

Identifying Mutual Interest Areas at WTO: A Sino-Indian Joint Perspective

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China and India, in spite of being signatory members of GATT (General Agreement on Tariffs and Trade, 1948), witnessed a dissimilar experience in the arena of multilateral negotiations and trade. China lost its membership after the withdrawal of Taiwan from GATT in 1950, but gained steady access in the global market since the late 80s. India, on the other hand, in spite of maintaining the membership of GATT, never focused on export promotion strategies before late 80s. Both the countries expect further growth in their exports in coming future, as the tariff and non-tariff barriers (NTBs) in member countries are likely to go down in the post-transitory phase of the World Trade Organization (WTO), which started from 1 January 2005 onwards. However, the WTO-compatibilities of several domestic policies of both China and India have been questioned by their trade partners on various occasions and the debate is likely to continue in the future. Moreover, the exports of both of them are subject to various NTBs in principal markets, which are likely to intensify in the coming days. This bears serious implications on the export potentials of the two countries. Considering the domestic policies of China and India as well as the barriers on them, this article attempts to identify material and institutional areas where the two countries could jointly negotiate at the multilateral forum. It argues that collective bargaining by the two countries on key issues is likely to provide them an edge in future negotiations.

INTRODUCTION

The basic goal of WTO is to facilitate trade expansion through reduction in various types of barriers and procedural hassles in member countries. However, even after ten years of WTO coming into existence, various barriers still pose a major threat to global commodity trade. For instance, prevalence of agricultural subsidies and various technical standards are among the major problems faced by exporters from developing countries. On the other hand, the developed countries, especially the US, have often been critical of the slow pace of import liberalisation in developing countries. Moreover, the increasing use of contingency measures (i.e., anti-dumping and safeguard measures), both in the developed and the developing countries, is open proof of the

reluctance among members to open up their domestic market to foreign competition. In short, the first ten years of WTO has been marked with emergence of a number of unresolved issues.

After a long period of maintaining distance, India and China are recently coming closer through adoption of a series of confidence-building measures (Singh 2003: 123–70). There is an enormous scope for the two countries to collaborate through economic ties. Apart from facilitating bilateral trade through various policy measures, which has already been partly acknowledged (Government of India 2003b: 10), the countries also stand to gain heavily by pursuing a policy of collective bargaining at the WTO forums. The current analysis attempts to identify the common interest areas, and is organised along the following lines. First, the participation of the two countries at WTO forums is briefly narrated. The status of the two countries in the global market is next analysed. Third, the mutual concern areas for them are discussed in brief. Finally, the select material and institutional areas of joint negotiation are explored.

CHINESE PARTICIPATION AT THE GATT/WTO

The Chinese participation at the WTO/GATT forums has been full of events and marked with strategic steps at several junctures. Although it became a signatory member of GATT in April 1948, the withdrawal by Taiwan from the multilateral forum in March 1950 caused China to lose its membership as well. Since the early 1980s, China initiated the process for returning at GATT forums, starting with the resumption of its seat at the UN's Interim Commission for the International Trade Organization (ICITO) in April 1980. For the next couple of years, China participated extensively at MFA (Multifibre Arrangements) forums, owing to the importance of textile products in its export basket. In July 1981, China received observer status at a GATT meeting dealing with renewal of Multifibre Arrangement and later in November 1982, received observer status at the session of GATT contracting parties at ministerial level. Finally in December 1983, China applied for membership in GATT's Multifibre Arrangement, and upon acceptance, it signed Arrangement regarding International Trade in Textile in January 1984 (Jacobson and Oksenberg 1993: 84). In December 1985, it received permanent observer status in GATT's council and subordinate bodies. In July 1986, China formally applied for resumption of its contracting party status at GATT, and the working party started functioning from March 1987 onwards. In July 1995, it received observer status in WTO.

Throughout the 1990s, China had to negotiate with interested WTO member countries bilaterally on the question of its accession. The developed countries were worried about the impact of China's integration in global economy, owing to its 'non-market economy' status. The major issues raised by EU and US during negotiations centred on the role played by the state in determination of import volumes, domestic support measures, lack of transparency in import procedures, restriction on

foreign companies, determination of exchange rate, etc. China on the other hand, concentrated on three broad goals. First, it strongly wanted resumption of its contracting party status rather than obtaining a 'new' membership in order to receive the benefits associated with 'signatory membership'.¹ Second, it stressed that the reduction in Chinese tariff schedule should form the basis of negotiation in obtaining the Most Favoured Nation (MFN) and Generalised System of (Tariff) Preferences (GSP) treatment from other members, especially the EU and US. Third, as Jacobson and Oksenberg note (1993: 90), China strongly demanded a developing country status, in order to realise some policy leverages (e.g., relatively higher degree of protection to domestic industries under Article XVIII and Part IV of GATT). Although China succeeded in achieving all of these three objectives in the bilateral agreement with the US signed in November 1999, it gave away three major concessions in return, with significant implications on its future export potential. First, it allowed US to keep quotas on Chinese clothing exports for four years in the post-transitory period, i.e., upto 2008. Second, US extracted the right to classify China as a non-market economy upto 2020 (i.e., the liberty to use imputed prices of Chinese products in dumping cases), which might turn out to be disastrous the latter (Panitchpakdi and Clifford 2002: 71). Third, the US also secured the right to impose safeguard measures to restrict the rapid increase in import of a particular product from China (*ibid.*: 196). Furthermore, a special provision in WTO agreement enables any WTO member to specifically target Chinese exports upto 31 December 2013, which could significantly affect its export potential (WTO 2001: paragraph 16, point 9). The developing countries remained relatively dormant during China's accession process, although the export baskets of many of them were potentially threatened by its entry in WTO. One possible reason behind their lack of interest was the fact that China repeatedly announced during its negotiation with the developed countries that it is not part of the Group of seventy-seven (G-77) network (Jacobson and Oksenberg 1993: 99).

In June 2001, China signed another bilateral agreement with the US. On 17 September 2001, the WTO agreed on the final terms of China's joining—following which China became a full-fledged member on 11 December 2001—given that 'China shall eliminate and shall not introduce, re-introduce or apply non-tariff measures that cannot be justified under the provisions of the WTO Agreement' (WTO 2001: 5). However, obtaining the WTO membership has not dissolved its trade disputes with partners. On the contrary, as discussed later, it stands to face (or initiate) a number of cases from (or against) other members in the coming years.

INDIAN PARTICIPATION AT THE GATT/WTO

Although India became a member of GATT in 1948 like China, from 1950s onwards it relied heavily on import-substitution policies rather than export promotion, and

¹ The demand was made in line with the restoration of the legitimate seat of Peoples Republic of China in the United Nations (1971).

consequently underutilised its GATT membership for the next three decades. In mid-80s, stress was laid on export promotion policies for the first time, which intensified further from 1991 onwards. During Uruguay Round (1986–94), the country internally experienced a debate over accession in WTO, mostly due to the inclusion of ‘new’ areas like agriculture and TRIPS (Trade-related Aspects of Intellectual Property Rights) at the multilateral forum. Also during the late 80s, in association with Brazil and Egypt, it tried to oppose the US move for liberalisation of trade in services in the Uruguay Round (Chisti 1991: 103). After obtaining WTO membership in 1995, it became part of Information Technology Agreement and Global E-Commerce Agreement in Singapore (1996) and the Geneva Ministerial (1998). At the failed Seattle Ministerial (1999), India played an active role for the first time, when the developed countries attempted to include social clauses within the WTO framework. Moreover, during 1995–2001, a number of its domestic policies were subjected to complaints at the Dispute Settlement Body (henceforth DSB), and defeat in several cases compelled it to liberalise imports. On the other hand, Indian export did never match the expectation during this period owing to various non-tariff barriers (henceforth NTBs) applied on it (Bhattacharyya 1999). The resulting dissatisfaction caused India to protest at the Doha Ministerial (2001) against discussion on the launching of a new round and Singapore issues before realisation of the market access promises made during the Uruguay Round. It further opined that inclusion of ‘newer’ areas like environment and labour-standard should be kept outside WTO purview. At the end of a stormy discussion, most of the points raised by India were acknowledged in the Ministerial declaration, known as the ‘Doha Development Agenda’.

The primary reason behind India’s limited success at the Doha Ministerial was that its effort was not backed by sufficient number of developing countries (Y. Singh 2001). Learning from the Doha experience, India subsequently adopted a proactive strategy in association with other developing countries (Government of India 2003c: 1). The effectiveness of the strategy was tested at the Cancun Ministerial (2003), when EU and US tried to bypass the question of agricultural subsidy reform, focussing on non-agricultural market access issues instead in their joint proposal. The developing countries led by Brazil, China and India (the G–20 network) submitted an alternative proposal at the ministerial, and criticised the ministerial text, known as ‘Derbez Draft’ (Government of India 2003a: 5–7). India and Brazil were also instrumental in breaking the deadlock in the negotiation process by actively participating in the July 2004 meeting, although the extent of actual gains from the meeting has been questioned (Chakraborty 2004).

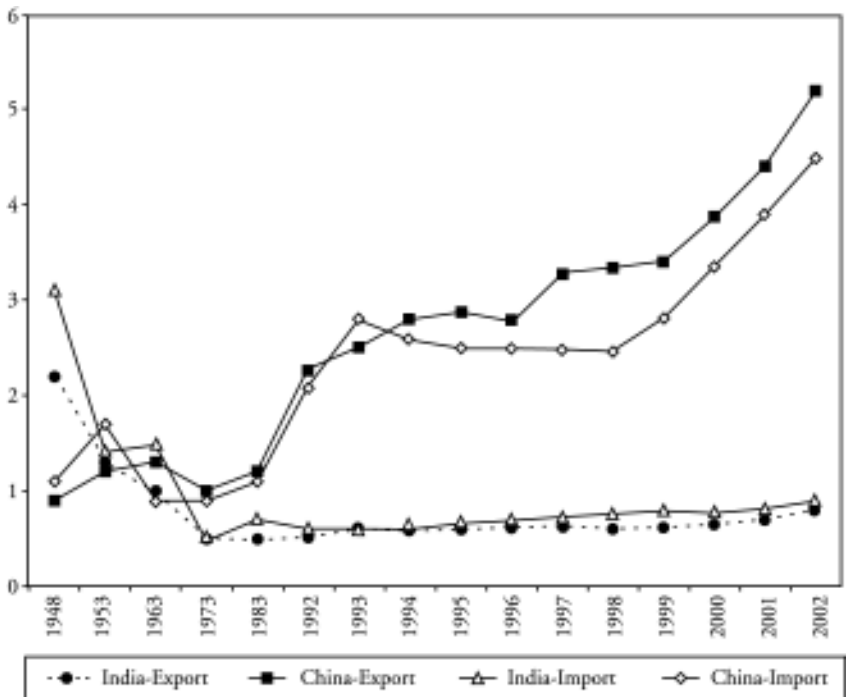
A COMPARATIVE ANALYSIS OF EXPORT GROWTH IN INDIA AND CHINA

Since India and China have several comparable regional conditions, there is a similarity in their export patterns. For both the countries, agriculture and mining products jointly account for less than a quarter of the total export basket, while manufacturing

goods explain the remaining portion, the proportion of which is expanding. In India, manufactured goods (SITC, section 6) and miscellaneous manufactured articles (SITC, section 8) hold important positions, as they account for around 38.7 and 20.3 per cent of export respectively in early 2000. In case of China, although the export of manufactured goods (SITC, section 6) and miscellaneous manufactured articles (SITC, section 8) declined to some extent over the last decade, it has been more than compensated by machinery and transport equipment (SITC, section 7), whose export share increased from 15.5 per cent in 1992 to 35.6 per cent in 2001. In addition, the major export destinations of both neighbours include EU, Japan and the US.

Since the initiation of economic reform in early 80s, China's export growth rate has increased tremendously, and India's performance in comparison seems quite modest. Throughout the 1990s, China's commodity export has grown at an average of 14.9 per cent, as compared to 9.9 per cent in case of India. The imports have grown at an average of 14.4 and 9.5 per cent for China and India respectively. While India's global market share was higher than China at the time of signing of GATT, thanks to the policy of self-reliance, the scenario reversed over the next decade. Since the mid-90s China's export and import shares have taken a sharp upturn, while India is lagging far behind, as seen in Figure 1.

Figure 1
Export-Import Shares of India and China in World Commodity Trade



The increasing intensity of Chinese exports in global economy could also be demonstrated with the help of the following table. Table 1 shows the comparative export and import trends of India and China for major commodity groups. It becomes evident that while China's export shares in the world for all the mentioned commodity groups have steadily increased over the last twenty years, the same for India has remained stagnant. From the International Trade Statistics data (2003) it is further observed that during 1990–2002, the import share of China in the four principal markets, namely Canada, EU, Japan and US has increased by almost four times in all cases. On the other hand, India's import shares have marginally increased in case of Canada, EU and US, while decreasing to some extent in case of Japan.

Table 1
Export and Import Shares of Major Commodity Groups in Global Market

		(percentage)							
<i>Product</i>	<i>Country</i>	<i>Export</i>				<i>Import</i>			
		1980	1990	2000	2002	1980	1990	2000	2002
Agricultural products	China	1.5	2.4	3.0	3.2	2.1	1.8	3.3	3.5
	India	1.0	0.8	1.2	1.1	–	0.4	0.7	–
Manufactures	China	0.8	1.9	4.7	6.2	1.1	1.7	3.5	4.9
	India	–	0.5	0.7	–	–	0.5	0.4	–
Iron and Steel	China	0.3	1.2	3.1	2.3	2.7	2.5	6.3	8.9
	India	–	–	–	–	–	–	–	–
Chemicals	China	0.8	1.3	2.1	2.3	2.0	2.2	5.0	5.7
	India	0.3	0.4	0.8	0.8	–	–	–	–
Office machines and telecom equipment	China	–	1.0	4.5	9.0	–	1.3	4.6	7.9
	India	–	0.06	0.04	–	–	0.2	0.3	–
Automotive products	China	–	–	0.2	0.4	–	–	0.6	1.1
	India	–	0.06	0.1	–	–	0.08	0.06	–
Textiles	China	–	6.9	10.4	13.5	–	5.0	8.3	8.5
	India	–	2.0	3.8	–	–	0.2	0.3	–
Clothing	China	4.0	8.9	18.3	20.6	0.1	0.0	0.6	0.6
	India	1.7	2.3	3.1	2.8	–	0.0	0.0	–

Source: Calculated from International Trade Statistics (WTO 2003e).

THE FUTURE CONCERN AREAS

While China expects continuation of this spectacular performance in general and further increase in export growth rate of certain sectors, like textile and clothing products (Nordas 2004); its trade potential might be limited by several factors. A number of developed countries have often raised objections on the remaining WTO-incompatibilities in the Chinese system. Most of the objections date back to the negotiation period in mid-90s. With the completion of the transitory phase in December 2004, China now needs to liberalise its domestic market appreciably.

A number of areas of discontent between China and its trade partners have surfaced in the post-transitory phase, most of which corresponds to textile trade (*New York Times* 2005). There is a high probability that in future, China might be taken into, or need to move to, the dispute settlement body of the WTO over some of these issues. The future problems could be broadly classified under two categories, namely, conformity of Chinese Laws to WTO, and the trade barriers related disputes with other WTO members. The entire commitments made under WTO Agreements are required to be enforced by the Member States of the WTO, first by necessity to give effectiveness to the adopted rules, then to avoid potential conflicts between national and international laws. China is currently trying hard to bring its domestic policy in line with WTO rules, as Youngjin (2002) notes:

A closer examination of the Chinese government's relentless efforts to expedite its legal reforms since its 'open door' policy in the late 1970s shows that its predilection for a legal approach is not a fluke. Even before joining the WTO, China showed a strong readiness to abide by the WTO agreements in coming up with rhetoric against other countries' alleged protective measures...at first blush, China's rule-oriented approach seems inconsistent with the conventional wisdom that a country that has just acceded to the WTO tend to exercise moderation in invoking its trading rights conferred by the WTO agreements, given the substantial adjustment period necessary for implementing the new commitments accompanying a WTO membership. (Youngjin 2002: 1056)

However, the expected reform in China's legal system is yet to reach the desired level (Almstedt and Patrick 2000: 113), and Judge Wang Fei rightly points out:

If the Legislature does not strengthen our legal system after WTO accession we will have a hard time with TRIPs and it will be detrimental to the long term protection of intellectual property rights in China. We need judicial independence as well.... After the accession to WTO there will be a judicial revolution in China.... China will be a country ruled by law. (Panitchpakdi and Clifford 2002: 153)

We restrict the current analysis on the trade policy related issues, with direct impact on exports and imports. The country reports published by the WTO *Trade Policy Review* is an efficient indicator of the WTO-compatibility of the current policies of any member. However, till date no report has been published on Peoples Republic of China. Therefore, the Chinese policies potentially prone to future disputes, as identified from the National Trade Estimate Report (USTR 2004), are summarised in Table 2. The report has been very critical of China on the grounds of manipulation of technical standards, weak enforcement of intellectual property rights (IPR), barriers in service sectors, inefficient anti-competitive practices, existence of various subsidies and support measures in certain sectors, etc. However, it was particularly unhappy about the general slowdown in China's WTO implementation efforts since 2003 (*ibid.*: 57). The European Union has also raised concerns over enforcement of IPR, opening up of

insurance and telecom sector, Sanitary and phytosanitary measures and issues, etc. on various occasions (Lamy 2003: 3).

Table 2
Looking Through Chinese Trade Policies

<i>Policies Praised</i>	<i>Policies Where Further Reform Advocated</i>
<ul style="list-style-type: none"> ● Reduction in overall average tariff rate. ● Various reform measures to enhance WTO-compatibility of Domestic policies. 	<ul style="list-style-type: none"> ● Slowdown in China's WTO implementation efforts since 2003. ● Continuing use of regulations written in the 1980s on determining the origin of imports. ● Allegation of manipulating various technical standards to limit imports. ● Time-consuming and costly process for 'China Compulsory Certification' (CCC) mark. ● Weak enforcement of IPRs. ● Various barriers in service sectors. ● Ineffectiveness of the current anti-competitive practices. ● Existence of export subsidies and other administrative supports in certain sectors.

Source: Compiled from USTR (2004).

The potential areas of dispute concerning India could be identified by analysing the two WTO *Trade Policy Reviews* on it. The first review on India was performed shortly after it joined WTO in 1998 (WTO 1998) and the compliance level was not very appreciable at that point. The policies subject to criticism included complex tariff structure and tariff escalation, over-protective import regime, presence of indirect subsidies, inappropriate compliance with TRIPS, lack of transparency, prohibition in various service sectors, etc. However, India modified a number of its policies since then, many of which have been WTO-driven. The increasing WTO-compatibility becomes evident by judging the chronology of the cases it faced at the DSB. A total of seventeen cases have been filed against India so far. The fourteenth case (DS 279) has been filed in early 2003, whereas the earlier one (DS 175) was filed in 1999 (Chaisse and Chakraborty 2003). In the 2002 review (WTO 2002d), the simplification in the tariff structure, complete elimination of quantitative restrictions, reduction in export restrictions, modification of TRIPs legislation, and reforms in telecommunication, financial and infrastructural services were praised. However, it had been quite critical of India on three points—first, sharp increase in the use of contingency measures; second, price and distribution controls in agriculture which were yet to be phased out; and third, certain commodity-specific entry restrictions. While no complaints on the second and the third issues have been registered at the WTO so far, the last three cases against India (DS 318 by Taiwan; DS 306 by Bangladesh; DS 304 by EU) were filed questioning the WTO-compatibility of its anti-dumping measures. In particular, the case filed by Bangladesh is worth mentioning, since a

developing country has moved against India at the DSB for the first time. The major observations of the two reviews are summarised in Table 3.

Table 3
Looking Through Indian Trade Policies

Trade Policy Review (1998)	
<i>Policies Praised</i>	<i>Policies Where Further Reform Advocated</i>
<ul style="list-style-type: none"> ● Rapid reform in tariff rates over 1993–94 to 1997–98. ● Overall economic reform measures. ● Amendment in Copyright law in line with TRIPS. 	<ul style="list-style-type: none"> ● Complex structure of tariff regime and tariff escalation. ● Import restriction on consumer goods. ● Restrictive import licenses and other procedural hassles on imports. ● Presence of indirect subsidies, export subsidies and other incentives. ● Unfinished compliance with TRIPS. ● Reform in case of agricultural products. ● Transparency in decision-making. ● Reform in services.
Trade Policy Review (2002)	
<ul style="list-style-type: none"> ● Simplification of tariff structure. ● Complete elimination of quantitative restrictions. ● Reduction in export restrictions. ● Review of FDI policy. ● Move towards full conformity with TRIPS. ● Significant reform in certain key service sectors e.g.—telecommunication, financial services and to some extent in infrastructural services. 	<ul style="list-style-type: none"> ● Increase in use of contingency measures on imports. ● Wide range of price and distribution controls in agriculture. ● Existence of certain commodity specific entry restrictions.

Source: Compared on the basis of WTO Trade Policy Reviews on India (1998, 2002d).

While several domestic policies of the two countries are likely to be challenged by other members in the coming years, their exports are more vulnerable to various barriers, particularly in the post-transitory phase of WTO. Commenting on the state of trade liberalisation, WTO Annual Report (2004a) has noted that:

Market access issues were the focus of attention in the early part of the year with deadlines set in all three areas: services, agriculture and non-agricultural market access... in general the negotiations did not move forward as far or fast as anticipated, with important spring deadlines in agricultural and non-agricultural market access and on dispute settlement being missed.... many Members apply tariffs at rates well below the bound levels set out in their Schedules which suggests they have considerable scope for tariff reductions (WTO 2004a: 2–3, 18).

A number of studies have been undertaken to identify the tariff and NTBs operational on the exports of these two countries. In the current analysis, we summarise

in Table 4, the findings of an ESCAP study (2000), which identifies the NTBs imposed on the exports of the South and South-East Asian countries in their principal markets (ESCAP 2000). It is clearly observed that given the resemblance of their export basket, both China and India are subjected to similar types of barriers. Given the fact that the total value of China's commodity exports in 2001 was more than six times India's total export; its products are attracting higher volume of NTBs. Sally (2000: 403–23), Mattoo and Subramanian (2003: 328), and others have strongly advocated in favour of adoption of a proactive strategy by the developing countries at WTO forums to achieve common interest. Keeping the success achieved by China and India at the Cancun Ministerial (2003) in mind, it is extremely important for the two countries to continue on the path of a joint negotiating agenda in order to ensure better market access, which is not easily forthcoming.

Table 4
Non-Tariff Barriers Faced by China and India in Principal Markets

<i>United States</i>	<i>European Communities</i>	<i>Japan</i>
China		
<ul style="list-style-type: none"> ● MFA Quota ● Anti-Dumping Measures ● SPS Measures ● Packaging Quarantine ● Label requirements ● Technical Standards ● Environmental Regulations 	<ul style="list-style-type: none"> ● Anti-Dumping Measures ● Various regulations on imports from China ● Safeguards ● Technical Standards ● Environmental Regulations ● SPS Measures 	<ul style="list-style-type: none"> ● Technical Standards ● SPS Measures
India		
<ul style="list-style-type: none"> ● Technical Standards ● Environmental Regulations ● SPS Measures ● Anti-Dumping and Countervailing Measures ● Government Procurement and Domestic Preference Legislation 	<ul style="list-style-type: none"> ● Anti-Dumping Measures ● Technical Standards ● SPS Measures ● Child Labour 	<ul style="list-style-type: none"> ● Technical Standards ● SPS Measures ● Environmental Regulations

Source: Constructed from the analysis in ESCAP (2000).

Critics were slightly skeptical about China's seriousness in joining any formal trade bloc or negotiating alliance after its WTO accession, as Panitchpakdi and Clifford (2002) note:

China is unlikely to join any formal blocs, such as the so-called Like-Minded countries, an informal grouping that includes India and Brazil and the most important representative of developing countries at the WTO. But it will help to balance the dominance of what is known as Quad, a grouping that includes the US, Japan, the European Union and Canada. However, China's role and its intentions will only be truly tested during a new round of trade negotiations (Panitchpakdi and Clifford 2002: 192).

As per their prediction, China followed the track of independent proactive strategy upto Cancun, from which point it resorted to cooperation with other developing countries. In light of the similarity in NTBs on the exports and several other concern areas, it makes sense for China to follow a joint proactive strategy in collaboration with India at WTO forums on two aspects—namely, material and institutional. There is substantial scope for material collaboration in all major fields, given the similarity of export pattern. Here we focus on three areas: namely, agriculture, anti-dumping measures and intellectual property rights, in light of the serious consequences they pose to the export basket and domestic concerns of the countries. Finally, it has been mentioned earlier that the two countries are likely to get involved at the WTO dispute settlement system both as complainant and respondent. However, the working of the WTO dispute settlement mechanism for developing countries has been questioned on several occasions, and we attempt to identify the key points for joint negotiation by the two countries in this regard.

MATERIAL AREAS FOR JOINT NEGOTIATION

AGRICULTURE

The WTO agreement on agriculture promised reduction in various forms of agricultural subsidies in member countries, which even during ten years of transitory phase has not materialised. WTO Annual Report (2003) has noted, ‘... support for agriculture remains high, particularly in many of the major industrialised countries, and continues to have a considerable impact on agricultural markets’ (WTO 2003c: 20). Canada, EU, Japan and US are the major violators, whose Producer Support Estimate to agriculture stood at 18, 22, 35 and 60 per cent respectively in 2001. Only in case of Canada the support level has appreciably declined since the beginning of Uruguay Round. Although the extent of subsidies is highest in Japan, the distortion in EU and US is much wider due to their market size (Naik and Singh 2003). The non-realisation of proposed reduction in subsidies and failed amendments in EU and elsewhere led developing countries to demand discussion on these issues since Doha Round (Chakraborty 2004; Naik and Singh 2003). The tussle between EU–US and developing countries at Cancun in the material sense could deliver nothing to the latter group but solidarity for future forums. On the other hand, it allowed EU–US almost ten months to continue with their subsidisations programme without any problem. The developing countries are currently of the view that without addressing the question of subsidisation, the distortions already present in agricultural trade could not be removed, and therefore negotiations on market access issues in isolation, is meaningless. It is only through joint negotiation that China and India could play a more meaningful role to eliminate domestic support, SPS and other standard-related barriers on primary exports prevalent in EU, Japan and US

(ESCAP 2000). In addition, WTO Annual Report (2003c) shows that agricultural tariff is significantly higher in these three countries, with incidence of high degree of tariff escalation in EU and US. Moreover, International Food & Agricultural Trade Policy Council (2004) notes that their tariff rate is significantly higher in case of several developing countries' export items, such as grains, oil seeds, dairy products, sweeteners, etc., which could only be rectified by applying pressure through collective bargaining. India and China are already part of two developing country networks, namely G-20 and G-33, and have addressed some of the points in their joint communications to WTO (WTO 2003a, 2004b, 2004c).

ANTI-DUMPING

The steady increase in the number of anti-dumping related disputes, both in case of industrial and primary exports, is a major area of concern (WTO 2003c: 10–11). It could be seen from Table 5 that for the last two years, China is attracting the maximum number of anti-dumping cases. In particular, the large number of anti-dumping cases lodged by EU within the frame of bilateral commercial relation should be mentioned.² Since 1979 (when EU initiated the first anti-dumping case against China) it has lodged nearly 90 anti-dumping proceedings against China upto 2000, and most of the anti-dumping suits have led to relatively high duties (Xiang and Hylke 2002: 1125–44).

Table 5
Major Exporters Subject to Anti-dumping Investigations

<i>Year</i>	<i>China</i>	<i>India</i>	<i>EU³</i>	<i>US</i>	<i>Korea</i>	<i>Total</i>
1 January 1995–31 December 1995	16	3	21	6	14	107
1 January 1996–31 December 1996	39	10	35	21	8	194
1 January 1997–31 December 1997	31	7	59	15	16	223
1 January 1998–31 December 1998	25	12	42	15	20	217
1 January 1999–30 June 1999	16	6	20	7	18	162
1 July 1999–30 June 2000	30	11	32	10	23	222
1 January–30 June 2001	22	8	23	4	10	134
1 July 2001–30 June 2002	46	12	39	11	14	288
1 July 2002–30 June 2003	42	12	32	12	19	227

Source: WTO Annual Reports (various issues)

The growing use of anti-dumping measures on steel, chemical and textile products is going to be costly both for China and India, and the increased market access for the last product category in particular, as obtained in the aftermath of MFA phase-out, is likely to be partly nullified by it. According to Panitchpakdi and Clifford

² About China's trade and economic cooperation with EU, see Do Ceu Esteves, 2002: 170, 172–74.

³ The data includes the anti-dumping measures imposed on individual EU member states as well.

(2002: 195) the classification of China as transition economy means that, 'China is at a severe disadvantage in defending itself. For the purposes of dumping charges, the United States defines it as a non-market economy ... any prices Chinese companies charge can theoretically be challenged by an aggrieved competitor'. Others have also voiced this concern (Xiang and Hylke 2002: 1142). India and China have already submitted a proposal to WTO over the imposition of anti-dumping duties on textile products (WTO 2003b).⁴ Challenging future cases at DSB jointly by pooling resources would enhance the chances of winning for both countries. Moreover, India is slowly emerging as a major user of the provision, and China is one of its major victims.⁵ Increasing association would enable the two countries to solve these disputes bilaterally with ease.

INTELLECTUAL PROPERTY RIGHT

The major focus in IPR should be on two issues, namely, patent and copyright. In case of patents, the concerns are on securing the interests of the consumers and the domestic industry. Although the Doha declaration on 'TRIPS and Public Health' (2001), and the Cancun Ministerial (2003) promise to ensure the first, the two countries need to focus on a variety of issues. First, there is need to negotiate over the purview of 'regulatory exception', 'compulsory licensing' and 'parallel imports' from a developing country's perspective. While the first provision allows limited exceptions to the exclusive rights of the patent-owner, provided that is not in unreasonable conflict with the normal provisions; the third one permits use or sale of licensed products outside the territory in which they have been licensed. 'Compulsory Licensing' (henceforth CL) allows generic manufacturers to produce cheaper versions of patented drugs even without the authorisation of patent holder, subject to fulfillment of certain conditions, which is extremely important to take care of in the public health scenario in developing countries. However, the developing countries' interest is considerably affected because of several restrictive provisions in the agreement. For instance, the agreement does not indicate the conditions for using 'regulatory exception', thus paving the way for future disputes. In addition, CL is issued strictly for servicing the domestic market, acting as a disincentive on production in developing countries because of their small market size. India has already witnessed this. Before the Doha Ministerial, South Africa faced a shortage of affordably priced drugs to combat the HIV/AIDS epidemic, and decided to import a generic (and much cheaper) version of the patented medicines produced by *Cipla*, an Indian firm, through Medicines and Related Substances Control Amendment Act. However, on the face of the huge

⁴ Interestingly, Hong Kong and Macao were also part of the group submitting the proposal.

⁵ On India's emergence as a major user of anti-dumping provisions, see WTO (2004a: 47). See Government of India (2002–03) for details on cases initiated by India against China.

protest from a number of developed countries, South Africa finally had to back out from the decision (Dasgupta 2003: 33–34). This has led several developing countries, including India, to announce that TRIPS provisions should not infringe upon the sovereign right of the members to formulate their own public health policies and measures to ensure affordable access to medicines (Government of India 2001a: 12).

Given the ability of the domestic industry to produce generic drugs at a cheaper rate, the joint agenda should attempt to ensure granting of CL for exports to other developing countries and least developed countries (LDCs), facing problems to guarantee medicines to its citizens at an affordable price. In addition, for improving availability of cheaper versions of patented drugs for the common people, the joint negotiating strategy should try to expand the scope of 'regulatory exception' provisions. This is particularly important in the background that drug prices registered an upshot in China after the introduction of product patents in 1993 (RIS 2003: 88), and India might also experience the same as a new ordinance has recently allowed filing of product patent applications since 1 January 2005, which was approved by the Parliament on 23 March 2005. In this connection, the two countries need to bear the proceedings of EU–Canada case (Regulatory review exception of the Canadian Patent Act—DS 114) and the US–Brazil case (Brazil's CL provision—later withdrawn—DS 199) in mind. Furthermore, the US patent law follows a much more liberal framework than the same it is trying to impose on developing countries. In US, if the government is willing to use a patent, it can do that without the need to issue a CL, or engaging itself into any negotiation with the patent holder, who is entitled only for compensation (Raizada and Sayed 2002: 274–89). The joint negotiating agenda of the two countries should take note of similar policies in other countries that are asking for a stricter TRIPS regime, and utilise them appropriately for bargaining.

In copyright related provisions, International Intellectual Property Alliance (2004) identifies both China and India as major violators, reporting substantial losses incurred by US producers in these markets because of weak enforcement. The estimates suggest that a major proportion of the literary and entertainment related and other artistic works reaching these two countries get illegally copied. Demanding USTR pressure on China to ensure stricter TRIPS-compliance, the President of International Intellectual Property Alliance Mr Eric Smith noted that it '... fails to meet minimum TRIPS standards... China can no longer justify its failure to deliver TRIPS-compatible copyright protection with the argument that it "needs more time." It has now been three years and we have seen progress only at the margins' (IIPA 2004: 11).

Based upon the experiences of the local producers in export destinations, the US government places partners in various groups, subject to varying degree of trade restriction. During 2002–03, China and India were both on the *306 Monitoring and Priority Watch List*. A common negotiating agenda adopted by the two countries should ensure that the restrictive provisions be applied against them only on merit basis, and not as a masked trade policy.

INSTITUTIONAL AREA OF COOPERATION: DISPUTE SETTLEMENT MECHANISM

China's possible emergence as complainant is only too evident, as it falls among the major affected nations by contingency measures, and disputes over textile and clothing products are likely to increase. On the other hand, the United States is quite anxious about China's seriousness in reforming its domestic policies since 2003, and there is already an indication that it would turn out to be a major respondent at DSB as well (Chaisse and Chakraborty 2004). A similar conclusion could be drawn for India as well, at least in case of contingency measures. So far China has been directly involved in only two cases, both against US—one as a complainant (use of definitive safeguard measures on imports of certain steel products in US—DS 252) and the other as a respondent (imposition of value-added tax on integrated circuits—DS 309). In the first case, both the panel and the Appellate Body have ruled in favour of China. In the second one, China and the United States notified the DSB that they had reached a mutual agreement, and the former has agreed to amend or revoke the alleged WTO-incompatible measures. However, the commonality of interest between the two countries in the DS mechanism becomes prominent from Table 6, where the cases involving both as interested parties have been provided. It is evident from the table that anti-dumping, import measures, subsidies and IPR related issues turn out to be the common areas of interest. In addition, on two occasions, China has participated in disputes as interested third parties, where India has been the complainant—both involving the export of textile products.

The major areas where China should coordinate with India and other developing countries to improve the efficiency and transparency of the dispute settlement system is outlined below:

1. *Need to protect Developing Country Interests:* Although the Dispute Settlement Understanding (DSU) enshrines Special and Differential Treatment (SDT) for developing country members in various clauses, the lack of clarity in the legal document often prohibits them to obtain the benefit. Many developing countries, including India, believe that the SDT should be made legally mandatory, through appropriate revision of the agreement (WTO 2002a, 2002b, 2002c, 2003d).
2. *High Legal Costs:* The developing countries are at a disadvantageous position in any dispute vis-à-vis their developed counterparts, owing to the high legal cost associated with the procedure and relatively lower level of requisite legal expertise to handle such cases. Since 'burden of proof' rests on the respondent, there is an urgent need to ensure that the developed countries do not use the system as an instrument for harassing developing countries and LDCs. One possible option is to prohibit developed countries from initiating a case against developing countries unless it is proved that the alleged violation by countries in the latter group causes economic losses to the ones in the former above *de minimus* level, which

Table 6
Brief Description of WTO Cases with Sino-Indian Participation

<i>Case No.</i>	<i>Complainant</i>	<i>Respondent</i>	<i>Dispute</i>	<i>Third-Party</i>	<i>Result</i>
DS 322	Japan	US	The 'zeroing' practice in anti-dumping investigations, administrative reviews, sunset reviews, assessment of final anti-dumping duty, 'irrefutable presumption' in sunset reviews and the waiver provisions	China and India	The Panel has started functioning
DS 294	EC	US	Laws, Regulations and Methodology for Calculating Dumping Margins ('Zeroing')	China and India	The panel ruling is expected soon
DS 290, DS 174	US and Australia	EC	Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs	China and India	Although the panel acknowledged that foreign nationals are not assured of guaranteed access to the EC's system for their GIs, unlike EC nationals, it concluded that the framework requiring product inspection is not inconsistent with the WTO obligations of EC.
DS 287	EC	Australia	Quarantine Regime for Imports	China and India	The panel was established. However the parties are not pursuing.
DS 270	Philippines	Australia	Certain Measures Affecting the Importation of Fresh Fruit and Vegetables	China and India	The panel was established. However the parties are not pursuing.

Table 6 (continued)

<i>Case No.</i>	<i>Complainant</i>	<i>Respondent</i>	<i>Dispute</i>	<i>Third-Party</i>	<i>Result</i>
DS 267	Brazil	US	Subsidies on Upland Cotton	China and India	The Panel ruled that US has acted WTO-inconsistently.
DS 265, DS 266, DS 283	Australia, Brazil and Thailand	EC	Export Subsidies on Sugar	China and India	The Panel ruled that EC has acted WTO-inconsistently.
DS 243	India	US	Rules of Origin for Textiles and Apparel Products	China	The Panel ruled that India failed to establish its claims at the DSB.
DS 34	India	Turkey	Restrictions on Imports of Textile and Clothing Products Restrictions on Imports of Textile and Clothing Products	China	The Panel ruled that Turkey has acted WTO-inconsistently.

Source: Compiled from WTO Case Updates (2005).

is voiced by both China and India. However, the Chinese proposal that no developed country should be entitled to initiate more than two cases per year against a developing country member has not been widely received (Perumal 2005: 2).

3. *Implementation during reasonable period and Suspension of Benefits:* After the final decision of the DSB, the losing country is bound to implement the recommended amendments within a reasonable period of time, which is usually negotiated between the parties. Since DSB has no power to enforce this at an early date, losing sides often do not comply with their obligations, causing continued economic losses to the winner. India has experienced this twice (import restrictions on textile and clothing products with Turkey—DS 34; anti-dumping measures on cotton-type bed linen from India with EC—DS 141). A similar experience was noticed in the dispute concerning EU–banana import regime (DS 16, DS 27, DS 105, DS 158), although India was not a disputing party to it.⁶ The WTO usually allows the winner to suspend ‘favourable treatment’, i.e., to ‘retaliate’, if the loser does not comply with its obligations even at the end of the ‘reasonable period of time’ (Anderson 2002). However, it is an inefficient mechanism, as it is highly unlikely that a developing country like China or India alone could enforce compliance at an early date by adopting a retaliatory strategy against EC or US. For better enforcement, it has been suggested that elimination of the retaliation option altogether in favour of compensation to the winner, which however, is also subject to criticism (Commonwealth Business Council 2001: 67). Joint retaliation by a number of developing countries could only act as a viable policy option, in which case, given their large market size, potential loss owing to suspension of benefit will be substantial and hence, effective. In addition, suitable changes in WTO text in this regard are the need of the hour.
4. *Participation of NGOs:* US in the later part of the last decade advocated in favour of allowing NGO participation in the Dispute Settlement process, which was vehemently opposed by several developing countries. The developing countries believe that the Appellate Body decision to invite *Amicus Curiae* briefs in one particular case (EC–Canada dispute on asbestos and products containing asbestos—DS 135) was unfortunate, although it has never been repeated later. Developing countries like India opposed this move primarily for two reasons. First, since the national governments are the appropriate authority to ensure compliance obligations under WTO, involving NGOs changes its inter-governmental character and causes loss of efficiency. Second, if *Amicus curiae* briefs are allowed, the developing countries would always be in a disadvantageous position vis-à-vis their developed counterparts, as NGOs located in their territory are relatively underprivileged to send briefs to DSB without being asked for, or

⁶ Subsequent to a WTO arbitrator’s ruling, the EU was told to bring its banana regime into line by January 1999. The EU did change its import regime but this was again challenged. In April 1999, the new EU import regime was ruled WTO-incompatible, and subsequently WTO authorised the US to impose sanctions of \$191 million on a range of EU exports to the US imposing trade sanctions.

to respond to invitations to send briefs owing to resource (both physical and human) constraint (Government of India 2000: 18). Whether the *Amicus curiae* will be accepted or not is still one of the subjects of negotiations under the process of DSU review, and China and India should jointly reinforce the developing country position in this regard.

5. *Maintaining the Structure of DSB*: Currently the members of DSB are selected by mutual agreement between the parties, once a decision is taken to form a panel. However, there was a draft proposal from some members in late 1990s that there should be a permanent seven-member panelists committee, from which three members could be selected at random for any particular dispute. The developing countries strongly objected to this suggestion on the ground that this proposal is not at all necessary for improving the efficiency of the system. On the other hand, they felt that the transparency and participatory approach provided by the current system needs to be protected at any cost.
6. *Authoritative Interpretation by Panels and Appellate Bodies*: The DSB rulings are only supposed to explain the responsibilities of the countries under the WTO framework, and point out where a members' action falls short of the required level; but not to change the obligations of them under WTO. However, the panels and AB often overact and 'authoritatively interpret' the members' responsibilities and obligations, i.e., *de facto* 'amend' the WTO provisions, which has been solely reserved for the members as per articles IX and X of the WTO agreement (Chimni 2002: 133–39; Government of India 2001b: 2). China and India should keep a close watch on these issues, since authoritative interpretation tends to hurt developing countries more than their developed counterparts.
7. *Transparency in DSB proceedings*: There is no official negotiating history of WTO, on the basis of which a member country could analyse or prepare for the cases. The WTO secretariat sometimes exclusively provides brief notes to panel members for use in certain disputes as reference materials. However, these notes are not even shared with the parties involved in the dispute, thereby hurting their right as members to access information (Government of India 2001b: 3). The procedure should be made transparent for members through sharing of the documents, especially to those from the developing countries.

India and China are already on the track of mutual collaborations, and it is needless to add that further association would be beneficial for both in future negotiations. During 22–23 March 2004, a Sino-Indian Joint Study Group (JSG) on trade and economic cooperation met in Beijing to discuss various measures to enhance the cooperation in future, including formation of a free trade area (Press Trust of India 2004). In addition, from 2003 onwards, the two countries have jointly communicated fourteen proposals to the WTO secretariat in association with other developing countries—three in agriculture, five to the general council of WTO, one to investment, and five in the area of trade in services (Chakraborty 2005). This is indeed indicative of the fact that the two countries are slowly recognising the mutual interest areas. The

growing bond between the two countries has further been strengthened by two recent events. First, during the recent visit by the Chinese Premier, India acknowledged that there is tremendous scope to enhance bilateral trade and investment, and China in the coming days could emerge as its major trade destination (Government of India 2005a). Second, at the end of the G-20 Ministers meet in New Delhi on 18 March 2005, the position to be adopted at Hong Kong Ministerial was identified as, 'the need to observe necessary sequencing of issues identified in the "July Framework" so as to ensure progress in each of the three pillars' (Government of India 2005b). The document also expressed concern on lowering of subsidies on cotton, elimination of tariff escalation in developed countries, and ensuring special and differential treatment for developing countries for preserving food security, rural development and livelihood concerns within their territories. Given the recent apparent stagnation in WTO negotiations, China and India should finalise their negotiating agenda well in advance of the Hong Kong Ministerial meeting in December 2005, in order to efficiently negotiate on market access, both in case of trade in goods and services.

REFERENCES

- Almstedt, Kermit and Norton Patrick, 'China's Antidumping Laws and WTO Antidumping Agreement', *Journal of World Trade*, Vol. 34, No. 6, 2000, pp. 75-114.
- Anderson, Kym, 'Peculiarities of Retaliation in WTO Dispute Settlement' (Adelaide: Adelaide University, Discussion Paper No. 207, March 2002).
- Bhattacharyya, B., *Non-Tariff Measures on Indian Exports: An Assessment* (New Delhi: Indian Institute of Foreign Trade, Occasional Paper No. 16, 1999).
- Chaisse, Julien and Debashis Chakraborty, 'Towards a Tumultuous China's Participation in WTO? Issues and Options' (Paper presented at the Euro-Asia Management Studies Association (EAMSA) Annual Conference on 'Harmony vs. Conflict: Euro-Asian Management in a Turbulent Era', held at City University of Hong Kong, Hong Kong, 3-6 November 2004).
- , 'How Developing Countries use the Dispute Settlement Understanding: Chinese and Indian Standpoints' (Paper presented at the Conference on 'The Doha Development Agenda: Cancun and After', jointly organised by Rajiv Gandhi Institute for Contemporary Studies and China Association for International Friendly Contacts, New Delhi, 6-7 November 2003).
- Chakraborty, Debashis, 'India's Participation in WTO Negotiations: Changing Attitude and Emphasis?' (Paper presented at the Conference on 'WTO, FTA and RTA', organised by Center for WTO Studies, National Chengchi University, Taiwan, 22 April 2005).
- , 'Recent Negotiation Trends on Agriculture under WTO: Mutual Consensus during Transitory Phase?' (New Delhi: Rajiv Gandhi Institute for Contemporary Studies, Working Paper No. 47, 2004).
- Chimni, B.S., 'WTO and Environment: Legitimisation of Unilateral Trade Sanctions', *Economic and Political Weekly*, Vol. 37, No. 2, 2002, pp. 133-39.
- Chisti, Sumitra, *Restructuring of International Economic Relations: Uruguay Round and the Developing Countries* (New Delhi: Concept Publishing Company, 1991).
- Commonwealth Business Council. *Developing Countries and the WTO Trade Debate: Compelling Case for Full Participation in the New Round* (London: Commonwealth Business Council, 2001).
- Dasgupta, Subhendu, 'Their Rules, Our Rights: Intellectual Property Rules and Right to Health', in Byasdeb Dasgupta et al. (Eds.), *WTO and TRIPS: Indian Perspective* (Kalyani: University of Kalyani, 2003), pp. 27-41.

- Do Ceu Esteves, Maria, 'The European Union and China', in Rajendra K. Jain (Ed.), *The European Union in a Changing World* (New Delhi: Radiant Publishers, 2002), pp. 166–78.
- Economic and Social Commission for Asia and the Pacific (ESCAP). *Non-tariff Measures with Potentially Restrictive Market Access Implications emerging in a Post-Uruguay Round Context* (New York: ESCAP, Studies in Trade and Investment No. 40, United Nations, 2000).
- Government of India, Ministry of Commerce, Press Release, 'China poised to become India's No. 1 Trading Partner: Kamal Nath, India–China Business Cooperation Conference', 11 April 2005 (2005a).
- , Press Release, 'G–20 Ministerial Declaration', 19 March 2005 (2005b).
- , Newsletter of Ministry of Commerce. 'India and other Developing Countries give their response to EC–US Farm Proposals: Joint Proposal by India, China, Argentina, Brazil, South Africa and others presented to WTO', *India and the WTO*, Vol. 5, No. 8, 2003a, pp. 5–7.
- , 'India, China should support each other in WTO, says Chinese Minister', *India and the WTO*, Vol. 5, No. 6–7, 2003b, p. 10.
- , 'From Sharm el-Sheikh to Montreal Issues in the WTO', *India and the WTO*, Vol. 5, No. 6–7, 2003c, p. 1.
- , 'Annual Report of Directorate of Anti-Dumping and Allied Duties', available at http://www.commerce.nic.in/dgad/ann_rep2003.pdf. (New Delhi: Government of India, 2002–03).
- , 'India Seeks Flexibility in TRIPs Agreement to Ensure Affordable Access to Medicines', *India and the WTO*, Vol. 3, No. 6–7, 2001a, pp. 12–20.
- , 'Needed: A Just and Fair Dispute Settlement Mechanism', *India and the WTO*, Vol. 3, No. 3, 2001b, pp. 1–3.
- , 'India protests against WTO Appellate Body move inviting *Amicus Curiae* briefs', *India and the WTO*, Vol. 2, No. 12, 2000, p. 18.
- International Food & Agricultural Trade Policy Council, 'Twenty-Five Ways to Improve the Derbez Draft on Agriculture', 10 February 2004, available at <http://www.agritrade.org/Doha/Derbez/Assessment%20Paper.pdf>.
- International Intellectual Property Alliance. IIPA correspondence to USTR, 12 October 2004. (Washington, DC: International Intellectual Property Alliance, available at www.iipa.com.)
- Jacobson, Harold K. and Michel Oksenberg, *China's Participation in the IMF, the World Bank, and GATT: Toward a Global Economic Order* (Ann Arbor: The University of Michigan Press, 1993).
- Lamy, Pascal, Speech delivered in the Seminar on 'EU–China Relations: Continuity and Change', organised by EU Chamber of Commerce in China, Beijing, 31 October 2003.
- Mattoo, Aaditya and Arvind Subramanian, 'India and the Multilateral Trading System Post-Doha: Defensive or Proactive?' in Aaditya Mattoo and Robert M. Stern (Eds.), *India and the WTO* (Washington, DC: World Bank and Oxford University Press, 2003), pp. 327–66.
- Naik, Gopal and Yashika Singh, 'Doha Round Negotiations: Agriculture' (Bangalore: Indian Institute of Management, Working Paper No. 217, November 2003).
- Nordas, Hildegunn Kyvik, 'The Global Textile and Clothing Industry Post the Agreement on Textile and Clothing', (Geneva: The World Trade Organisation, Discussion Paper No. 5, 2004).
- Panitchpakdi, Supachai and Mark L. Clifford, *China and the WTO: Changing China, Changing World Trade* (Singapore: John Wiley & Sons (Asia) Pvt. Ltd, 2002).
- Perumal, R.A., 'Can China's Proposals for Improvement of the WTO Dispute Settlement Mechanism be Accommodated? An Analysis' (Paper presented at the Conference on 'WTO, FTA and RTA', organised by Center for WTO Studies, National Chengchi University, Taiwan, 22 April 2005).
- Press Trust of India. 'India, China hold talks on Free Trade Agreement'. Beijing, China, 25 March 2004, available at <http://www.expressindia.com/fullstory.php?newsid=29663>.
- Raizada, B.K. and Javed Sayed, 'IPR and Drugs and Pharmaceutical Industry—Concerns for Developing Countries', in Amit Dasgupta and Bibek Debroy (Eds.), *Salvaging the WTO's Future: Doha and Beyond* (New Delhi: Konark Publishers Pvt Ltd, 2002), pp. 274–89.
- Research and Information Systems (RIS) for the Non-Alligned and Other Developing Countries. *World Trade and Development Report 2003* (New Delhi: Academic Foundation, 2003).

- Sally, Razeen, 'Developing Country Trade Policy Reform and the WTO', *Cato Journal*, Vol. 19, No. 3, 2000, pp. 403–23.
- Singh, Swaran, *China–South Asia: Issues, Equations, Policies* (New Delhi: Lancer Books, 2003).
- Singh, Yashika, *India at the Fourth Ministerial Meeting in Doha: Déjà vu—again?* (New Delhi: Rajiv Gandhi Institute for Contemporary Studies, Working Paper No. 32, 2001).
- United States Trade Representative (USTR), 'National Trade Estimate: Foreign Trade Barriers', (Washington DC: United States Trade Representative, 2004).
- World Trade Organization, 'Update of WTO Dispute Settlement Cases'. Document No. WT/DS/OV/23, 7 April 2005, (Geneva: World Trade Organization).
- , *WTO Annual Report*, (Geneva: World Trade Organization, 2004a).
- , 'G–33 Views on the Market Access Pillar'. Document No. JOB (04)/65, 1 June 2004, (Geneva: World Trade Organization, 2004b).
- , 'G–20 Views on "The Blended Formula"'. Document No. TN/AG/GEN/9, 7 May 2004, (Geneva: World Trade Organization, 2004c).
- , 'Agriculture-Framework Proposal'. Document No. JOB(03)/162/Rev.1, 29 August 2003, (Geneva: WTO, 2003a).
- , 'Anti-dumping Actions in the Area of Textiles and Clothing: Proposal for a Specific Short-Term Dispensation in Favour of Developing Members'. Document No. WT/GC/W/502, 14 July 2003, (Geneva: WTO, 2003b).
- , *WTO Annual Report* (Geneva: WTO, 2003c).
- , 'Dispute Settlement Understanding Proposals: Legal Text'. Document No. TN/DS/W/47, 11 February 2003, (Geneva: WTO, 2003d).
- , *International Trade Statistics 2003* (Geneva: WTO, 2003e).
- , 'Negotiations on the Dispute Settlement Understanding: Special and Differential Treatment for Developing Countries'. Document No. TN/DS/W/19, 9 October 2002, (Geneva: WTO, 2002a).
- , 'Negotiations on the Dispute Settlement Understanding'. Document No. TN/DS/W/18/Add.1, 9 October 2002, (Geneva: WTO, 2002b).
- , 'Negotiations on the Dispute Settlement Understanding'. Document No. TN/DS/W/18, 7 October 2002, (Geneva: WTO, 2002c).
- , *Trade Policy Review. India* (Geneva: WTO, 2002d).
- , 'Protocol of Accession: Accession of the People's Republic of China'. Document No. WT/L/432. 23 November 2001, (Geneva: WTO, 2001).
- , *Trade Policy Review. India* (Geneva: WTO, 1998).
- Xiang, Liu and Vandenbussche Hylke, 'European Union Anti-dumping Cases Against China—An Overview and Future Prospects with respect to China's World Trade Organization Membership', *Journal of World Trade*, Vol. 36, No. 6, 2002, pp. 1125–44.
- Youngjin, Jung, 'China's Aggressive Legalism—China's First Safeguard Measure', *Journal of World Trade*, Vol. 36, No. 6, 2002, pp. 1037–60.

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