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EMERGING ISSUES IN TRADE POLICY

**RAJIV GANDHI INSTITUTE FOR
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Introduction

Even as the third ministerial meeting of the World Trade Organisation was on in Seattle in the first week of December 1999, the Rajiv Gandhi Institute for Contemporary Studies hosted a seminar (4 December 1999) on "Emerging Issues in Trade Policies" in Delhi. The aim of the seminar was to focus on India's external economic relations, with specific reference to issues of quantitative restrictions and intellectual property rights.

The seminar was divided into three segments – trade policy, intellectual property rights and social issues of restrictive trade policy. The initial presentations in these areas were made by Prof. Bibek Debroy (Trade Policy), Mr. Praveen Anand (Intellectual Property Rights) and Mr. S. Samra (Social Issues). The session on trade policy was chaired by Dr. Shankar Acharya, that on intellectual property rights by Mr. Ramakant Khalap and that on social issues by Mr. T.N. Ninan.

This paper represents the gist of the discussions. Of the three initial presentations made, a formal paper was presented by Bibek Debroy, which is appended in Annexure 1. Therefore, Bibek Debroy's presentation is not included in the main body of this text.

Since the seminar was held on 4 December 1999, India has of course had bilateral consultations with the United States and this agreement has overtaken earlier agreements with other trading partners. At the 8-digit level of the harmonized classification system, 1429 items were on quantitative restrictions (QRs) in March 2000. Of these, 714 have been moved to the OGL (open general licence) through exim policy announcements on 31 March 2000. The remaining 715 will be moved to OGL on 31 March 2001.

A note by Mr. Chaturanan Mishra is appended at Annexure 2.

1. India's Trade Policy

Chaturanan Mishra

The former Union Agriculture Minister, Mr. Chaturanan Mishra, agreed with Prof. Debroy on the arbitrary method of placing items on the restricted list. However, he cautioned against applying a general principle of removing trade barriers on developing countries. The ILO (International Labour Organization) report on the Latin American and Caribbean labour markets shows that despite a decade of economic reforms and modernization, these countries have been afflicted by a high rate of unemployment which could effect about 9.5% of its workforce. In India, about 40 million people are unemployed. India should follow the example of China and open up cautiously. Liberalisation only results in the concentration of wealth in the hands of a few, he said.

But if India follows the WTO diktat on intellectual property rights, it would lose ownership over these rights which would pass on to multinationals. In such a scenario, India would have access to new technologies only on payment of royalty. If India does not want its people to take to the streets, it should follow the example of China and first strengthen its own industry and agriculture, and then remove its trade barriers on a case by case basis only, he said.

Dr. Shankar Acharya

Dr. Shankar Acharya pointed out that the spectre of liberalisation resulting in unemployment and social distress had been raised by protectionists in almost every country, even in the US and the UK. However, on a net basis, trade in fact creates employment and higher opportunities of exporting commodities produced by a large work force. This is the principle of comparative advantage, wherein countries move out of incompetent areas of production to competent areas, and import what they produce less of, while exporting their surplus items. He argued that China's 10-fold increase in export growth over the last two decades was not because it employed a case by case method as suggested by Mishra, but due to its aggressive reform policies. India would do well to learn from the Chinese example.

In spite of the dismal picture painted by Prof. Debroy, it was in 1998, when, under an agreement with SAARC countries, all the 2400-odd items on the restricted list were placed on OGL, for trade with SAARC countries only, he said. The QR regime has also been liberalised. Today, about 10% of India's total trade is under the QR regime. Though, admittedly, this is a high percentage when weighted against potential imports, but the figures speak for themselves. From about 8,000 items at the 10-digit level under QRs in 1991, by 1998-99 only about 1200 items remained on the restricted list. In spite of criticisms that India's customs tariffs are below the WTO bound rates, India's policy is to liberalise at its own pace. So, while customs duties have come down unilaterally from a peak tariff rate of 300% in 1991 to 40% today, the government in the same period has sought to distinguish between a unilateral agenda for economic reforms and decisions to be taken in international fora.

Questions & Answers – Session I

On the suggestion that the reservation policy for the small-scale sector be phased out. Prof. Debroy said that industry should have been prepared for lower tariff rates of 25% and 40%, for they were placed on the market schedules on December 15, 1993. He argued that since the number of items that are on OGL could be computed depending on whether one was working at the six digit, eight digit or ten digit level, discrepancies in the actual figure had crept in. This explained the discrepancy between the lower figure of 1200 items that Dr. Shankar Acharya had said were on the restricted list and a higher figure of 1600 items that he had computed. The figure of 1200 is arrived at if you work at the eight digit level and don't include items that are on the canalised and other prohibitive lists. But if they are computed along with the number of items on the restricted list, then the figure is 1600 at the six-digit level. Since the eight-digit classification for 1999-2000 was released by the Commerce Ministry only recently, Debroy said that he was forced to do his calculations at the six-digit level.

To a question on the agricultural sector, he said that since agriculture is covered under a separate agreement, it was fallacious to mix up agricultural tariffs with industrial ones. But he agreed that the high tariffs of 150% and 300% needed to be lowered. The bound rate of

tariff he said was 0% (on same items like skimmed milk powder) because of agreements made with countries before the Uruguay round when QRs were expected to continue. Under Article 28 of GATT, these were being renegotiated, though it would involve compensating trading partners. On high tariffs increasing input costs, he felt the tariffs could be lowered and said that interest rates were high in India and could not be made comparable with global interest rates because of scarce capital in the country. But if the real interest rate is high in India, the wage rate is very low.

A participant commented that if there are severe restrictions on a product that consumers want, the market finds a mechanism for beating the restrictions. For instance, spirits are not allowed to be imported into India. However, there is an extremely extensive trade that takes place - as high as 700,000 cases - in counterfeit or smuggled Scotch. This is a difficult issue because consumers would want a faster withdrawal on such restrictions and the domestic manufacturers would want a slower one.

II. Intellectual Property Rights

Praveen Anand

Replete with examples from the domestic and global arena, Mr. Praveen Anand's account pointed to five trends that highlight issues involving the counterfeiting of intellectual property, and its impact on the health of individuals. He first mentioned the extent of counterfeiting. Neil Armstrong mentioned that he shuddered to think that each of the 11,000 parts that comprised Apollo Eleven had been supplied by the lower bidder! Spurious medicine has killed many in Nigeria. In Peru, an air crash was connected to fake helicopter and aircraft parts. Even a Japanese Emperor has been seen wearing counterfeit brands, which he had brought from a respectable supplier.

In the age of the internet, counterfeiting has become simpler. The internet's capacity to copy and distribute to millions has blurred the distinction between the reproducer and the distributor of books. This distinction forms the basic paradigm of copyright laws. At the click of a mouse, both jobs are done by the same person and at no content cost incurred by him.

Globalisation and Harmonisation – the First Trend

Approximately 25 treaties deal with IP issues at the international level and are mainly administered by a body of the UN, the World Intellectual Property Organisation. New IPRs are being created every day in the developed world. Some IPRs of developing countries are also created in the developing world, such as the new exclusive marketing rights, the recent WIPO rights that came into force with the WIPO copyright treaty, and the phonograms and performances treaties of 1996. Consequently, an anti-hacking right, a making-available right and a right to prevent technological measures from being duplicated have been introduced. Mr. Anand called this globalisation. The fact that the IPR laws of every country are beginning to look similar, he termed harmonisation. By 2000, while several countries will introduce IP legislation, most countries including those in the developing world will have similar IPRs. A few countries are expected to amend their laws further by 2005.

While trademark laws were traditionally restricted to labels, they were expanded to include symbols like the white star on a pen, smells like the rose smelling tyre in the UK, etc. With the Jeff Lemon case, which went up to the House of Lords, distinct shapes as trademarks came into vogue. Slogans such as Frogeurt and sounds associated with the Microsoft programme expanded the scope of these laws further. To keep pace with these changes, India needs a comprehensive legal framework to resolve issues relating to IPR and counterfeiting. Enforcement agencies, such as the police, have no clear yardstick while enforcing copyrights of books, music and movies. The courts too follow an arbitrary system. This is the second trend.

Uncertainty on Account of Changes in Basic Concepts – the Second Trend

There is an uncertainty, as no clear legislative framework has emerged on IPR. The recent decision of the Delhi High Court, which recognised Yahoo's trademark on the internet by using US laws, is a case in point. In the absence of Indian law, the court applied principles of unfair competition to judge an Indian case, Yahoo vs Yahooindia.com. Anton Pillar order is another example. In an Anton Pillar order, in a civil action, the court empowers a court commissioner, or an unbiased third

party to go to the premises of a pirate and take custody of the infringing goods, whether it be copyright material or trade mark material.

This has attracted controversy in spite of its efficacy in dealing with anti-piracy campaigns, by retrieving from the premises of the pirate, stolen trademark or copyright goods. So, for instance, Delhi High Court may issue an order, but not Mumbai or Chennai. And certainly not district courts. So, is it a part of our law or not?

With each new case, if India judges have to debate the efficacy and desirability of statutes pertaining to IPR issues, then the function of judges would be reduced to changing and making new laws. Identifying this as the second trend, Mr. Anand argued that the law should be developed through legislative changes and judges freed to concentrate on other issues such as damages or convictions. In the absence of a deterrence system in India, counterfeiting has flourished with only two or three reported ex parte cases of damages in the last 50 years and just one case of conviction which was stayed in appeal, he said. The pirate moves from one brand to the next with impunity.

Over Protection – the Third Trend

Over protection in certain areas of IPR, he pointed out as the third trend. This is desirable in some areas like the Panda case in which the WWF was able to stop the use of panda fur. In others, like the human genome project, which has raised many ethical issues, the issue of terminator seeds, even trademarks on ships, it is not. Maintaining a balance between these two becomes crucial, otherwise the good cases along with a few bad ones will suffer. For instance, the recent case of SmithKline Beecham vs Hindustan Lever is a pointer. SmithKline contented that its 'S' link design was a registered design, therefore it should be granted copyright protection. SmithKline lost the case as the court refused to accept its trademark as protected under copyright law. In another case, Samsonite lost to VIP on similar grounds.

Backlash – the Fourth Trend

As a consequence of over protectionism, judges have begun nitpicking over small issues, which would have been overlooked, if technicalities could be ignored. This forms the fourth trend. The attitudinal change among judges has made it difficult for the plaintiff to enforce his rights.

The police are also reluctant to handle cases of software raids, preferring to take on counterfeit cases at the retail and instead.

Checks and balances – the Fifth Trend

Finally, the fifth trend is the checks and balances inherent in our system, which prevent the misuse of rights. If a plaintiff is found misrepresenting facts, then his injunction is liable to be vacated. Again if any company, even an MNC, indulges in restrictive practices, it can be taken to a consumers' court or a monopolies court.

Conclusions

Intellectual property issues are interfacing with various other disciplines, for instance, with human rights. WIPO has undertaken a study to include under article 27 sub-article 2 of the Universal Declaration of Human Rights some aspects of IPR like cultural rights, protection of folklore or rights of traditional and indigenous people and indigenous knowledge. As IPR lends itself to multiple disciplines, its interface with biodiversity and economic developing and food and health concerns is also notable. An IPR strategy to encourage creativity and a national IPR policy that would deal strictly with pirates and counterfeits are the main concerns. Stressing the need to train various enforcement agencies, he said a strong legal system and a strong bar are necessary. And to create awareness against counterfeiting activities, schools have introduced IPR in the classroom curriculum.

Questions & Answers – Session II

Replying to a question on whether the Indian law needed to be changed. Mr. Anand argued that the law has been adapting to changing social and commercial realities. For instance, although the law had been restricted to original works of art, it had changed to grant 'neighbouring rights' to films that the entrepreneurial and not original in nature. It was later expanded to include software copyright after a 20 year-old world debate concluded that computer software should be governed by copyright and not a through sui generis law. The context in which the law needed to be re-examined was India's inability to protect the works of its traditional communities, despite the existence

of a perfect model, which allows for collecting society that can be assigned these rights and, which can get a good royalty or compensation for its members. Not having created its own IPR regime, India had attacked others for stealing its basmati and neem.

On why there are so few convictions in counterfeit cases of automobile components, Mr. Anand blamed the faulty legal system. On the existence of a flourishing spurious liquor market, he said that hardened counterfeit cases have never been registered by liquor manufacturers because proprietors have not felt the need to invest in IPR. SmithKline Beecham lost the case against HLL because it had not renewed its registered designs. He also agreed that the fear of the unknown could pose an entry barrier to new entrepreneurs on the internet. However, there are collecting societies which grant licences for a small fee. In India, we have the IPRS for music, PPL for mechanicals and SCRIPT for filmmakers. Mr. Anand has modelled another for folklore. He agreed that over protectionism of the human genome project would affect the pharmaceutical industry, but he maintained his faith in the "absolute Indian thinking of a balance".

III. Social Cost of Restrictive Trade Policy

S. Samra

The social impact of historically imposing restrictive trade policies in India has been two-fold. First, by eliminating competition, a flourishing grey market in consumer goods, specifically liquor, resulted in the government losing revenue. Second, as demand from consumers increased, adulterated foreign liquor began to sell at a premium although it was unhygienically prepared. Given the abnormally high profits to be made from the unregulated trade in foreign liquor, illegal channels opened up with the connivance of the bureaucracy and law enforcement agencies. In such a system, the smugglers make profits on smuggled goods and the bureaucrats, police and customs personnel take a hefty bribe for allowing illegal trade to continue. Customers play along because they get the product that they want. In reality they are cheated because more often than not, the product is of substandard quality.

High taxes with low costs resulting in extra money in the system are characteristics of closed economies. This has worked to the advantage

of smugglers and bootleggers who are able to buy immunity against legal action. The threat to society increases when, in addition to smuggling products that realise economies of scale, the same channels are used to bring arms and ammunition into the country. Since such consignments are dangerous, payment to all in the channel, including police and customs personnel increases exponentially. And police and customs personnel are hand-in-glove in reaching the consignment safely to its destination.

Referring to the Mumbai bomb blasts case, Mr. Samra said the same channels were used by the ISI and Dawood gang to further their activities in India. In one case when RDX was being loaded from a building into trucks at night, at Mahim in Mumbai, residents, familiar with nighttime activities of silver and scotch whiskey smugglers, turned a blind eye. When questioned, they said that even the police were aware of such activities and had done little about it. In the early '70s, when smuggling of textiles and electronic goods was at its peak, the sub-inspectors of police were keen on getting posted to coastal areas where extra money could be made from bribes.

Taking about spirits counterfeiting and smuggling, a survey done by the Indian Market Research Bureau in Calcutta, Chennai, Mumbai and Delhi reveals that in some places counterfeiting was a high 50-60% and in others 60-70%. When taxes are brought down to a low level of 100%, or less, state revenue will go up by about Rs. 300 crores. With branded companies not having to face any more problems on account of counterfeit products, the police would get some relief. However, bootlegging will not completely disappear. In the UK it still persists at the level of 2-5%. If prices are comparable with international prices, the incentive for smuggling and bootlegging will come down drastically for the cost of purchasing immunity and the risk premium would not justify the operation, as seen in the case of electronic goods and textiles.

Samra held the government responsible for the social costs of such policies. Concerned with implementing its national agenda, each successive government has not found the time to address these issues. Samra took the example of TADA to show the government's arbitrary system of functioning. The case of Sunjay Dutt bears eloquent testimony to

its arbitrariness. Gold is a test example of how government policy determines illegal trade within the country. In the '50s, controls on gold had resulted in the smuggling of bullion into the country. It created a parallel economy and funded arms and ammunition. But when gold was placed on OGL, smuggling ended as legal imports surged. When controls were reintroduced, albeit to a small extent of about 5%, gold smuggling resumed.

Today, Scotch is the most profitable business. All it requires is for the bottle to be fitted with a new label and a cap. The illegal trade in liquor demonstrates all the principles of restrictive trade policy. First, the bootlegger becomes the service provider and ensures a steady flow of income in the form of bribes to the policeman. Second, the national image is sullied as counterfeit liquor bottles in the possession of travellers arrive in other countries. Third, it criminalises society with the liquor mafia taking over the underworld in urban centres. In smaller towns and cities, criminalisation percolates to all levels. Samra believes that the remedy is to remove controls and allow goods to be sold through legal channels at internationally competitive prices. Vietnam and Korea did this successfully.

Questions & Answers – Session III

Samra agreed with the view that law enforcement agencies should work closely with lawmakers, as in the US and UK. However, while in those countries policemen go to university and are educated about the various laws that they have to deal with, in India the police are slowly becoming aware of the trademarks act under which counterfeiting cases can be dealt with. On whether crime syndicates turn to more serious crimes when the sources of revenue from the first kind of criminal activities dry up, he disagreed. Samra said that once they have a source, they tend to expand their activities. On narcotics, Samra said that during the mid-'80s India was receiving gold for sending out narcotics. But that gold was being used to further criminalise society. Indian laws compare with international ones, but laws on narcotics remain weak.

Annexure 1

QUEER QRs

Bibek Debroy¹

Section 1 : Introduction – safety matches

Pre-1991, India's imports (and exports) belonged to four categories – open general licence (free)², prohibited or banned, restricted and canalized.³ The post-1991 reforms added a fifth category, the special import licence (SIL) list, a sub-set of the restricted list and consisting of items that can be imported through special import licences granted to special categories of exports or exporters.⁴ There have been reforms since 1991. Items have been directly moved to the OGL list. Alternatively, they have been first moved to the SIL list and then to OGL. Yet, the system is completely arbitrary and non-transparent.

Consider safety matches. These have a code of 360500.⁵ That is, they are matches "other than pyrotechnic articles of heading no. 3604". Can these be imported freely? No, because "bringing into India by sea or by land otherwise than in boxes or booklets bearing a banderol of the nature and affixed in the manner prescribed in Chapter V of the Central Excise Rules" is prohibited under Section 11 of the Customs

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1. Rajiv Gandhi Institute for Contemporary Studies.
 2. Contrary to what the phrase seems to suggest, no licensing is needed for OGL items, although relevant import duties have to be paid.
 3. Imports or exports through designated state trading organizations.
 4. Since SILs can be sold on the market at a premium, this constitutes an indirect export subsidy. But that does not concern us in this paper.
 5. Unless otherwise mentioned, everything in this paper is at the 6-digit level of the harmonized classification system, as finer disaggregation is not always available. Information is from *Easy Reference Customs Tariff 199-2000*, edited by Arun Goyal, Academy of Business Studies, March 1999.

Act, 1962.⁶ This sounds confusing. More specially, import of "safety matches and other matches of a type classified as consumer goods" is prohibited and these items are on the restricted list. If the safety matches are not classified as consumer goods, they can be imported by government departments and public sector undertakings, on recommendation from the Controller of Explosives.

Frozen hilsa (03037901), other than lives and roes, is on OGL, but pomfrets (03037905 and 03037907) are consumer goods and are on the restricted list. Cod (030551) is on OGL, but herrings (030542) are consumer goods and are on the restricted list. Skimmed milk (04021001) is on OGL, but milk food for babies (04021003) is a consumer good and is on the restricted list. Butter oil (04059001) is on OGL, but ghee (04059002) is a consumer good and is on the restricted list. Fresh or chilled onions (07031001) are on OGL, but fresh or chilled shallots (07031002) are consumer goods and are on the restricted list. Green pepper (07099004) is on OGL, but pumpkins (07099009) are consumer goods and are on the restricted list. Manioc or cassava (071410) is on OGL, but sweet potatoes (071420) are consumer goods and are on the restricted list. Dried grapes (080620) are on OGL, but fresh grapes (080610) are consumer goods and are on the restricted list. Apricots (080910) are on OGL, but cherries (080920) are on the restricted list. Crispbread (190510) and gingerbread (190520) are on OGL, but rusks and toasted bread (190540) figure in the SIL category. Truffles (200320) and tomatoes (200210) are on OGL, potatoes (200410) are restricted and mushrooms (200310) are in the SIL list. Hair dyes (33059004) are on OGL, but shampoos (330510) are consumer goods and are on the restricted list. Shaving cream (33071001) is on OGL, but pre and after-shave preparations (33071009) are in the SIL list. Railway carriage fans (841445104) are on OGL, table fans (84145101) figure in the SIL list and pedestal fans (84145103) are restricted as consumer goods.

6. "If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such condition (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description." Note sub-section 2(e) "the conservation of foreign exchange and the safeguarding of balance of payments", 2(i) "the establishment of any industry" and 2(j) "the prevention of serious injury to domestic production of goods of any description".

Video telephones (8517190010) are on OGL, cordless telephones (85171103) are in the SIL category and push button type telephones (85171101) are restricted. Dolls representing human beings (950210) are on OGL, but toys representing animals or non-human creatures (950341) are restricted. Ball point pens (96081) are restricted, but refills for ball point pens (960860) are on OGL. This is an indicative list of arbitrariness. A completely exhaustive list will be extremely long. Other than lobbying, the only explanation for such arbitrariness is the ceiling method.⁷

Section 2 : Inefficiency and Illegality of QRs

Per se, protection is inefficient. As any under-graduate economic theory text demonstrates, protection leads to a net welfare loss to society, the so-called deadweight loss. Welfare gains to protected producers are more than compensated by welfare losses to consumers.⁸ If despite this protection continues, that is either because of revenue (customs) considerations or because producers constitute a vocal lobby. In addition, protection through QRs or tariffs, raises two other issues. First, resource allocation is distorted because investments (domestic or foreign) come in to cater to the domestic consumer market that is artificially protected. Second, with porous borders characterizing parts of South Asia, arbitrage opportunities increase, when protection in neighbouring countries is not that high.

The protection can be in the form of tariffs or quantitative restrictions (QRs). If there has to be protection, a more efficient form of protection is through tariffs, not through QRs. In the case of tariffs, the government at least obtains customs revenue. With QRs, the premium on import licences accrues to those who obtain import licences. Therefore, QRs encourage lobbying and directly unproductive economic activity for rent-seeking purposes.

This is partly the reason why one has an article like Article XI of GATT (General Agreement on Tariffs and Trade). "Article XI:

7. Looking up at the ceiling and deciding what item should be classified where.
8. In the simple exposition, with protection through tariffs, some consumers suffer a loss because of higher prices and others opt out of consumption because of higher prices. This constitutes the deadweight loss.

General Elimination of Quantitative Restrictions 1. No prohibitions or restrictions other than duties, taxes or other charges measures, shall be instituted or maintained by any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party."

Admittedly, one also has Articles XII and XVIII of GATT. "Article XII: Restrictions to safeguard the Balance of payments 1. Notwithstanding the provisions of paragraph 1 of Article XI, any contracting party, in order to safeguard its external financial position and its balance of payments, may restrict the quantity or value of merchandise permitted to be imported, subject to the provisions of the following paragraphs of this Article. 2. (a) Import restrictions instituted, maintained or intensified by a contracting party under this Article shall not exceed those necessary: (i) to forestall the imminent threat of, or to stop, a serious decline in its monetary reserves, or (ii) in the case of a contracting party with very low monetary reserves, or its need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources. (b) Contracting parties applying restrictions under sub-paragraph (a) of this paragraph shall progressively relax them as such conditions improve, maintaining them only to the extent that the conditions specified in that sub-paragraph still justify their application. They shall eliminate the restrictions when conditions would no longer justify their institution or maintenance under that sub-paragraph. 3 (a) Contracting parties undertake, in carrying out their domestic policies, to pay due regard to the need for maintaining or restoring equilibrium in their balance of payments on a sound and lasting basis and to the desirability of avoiding an uneconomic employment of productive resources. They recognize that, in order to achieve these ends, it is desirable so far as possible to adopt measures which expand rather than contract international trade. (b) Contracting parties applying restrictions under this Article may determine the incidence of the restrictions on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential. (c) Contracting parties applying restrictions

under this Article undertake: (i) to avoid unnecessary damage to the commercial or economic interests of any other contracting party; (ii) not to apply restrictions so as to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and (iii) not to apply restrictions which would prevent the importation of any description of goods in minimum commercial quantities the exclusion of which would prevent the importation of commercial samples or prevent compliance with patent, trade mark, copyright, or similar procedures. (d) The contracting parties recognize that, as a result of domestic policies directed towards the achievement and maintenance of full and productive employment or towards the development of economic resources, a contracting party may experience a high level of demand for imports involving a threat to its monetary reserves of the sort referred to in paragraph 2 (a) of this Article. Accordingly, a contracting party otherwise complying with the provisions of this Article shall not be required to withdraw or modify restrictions on the ground that a change in those policies would render unnecessary restrictions which it is applying under this Article."

"Article XVIII: Section B 8. The contracting parties recognize that contracting parties coming within the scope of paragraph 4 (a) of this Article tend, when they are in rapid process of development, to experience balance of payments difficulties arising mainly from efforts to expand their internal markets as well as from the instability in their terms of trade. 9. In order to safeguard its external financial position and to ensure a level of reserves adequate for the implementation of its programme of economic development, a contracting party coming within the scope of paragraph 4 (a) of this Article may, subject to the provisions the quantity or value of merchandise permitted to be imported; Provided that the import restrictions instituted, maintained or intensified shall not exceed those necessary: (a) to forestall the threat of or to stop, a serious decline in its monetary reserves, or (b) in the case of a contracting party with inadequate monetary reserves, to achieve a reasonable rate of increase in its reserves. Due regard shall be paid in either case to any special factors which may be affecting the reserves of the contracting party or its need for reserves, including, where special external credits

or other resources are available to it, the need to provide for the appropriate use of such credits or resources. 10. In applying these restrictions, the contracting party may determine their incidence on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of its policy of economic development; Provided that the restrictions are so applied as to avoid unnecessary damage to the commercial or economic interests of any other contracting party and not to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and Provided further that the restrictions are not so applied as to prevent the importation of commercial samples or to prevent compliance with patent trade mark, copyright or similar procedures. 11. In carrying out its domestic policies, the contracting party concerned shall pay due regard to the need for restoring equilibrium in its balance of payments on a sound and lasting basis and to the desirability of assuring an economic employment of productive resources. It shall progressively relax any restrictions applied under this Section as conditions improve, maintaining them only to the extent necessary under this terms of paragraph 9 of this Article and shall eliminate them when conditions no longer justify such maintenance; Provided that no contracting party shall be required to withdraw or modify restrictions on the ground that a change in its development policy would render unnecessary the restrictions which it is applying under this Section."

There are two additional GATT articles (XX and XXI) that offer some leeway.

"Article XX: General Exceptions- Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures: (a) necessary to protect public morals; (b) necessary to protect human, animal or plant life or health ; (c) relating to the importation or exportation of gold or silver; (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this

Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices; (e) relating to the products of prison labour; (f) imposed for the protection of national treasures of artistic, historic or archaeological value; (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restriction on domestic production of consumption; (h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted and not so disapproved; (i) involving restrictions on exports of domestic processing industry during periods when the domestic of such materials is held below the world price as part of a government stabilization plan; Provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination; (i) essential to distribution of products in general or local short supply; Provided that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and such measures, which are inconsistent with the other provisions of this Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist."

"Article XXI: Security Exceptions_ Nothing in this Agreement shall be construed (a) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests (i) relating to fissionable materials of the materials from which they are derived; (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; (iii) taken in time of war or other emergency in international relations; or (c) to prevent any contracting party from taking any action in pursuance of its obligations under the United National Charter for the maintenance of international peace and security."

Thus, QRs are impossible to justify under GATT or WTO (World Trade Organization) disciplines unless they can be justified under Articles XVIII B, XX or XXI. The April 1998 trade policy review for India stated, "Members noted that, since the previous review, the number of items subject to import licensing had decreased; some restricted items had also been liberalized by permitting their importation through freely transferable special Import Licences (SILs). However, this liberalization was mainly applied to capital and intermediate goods, while most consumer goods remained subject to import licensing..... The report notes that last year India presented a phase-out programme for the remaining restrictions to its trading partners. Agreement was reached with all major partners except the United States, with which India is currently in dispute settlement proceedings over its remaining restrictions."⁹

There is a reference in this quote to disputes. There were two sets of disputes. First, in October 1998¹⁰, the European Communities (EC) alleged that India's QRs were not warranted by article XVIII B, because there were QRs not included in those notified by India in May 1997 under paragraph 9 of the understanding on the Balance of payment provisions of GATT 1994.¹¹ According to the EC, these QRs violated Articles III¹², X¹³, XI, XIII¹⁴ and XVII¹⁵ of GATT, Article 4.2 of the

9. This was India's second trade policy review and the quote is from the official summary, not the from the complete report.
10. Earlier, in July 1997, the EC alleged violation of Articles 2, 3 and 5 of the SPS (sanitary and phytosanitary measures) agreement.
11. "A Member shall notify to the General Council the introduction of or any changes in the application of restrictive import measures taken for balance-of-payments purposes, as well as any modifications in time-schedules for the removal of such measures as announced under paragraph 1. Significant changes shall be notified to the General Council prior to or not later than 30 days after their announcement. On a yearly basis, each Member shall make available to the Secretariat a consolidated notification, including all changes in laws, regulations, policy statements or public notices, for examination by Members. Notifications shall include full information, as far as possible, at the tariff-line level, on the type of measures applied, the criteria used for their administration, product coverage and trade flows affected."
12. National treatment on internal taxation and regulation.
13. Publication and administration of trade regulations.
14. Non-discriminatory administration of quantitative restrictions.
15. State trading enterprises.

agreement on agriculture¹⁶ and Articles 1,2 and 3 of the agreement on import licensing.¹⁷ India maintained that these QRs were justified under Australia, Canada, New Zealand and Switzerland¹⁸ raised similar concerns in July 1997. Within the WTO system, the preference is for settling disputes through bilateral consultations, before a dispute resolution panel is set up. With these countries the disputes were resolved through bilateral consultations and a six-year time frame for phasing out QRs was agreed upon, to begin on 1 April 1997 and to end on 31 March 2003.¹⁹ Thus, in the period February to December 1998, Australia, Canada, Switzerland, European Communities and New Zealand (and India) communicated to WTO that the disputes on imports of agricultural, textile and industrial products had been resolved.

Such bilateral resolution was not possible with the second set of disputes, with the United States. In July 1997, the United States complained to WTO that India's QRs on imports of agricultural textile and industrial products was inconsistent with Articles XI. 1 and XVIII. 1.1 of GATT, Article 4.2 of the agreement on agriculture and Article 3 of the agreement on import licensing procedures. The figure given was of 2700 items on a QR regime.²⁰ A panel was set up in November 1997 and the panel found (with the report circulated in April 1999) that Articles XI, XVIII. 1.1 of GATT and Article 4.2 of the agreement on agriculture were indeed violated by India's QRs. In May 1999, India decided to appeal against this finding. But the appellate body (with the report circulated in August 1999) upheld the rulings of the panel and the report was adopted by the dispute settlement body (DSB) in September 1999. Thereafter, a phase-out programme has

16. "Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties, except as otherwise provided for in Article 5 and Annex 5 thereof."
17. These need not be quoted, as they don't really say much. Administrative procedures for import licensing have to be in conformity with GATT and neutral, fair and equitable in implementation.
18. However, Switzerland did not invoke the agreement on agriculture.
19. Also see, "India and the WTO", *Ministry of Commerce Newsletter*, January 1999.
20. This is an April 1997 figure and is based on 8-digit classification. Under the 8-digit classification, around 10,500 items are described and pre-1991, around 8000 of these were on QRs. The January 1999 *Ministry of Commerce Newsletter* gives a figure of 2400 items, but this probably excludes prohibited and canalized items.

to be decided in consultations with the United States. India has argued that this phase-out period should be more than fifteen months. In all probability, QRs will have to be eliminated by March 2002, if not by September 2001.

Section 3: How many QR items?

How many items are there on a QR regime and in what sectors are these? The sectors are primarily five- agricultural products textiles and garments, urea, petroleum and related products and consumer goods, with the last-named accounting for most items. There is of course a slight misstatement in this assertion. When imports of agricultural products of textiles and garments are subjected to QRs, that is also on grounds of these being consumer goods. How many QR items is almost an impossible question to answer, although a number of 2700 for April 1997 was cited earlier. This is the official Ministry of Commerce figure and the present official figure seems to be around 1200. Unfortunately, the number of items depends on the digitary classification used, 6-digit classification, whereas we only have access to a 6-digit classification in November 1999. Therefore, the figures we give below are not comparable with the 2700 or 1200 figures. There is yet another reason where there is subjectivity about such figures. Does one include all restricted items (including those that are canalized, or even on the SIL list) or does one include only those that are on a restricted list? In addition, if one is working at the 8-digit level, some items at the 10-digit level might be on OGL, while other items at the 10-digit level are restricted. At the 8-digit level, how does one treat these, as free or restricted? By treating them as free, one brings down the number of items on QR regimes and by treating them as restricted one increases the number of items on QR regimes. In what follows below, at the 6-digit level, we count as restricted every item for which a sub-set is on the restricted list and SIL, canalized or prohibited are all interpreted as constituting the QR regime.²¹

There are 99 chapters in the tariff classification and Table 1 gives our compilation. This table has two biases. First, the computations are at the 6-digit level and if at the 8-digit level some items are on

21. Some of these are free for the SAARC (South Asian Association for Regional Cooperation) region.

QRs while others are not, we have counted the 6-digit item within the QR category. This thus tends to over-estimate the incidence of QRs. Second, this entire exercise becomes a function of the fineness of classification. For example, an item on OGL May have only 8 descriptions at the 6-digit level. But an item on QRs may have 80 descriptions at the 6-digit level and this again, blows up the incidence of QRs. Actually, it doesn't blow up the incidence of QRs, since sometimes, it decreases the importance of QRs. The point is that this imparts a bias that is impossible to correct for. Subject to these caveats, as Table 1 shows, 39.3 percent of items are on a QR regime now, with 6-digit level computations and the over-estimation that we have mentioned.²²

22. At the 8-digit level, the present government figure is around 1200. With a total of 10,500 items described, this gives a share of 11.4 percent. All these are frequency ratios. A better indicator is the coverage ratio, with items weighted by their import shares.

Table 1 : QR regime at the 6-digit level, November 1999

Chapter, description	Total number of items	Items on QRs
1. Live animals	17	17
2. Meat & edible meat offal	53	52
3. Fish, crustaceans, molluscs	87	62
4. Bird's eggs, honey	27	27
5. Products of animal origin	17	11
6. Live trees, plants	12	7
7. Edible vegetables, roots	56	46
8. Edible fruit & nuts	55	35
9. Coffee, tea, spices	32	32
10. Cereals	16	16
11. Products of milling	34	25
12. Oil seeds	43	37
13. Lac, gums, resins	12	3
14. Vegetable plaiting materials	10	3
15. Animal or vegetable fats & oils	46	38
16. Preparations of meat, fish	26	26
17. Sugar & confectionery	16	9
18. Cocoa	11	0
19. Preparations of cereal, flour, starch	16	14
20. Preparations of vegetables	44	27
21. Miscellaneous edible preparations	16	9
22. Beverages, spirits, vinegar	29	25
23. Residues & waste from food industries	25	21
24. Tobacco & manufactures	9	6
25. Salt, sulphur etc.	73	12
26. Ores, slag, ash	34	15
27. Mineral fuels	40	5
28. Chemicals, compounds	184	16
29. Organic chemicals	311	31
30. Pharmaceuticals	29	6

31. Fertilizers	26	18
32. Tanning or dyeing extracts	45	8
33. Essential oils	35	22
34. Soap etc.	23	8
35. Albuminoidal substances	15	5
36. Explosives	8	7
37. Photographic, cinematographic	36	4
38. Miscellaneous chemicals	64	13
39. Plastics	126	30
40. Rubber	72	16
41. Raw hides & skins	34	7
42. Articles of leather	22	13
43. Furskins, artificial fur	18	3
44. Wood & articles	68	4
45. Cork & articles	7	2
46. Manufactures of straw	6	5
47. Pulp of wood	20	0
48. Paper & paperboard	108	37
49. Printed books etc.	19	2
50. Silk	10	8
51. Wool etc.	36	0
52. Cotton	131	57
53. Other vegetable textiles fibres	31	10
54. Man-made filaments	66	2
55. Man-made staple fibres	113	52
56. Wadding, felt, special yarns	33	6
57. Carpets etc.	22	18
58. Special woven fabrics	41	20
59. Impregnated textile fabrics	24	10
60. Knitted or crocheted fabrics	18	15
61. Articles of apparel, knitted or crocheted	114	114
62. Articles of apparel, not knitted or crocheted	119	119
63. Other made-up textile articles	57	50
64. Footwear, headgear etc.	29	24

65. Headgear and parts	11	6
66. Umbrellas etc.	7	4
67. Prepared feathers	8	5
68. Articles of stone	52	19
69. Ceramic products	29	24
70. Glass & Glassware	66	13
71. Natural or cultured pearls etc.	52	38
72. Iron and steel	52	38
73. Articles of iron and steel	120	42
74. Copper and articles	59	4
75. Nickel and articles	17	3
76. Aluminium and articles	36	7
77. NO ITEMS NOW		
78. Lead and articles	10	3
79. Zinc and articles	9	2
80. Tin and articles	8	2
81. Other base metals	35	16
82. Tools, implements etc.	66	34
83. Miscellaneous articles of base metals	36	15
84. Nuclear reactors etc.	508	71
85. Electrical machinery	291	116
86. Railways, tramways	24	0
87. Vehicles	75	34
88. Aircraft, spacecraft	15	12
89. Ships, boats	17	10
90. Optical, photographic etc.	159	15
91. Clocks and watches	55	35
92. Musical instruments	23	0
93. Arms & ammunition	17	17
94. Furniture etc.	37	20
95. Toys, games	43	13
96. Miscellaneous manufactured	50	26
97. Works of art	7	2
98. Project imports etc.	7	5

Even when QRs are phased out, some items will continue to be on the prohibited or banned list because of the Prevention of Cruelty to Animals Act (1960), Section 11 of the customs Act (1962), the wild Life Protection Act (1972), the Plants, Fruits and seeds (Regulation of Import into India) Order (1989), the Destructive Insects and Pests Act (1914), the Drugs and Cosmetics Act (1940), the Drugs and Cosmetic Rules (1945) and the Narcotics Drugs and Psychotropic Substances Act (1985). That is Understandable. As table 1 implicitly indicates, the problem areas are consumer goods (including textiles and garments and agricultural products in this) and canalized items (petroleum and related products, urea, non-ferrous metals). It is these items that will have to be moved to the OGL.

Table 1 does not indicate the progressive elimination of QRs since 1991. This is shown in table 2. The figures of Table 2 (also at the 6-digit level) are not our own computations, but are based on some yet unpublished work done by Mohammed Saqib. There is some discrepancy (for 1999-2000) between our figures in table 1 and those of Saqib's in Table 2. There is no explanation for this, except that people sometimes count the same variable differently. However, the variations are not terribly significant. Table 2 also shows the progressive reduction in incidence of QRs. The somewhat obvious point that since 1991-92, the speed of elimination of QRs has slowed down, is evident.

Table 2: Progressive elimination of QRs (6-digit)

Year	QR regime	Total	(%share)
1991-92	4263	5024	84.85
1992-96	2275	4990	45.59
1996-97	2314	5713	40.50
1998-99	1804	4944	36.49
1999-2000	1763	5019	35.13

Section 4: Duties

With QRs, gone, the only form of protection possible will be through tariffs. But on these tariffs as well, there is some discipline. Under

the Uruguay Round package, India has reduction and binding commitments. Broadly, the reduction commitment is one of 30 percent on the basic customs duty, spread over six years, except for textiles and garments, where the timeframe of reduction is staggered over ten years.²³ Again broadly, the binding commitment is 25 or 40 percent. If the applied tariff rate in 1990 was below 40 percent, the bound rate is 25 percent.²⁴ However, there are some sectors that are exempted from reduction and binding commitments. Among these are petroleum and related products, non-ferrous metals and consumer goods. Table 3 gives an indications of present applied rates and India's bound commitments. One must be careful in comparing the two columns. Present applied rates include all duties, not just the basic customs duty. However, the binding commitments are for the basic customs duty alone.

23. On a base of 1990 and beginning 1 January 1995.

24. Agriculture belongs to a separate category altogether and is covered by the agriculture agreement.

Table 3 : Duties

Chapter, description	Effective duty range ²⁵ (%)	Bound duties (%)
1. Live animals	5.5-45.6	100
2. Meat & edible meat offal	21.16	35-100
3. Fish, crustaceans, molluscs	21.16	-
4. Birds' eggs, honey	0-44.4	0-150
5. Products of animal origin	21.16	100
6. Live trees, plants	5.5-21.16	10-150
7. Edible vegetables, roots	5.5-21.16	35-150
8. Edible fruit & nuts	0-128.8	30-150
9. Coffee, tea, spices	35.2-44.04 ²⁶	35-150
10. Cereals	0	0-100
11. Products of milling	44.04-67.09	35-150
12. Oil seeds	5.5-45.6	10-100
13. Lac, gums, resins	30.85-57.25	100
14. Vegetable plaiting materials	21.16	100
15. Animal or vegetable fats & oils	19.6-68.09	15-300
16. Preparations of meat, fish	40.0	55-150
17. Sugar & confectionery	16.5-40.0	100-150
18. Cocoa	40.5-68.89	100-150
19. Preparations of cereal, flour, starch	21.16-45.6	17.5-150
20. Preparations of vegetables	40.0	55-150
21. Miscellaneous edible preparations	40.0-68.89	55-150
22. Beverages, spirits, vinegar	40.0-230.0 ²⁷	150
23. Residues & waste from food industries	5.5-45.6	35-100
24. Tobacco & manufactures	40.0 ²⁸	100-150
25. Salt, sulphur etc.	21.16-45.6	5-40
26. Ores, slag, ash	5.5-55.56	25-40
27. Mineral fuels	0-67.09	25

25. This is the total duty, basic plus special duties plus countervailing duties.

26. Specific duties also.

27. Specific duties also.

28. Specific duties also.

28. Chemicals, compounds	5.5-67.09	25-40
29. Organic chemicals	40.55-67.09	25-40
30. Pharmaceuticals	27.5-67.09	25-40
31. Fertilizers	5.5-44.04	0-5
32. Tanning or dyeing extracts	18.50-67.09	25-40
33. Essential oils	40.0-237.79	40-150
34. Soap etc.	40.0-68.90	40
35. Albuminoidal substances	27.28-67.09	40-150
36. Explosives	67.09	40
37. Photographic, cinematographic	21.16-67.09	40
38. Miscellaneous chemicals	18.50-67.09	40-150
39. Plastics	67.09-78.61	40
40. Rubber	32.6-80.54	25-40
41. Raw hides & skins	0-32.6	3-40
42. Articles of leather	68.90	-
43. Furskins, artificial fur	0-85.54	40-100
44. Wood & articles	9.72-67.09	25-40
45. Cork & articles	67.09	40
46. Manufactures of straw	45.6	-
47. Pulp of wood	9.72	25-40
48. Paper & paperboard	5.5-68.90	25-40
49. Printed books etc.	0-53.82	25
50. Silk	38.5-44.04	100
51. Wool etc.	0-68.90	25-100
52. Cotton	9.25-45.6	25-40
53. Other vegetable textiles fibres	9.72-68.90	40-100
54. Man-made filaments	35.0-68.90	40
55. Man-made staple fibres	25.0-68.90	40
56. Wadding, felt, special yarns	45.6-68.90	40
57. Carpets etc.	40.0-45.6	-
58. Special woven fabrics	27.5-68.90	40
59. Impregnated textile fabrics	40.0-80.54	40
60. Knitted or crocheted fabrics	40.0	-
61. Articles of apparel, knitted or crocheted	45.6	-
62. Articles of apparel, not knitted or crocheted	45.6	-
63. Other made-up textile articles	27.5-80.54	-
64. Footwear, headgear etc.	68.90	-
65. Headgear and parts	68.90	-

66. Umbrellas etc.	45.6	-
67. Prepared feathers	45.6-68.90	-
68. Articles of stone	45.6-68.90	40
69. Ceramic products	53.82-68.90	25-40
70. Glass & glassware	32.6-68.90	40
71. Natural or cultured pearls etc.	0-68.90	25-40
72. Iron and steel	0-68.90	25-40
73. Articles of iron and steel	67.09	40
74. Copper and articles	67.09	-
75. Nickel and articles	40.55	25-40
76. Aluminium and articles	40.55-53.82	-
77. NO ITEMS NOW		
78. Lead and articles	67.09	-
79. Zinc and articles	67.09	-
80. Tin and articles	53.82	25-40
81. Other base metals	53.82-67.09	25-40
82. Tools, implements etc.	43.21-68.90	25
83. Miscellaneous articles of base metals	68.90	-
84. Nuclear reactor etc.	27.28-89.28 ²⁹	3-40
85. Electrical machinery	27.28-68.90 ³⁰	25-40
86. Railways, tramways	53.82-68.90	40
87. Vehicles	21.16-68.90	40
88. Aircraft, spacecraft	7.42-45.60	3-40
89. Ships, boats	0-80.54	25-40
90. Optical, photographic etc.	43.21-68.90	25-40
91. Clocks and watches	43.21-68.90	40
92. Musical instruments	55.56	-
93. Arms & ammunition	45.6-85.54	-
94. Furniture etc.	45.6-85.54	-
95. Toys, games	32.6-53.82	40
96. Miscellaneous manufactured	45.6-68.90	-
97. Works of art	45.6	-
98. Project imports etc.	16.05-68.90	-
99. Miscellaneous goods	0	-

29. Specific duties also.

30. Specific duties also.

It is premature to speculate on what the Millennium Round negotiations on industrial tariffs will lead to. India might have further reduction commitments. But as Table 3 indicates, there is a spread between applied rates and bound rates. So there is enough of a cushion to absorb additional reduction commitments. India might be asked to reduce bound rates to applied rates. There might also be pressure to reduce bound rates at the 40 percent level, if not at the 25 percent level. What seems much more likely is a demand to extend reduction and binding commitments to sectors presently excluded-such as consumer goods (liquor, cigarettes, cars, consumer electronics) non-ferrous metals and petroleum and related products. This assumes significance because QRs on these items will be phased out. It is precisely because of this that in these sectors, industry has begun to lobby for exorbitantly high tariff rates-100 percent plus. There is no economic justification for succumbing to such pressures. With a basic customs duty of 40 percent, the effective duty rate works out to 70 percent plus. If industry cannot survive at such rates of protection, it does not deserve to survive at all. If 40 percent is acceptable as the maximum basic customs duty for industrial goods, why should it be different for consumer goods?

Annexure 2

INDIA AND WORLD MARKET

Chaturanan Mishra,

Former Union Agriculture Minister

I differ with those who stand for unrestricted import of goods in India without preparing India for that. It is not necessary that free import will lead to automatic modernisation of our industry and agriculture. No country in the world has succeeded by applying this I.M.F. (International Monetary Fund) prescription.

Similarly, I do not stand for lowering tariff for each and every item without preparing our own industry to be competitive. Let us take the example of coal where the import duty is reduced to five per cent. This led to import of 28 million tonnes of coal this year, making Coal India Ltd. further sick. The private sector which was allotted 14 Blocks for working coal mines, returned 10 Blocks. Import of 28 million tonnes of coal means losing job of 29 million man-days. I don't think India where there is explosive unemployment situation, can afford this. See how Steel workers of U.S.A. demonstrate massively before Seattle meeting of W.T.O. (World Trade Organisation) today.

I draw your attention to the latest report of I.L.O. (International Labour Organisation) on Latin American/Carribbean Labour markets which clearly says, supported by detailed facts and figures, that despite a decade of economic reform and modernisation, unemployment in Latin America and Carribbean is rising fast and is expected to affect as many as 9.5 per cent of the region's regular force this year. It further says that outlook is grim despite a decade long reforms. We know the story of East Asia and Russia.

In Indian conditions, this will spell disaster for our democracy.

It is true as the report says that the inflation came down from 550% in 1990-93 period to 10.2% yearly in 1998. When I visited Brazil in 1997, the Ministers also told me the same story. Half of their textile workers were laid off due to the cheaper imports of textiles from other countries. One may be surprised to know that Karl Marx saw this when he wrote in Communists Manifesto :

“The cheap prices of its commodities are the heavy artillery with which it batters down all Chinese Walls.”

I am of the opinion that India should open its trade sector by sector after preparing ourselves for foreign competition. This is how the Chinese are doing (News from China, dated 24 November 1999). Free trade as suggested by I.M.F. is not free. In developed countries incidence of subsidy is very high. They impose high tariff on imports from developing countries. Even the issue of Human Rights, child labour, environment, labour standard, sanitary safety, etc., are used against developing countries. W.T.O. is so far incapable of tackling this issue. Hence every nation has to protect itself while moving towards free trade.

As you will see, imported wheat in India is cheaper than our own wheat. Now 50% duty on wheat is levied. I saw this in 1996-97 itself and as Agriculture Minister, asked our Ministry and I.C.A.R. (Indian Council for Agriculture Research) to prepare crop-wise Action Plan for each crop for competing in the world and this was done. I don't know the follow up. I had planned that Bihar, Eastern U.P. and Orissa, the poverty zone, to have green revolution to feed the country and earmark Punjab and Haryana for food export. This would have eased railway transport and made wheat and rice cheaper in Eastern and Southern part. A poor country like ours cannot afford higher price for foodgrains. The remedy lies in reducing the cost of production. The Intellectual Property Right is used by the Multinationals to exploit the people in general and the developing countries in particular by keeping them backward.

The main reason of our mass poverty is low productivity in Agriculture which includes animal husbandry and the main reason for India being incompetent in the world Market both in Agriculture and Industry, is our low productivity apart from quality, etc. But this main aspect of the problem is not at all seen by our industrialists, Government, Media and the over enthusiastic propagandist intelligentsia of liberalisation.

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