.

Although the Government's approach to boost black participation in the mining sector hurt investor confidence last year, but it has been restored through the agreement between the Government and the mining companies on equity ownership targets.

The agreement also encompasses a broad empowerment agenda comprising issues of employment equity, training and corporate social responsibility.

(FT, 19.02.03)

Make-or-Break German Reform

Looking at a grim German growth rate of 0.2 percent in 2002, the worst rate since 1993, the year 2003 will be a make-or-break for implementing much needed reform. This year, seasonally adjusted unemployment reached a four-year high of 4.2 million, private consumption fell and investment dropped in the country.

The recent rapid rise in the euro would also likely to have an adverse impact on export growth in the coming months. German government decided to kickstart reform by reducing labour market rigidities and restraining red tape. But the proposal to relax laws covering employee dismissals in small companies might stir trade union opposition. *(FT, 17.01.03)*

Indonesian Blueprint

Indonesian economy grew at a better-than-expected rate of 3.66 percent in 2002. The need for increased foreign investment, without which Indonesia cannot achieve the six percent growth, can also not be underscored. Proper care should be taken to curb rising rate of unemployment and falling growth in consumption.

Meanwhile, the government backed down further on price rise for fuel and other commodities. After deciding to delay increases in telephone tariffs, the government announced slashing down of diesel prices by up to 70 percent and 2.5 percent reduction in electricity price for industrial consumers.

Indonesia's Chief Economics Minister said the additional expenditure would not affect the budget deficit, expected to be 1.8 percent of gross domestic product, and other basic assumptions in the 2003 budget. *(FT, 21.01.03)*

Gazprom Monopoly

The European Union is pushing Russia to triple its domestic gas prices as a minimum concession on energy reforms, to win Brussels' support for entry into the World Trade Organisation.

However, the Russian government is unwilling to liberalise the domestic gas market, with the President stating his opposition to a break-up of Gazprom, the state-controlled monopoly operator.

Meanwhile, a senior EU official said that it was important to liberalise the gas market dominated by Gazprom through production and distribution, or at the very least allowing the third-party gas producers in Russia access to the pipeline and the right to export their gas. *(FT, 14.03.03 & FT, 10.03.03)*

Investment Trend

While fund raising in the international capital markets fell sharply in 2002, the European Bank for Reconstruction and Development (EBRD) posted a sharp increase in planned investment in the ex-communist countries of Central and Eastern Europe.

In European financial markets, initial public offering (IPO) volumes fell by 53 percent to less than $15bn. In the international bond markets, primary issuance fell ten percent to $1,550bn. According to the Institute of International Finance, bond inflows are likely to be the lowest since 1990s.

As EBRD generally co-finances projects with private sector investors, a six percent increase in its planned loan and investment suggests that MNCs are interested in developing markets of former communist countries. While some companies are slowing investment because of global economic difficulty, others are taking advantage of the crisis to implement difficult decisions – such as switching production from high-cost plants in Western Europe to new low-cost plants in the east. *(FT, 16.01.03)*

Top five global bookrunners in 2002

Debt, equity and equity-related (2001 rank in brackets)

	Proceeds ($bn)	Market share (%)
Citigroup/Salomon Smith Barney *(1)*	414.9	10.6
Merrill Lynch *(2)*	316.8	8.1
CSFB *(3)*	309.4	7.9
Morgan Stanley *(6)*	286.1	7.3

IPO volumes by region in 2002

	Proceeds ($bn)	% change
Global	60.8	-33.8
US	17.4	-41.0
Asia Pacific*	17.4	23.3
Europe**	14.8	-52.8
Japan	4.3	-40.3

Source: Thomson Financial   * Ex Australia   ** Plus Middle East and Africa

Farm Reform Dispute

Reacting to the WTO report on liberalising global agriculture, the EU called it unbalanced, as it is spreading the burden unevenly among the developed countries. The 26-page report called on governments over a nine-year period to stop paying subsidies to help farmers export goods and called for high tariffs to be cut more than the lower ones. Stuart Harbinson, the Chairman of the WTO agriculture negotiations, proposed to expand market access for imports, reduce tariff by 60 percent and slash the $1bn per day farm subsidy expenses spent by the industrialised world.

The issue raged debate between two diametrically opposite interest groups, the US and the 18-nation Cairns Group, on the one hand, and the EU backed by Japan, South Korea and Switzerland, on the other. The US and the Cairns Group urged 25 percent ceiling on all farm tariffs, from the current average of 62 percent, radical cut in subsidies and deeper cut in domestic support.

As the EU spends almost half of its annual budget on farm subsidies, it insisted on slower and smaller reforms. The EU wanted to keep some of its farm subsidies and supported a 36-percent tariff reduction.

(WSJ, 13.02.03 & BL, 13.02.03)

Chinese Steel Tariff Reduction

China announced a series of exemptions from tariffs on five categories of imported steel products, in response to complaints from domestic manufactures of consumer electronic products. To protect domestic steel market and its steel producers, China imposed additional tariffs of between 10.3 and 23.2 percent on imports of these steel products. This resulted in rapid escalation of steel prices, thereby increasing the cost of raw material for the manufacturers of electronic products, who found it increasingly unbearable.

The Chinese Ministry of Foreign Trade and Economic Co-operation had announced then that import quotas for the five products would be increased to 11.3 million tons from May 2004 to May 2005, when the safeguard measures would be lifted.

Among the companies to launch strong complaints over the tariffs were Galanz, the world's largest microwave maker; Midea, one of the biggest makers of air conditioners; Little Swan, one of China's largest consumer electronic companies; and Wanbo, an electronic component maker.

(FT, 21.01.03)

Proposals on Anti-dumping

Referring to Article 15 of the Anti-dumping Agreement (ADA), India stressed the need of Special and Differential (S&D) treatment of developing countries to cover the entire anti-dumping investigation process. Article 15 imposed an obligation on developed countries to pay special regard to the developing countries during the entire anti-dumping investigations.

India suggested that during an anti-dumping investigation, the norm should be the acceptance of price undertakings offered by developing country exporters or, otherwise, the developed countries should give detailed reasons for non-acceptance. India also proposed that minimum dumping margin of two percent should be raised to five percent for exports from the developing countries. The negligible volume, below which anti-dumping measures on imports from developing countries would not be applicable, is to be raised from three percent to seven percent.

According to experts, India should put a check on the increasing number of anti-dumping investigations against China, as its expanding domestic market would provide a big opportunity to the Indian exporters.

(FE, 05.01.03)

WTO Commended for Transparency

WTO scored third rank on access to online information, a proxy for an organisation's overall transparency, eighth on member control and fourth on overall performance in the first Global Accountability Report of One World Trust, a United Kingdom charity. The Report covered 18 intergovernmental associations, transnational corporations and international NGOs. The Report was prepared under a project started in 1999, with the objective of improving international accountability criterion.

Commending the WTO, for providing access to legal text of its agreements by topic, along with non-technical explanation of the law, the Report also mentions that the WTO is only one of the two inter-governmental organisations surveyed that publishes its entire web site in two different languages.

(BL, 14.02.03)

WB's Stance Unfair

The EU's much-trumpeted Everything But Arms (EBA) policy, which provides duty-free access for imports from the world's poorest nations, has failed so far to benefit the least developed countries it is supposed to help, according to a study by a World Bank (WB) economist.

The policy "significantly enhances export opportunities and, hence, potential income and growth". The study said exporters were deterred by the complexity of the rules-of-origin system used by the EU to determine where products were made and to calculate the tariffs

On the GATS Track

As per the WTO's General Agreement on Trade in Services (GATS) negotiations, the European Commission (EC) has submitted a wish list to 109 countries for opening up of services covering professional, business, financial, postal, courier, telecommunication, environmental, news agency, transport, energy, tourism, construction and related engineering services.

The Financial Express

The WTO members sealed an agreement on new guidelines for governments seeking negotiating "credits" for liberalisation efforts in the services sector taken outside of regional or multilateral trade agreements. The idea of granting negotiating credit is set out under Article XIX:3 of the GATS which states that negotiating guidelines for future talks on services trade should include modalities for the treatment of liberalisation undertaken autonomously by WTO members. The agreement entailed the criteria for assessing the value of autonomous liberalisation measures and procedures for seeking credit through bilateral negotiations.

(FE, 06.03.03 & International Trade Daily 10.03.03)

applied to them at different stages of processing.

The European Commission's spokesperson criticised WB's stance and said it was unfair to say that the EU was not going far enough, while others do less, or nothing, for the poorest countries in the world.

(FT, 11.03.03 & 14.03.03)

US Custom Surveillance

The new 24-hour Manifest Rule requires presentation of cargo declaration to US Customs 24 hours before the loading of the vessel from India and other countries bound for the US. The policy is mainly driven by national security consideration after the September 11, 2001 terror strike in the US.

Failure to provide the cargo information in advance could result in penalties, liquidated damages and denial of permission for unloading at a US port. The new rule is introduced to overcome the difficulty of inspecting every single container going to the US.

In order to abide by the Vessel rule, the exporters need to pay an extra $25 for each bill of lading and $40 for each correction, which has been approved by the World Shipping Council. But, the US assured that the new rule would be beneficial to all countries, once full compliance is achieved and no additional costs would accrue on this count.

Trade Gridlock Affecting Poor

The US stand dissipated all efforts to meet the 2002 year-end deadline for agreement in negotiations on special and differential (S&D) treatment for the developing countries and their access to essential medicines in which these countries are lacking capacity to manufacture. Any exclusion of these medicines from the ambit of S&D treatment would escalate the cost of these medicines beyond the affordability of the largest number of population in poor nations.

Realising the public health problem resulting from HIV/AIDS, TB, malaria and other epidemics, TRIPs declaration gave the right of granting compulsory licences to the poor countries. With these licenses, the governments of the developing countries, in public interest, can confer a licence to produce or import a patented drug, without the authorisation of the patentee, by paying appropriate compensation to the patentee.

The US opposed such issuance of licence mainly under pressure from the US pharmaceutical industry because of their vested interests in continuing charging higher prices of the medicines for these diseases.

(BL, 06.01.03 & 15.02.03)

Pascal Lamy Visits India

European Union's Trade Commissioner, Pascal Lamy visited India in March. He said that the European Union and India should forge ahead if "success" is to be achieved at the Cancun Ministerial Conference of WTO slated for September 2003. He emphasised, *"We need to shape consensus building on our natural convergence and bridging our differences".* The following are snapshots of his speeches delivered during the visit:

- Recognising movement of labour (under Mode 4 of GATS) as an area of key interest for India, he said that he would push for further liberalisation with other EU Member States.
- According to him, his proposal for creating a strong link between domestic rule-making and development aid is not a new effort to impose conditionality on aid recipients. *"We want to make our development assistance efficient and more trade-enhancing which is possible if we address one by one the bottlenecks so that India would be able to match our sanitary and phyto-sanitary standards. It is not a question of conditionality. We do not negotiate on standards. But if India has problems in matching our sanitary and phyto-sanitary standards, then we can direct part of our assistance in building domestic capability."*
- In his opinion, agriculture is "clearly" one area where there was convergence of views between India and the EU. Hence, he said, the EU proposal for agricultural negotiations in the WTO would "slash its import tariffs by more than a third, its export subsidies by nearly half and reduce trade distorting farm support by more than a half".
- He sought to communicate to the Indian policy-makers and business community that it would make a lot of sense for India to come to the WTO negotiating table on the issues such as investment, and competition policy, trade facilitation and transparency in Government Procurement.

  "Negotiations on investment, competition, trade facilitation, procurement is about India cashing in on regulatory reforms done at home for own reasons and own objectives. Now India can use locking in these reforms at the WTO as a bargaining chip to get others to open up to India, but also send a strong signal to foreign investors that there is transparent and predictable framework for their operations in place in India", he added.

  He also said that the steps India had taken on the domestic front, for instance on competition and investment law were 'obviously in the right direction'.
- Regarding the public health issue, he said, "*We have chosen our camp. On access to medicine, the EU is in agreement with India".* But a section of pharmaceutical industry is apprehensive about the reference to infectious diseases made by Lamy: *"You will find attached a list of infectious epidemics which are recognized by health experts as those which have the most damaging impact on developing countries. We assume that all WTO members agree that these diseases are without doubt effectively covered by the solution proposed by the chairman, but we understand that certain members will still have concerns as regards other potential public health problems."* Indian companies represented by Indian Pharmaceutical Alliance (IPA) had feared that Lamy's list of "infectious epidemics" might jeopardize the negotiation process. While the latest stance has evoked a sight of relief from the Indian pharmaceutical industry, it is hoping that Lamy will maintain his current position.
- He indicated that industrial tariffs were an area where there was commonality of interests between India and the EU. He said that third world countries would not have to match the reduction on industrial tariffs that the EU had been contemplating and added that he agreed with the 'less than reciprocity' clause contained in the Doha ministerial declaration on the subject.

Drugs Import Barriers

The European Commission (EC) has requested for consultations with India on the justification for import restrictions on certain drugs under the Exim Policy 2002-2007, because the restrictions may constitute an infringement of several WTO provisions. The consultations will take place under the dispute settlement procedure of the WTO in respect of Rifampicin, Penicillin, 6 APA and other related intermediaries.

The Indian Ministry of Commerce and Industry is gearing up for consultations and has sent a letter to the Department of Chemicals and Petrochemicals asking them to prepare adequately for it. It should have detailed reasons establishing that import restrictions on each of the products could be justified under a policy designed for the various objectives specified in Article XX/XXI of the GATT Act, 1994.

The Ministry asked for details of the specific risks which were sought to be combated by the import restrictions, how such risks were assessed and how the restrictions were applied in respect of indigenous products. *(BS, 21.01.03)*

Hynix Faces Steep Tariffs

South Korea's Hynix Semiconductor Inc. is bracing for a US Government decision that could lead to steep tariffs on imports of its computer memory chips into the American market.

The US Commerce Department is expected to reach a preliminary ruling on an investigation done in response to allegations by Micron Technology Inc., a US competitor, that South Korea's Government and banks unfairly provided financial assistance to Hynix and Samsung that allowed them to expand chip production and drive down prices, hurting Micron's profitability.

Hynix is suffering from a worldwide oversupply of chips. It posted a net loss last year of 1.95tn. It exports about 20 percent of its output to the US and ten percent to Europe. The Company has contingency plans to deal with any tariffs, including increased output from a plant it owns in Eugene, Oregon, that Hynix says would not be affected by the duties.

(FE, 01.04.03)

US against EU Moratorium

Attacking the European Union (EU) as anti-technology, the United States (US) Trade Representative, Robert Zoellick, said the US should launch a case in the World Trade Organisation (WTO) against the EU's moratorium on approving new genetically engineered crops in the near future. Zoellick characterised the EU's view on biotechnology crops as "Luddite", a reference to people who resist the advance of industrial technology.

The EU Trade Commissioner, Pascal Lamy, responded to Zoellick's public call by reiterating his view that litigation "would make a solution more complex".

Textile Battle Hots Up

The fear of imposition of anti-subsidy and countervailing duties on all Indian textile and apparel products by the US looms large over exporters, with Washington claiming that the products have attained "export competitiveness" and should, therefore, be ineligible for concessions under the WTO Agreement on Subsidies and Countervailing Measures (SCM).

The proposal forwarded to the WTO Secretariat targets most export promotion schemes put in place by India, such as the duty entitlement passbook scheme and the export promotion capital goods scheme. Interestingly, India has been claiming that none of the schemes promoting textile exports could qualify as subsidies and were, thus, non-actionable under the SCM agreement. *(FE, 11.02.03)*

EU Probes Dumping Duty

The EU has initiated an anti-dumping probe into cotton bedlinen originating in Pakistan. The move comes close on the heels of anti-subsidy investigations into the same product exported by India.

India has already filed an appeal in the WTO Appellate Body against the compliance panel's report on bedlinen, which had agreed with Brussels on the re-imposition of anti-dumping duty on the product. At its recent hearing, New Delhi has contended that Brussels' decision in resorting to "sampling" of the product constituted a major lacuna in its anti-dumping investigations.

Under the WTO rules, the Appellate Body's ruling will be based mainly on India's views, though it will also take into account the opinion expressed by the US, Japan and Korea. *(FE, 23.01.03 & 11.03.03)*

Import Steel-Wire Strands

A coalition of US producers filed a petition with the International Textile Corporation (ITC), alleging that imports of steel-wire strand from Brazil, India, South Korea, Mexico and Thailand are sold in the US at prices below cost.

Coalition members have appealed for anti-dumping duties of as much as 122 percent to be imposed on imports from the five countries. The petition also alleges that the Indian Government subsidises its steel-wire strand industry.

The petitioner's coalition includes American Spring Wire Corp. of Bedford Heights, Ohio, Insteel Wire Products Co. of Mount Airy, North Carolina, a unit of Insteel Industries Inc., and Sumiden Wire Products Corp. of Stockton, California.

(WSJ, 18.03.03)

US Loses WTO Appeal

The WTO Appellate Body upheld a panel's finding that the US Continued Dumping and Subsidy Offset Act or Byrd Amendment 2000 is inconsistent with certain provisions of the WTO agreements on anti-dumping and on subsidies because it is not a specific action against them, for it directs the US government to distribute the collected anti-dumping and anti-subsidy duties to the US companies that brought the case in the first place.

The Economic Times

The ruling is the latest in a spate of US defeats at the WTO after India, the EU, Australia, Brazil, Canada, Chile, Indonesia, Japan, Mexico, South Korea and Thailand brought the case before the world trade body.

The WTO endorsed the views taken by India and others that governments must keep with them the anti-dumping duties slapped on foreign companies and that distributing the funds to companies encourages them to file trade complaints. *(ET & TH, 18.01.03)*

Bridging the Wealth Gap

The wide gap between the older population and the younger population has enormous implications for economies, businesses and the competitiveness of an individual country. Europe and Japan are struggling with pension schemes and rising health care costs, while China, Brazil and Mexico are reaping the fruits of falling labour cost, healthier and more educated population and entry of more women into the work force.

One-third of East Asia's economic miracle can be attributed to a beneficial age structure. Just on the basis of favourable age structure, rich economies are willing to fund their less favoured governments, specifically for education.

It is a one-time-only chance for the developing countries to benefit from their favourable age structure and close the wealth gap with their richer counterparts. *(FT, 28.02.03 & 25.03.03)*

Globalisation: Why/Whynot

It is said that Globalisation today is the globalisation of capital, and not physical assets. The view is supported by the fact that India's growth rate was 6.2 percent before globalisation (late1980s), which declined to 5.8 percent in the nineties.

Also, it is said that there is less inequality on global scale because the two most populous countries – China and India – have had high rates of growth. But, the impact of 'India and China' is itself proof that this result is not necessarily due to globalisation. If it had been so, then India should have dragged down growth in developing countries.

It is believed that globalisation leads to convergence. If so, then why is it that India has contributed to reduction of poverty, while it has not embraced globalisation? And why is it that Africa and Latin America have failed to maintain their momentum, despite having embraced globalisation? *(BS, 24.02.03 & BL, 04.01.03)*

Need Funds? Go to Asia

Asia, increasingly, is becoming the financier to some of the best companies, biggest banks and richest nations in the west. Japanese, Chinese and other Asians have become the biggest overseas investors in US securities, bypassing Europeans. American corporations and big global borrowers are increasingly seeing Asia as a place to raise funds.

Today, with an average of just \$40bn of the Asian dollar-debt being issued annually, despite the development of local bond markets around the region, the nearly \$1tn-strong Asian bid is scouring the global capital market for more lucrative yet high-yielding investments offshore. *(WSJ, 20.01.03)*

The Pharmacy Dilemma

A group of Europe's leading investors have warned the pharmaceuticals industry that it would suffer serious damage to its profitability, if it does not do more to resolve the health crises in poor countries.

Failure to reach a deal on drug patents in the developing world could seriously hurt the industry's reputation from crises such as the AIDS pandemic. Although most companies have lowered the price of AIDS drug in the developing world, the industry is still being attacked for its stance on the pricing of other drugs for developing countries.

The investors are demanding that companies should introduce "differential pricing" – high prices in rich countries and low prices in poor countries – and take steps to prevent cheap drugs from being diverted back to the developed world.

(FT, 24.03.03)

Towards an AIDS-free World

Round the globe, efforts are being made towards an AIDS-free world. The UN has welcomed the commitment made by an international pharmaceutical association and the makers of generic anti-retroviral drugs to increase access to safe and effective medicines.

Similarly, the generic drug industry reiterated its commitment to work towards achieving progressively lower prices and sustainable supply of key HIV medicines. Roche, a major drug company, has promised to knock the price of *Viracept*, an anti-retroviral therapy, to about a quarter of its current official price in the least developed countries.

The US has announced an extra \$10bn to combat HIV/AIDS in poor countries over the next five years. The US focus will be on African and Caribbean counties.

(FT, 30.01.03 & WSJ, 14.02.03)

Education Initiative Fund

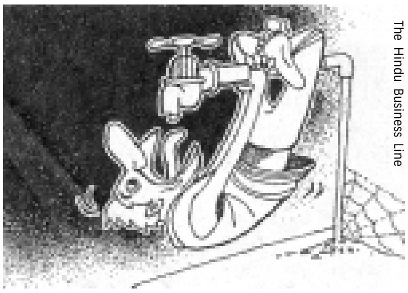
In 2002, the World Bank launched the "education for all" initiative, aimed at achieving the millennium development goal of universal primary education by 2015, as a means of fuelling donor money to the developing world. After criticisms from the World Bank and other development campaigners for failing to keep their promises on spending, senior government aid officials from Canada, France, Germany and UK met on 24th March 2003 to discuss funding options under the initiative.

Oxfam, the international development campaign that had backed the initiative, said that the amount of money needed is pitiful compared to what was being spent on the conflict with Iraq.

Some officials who were aware of the negotiations said that rich donor countries had signed the agreement in haste, without being aware of the amounts of money it might entail, and were now suffering from 'stickler shock'. *(FT, 25.03.03)*

Water Crisis Deepens

The next war will be fought over water. The booming populations, pollution and the global warming will cut the average person's water supply by a third in the next 20 years. More than 2.2mn people die each year from diseases related to contaminated drinking water and poor sanitation.



Water pollution is at its height in the urban areas. About two million tonnes of waste are dumped every day into rivers, lakes and streams. By 2050, water scarcity will affect between two billion and seven billion people, out of the total of 9.3 billion.

There is the need for development of appropriate technology and infrastructure for fresh and wastewater management. Observing that water has been at the root of many inter-state and international disputes, it needs to be used more intelligently. *(BL, 13.02.03)*

Environmental Goods at WTO

In the World Trade Organisation (WTO), the developed-developing dichotomies are, more often than not, insignificant, as countries adopt different positions on individual issues that suit their specific interests. At the Doha Ministerial Conference, one of the items on which negotiations were agreed upon was reduction or appropriate elimination of tariffs on environmental goods.

Generally, the term "environmental goods" is used for pollution control and related equipments. Amidst different opinions, ranging from pollution control equipments to the goods produced in environmentally sound ways, some member countries have preferred to negotiate with a list rather than the definitional approach.

India, like many other developing countries, does not have comparative advantage of trading in these products. It has made it clear that it is against the recognition of process and production methods (PPMs) standards in trade regime, but indicated its support for the inclusion of environment-friendly, natural products of export interest, such as jute, coir, rattan, handloom and bamboos, in the list of environmental goods. *(BL, 01.02.03)*

Ecosystems Approach Urged

A report on the implementation of the code of conduct for Responsible Fisheries and related international plans of action was discussed by experts in a meeting organised by the Committee on Fisheries under the UN Food and Agriculture Organisation (FAO).

It focussed, in particular, on strategies for increasing the role and sustainability of small-scale fisheries, with regard to food security and poverty alleviation. It also considered the implementation of an ecosystems approach to fisheries management, to restore fishery resources in marine environments.

In this context, the Japanese delegation presented its findings, arguing that whales consume large volumes of fish and undermine fisheries conservation efforts and, ultimately, world food security. The delegation urged the Committee to continue its work on implementing an ecosystem model to manage fisheries and take into account the competition between marine mammals and fisheries.

Common Fisheries Policy

The US Department of Commerce has suspended its decision to change the 'dolphin safe' labelling standard for yellowfish tuna to allow tuna fishing that involves the chasing and encircling of dolphins, following pressure from environmental and animal welfare groups.

Under the new (suspended) rules, tuna harvested by purse seine vessels using nets intentionally set on dolphins would be eligible to be labelled as 'dolphin safe', even if dolphins are encircled, so long as an on board observer certifies that no dolphins were killed or seriously injured in the process.

In the Meeting of Agriculture and Fisheries Council, ministers adopted the EU's Common Fisheries Policy which aims to respond to concerns over depleted fish stocks, overcapacity of the European fishing fleet, insufficient control mechanisms and limited stakeholder involvement. The ministers, furthermore, finalised fishing quotas for 2003, including substantial reduction for a number of threatened stocks. The ministers also established an emergency fund to encourage the decommissioning of vessels.

Listing Pollutants

Companies will have to disclose, factory by factory, their output of toxic waste and pollutants, under an international pact finalised in Geneva by more than 30 countries in Europe, Central Asia and North America.

The accord, due to be signed by environment ministers in Kiev, Ukraine, in May, will require companies to report annually on releases into water, air, soil and transfers to other companies of 86 pollutants posing the most serious threats to health or the environment. They include greenhouse gases such as carbon dioxide, acid rain pollutants, heavy metals and carcinogens such as dioxins.

Negotiated under the auspices of the United Nations Economic Commission for Europe, the treaty has been drafted as a legally binding protocol to the landmark 1998 Aarhus convention on public access to information and participation in environmental decision-making.

(FT, 04.02.03)

Replanting Rainforest Trees

Rampant corruption in Indonesia is hampering government efforts to crack down on illegal logging and prevent the widespread environmental damage caused by the trade in illicit forestry products. Each year, 2.5-3mn hectares of forests are destroyed by illicit loggers and it has been surfaced as one of Indonesia's main environmental problems.

The Forestry Ministry has said that pulp and paper companies planning to cut down natural forests in order to create tree plantations must sign notarised commitments to replant the cleared areas or risk losing their operating licences.

Forestry Minister, Muhammad Prakosa, said the insistence on replanting commitments was a way for the Government to strike a balance between the need to preserve Indonesia's fast-dwindling rainforests and the need to retain jobs in the pulp and paper industry.

(FT, 14.01.03 & WSJ, 03.03.03)

Clean Car Programme

President George W. Bush announced a big new US-Government subsidy intended to put non-polluting hydrogen-powered cars on the road. He proposed $720mn in new federal funding over five years for research into how to produce and distribute hydrogen and then store it in tanks so it can be used to power fuel-cell vehicles.

With the announcement, the President has come under mounting pressure within the US to do something to reduce the gasoline consumption of a vehicle fleet increasingly dominated by sport-utility vehicles and other light trucks.

More broadly, after rejecting the Kyoto Protocol, on the grounds that its mandated cuts in green-house gas emissions would be too onerous for the US economy, he is under pressure to show he is doing something serious about global warming. The US industry could be forced to reduce emissions of carbon dioxide and other gases under a bipartisan plan. *(FT, 09.01.03 & WSJ, 30.01.03)*

Single European Patent

European Union governments agreed to set up a single European patent, a step that the business community had been demanding for the last 30 years for boosting research and economic growth. The patent is likely to be available from 2007-2008.

The application for the patent could be valid in up to 25 countries. Once the EU embraces ten more countries, apart from its existing 15 members, the cost of the application would be half of the current cost.

An agreement was reached that patent applicants would have to pay for the translation of the first three pages of the document, containing legal scope of the patent, in all the EU languages. On the regional patent court issue, the consensus was that national courts would rule on patent disputes until 2010, after which a EU-wide central patent court would be set up in Luxembourg.

(FT, 04.03.03 & BS, 04.03.03)

TRIPs Agreement: A Stalemate?

Japan expressed disappointment over the stalemate on the Trade Related Intellectual Property Rights (TRIPs) and public health issues, since it could not be sorted out within the stipulated time frame of December 31, 2002 set at Doha.

The EU proposed a compromise formula. The proposal listed 15 “infectious epidemics” and suggested that WHO should be entrusted with the task of accessing the occurrence of other public health problems, which would be covered under the agreement. However, the US was afraid that some countries could abuse the system to include conditions like obesity and override patent rights on drugs. The US pharmaceutical industry’s objections to supplying essential medicines to poor countries were highly criticised by the EU. However, the EU felt that 97 or 98 percent of the problem of essential drugs supply had already been resolved and the WTO Director-General also announced that a draft agreement on the issue is close to being finalised.

(BL, 14.01.03 & FT, 21.01.03)

Name Game Threatens Thales

Thales, the French defence electronics group, is being sued by a small South African defence company over the rights to use the name. Thales Advanced Engineering (TAE), a Johannesburg based private company is seeking multi-million euro damages over its claim that the former Thomson-CSF breached intellectual property rights when the French company changed its name to Thales two years ago.

The French group said that TAE had never registered its name in Europe and had no rights outside South Africa. Thales had offered to pay TAE $106,770 to drop its claim. But the publicity surrounding Thales’ involvement in a $4.5bn South African arms contract had persuaded the TAE board to take the matter to court. *(FT, 21.01.03)*

ECJ Ruling on Parallel Imports

In a recent case, the European Court of Justice (ECJ) considered whether parallel importers are allowed to repackage pharmaceutical products for resale where bundling would suffice for commercial purposes but would not be allowed under the relevant legislation.

The case concerned a challenge by Aventis to the practices of parallel traders who imported Aventis’ pharmaceutical product Insuman from France into Germany. Insuman is normally sold in France in packages of five cartridges, and in Germany in packages of ten, and is authorised for sale in both formats.

Aventis argued that parallel importers are entitled to bundling of two packages and not re-packaging. But, unmoved in its ruling, the European Court of Justice (ECJ) stated that where sale of bundled products is unauthorised, parallel importers must be entitled to re-packaging for effective marketing of their products, provided particulars and information are printed on the packaging, as per specifications.

BMS Settles Generic Suits

The US pharmaceutical group, Bristol-Myers Squibb (BMS), reached a global settlement worth $670mn to end the litigation of blocking generic competition for cancer drug, Taxol, and anxiety drug, BuSpar. BMS faced litigation from 37 US states and territories on BuSpar and 32 jurisdictions on Taxol.

The Company’s dispute started in November 2000 when it managed to win a patent of the process of giving a patient a molecule similar to BuSpar. Such tactics, to extend the life of successful drug patents, have been seen as an example of boosting the profits at the expense of the patients, through illegally blocking cheap generic drugs.

(FE, 09.01.03)

Disney Slesinger Dispute

Walt Disney has called for the dismissal of a multi-million-dollar lawsuit over its rights to exploit Winnie the Pooh, charging that the company that owns the rights was guilty of “pervasive misconduct and illegal activities”. The entertainment group claimed that Stephen Slesinger Inc. was involved with pervasive misconduct and illegal activities and had withheld evidence, stolen documents from its office and raided its garbage to achieve its illicit objectives.

But, the defence lawyer argued that taking documents from Disney’s trash was not only legal but it also happened eight years ago, when Disney was perfectly aware of it and made no complaint. He dubbed Disney’s call for dismissal as a desperate attempt to divert everybody’s attention from the case , which it was losing badly. *(FT, 05.02.03)*

Financial Times

Music Piracy

Governments and companies in the US and Europe were warned that they risked prosecution if employees used their networks for music piracy.

The International Federation of the Phonographic Industry (IFPI), which campaigns against Internet music piracy, found employees of hundreds of companies uploading files on to the Internet to 500 million of their closest friends. Trade group "music majors" – Universal, Sony, Warner Music and BMG – vowed to step up its fight against fraud and to respond with new licensing deals for legitimate online services.

Business Standard

The Indian Music Industry (IMI) members decided to put holograms on their music products, in order to differentiate them from the pirated ones. It would come out with a massive consumer awareness programme.

In the US, a proposal came up for devising a technology, collectively by Hollywood and Silicon Valley, for preventing computers and other digital-media devices from playing back pirated files. Taiwan has made serious efforts to strengthen intellectual property rights (IPR) and crack down on pirate CD producers. It has also decided to recruit a 200-officer-stong IPR specialist police department immediately.

(FT, 14.02.03 & 19.02.03)

EU Flared on Fake Goods

The EU has cracked down on fake smuggled goods, which are estimated to cost governments $15bn in tax revenues.

The Customs authorities have been given more powers to enable them to heavily penalise the producers and retailers of counterfeited goods and the EU's executive body demanded that counterfeiters be jailed and their bank accounts frozen. To tackle the rise in counterfeit foodstuffs, the type of goods that can be seized will be extended to geographical indications- such as "Champagne"- and designations of origin, such as "Parma" ham.

The main objective of the regulation is to provide consumers with more effective protection. The Brussels authorities put in sincere efforts to harmonise the widely-differing laws in the 15 European member states to stem the growing tide of faked goods, as different national laws do not provide uniform piracy punishment across the EU.

(FT, 18.01.03 & 28.01.03)

US Copyright Upheld

The US Supreme Court took an important stand in the gathering battle over US copyright protection, when it upheld a 1998 law mandating lengthier copyrights.

Supreme Court decision handed a victory to large media companies, whose profits from songs, books and cartoon characters were extended for some 20 years by the 1998 law, the Sonny Bono Copyright Term Extension Act. The 1998 law extended copyright to 95 years for most existing copyrights and 70 years after the death of the author for most new ones.

The law's challengers asserted that, under heavy lobbying pressure from big entertainment companies, the frequency of changes was Congress's "clever way to evade" the constitutional call for a "limited times" of copyright protection.

(WSJ, 17.01.03 & FT, 16.01.03)

Lego Enjoyed Landmark Win

Lego, a Danish children play set-maker company, claimed victory against the Chinese toy-maker, Coko Toy Company, as the latter was found guilty of infringing the Danish company's copyright. The judgement was viewed as precedent setting because it was the first time that a Chinese judgement established the possibility of gaining double protection of design and copyright for a product in the court. Ruling, delivered by the Beijing High People's Court, means that Coko must hold production of the copied item and publish an apology in the Beijing Daily and pay symbolic compensation. *(FT, 21.01.03)*

GSK Setback in Paxil Patent

GlaxoSmithKline (GSK) suffered a setback in the US courts after a ruling by a Chicago judge potentially opened the way for the launch of generic version of Paxil, the anti-depressant that is its best selling drug.

The court ruled that a version of Paxil made by Apotex, a Canadian generics company, did not infringe GSK's patent. If Apotex decides to launch its drug, GSK profitability is sure to get a high shock in the middle of the decade.

But, mentioning its separate exclusivity under the Hatch-Waxman Act valid until September 19, 2003, GSK claims that it will prevent Apotex from selling its copycat drug till then. So, assuming a full year of Paxil sales, GSK is maintaining its 2003 guidance of "high single-digit" earnings growth.

(BL, 04.03.03 & FT, 05.03.03)

GM Alleged Avanti Motor

General Motors filed a lawsuit against Avanti Motor Corp aimed at stopping it from manufacturing a new vehicle that GM claims is a "knock-off" of its popular Hummer H2 sport utility vehicle.

GMs legal move was promoted when Avanti displayed its planned vehicle-the Studebaker XUV-at the Chicago auto show. Georgia-based Avanti has for years owned the rights to the Studebaker name until the company went out of the business in 1963.

Avanti plans to start manufacturing the Studebaker XUV in August. GM claims that the vehicle bears a resemblance to its own Hummer, itself based on the "Humvee" all terrain US army vehicle.

However Avanti dismissed GM's claim, saying there was "no comparison between the two vehicles". *(FT, 17.02.03)*

Quality Seafood Assured

With quality relating to seafood exports to the EU, Japan and the US becoming major issues, the Seafood Exporters Association of India (SEAI) and the Marine Products Export Development Authority (MPEDA) are looking at various measures to provide better quality assurance in seafood.

Of serious concern to the exporters has been the reduction in purchase of shrimps by Japan in recent months. Quality assurance and food safety issues are the major reasons for the drop in Japan's buying, apart from economic reasons.

The importers have recommended that India must implement a mechanism for 'traceability' of consignments. This would provide for identifying the origin of a consignment of shrimps from the farm through the processor to the destination. This would enable accountability and responsibility.

(BL, 10.03.03)

Mexico Bans Imports from US

The Mexican government has recently banned imports of poultry from eight US states on health and safety grounds. This was following the threat of a national strike by the main farmers' union in Mexico who have retaliated to provisions in the North American Free Trade Agreement (NAFTA), which required all tariffs in a range of agricultural goods, including poultry and pork, to be eliminated by the beginning of 2003.

Mexican poultry producers complain that the "market could be flooded by US chicken legs and wings, and that they have not received subsidies from the government to compete". There are widespread calls from the government to renegotiate NAFTA. By banning imports from some of the largest US poultry producing states the Mexican government has secured 'breathing space' while it deals with demands from Mexican farmers. *(FE, 22.01.03)*

EU Defends 'Protectionist' Policies

On 21 January 2003, the Federation of India Exporters organised a round table on doing business with the EU. Differing views emerged between EU and India on issues concerning the Sanitary and Phyto-Sanitary Measures (SPS), Technical Barriers to Trade (TBT), anti-dumping actions and the generalised system of preferences given by the EU, of which India is a beneficiary.

On the issue of non-tariff measures, EU representatives from Brussels defended EU's policies by saying that the measures adopted under the sanitary and phyto-sanitary agreement were not a 'protectionist' tool to prohibit Indian exports. Indian representatives countered by pin-pointing the danger of "discriminatory action" by the EU under both the SPS and TBT Agreements.

EU Ambassador and head of the delegation of the European Commission, Michel Caillout, said, "EU had no intention to prohibit Indian exports. The reason why we are very careful about standards is because our civil society demands it". However, R. Srinivasan, Advisor to the Indian Commerce Ministry said, "There is no homogeneity of standards and regulations across the EU countries".

(FE, 22.01.03 & ET, 15.03.03)

Checking Terrorist Attacks

In yet another move towards regulating food trade to eliminate the possibility of its use for terrorist attacks, the US Food and Drug Administration (FDA) has announced a 'proposed regulation' that would require 'prior notice' to FDA before food is imported, or offered for import, into the US.

It is perceived as an important milestone in implementing the Public Health Security and Bioterrorism Preparedness and Response Act 2002, which gives the FDA new authority for protecting the nation's food supply against terrorist acts and other public health threats.

The 'prior notice' provision in the Act would give the FDA advance information of imported food shipments, which would allow it to target inspections more effectively and help ensure the safety of imported food products before they enter domestic commerce. *(ET, 06.02.03 & BL, 10.02.03)*

CTF Adopts Biotech Standard

The Codex Task Force (CTF) on Food Derived from Biotechnology at its March meeting adopted the Draft Guideline for the Conduct of Food Safety Assessment of Foods Produced Using Recombinant-DNA Microorganisms. This is the last of three draft standards on biotech food adopted by the Task Force, which will be submitted to the Codex Alimentarius Commission in July for its approval.

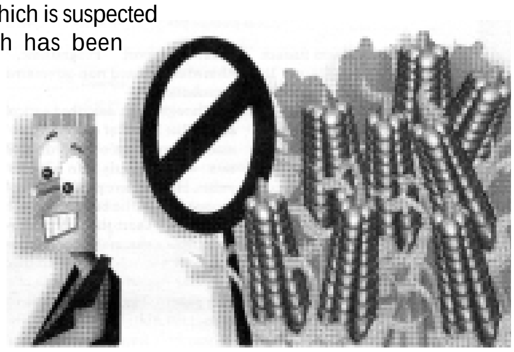
One of the key outstanding issues resolved was whether only the genetically modified (GM) micro-organism should be assessed for safety or also the food produced with the aid of the organism. In the end, the US dropped its opposition and agreed to the inclusion of both types of assessment in the standard.

The Guideline furthermore reiterates a footnote already included in it for GM plants, stating, "In the foreseeable future, foods derived from modern biotechnology will not be used as conventional counterparts". Consumer groups were generally satisfied with the Guideline and in particular with the inclusion of safety assessment requirements for foods produced with GM microorganisms.

Consignment Rejected

The Genetic Engineering Approval Committee (GEAC) of the Union Ministry of Environment, India, has rejected the 1,000-tonne shipment of soya-corn blend from the US on the ground that it might contain the genetically modified and controversial StarLink corn, which is suspected to cause allergy and which has been banned in that country.

GEAC Chairman, A.M. Gokhle, said that the decision was taken not to allow the shipment "until and unless" the US Government "gives it in writing", saying the corn in the food blend is not StarLink or any other genetically modified and harmful variety.



Down To Earth

The US has appealed to an appellate authority, saying the committee has not properly provided the reasons for rejecting the shipment.

Money Inflow from All Directions

In the near future, a lot of money will be flowing to India. India topped the World Bank's list of workers' remittances at $10bn, which is over 13 percent of the total $72.3bn flowing to all the developing countries. India was closely followed by Mexico with $9.0bn, while Philippines received $6.4bn.

Other than this, Prime Minister, Atal Behari Vajpayee wants to offer dual nationality for many Indians living abroad to encourage them to invest. The move is partly aimed at encouraging the non-resident Indians (NRIs) to channel some of their wealth back to their motherland.

Most importantly, India would allow NRIs to convert into dollars the proceeds of property sale in India. New Delhi promises more incentives in the near future.

(FE, 03.04.03 & FT, 18.01.03)

Fighting Unemployment

The world's unemployment rate has risen from 5.9 percent at the end of 2000 to 6.5 percent at the end of 2002. Unemployment is highest in the Middle East and North Africa, at 18 percent, and lowest in south Asia, at 3.4 percent.

In Italy, a referendum on labour market reform is likely to be held between April and June, to implement the free market principles of the Italian Government.

In a similar move, the British Government seeks to get its EU partners to adopt "a new agenda" on EU social policy, which spells out the need for measures that promote worker employability across the newly expanded EU. The UK, Spain, Denmark, Ireland and the Netherlands are among the states seeking a more flexible approach to social policy written into the constitution. *(FT, 24.01.03 & 06.01.03)*

Demand for Foreign Nurses

For Kerela's manpower exports, one door is opening as another closes. The State has finally managed to grab a toehold on the exam-centre map of the Philadelphia-based CGFNS (Commission of Graduates of Foreign Nursing Schools).

At least six lakh vacancies for nurses are likely to crop up in American hospitals very soon. Clearing CGFNS exam, along with Test of English as Foreign Language (TOEFL), guarantees jobs to nurses in American hospitals with attractive salaries and working conditions.

In a similar move, Japan is considering allowing thousands of nurses from Philadelphia and Thailand to work in Japan. It is believed that welcoming the foreign health care workers would help solve social problems likely to result from a rapidly aging society.

(FE, 02.04.03 & FT, 09.01.03)

University Admissions Face Racism

The White House argues that the University of Michigan acted unconstitutionally in operating an admissions programme that offered preferential treatment to black and Hispanic applicants. The US President said that the University operated on "quota systems" which were divisive, unfair and impossible to square with the Constitution.

However, the University President said that President Bush misunderstood the admission policy; they do not have a quota system.

Colin Powell, Secretary of State, made clear he hoped the University of Michigan would win its court case favouring the use of race in admissions decisions. Two highest-ranking black advisers are at odds with Bush on admissions. Colin Powell and Condoleeza Rice, US national security adviser, both say that Bush's record on race relations was solid and he had been well aware of their views before deciding to weigh in on the case.

(FT, 17.01.03 & FT, 20.01.03)

Protectionist Virus

Fewer US companies plan to hire people in the second 2003 quarter, the first drop in more than a year, in a sign that employers continue to face uncertainty in their business. With no clear signs of improvement in business, most employers, 63 percent, plan to stay at the current staffing levels.

States like Missouri, Maryland, etc., are contemplating legislation, which to protect local jobs, will prohibit the outsourcing of federal business process outsourcing (BPO) work to countries like India. As a result, there is migration of white-collar jobs to developing countries in Asia, Africa and Eastern Europe.

For Indians, it is not a major threat at present. Lobbying and grass roots advocacy is the answer to the growing anti-outsourcing sentiments.

(FT, 25.02.03 & 10.02.03)

WTO Urged to Protect IT Pros

In the wake of maltreatment of IT professionals of British company I-flrx, over alleged visa irregularities, the Electronics and Computer Software (ESC) Export Promotion Council requested the Government of India to take up the issue, with the World Trade Organisation (WTO), of protecting IT professionals working abroad.

It recognised the emphasis given by the WTO guidelines to the movement of skilled labour across border with valid visas and documents.

The Communications Minister of India, Arun Shourie, recently said that his Ministry would get in touch with the National Association of Software and Services Companies to offer 'escort' facilities to Indian IT professionals going abroad.

(BL, 03.03.03 & FT, 19.03.03)

IT Sector – New Trends

Companies offering information technology outsourcing see lower-cost foreign labour as a key to growth in 2003. The number of IT infrastructure outsourcing "megadeals" (worth $1bn or more) rose from nine in 2001 to at least 14 in 2002.

A survey of 36 outsourcing companies showed that "offshore application management" ranked as the highest growth service opportunity in 2003. Offshore outsourcing accelerated in the past year and will continue to accelerate in the next two years.

On the other hand, the German Government has decided to stop issuing green cards to IT professionals from July 31, 2003. This is likely to be a big blow to Indian IT companies with operations in Germany. The decision is believed to have been triggered by the down turn in Germany's IT sector.

(FE, 03.02.03 & FT, 05.05.03)

The Economic Times

EU Must Offer More on Services

View | Counter View

View

Sir, In the current Doha round of global trade talks, the services sector has until now been less controversial than agriculture and trade-related intellectual property rights ("Restricted services", February 11). But the recent offers by the European Union on services liberalisation have changed that. The EU is willing to open markets further only in areas such as banking and telecommunications, and shies away from new commitments in public services such as health and education, as well as in audio-visual services.

Denying access to European markets in health and education clearly reflects double standards. This has jolted many developing countries that were hoping to gain access to the EU health and education sectors through mode 4 of service supply (movement of "natural persons"). The supply of services in banking and telecommunications takes place under mode 3 (investment), where developing countries are at a clear disadvantage.

Already, mode 4 commitments are limited in sectoral coverage. Sectors such as health, legal and accountancy services, where cross-border mobility is important, have not been scheduled by many countries.

Greater mobility of labour would not only benefit developing countries, but also provide substantial gains to many developed countries, which are short of manpower in the health and education sectors. A recent study carried out on behalf of the Home Office found that immigrants contributed about 10 percent more to public finances than they took out. Further, the rising numbers of elderly people as a proportion of total population is increasing the burden on those of working age. The Organisation for Economic Co-operation and Development estimates that by 2050, this trend could take 18 percent off living standards in the EU, 23 percent in Japan and 10 percent in the US.

Under the rubric of movement of "natural persons", we would like to see more export of workers in other sectors such as construction, agriculture and service industries. Another OECD study has pointed out that there are more than 1,000 occupations in the west that need skilled manpower. To take just one, a British Housing Corporation report has identified a shortage of skilled bricklayers in UK, which has pushed up wage costs. In areas such as construction, public transport, hotels and retailing the case for lifting immigration controls is compelling.

According to research into the mobility of labour carried out for the EU-India Network on Trade and Development by the Consumer Unity and Trust Society in partnership with the University of Sussex, UK, movement of health workers from India and the Philippines to Europe is taking place despite the lack of commitments under the General Agreement on Trade in Services. Commitments under Gats would benefit sending countries by providing a more transparent framework based on non-discrimination.

There is also a debate about whether rich countries' gain is necessarily developing countries' loss. Any "brain drain" is nullified by the money sent back home by such migrants, and by returnees bringing investment and technology. Globally, remittances are estimated at $60bn-$70bn a year, larger than development aid flows.

Pradeep Mehta
Secretary General, CUTS
(FT, 10.03.03)

Counter View

Your letter in the Financial Times on 10 March was excellent in drawing attention to the double standards employed by the EU in the current services negotiations at the WTO.

However, your suggestion that developing countries should seek to export more of their trained personnel in key sectors such as health and education is far more problematic. As we had no wish to undermine the positive aspects of your letter - particularly the call for developing countries to benefit from mode 4 GATS commitments in other sectors – we did not send in a public response via the letters pages of the FT. However, we believe you should seriously reconsider your position on the specific issue of migration of health and education personnel, for the reasons outlined below.

As you note, there is already substantial migration of medical personnel from countries such as India and the Philippines utterly independent of GATS - indeed, you could have added many more examples of this well documented trend both from Asia and from other continents. Yet developing country Ministries of Health, health agencies and human rights groups around the world have fought long and hard to stem this loss of personnel, not to encourage it. You may be aware of the work currently being undertaken by the Commonwealth Secretariat in conjunction with WHO, ILO, IOM, ICFTU, ICN and others to provide a global resolution to the problem in the medical context.

You claim that the 'brain drain' effect of this migration "is nullified by the money sent home by such migrants, and by returnees bringing investment and technology". Nothing could be farther from the truth. The systematic poaching of key personnel by richer countries has brought basic service systems in many poorer countries to their knees. Remittances by health and education personnel and skills transfer from those who do actually return are far outweighed by the catastrophic losses to the systems themselves.

There are exceptional cases (Cuba is perhaps the best example) where developing countries provide high quality basic services for all their own citizens and have a genuine labour surplus in those sectors. In such cases there may be potential for exporting the surplus in order to secure balance of payments gains. In the vast majority of developing countries, however, health and education systems are failing to deliver quality services in this way. To suggest that developing country governments should look to export increased numbers of skilled personnel from these key sectors to richer countries is dangerous and ill conceived, and we call on you to ensure that this does not become a feature of CUTS policy on international trade.

Professor Steve Reid
Nelson Mandela School of Medicine, University of Natal South Africa

Tim Martineau
International Health Research Group, Liverpool School of Tropical Medicine, UK

David McCoy
Health Systems Trust, South Africa

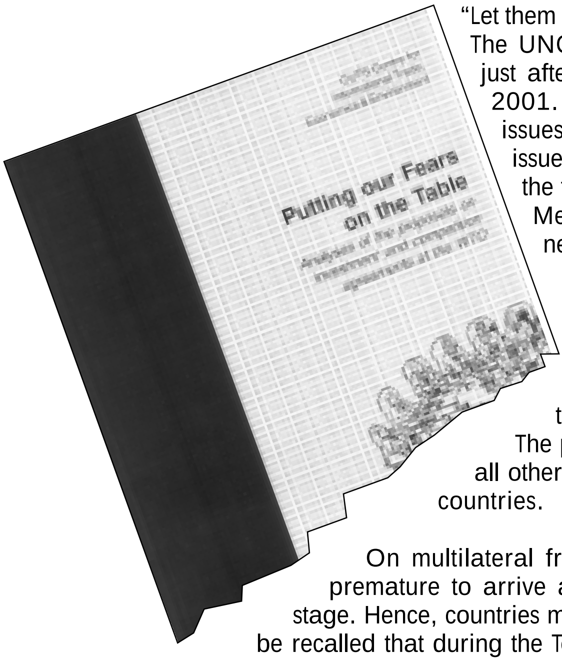
John Hilary
Trade Policy Adviser, Save the Children

Dr Gilles de Wildt
Jiggins Lane Medical Centre, Birmingham, UK

Mike Rowson, Director, Medact

Putting our Fears on the Table

Analyses of the proposals on investment and competition agreements at the WTO



"Let them put their fears on the table and that should guide the negotiations." The UNCTAD Secretary General, Rubens Ricupero, made this comment just after the Doha ministerial meeting of the WTO held in November 2001. He was referring to India's stand at Doha on the 'Singapore issues' and arguing that it was pointless in just opposing the 'new' issues at the WTO without putting forward constructive arguments. At the forthcoming ministerial meeting of the WTO to be held in Cancun, Mexico in September, a decision will be taken on modalities for negotiations on these issues.

"Putting Our Fears on the Table" is the title of a recently published report of the CUTS Centre for International Trade, Economics & Environment. It provides analyses of the proposals on investment and competition agreements at the WTO, especially in the areas taken up and/or proposed at Doha for possible future negotiations. The purpose of this publication is to provide inputs for negotiators and all other stakeholders who play a role in evolving negotiating positions of countries.

On multilateral framework on investment (MFI), it was argued that it might be premature to arrive at a comprehensive agreement with binding obligations at this stage. Hence, countries may explore the idea of agreeing to code of good practices. It may be recalled that during the Tokyo Round of GATT negotiations, the countries agreed on codes for both anti-dumping and technical barriers to trade and full-fledged agreements on these were arrived at during the Uruguay Round. Such a soft law approach may be the best way forward in the present context.

The study further argues that developing countries (DCs) need to take the following into consideration before negotiating an MFI at the WTO:

- They must be convinced of the importance of foreign investment to their economy first before considering the necessity of an MFI within or outside the WTO.
- If the WTO proves to be a suitable forum for an MFI, then the developing countries must analyse the economic, social and environmental impacts of such an instrument. The GATS, which in a sense, is the first such investment instrument, can provide a model for that. An in-depth analysis of the impact of GATS should be able to provide trade policymakers with tools to develop a negotiating agenda and a set of policy options that can maximise the contribution of an MFI to sustainable development and minimise its potentially negative implications.
- Any negotiations must include discussions for establishing obligations of investors and rights of host countries. A legally binding international framework on corporate accountability and liability should therefore be considered as a concomitant requirement for negotiations on an MFI.

On multilateral competition agreement (MCA), it was argued that countries should first comprehend the relevance of competition to their development priorities and national policies. With reference to an MCA, the study claims:

- DCs should accept the need for an MCA but insist on looking at it specifically from the perspective of economic development and anti-competitive practices which impair it.
- At its minimum, an MCA should aim at prohibiting hard-core cartels and regulating anti-competitive practices of TNCs, and developing institutional capacity in DCs in order to enable them to detect the cartels affecting their economies and deal with them effectively.

Other arguments include: a) an MCA, if instituted, can adopt a hybrid TRIPs and GATS type approach in that while minimum standards would be incorporated and different time frames can be allowed for implementation of certain provisions. This would call for special and differential treatment and phase-in period; and b) an MCA, if instituted, should also have exemptions and exceptions that allow countries to regulate in public interest/address public interest issues.

SOURCES: ET: The Economic Times; BS: Business Standard; BL: The Hindu Business Line; FT: Financial Times; WSJ: The Wall Street Journal; FE: The Financial Express

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