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## COVER ARTICLE 4

### *Victory of Public Health over Profit*

Dr. Ashwani Mahajan



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## Uncivilised Pakistan

The inhuman treatment given to Chamel Singh, an Indian national by Pakistan jail authorities has sent a shock wave across to world. No civilised nation can act in such a barbaric way. But Pakistan seems to not care. It is not for the first time that Pakistan has carried such an inhuman crime. In fact it is now almost a regular feature. The Government of Pakistan instead of condemning the incident has maintained a criminal silence. It should institute a probe and bring culprits to look for such a horrendous act.

The Government of India instead of mounting pressure on Pakistan for acting tough against the barbarians is busy in saving the rulers. State government of J&K to which deceased Chamel Singh belonged is concerned more about former terrorists staying across the border. It has a rehabilitation scheme for ex-terrorists to settle in the State along with their Pakistani wives and children, disregarding the fact that they were instrumental in causing death and destruction in J&K along with forced exodus of Pandits from the Valley. If the state is allowed to have its say we shall soon have a sizeable number of persons with Pakistani origin in the State with permanent state-subject status. Ironically, those who came to Jammu in 1947 from West Pakistan and settled there are still denied statehood.

– P. Kashyap, *Vasant Kunj*

## Petty Politics

The issue of Sri Lanka and US sponsored resolution against our southern neighbor has exposed the foreign policy failure of India. It underlines the inefficiency of those at helm of affairs in South Block New Delhi. They have failed India and its people. Ineptitude of the government of India is visible not only in letting regional political outfits with narrow political ambitions dictate foreign policy of the country, but also in its failure to protect the vital national interests in Indian ocean.

We as a country have lost the vision of Indian nation that existed for millennia of years. We have not been able to contain China and have allowed that country to encircle us. Chinese presence in our neighbourhood is overwhelming and increasing further with every passing day. Yet the government of India seems to be caught in a policy paralysis. Only Focus of the government of India seems to be coronation of the 'Yuvraj' of first family of the Congress party in spite of all his inefficiencies.

– Lovely Ashok, *Gurgaon*

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## Quote-Unquote



The will to achieve self-sufficiency in everything related to national security through indigenous production should be our policy.

**Man. Mohan Rao Bhagwat**

Sarsanghchalak RSS



It's a very serious omission that the Chairman of JPC is making by not inviting Raja to depose. Raja is right in casting aspersions.

**Yashwant Sinha**

Senior BJP Leader



'Indian Talent' plus 'Information Technology' is equal to 'India Tomorrow'.

**Narendra Modi**

Gujarat Chief Minister on harnessing IT



Things have changed in the last 20 years... We have now an ally in India and an enemy in Pakistan.

**Dana Rohrabacher**

US Congressman, on US foreign policy



I feel it is karma that brought me to India.

**Anglee**

Filmmaker, on his movie Life Of Pi

## Money Laundering Banks Criminally Convenient Complicity

*"You get to a point where it gets very complex, where you have money laundering activities, drug related activities, and terrorist support activities converging at certain points and becoming one." — Sibel Edmonds*

Unearthing of a vast, nation-wide money laundering racket being run by several banks has once again brought into focus the brazen criminal activity channelizing huge amounts of black money into the regular banking system as laundered white money. Investigation, conducted by an investigative website across dozens and dozens of branches of these banks and their insurance affiliates, across all five zones of the country, has revealed That these money laundering practices are part of a standard set of procedures within these banks and These money laundering services are being openly offered to even walk-in customers who wish to launder their illicit money. The investigation finds the banks and their managements systematically and deliberately are violating several provisions of the Income Tax Act, FEMA, RBI regulations, KYC norms, the Banking Act and Prevention of Money laundering Act (PMLA) with utter disregard to consequences, driven by their desire to boost cheap deposits and thereby increasing their profits. Not only does It put a big question mark on the legitimacy of these banks' deposits and therefore their profits. It also raises grave questions of the legitimacy and origins of funds being raised in their insurance and investment arms. It is also clear from these investigations that the banks named have been indulging in these criminal practices for several years and have well-oiled processes for the same. All three banks, as expected, denied the allegations of money-laundering. Even the RBI said, "There is no scam that has happened." Elaborating on the definition of money laundering, he pointed out that money laundering meant that the source of money had to be involved with a criminal activity. "So let us understand-money on which the tax is not paid, and money laundering, are two different things," said Dr. Chakrabarty Deputy Governor. Governor D Subbarao however was more realistic and said that "some corrective steps will be taken to strengthen the banking system. "I believe systems largely safe. However, there is a need for some corrective action and based on the findings of the investigation, we will take corrective action" he said and added further, "I cannot at this time say or make broad, sweeping statement that there are no transactions taking place at all"

Whatever the official reaction to the investigations by a private media agency, the fact remains that India is among the top 10 developing countries in the world with a black money in and outflow. A 2010 World Bank study of 151 countries concluded that India's shadow economy, defined as legal activity concealed from the authorities, was equivalent to a fifth of official GDP. The new estimates, the first since 1985, have been compiled at the government's behest by three think-tanks, the National Council for Applied Economic Research (NCAER), National Institute of Public Finance and Policy (NIPFP), and National Institute of Financial Management (NIFM). This report, submitted to the government in December, is speculated to have pegged the size of black economy at about 30% of India's gross domestic product (GDP) or about Rs. 25 lakh crore. US think-tank Global Financial Integrity had estimated India had lost \$123 billion ( Rs. 6.76 lakh crore) in "black money" in 2001-10. These sums as is clear, compared to India's total annual welfare spending of about Rs. 3 lakh crore, are staggering. If hidden incomes of Rs. 25 lakh crore were to be disclosed and taxed at 30%, it would generate Rs. 8.5 lakh crore. Government claims that it has intensified its efforts to crack down on unaccounted-for money stashed overseas by seeking information from their counterparts in other countries. In January, the CBDT had issued an internal manual - 'The Manual on Exchange of Information for tax purposes with foreign jurisdictions' which provided guidelines on how to obtain information from authorities of other countries under tax treaties, TIEAs and multinational conventions. The manual points out those tax officers are not making many requests primarily because they are not fully aware of the provisions. But the government itself refuses to accept that its reluctance to take steps like abolishing participatory notes(PN) and Mauritius route is the main hurdle in tackling the issue of Black Money.

# Victory of Public Health over Profit



*This case is neither about merely the intellectual property (patent) rights nor Novartis versus GOI. It was & is a case of unhindered profits versus affordable drugs and the right to safeguard the public health, says **Dr Ashwani Mahajan***

Final judgment on the legal battle between a Swiss pharmaceutical company and Government of India has been finally pronounced in the Supreme Court. Not only India, the whole world was keeping a watch on this litigation. Plea of the company was that Government of India is not granting patent to its cancer medicine 'gleevec' and thus its right to have monopoly over the manufacturing of drug is infringed. Company's argument is that if the patent was not granted to the company, it would not be possible for the company to recover huge expenditure it has made on the research

and development for developing this drug. When in 2006, Government of India had refused to grant patent for its product 'imatinib', company filed a case against the government in Madras High Court. While not granting the patent, government had argued that since the company has not invented any new chemical entity in making this drug and has merely made some changes in the old drug, patent cannot legitimately be granted for the same. As per Indian Patent Act 1970, Section 3(d), patent cannot be granted in case of a mere discovery of a new property or a new use for a known substance or the

mere use of known process in a new product (in this case medicine). Therefore, argument of the government was that it has committed no mistake by not granting patent to imatinib. Accepting the argument of the government, Madras High Court ruled that decision of the government is right in not granting the said patent.

Background of the case is, that a provision of Exclusive Marketing Rights was included by an amendment in Indian Patent Act 1970, according to which if a patent application was filed in the 'mail box', before the final amendment in patent laws are made, in pursuance of agreement with regard to TRIPS in General Agreement on Trade and Tariff (GATT); EMR would be granted to the applicant filing patent application. According to the EMR, the applicant would get an exclusive right to manufacture and market the product under question. Accordingly, an EMR was granted to Novartis for its medicine Gleevec, with brand name imatinib. On the basis of this EMR, the company filed an application to disallow other companies to manufacture and market that medicine, and Madras High Court decided in favour of the company and



*In this photograph taken on July 10, 2012, Swadeshi Jagran Manch activists demonstrate against Novartis in New Delhi. Activists say the company's patent challenge threatens access to cheap generic versions of life-saving drugs in poor nations.*

banned other manufacturers to produce that drug. Intervening in this case Swadeshi Jagran Manch wrote a strong letter to then Union Home Minister, Smt Sushma Swaraj and urged the government to cancel this EMR.

### History of Section 3 (D)

When the government was proposing amendment in the Indian Patent Act 1970, section 3(d) of the present contents, was not there. Had the original amendment bill been passed, it would have opened floodgates for companies, to obtain patents on their products on which patent had expired, by claiming a mere discovery of a new property or a new use for a known substance or the mere use of known process in a new Product. And present case would not have arisen, as patent office would have obtained patent on imatinib, in the first instance. Nevertheless, on the instance of Swadeshi Jagran Manch; expert groups, most notable National Working Group on Patents, led by Late Bal Krishna Keayla; and a host of other organisations, government had to include this provision in section 3(d), disallowing grant of patent by claiming a mere discovery of a new property or a new use for a known substance or the mere use of known process in a new Product in the ordinance issued by the President on December 27<sup>th</sup> 2004, which was later ratified by the parliament. In this way a law for the protection of the public health, not only for India but for the whole world was made.

### History of Indian patent Act 1970

After independence, need was felt that a patent legislation should

## Supreme Court dismisses plea of Novartis for patent of cancer drug

The Supreme Court dismissed Swiss drugmaker Novartis AG's attempt to win patent protection for its cancer drug Glivec, a serious blow to Western pharmaceutical firms who are increasingly focusing on India to drive sales. The decision also sets a benchmark for several intellectual property disputes in India, where many patented drugs are unaffordable for most of its 1.2 billion people. India's domestic drugs market is the 14th largest globally, but with annual growth of 13-14 per cent and the world's second biggest population, it has massive potential at a time when traditional developed markets have slowed down.

The Supreme Court's landmark ruling is likely to affect several other companies and their branded medicines. Pfizer Inc's cancer drug Sutent and Roche Holding AG's hepatitis C treatment Pegasys lost their patented status in India last year and latest ruling will make it tougher for them to win back patent protection. "Henceforth, multinational pharma companies are likely to want that their patents are first recognised in India before launch of a patented product," said Ameet Hariani, managing partner at Mumbai-based law firm Hariani & Co. Novartis has previously said that it needs legal certainty if it is to plan further investment in drug research in India.

The ruling is a boost for healthcare activists who want the government to make medicines cheaper in a country where patented drugs constitute under 10 per cent of total drug sales. Novartis has been fighting since 2006 to win a patent for an amended form of Glivec. In 2009 it took its challenge against a law that bans patents on newer but not radically different forms of known drugs to the Supreme Court. India has refused protection for Glivec on the grounds that it is not a new medicine but an amended version of a known compound. By contrast, the newer form of Glivec has been patented in nearly 40 countries including the United States, Russia and China. The Supreme Court decided that Glivec does not satisfy the "novelty" aspect, Pravin Anand, lawyer for Novartis, told reporters.

The Comptroller General of Patent and Design had denied patent to Glivec on several grounds, including its alleged failure to meet stipulations under sections 3(d) and 3(b) of the Indian Patent Law. landmark judgement. kudos 1.2 lakhs/month trashes to 8000/month. □

be enacted, which should safeguard the interest of cross section of stake holders in patents, namely the industry, consumers and the patent holders alike. After wide ranging discussions with all stake holders India Patent Act 1970 was enacted, this was welcomed by all. After this Patent Act was enacted, Indian pharmaceutical industry showed an exponential growth.

Compulsory Licensing, Process Patent and shorter patent period were distinguishing features of this Act. Indian pharmaceutical industry developed at such a fast pace that India became a leading manufacturer and exporter of pharmaceutical products. Thanks to this Indian Patent Act 1970, India is today world's 3<sup>rd</sup> largest exporter of pharmaceutical products in

terms of volume and 4<sup>th</sup> largest exporter in terms of value. India exports best of generic drugs to more than 200 countries at much cheaper price than multinational drug companies. India can take pride in producing most economical medicines and thereby safeguarding not only its own public health, but also the public health of the developing and developed countries alike.

After signing of World Trade Organisation (WTO) agreements, as per the binding commitments made by the government, Indian Patent Act was amended three times to incorporate product patent, restricting compulsory licensing provisions and lengthening the term of patent. The final amendment was effected on January 1<sup>st</sup>, 2005. While Patent Act 1970 was under process of amendment, there was lot of opposition, in view of the looming dangers on public health and the government had to modify the amendments to incorporate the concerns of the experts and organizations. Accordingly production of generic drugs by virtue of compulsory licenses granted prior to amendments was allowed to continue. As such the provision was made that the company who holds the patent of a drug, whose term has expired is not allowed to get that drug patented by mere discovery of a new property or a new use for a known substance or the mere use of known process in a new product. Section 3 (d) of the Act was worded such that ever greening of patents was severely limited.

### **Significance of Novartis versus GOI Case**

Many companies in India

manufacture a drug named 'gleevec'. This is a drug which is a very effective drug for blood cancer. Nearly 25000 new blood cancer patients get added in the country every year. Price at which Novartis sells this drug is rupees 1,20,000 per month; whereas Indian companies manufacturing this drug sell the same at rupees 6000 to 8000 per month. If monopolized, this drug would have become unaffordable to most of the end users (blood cancer patients) and will cause death for them.

This case is not merely about the intellectual property (patent) right on Gleevec. Whole world was watching this case curiously. If Novartis had succeeded in this case, then not only Novartis would have been able to establish monopoly over the production of Gleevec, many more companies would have been allowed to evergreen their patents by making small and frivolous changes in their formulation and doses. And companies who are producing generic versions of these drugs would have been disqualified and prohibited to produce those drugs and original patent holder companies would have regained their monopoly over these products. India, who is selling these generic drugs to over 200 countries and is helping developing and even developed countries to safeguarding their public health, would have no longer been in position to lead that role. As such this Novartis versus GOI was a case of profit versus affordable drugs.

In many countries of the world a campaign has been going on in the name of 'Capture Novartis'. Campaigners have been demonstrating at the offices of Novartis in different countries.

Many organizations all around the globe are pursuing Indian government, not to succumb before Novartis. They are also demanding that in no case, this litigation should be taken lightly and in view of significance of this case, the government should send its Advocate General to appear before the Supreme Court.

### **Political Will for Public Health**

For the last two decades, it has become fashionable for government (s) to go any far to attract foreign investment, even if it is at the cost of public health. In the last one decade, nearly US\$9 billion of FDI was received in pharmaceutical sector, and surprisingly US\$ 4.73 came for mergers and acquisition of established Indian pharmaceutical companies. Such type of foreign investment is called 'Brownfield Investment'.

As per the provisions of FDI as on date, 100 percent FDI is permitted for acquisition of existing companies. Despite the demand of Ministry of Health to change these provisions, Government has failed to change the law and lured by the ability of Indian companies to manufacture cheap generic drugs, foreign pharmaceutical companies have been fast acquiring Indian companies, and the government is not doing anything to stop these attempts. There is danger that these multinational giants would form cartel to fleece consumers. There is a sizable number of drugs which are going off-patent, with a potential market for 117 billion US\$ for generic drugs. This decision may go a long way to provide relief to the consumers by way of making available cheap generic versions of these off-patent drugs. □□

# Novartis judgment does not decide anything beyond the Glivec patent



*It is urged that celebrations should be cautious since the crux of the provision of Section 3(d) has not been clearly interpreted, asserts* **Vikramjit Banerjee**

There is not much reason to celebrate the Novartis judgment since the Novartis judgment does not decide anything beyond the Glivec patent. Offcourse there is a lot of discussion about the politics of the WTO and country as a background to the conception of how to make drugs cheaply available to the people and the resultant balance which needed to be struck by the decision makers and the importance of generics in the world , the poor and India .

However it is urged that celebrations should be cautious since the crux of the provision of Section 3(d) has not been clearly interpreted.

Section 3(d) states: “Section 3. What are not inventions.— The following are not inventions within the meaning of this Act,— (d) the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.

Explanation — For the purposes of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes,

combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy.”

The dispute was what does “unless they differ significantly in properties with regard to efficacy” mean , and specifically what does efficacy mean and therefore what products would be protected under the provision and what would be outside it and therefore would not be allowed the benefit of patent under the Act.

The Court has held that efficacy under the provision meant “therapeutic efficacy” but refrains from answering the question very clearly as to what would constitute that and as a result makes it case specific.

It has been observed by the Court that 180. What is “efficacy”? Efficacy means<sup>1</sup> “the ability to produce a desired or intended result”. Hence, the test of efficacy in the context of section 3(d) would be different, depending upon the result the product under consideration is desired or intended to produce. In other words, the test of efficacy would depend upon the function, utility or the purpose of the product under consideration. Therefore, in the case of a medicine that claims to cure a disease, the test of efficacy can only be “therapeutic efficacy”. The ques-

tion then arises, what would be the parameter of therapeutic efficacy and what are the advantages and benefits that may be taken into account for determining the enhancement of therapeutic efficacy? With regard to the genesis of section 3(d), and more particularly the circumstances in which section 3(d) was amended to make it even more constrictive than before, we have no doubt that the “therapeutic efficacy” of a medicine must be judged strictly and narrowly.

Our inference that the test of enhanced efficacy in case of chemical substances, especially medicine, should receive a narrow and strict interpretation is based not only on external factors but there are sufficient internal evidence that leads to the same view. It may be noted that the text added to section 3(d) by the 2005 amendment lays down the condition of “enhancement of the known efficacy”. Further, the explanation requires the derivative to “differ significantly in properties with regard to efficacy”. What is evident, therefore, is that not all advantageous or beneficial properties are relevant, but only such properties that directly relate to efficacy, which in case of medicine, as seen above, is its therapeutic efficacy.

187. In whatever way therapeutic efficacy may be interpreted, this much is absolutely clear: that the

**Swadeshi Jagaran Manch's sustained struggle against Monopolist patent regime**

A largely un-noticed yet significant aspect of the media coverage of the Supreme Court judgment against Novartis was the photograph accompanying the published stories worldwide. The photograph taken on July 10, 2012, shows Swadeshi Jagaran Manch activists demonstrating against Novartis in New Delhi.

Not in 2012 only the SJM was the first to raise the issue of monopolist patent regime and registered its protest against the granting of the country's first exclusive marketing right (EMR), to Novartis for its blood cancer drug Glivec. As part of its campaign, SJM in a detailed note to the Health Minister, Ms Shushma Swaraj, asked her to intervene in the matter by not allowing Novartis to exercise its EMR on March 3, 2004.

The then SJM central office incharge Arvind Khandekar, had issued a Press release from New delhi which at that time had clearly said the cost of treatment would be Rs 10,000 to Rs 11,000 a month if the drug was manufactured by Indian companies, which itself was very high said: The Grant of EMR to Novartis to produce the drug has threatened the life of hundreds of thousands of cancer patients, as Novartis is marketing it in the brand name Gleevec, making the cost of treatment for a patient in the range of 1.2 lakh per month.

Press release was issued after a delegation of SJM under Dr Ashwani Mahajan, Member of SJM's national steering committee, and Sh. Ajay Bharti, then convenor media cell had met the Union Health Minister, Ms Sushma Swaraj bringing to her notice the fact that "Public health will be in jeopardy, because through EMRs and product-patents, companies will retain their monopoly and patients will suffer as drugs will get costlier."

SJM continued to organize awareness meetings and seminars on the issue. In this awareness campaign the cooperation of Late BK Keayla was most noteworthy. Swadeshipatrika also published the matter on this important issue regularly.

Even in its resolutions SJM raised the issue and asked the government to reconsider its commitments and concessions with regard to the intellectual property regime. For example in RESOLUTION No.- 3 passed in 9th All India Conference, Allahabad (U.P.) on 6th-8th November, 2009 titled Safeguard National Interest in WTO.

It emphatically stated, "There is manipulation of the nature and content of subsidies in the name of different boxes, being the green box, blue box and the amber box. Besides agriculture, the implementation of Trade Related Aspects of Intellectual Property Rights (TRIPS) and the resultant changes in the patent laws, specially the introduction of Product Patents for pharmaceuticals and drugs have caused monopolization of medicines and the skyrocketing prices. The developed countries have been using WTO as a tool wholly to their advantage and have created a mechanism of unfair trade in the name of free trade. National Convention of the Swadeshi Jagaran Manch therefore demands :-

Since developed countries have failed to honour their own commitments with regard to reduction in agricultural subsidies there is no reason why India should not reconsider its commitments and concessions regard to the intellectual property regime. As a first step India should press for renegotiation on the entire TRIPS agreement and should initiate re-amendments in Indian Patent Act. □

physico-chemical properties of beta crystalline form of Imatinib Mesylate, namely (i) more beneficial flow properties, (ii) better thermodynamic stability, and (iii) lower hygroscopicity, may be otherwise beneficial but these properties cannot even be taken into account for the purpose of the test of section 3(d) of the Act, since these properties have nothing to do with therapeutic efficacy.

That is clearly a judgment on facts and does not decide finally on the dispute as to the interpretation of Section 3 (d). The danger is the recording of the submission of Shri Shamnad Basheer 's argument, which is as follows:

185. Prof. Basheer, who appeared before this Court purely in academic interest as an intervenor-cum-amicus, agreed that not all advantageous properties of a new form (such as improved processability or flow characteristics, storage potential, etc.) ought to qualify under section 3(d), but only those properties that have some bearing on efficacy. However, taking a less rigid position than Mr. Grover, Prof. Basheer argued that safety or significantly reduced toxicity should also be taken into consideration to judge enhanced therapeutic efficacy of a pharmaceutical product in terms of section 3(d).<sup>1</sup>

It is suggested that the Court may use the above mentioned line of argument which has been recorded to expand the protection to extend the tenure of patents in future.

The battle about Glivec is over, but it was about a drug which is way past its prime. The test would come in future. It is important that we are keenly aware and careful about further litigations regarding the said Section 3 (d) since the debate is far from settled. □□

## B.K. Keayla the reason behind IPR awareness

*Late Sh. B K Keayla, retired Commissioner of Payments, was Convenor, National Working Group on Patent Law and Trustee and Secretary General of Centre for Study of Global Trade System & Development. He was an honourable member of National Council of SJM. Sh. Keayla ji did a yeoman's job by deliberating on various WTO Agreements including the TRIPS Agreement ever since 1988 when the Uruguay Round of GATT Negotiations were in full swing. — Editor*

It provided studies for informed debate in Parliament and in public on the Uruguay Round Agenda/Final Act of WTO on availability and affordability of medicines in India and several other developing countries. The group organized national and international seminars/conferences. The National Working Group on Patent Laws also established four Peoples' Commissions on TRIPS issues. The first Commission was established to deal with the constitutional issues of the Final Act of WTO including TRIPS Agreement in November 1993 with the Chairman and the members being eminent former Judges of Supreme Court of India. Again in 1999 another Commission was established to deal with the transitional period obligations in the TRIPS Agreement. The Chairman of this Commission was also former Judge of Supreme Court and members were senior scientists and economists.

The Third Peoples' Commission was established during 2002 on appropriate patent law for India. The Chairman of this Commission was the former Prime Minister of India and the members were eminent and senior experts. The Fourth Peoples' Commission was established on review of patent legislations in February 2004, again with the former Prime



Late Sh. BK Keayla with late KS Sudarshan, former Sarsangchalak RSS in swadeshi central office

Minister of India as the Chairman and a number of senior and eminent experts as members. Reports of all these Commissions were submitted to government and also made available to all political parties and Members of Parliament. No opportunity was provided to these Commissions for discussion with the government. In addition to these reports there were, as stated earlier, a number of other publications which were made available to the concerned Ministries of the government and to the Members of Parliament. All these efforts are being pointed out to bring home that the process of amending the patent law to fulfill obligations to bring the patent law in line with the TRIPS Agreement has

been completed without adequate deliberations between the government and the public.

### Consideration by Parliament

Sh. BK Keayla ji was forceful in pointing out that the original Patents Act 1970 was a balanced Act which helped the growth of industry and also adequately covered the public interest angle. The pharmaceutical industry produces high quality products of almost all therapeutic groups and exports the generic produce to the developing and developed countries at most competitive prices. The developing countries are now apprehending difficulties in importing pharmaceuticals from India because of the tight provisions with regard to the compulsory licences for effective

# Compulsory Licensing, the Core Component of Patents System for Better Health

*Paris Convention, TRIPS Agreement and Doha Declaration on TRIPS and Public Health stipulate appropriate provisions on compulsory licensing for implementation by the Member countries of the WTO in their national patents law. There is hardly any developing country including India that has made full use of the stipulations in the three documents mentioned, found Late B.K. Keayla*

Compulsory licensing system is the core component of the patents system. The system refers to the practice by a government to authorize itself or the third parties to use the subject matter of a patent with or without the authorization of the patent holder for reasons of public policy incorporated in the patents law of that government. The system helps the enterprises other than the patent holders to play a competitive role by limiting the exclusive rights of the patentee in the domestic markets and to meet the export demands of other countries for the relevant patented products.

Paris Convention, TRIPS Agreement and Doha Declaration on TRIPS and Public Health stipulate appropriate provisions on compulsory licensing for implementation by the Member countries of the WTO in their national patents law. There is hardly any developing country including India that has made full use of the stipulations in the three documents

role of the domestic enterprises in the patented products.

Keayla ji a critique of the direction the Indian government was taking with the new patent laws, wrote, "The Patents (Second Amendment) Bill 1999 was referred to the Joint Select Committee of Parliament and it submitted

mentioned.

India in particular has ignored certain important flexibilities in the amending process of its national Patents Act 1970.

The stipulations on compulsory licensing in the three documents are explained hitherto:

## Paris Convention

Paris Convention was signed in 1883 and amended in 1925 and 1967. The last amended Paris Convention of 1967 in its Article 5-A dealt with the issue of compulsory licensing in an adequate manner and stipulates:

"5A (2) Each country of the Union shall have the right to take legislative measures providing for the grant of compulsory licences to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent, for example, failure to work.

(4) A compulsory licence may not be applied for on the ground of failure to work or insufficient working before the expiration of

its report in December 2001 with a few notes of dissent. The Doha Declaration on TRIPS and Public Health of November 2001 which clarified flexibilities and freedom available to member countries in formulating their law was, however, not considered by the Committee and certain safeguards pos-

a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last; it shall be refused if the patentee justifies his inaction by legitimate reasons.

Such a compulsory licence shall be non-exclusive and shall not be transferable, even in the form of the grant of a sub-licence, except with that part of the enterprise or goodwill which exploits such licence".

The stipulations in the Paris Convention have become relevant even after the enforcement of TRIPS Agreement. Article 2 of TRIPS in Para 1 provides that: "Members shall comply with Articles 1 through 12 and Article 19 of the Paris Convention (1967)".

## TRIPS Agreement

Article 31 of the TRIPS Agreement deals with "Other use (of the patented subject matter) without authorization of the right holder". The relevant subpara-

sible were not provided by the committee in their report. The revised Bill as amended by the Joint Parliamentary Committee was debated in the Rajya Sabha and 18 amendments were moved by important Members of Parliament. The debates in both the Houses indicate that there was some un-

graphs stipulates; “Where the law of a Member (Country) allows for other use of the subject matter of a patent without the authorization of the right holder, including use by the government or third parties authorized by the government, the following provisions shall be respected:

- (a) authorization of such use shall be considered on its individual merits;
- (b) such use may only be permitted if, prior to such use, the proposed user has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and that such efforts have not been successful within a reasonable period of time.

Article 8 of TRIPS on ‘Principles’ also stipulates that;

“2. Appropriate measures, provided that they are consistent with the provisions of this (TRIPS) Agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.”

The above two important Articles of TRIPS can be used to determine possibilities for grant of compulsory licences. These Articles provide enough flexibility for grant of compulsory licences by the concerned government authorities.

derstanding with the then concerned minister about the issues raised by the members of Parliament for taking them into consideration in the final amending Bill introducing the product patent regime for all industrial sectors.”

In a letter to Swadeshipatrika

### Doha Declaration of WTO on TRIPS and Public Health

The Doha Declaration of November 2001 is a landmark Declaration clarifying the rights of the Member countries in regard to the granting of compulsory licensing stipulations of the TRIPS Agreement. Relevant paragraphs of this Declaration are reproduced as follows:

“(4) We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members’ right to protect public health and, in particular, to promote access to medicines for all.

In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

(5) Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include :

- (a) Each Member has the right to grant compulsory licences and



the freedom to determine the grounds upon which such licences are granted.

- (b) Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency”.

Indian delegation to the Ministerial Conference at Doha of November 2001 played a major role in the framing and adoption of the Doha Declaration on TRIPS and Public Health.

The flexibilities confirmed in the Doha Declaration are of utmost importance and should be used by all the developing countries including India in framing the compulsory licence provisions in their patents law to ensure substantive role of the domestic enterprises.

Dated 14.11.2008, he wrote , “Dear Ajay Bharti,

Global pharma major such as Novartis, Roche and Pfizer have secured 392 medicine patents in about 20 months from 1.1.2005 when India changed its patents law to allow product patenting of

drugs in the country. Indian companies secured only 68 product patents during this period. Subsequent data is not readily available. The total number could be quite substantial.

The patent system grants monopoly to the patent holder on

### Approach in framing compulsory licences provisions

In framing the national patents system in particular the compulsory licence provisions, it is relevant to ensure that there is correlation of the patents system with the National Health Policy as the policy of each country is a paramount document which cannot be ignored because of certain parameters of the TRIPS Agreement on patents system.

The patents system in fact should be complementary to ensure the success of the National Health Policy. The Doha Declaration has legal effects, equivalent to those of an authoritative interpretation under WTO rules. Even the preamble of the TRIPS Agreement provides - Recognizing the underlying public policy objectives of national systems for the protection of intellectual property, including development and technological objectives. This is also another basic flexibility of TRIPS Agreement.

### Working of Patents

Having quoted the relevant stipulations in Paris Convention, TRIPS Agreement and Doha Declaration on Public Health on scope of flexibilities and freedom available to member countries to legislate compulsory licensing provisions in their national patents law for ensuring availability of phar-

their products for a long period of 20 years. These products when introduced in the market would be available at high monopoly prices for the entire period of protection. Compulsory licensing system stipulations in the patents law is a core component for containing monopoly of the product patent holders

***Sufficient flexibilities and freedom to determine the grounds upon which compulsory licences can be granted are available to all member countries.***

maceutical products at competitive prices, the working of patents in the country which grants exclusive rights on the relevant products is important. Working of patents through the domestic enterprises must be ensured through the system of grant of compulsory licences. Presently there are over 20,000 pharmaceutical manufacturers registered in India and hundreds of enterprises are producing the same product and competing among themselves and meeting the country's requirements at competitive prices. This phenomenon cannot be equated to the working of patent through imports by the patent holder. Extensive involvement of the domestic enterprises in the production and availability of patented products is absolutely necessary in a vast country like India.

### Compulsory Licensing System

Compulsory licensing system is certainly the back-bone of the

on their products.

The amending process of the Indian Patents Act 1970 has not done full justice in formulating various Sections of Chapter XVI of the Patents Act on compulsory licensing. Stipulations in these Sections are extremely weak and as such containing of the monopoly

patents law. The question of constraints which would emerge after the implementation of TRIPS had been a subject of serious concern and discussed in the TRIPS Council of WTO during the year 2001. The issue was further hotly debated in the Doha Ministerial Conference held in November 2001. The result was the Doha Declaration on TRIPS Agreement and Public Health which clarifies that sufficient flexibilities and freedom to determine the grounds upon which compulsory licences can be granted are available to all member countries. It is now for these countries to exercise their right and make suitable provisions in their national legislations.

While enacting the Indian Patents (Second Amendment) Act 2002, however, this aspect did not receive due consideration even when the Indian delegation was the major player in the adoption of Declaration on TRIPS Agreement & Public Health in November 2001.

There are clearly eight possibilities of structuring the grant of compulsory licences provisions arising from TRIPS Agreement and Paris Convention and as clarified in the Doha Declaration on Public Health. These are:

- i Authorisation for meeting the government requirements;
- ii Compulsory Licence because

would be rather impractical. People would be thus deprived of the availability of new products at affordable prices.

I have attempted a paper on "Core Competent of the Patent System for Better Health: Paris Convention, TRIPS Agreement and Doha Declaration on TRIPS

- of abuse of patents rights by the patent holder;
- iii Compulsory licence on offer of commercial terms and conditions and for reason of unsuccessful attempt by an enterprise to obtain voluntary licence from the patent holder;
  - iv Compulsory Licence due to National Emergency;
  - v Compulsory Licence due to circumstances of extreme urgency;
  - vi Compulsory Licence in case of public non-commercial use;
  - vii Compulsory licence to remedy anti-competitive practices; and
  - viii Second patent for an invention involving important technical advance of considerable economic significance over already existing patent.

### Indian Patents Act 1970

The amended Indian Patents Act 1970 in Chapter XVI specifically deals with the “Working of Patents, Compulsory Licences and Revocation”. Section 83 of this chapter deals with the General principles applicable to the working of patented inventions. This Section is virtually the patent policy which the Indian government would aim to accomplish through other Sections of this Chapter. However, an indepth examination of formulations of these other Sections leave some ambiguities which ought to be rectified through further amendments to the Patents Act 1970. These ambiguities can be examined with reference to the possibilities of contin-

and Public Health on Compulsory Licensing stipulations”. A copy of this paper is sent herewith. Before the serious damage to the public interest starts, it may be worthwhile

## *The lives of patients have to come before the patents of drug companies.*

gencies discussed earlier. This rectification will satisfy the public interest fully.

### Royalty Payments

Article 31(h) of TRIPS provides that “the right holder shall be paid adequate remuneration in the circumstances of each case taking into account the economic value of the authorization”. This stipulation is not specific about the rate of royalty that should be payable. The unamended Patents Act 1970 provided a ceiling of 4% on royalty payment. This provision has been deleted and substituted by provision in Section 90 of the amended Act which also does not stipulate any ceiling on payment of royalty.

Royalty payment because of long term of protection of 20 years for patents whether product or process has to be very carefully determined to avoid long term burden on prices of the patented drugs. A ceiling of 5% on royalty payment on ex-factory sales for the first five years and ceiling of 2% for the rest of the patent terms could be provided in the Patents Act or the Rules thereunder. This will help in settling this issue between the patent-holders and the licensees amicably.

to review and streamline the formulation of the various Sections of Chapter XVI of the Patents Act on ‘working of patents, compulsory licenses and renovations’.

### Conclusions

International Human Rights Law is becoming a focused issue in relation to the implementation of TRIPS Agreement on many basic and fundamental rights of human being. These rights relate to right to health and right to food. In relation to monopolization factor under the TRIPS Agreement these issues are becoming crucial and are being debated worldwide. Patents to protect innovation could be supported, but the system should not be a devise to restrict competition and allow creation of long term monopolies under any circumstance. The originators of inventions should get their just reward by way of suitable royalties and there should be no grudge in providing the same. The doors should be opened for obligatory licensing involving the domestic enterprises in the production of patented drugs.

The suggestions made in this article are within the frame-work of the TRIPS Agreement. Judicious and careful implementation of the TRIPS was needed for its smooth application and balancing of rights and obligations of the patent holder in a manner conducive to social and economic welfare as stipulated in Article 7 of the TRIPS Agreement. The lives of patients have to come before the patents of drug companies and that is the fulfillment of the objectives of the National Health Policy and the International Human Rights Law. □□

The write up that was published in 2008 is reproduced both for its relevance and also as a tribute to the vision, commitment, dedication and understanding. □□

# Why India's FTA with EU is very bad for its people

*Even as India enters the final phase of the negotiations for its controversial Free Trade Agreement (FTA) with European Union (EU), the country hasn't taken into account the red flags raised by citizens' groups and development specialists, G Pramod Kumar*

It's not just some irrational fear based on any ideology, but a real danger that emanates from conditions that India is willing to agree with the EU. These conditions will seriously compromise the interests of its people at no obvious gain in trade or economic expansion. It will also have tremendous impact on India's development sector, including food security and access to treatment.

FTAs are bilateral agreements between countries. When it is between rich and poor countries, one cannot expect the rich to be ethical and compassionate. When the rich is habitually exploitative, the poor

has to be careful. Unfortunately, India is not.

Demonstrators carry a giant inflatable medicine pill during a protest against the EU-India summit. Reuters

Its policy mandarins are too eager to integrate its poor with the rich of the North for no apparent gains other than perhaps sharpening its neo-liberal image and ratings.

In a world which already has 356 FTAs between countries, even the little gains that India seems to gain on paper will erode (preference erosion) fast - because of the same countries' agreement with other countries - while the country

will never get back the policy-space that it lost to such treaties. As noted by UNCTAD, "the gains for developing countries from improved market access through FTAs are not guaranteed, and may be short-lived, but the loss of policy space is certain."

The UPA government is allowing its policy to be dictated by the EU.

The EU-India FTA is a North-South (the treaty between the developed world and a developing country such as India) agreement and hence the alarm. The rich countries don't get into trade-agreements to help the poor countries, but will want to gain market access in the latter and throttle their internationally agreed trade flexibilities to survive. India, in the process, will squander the benefits it has under international agreements for silly benefits.

In this FTA, India stands to gain very little because close to 69 percent of its agricultural exports and 65 percent of its non-agricultural export already enter the European markets without duties, whereas it allows only less than six percent of the former's products without duty. Therefore, what the EU is looking for is India lowering its tariffs and allowing easy flow



of their products in to the country, which already has a bad trade deficit with all its FTA partners except Singapore and Sri Lanka.

As a Third World Network (TWN) note highlights, India's additional market gain is very little while it has to significantly open its markets.

India is justified of this present asymmetry because of the huge subsidies and other hidden incentives that the EU products enjoy in their countries. Asking for symmetry is unequal because our tariffs are visible while their subsidies and incentives are invisible.

Under the proposed FTA, India has to remove 90 percent of the tariff, but will the EU lift its subsidies that are disadvantageous to Indian agriculture? No, there is no provision to discuss subsidies in the FTA. So, in the short and long run, it will be bad for both farmers and agro-industries in India.

Once the FTA becomes active, the EU will flood the market with products in dairy, poultry, sugar, wheat, confectionary, oilseeds, plantation products and fisheries, some of which are strategic for India. This will directly compromise India's agricultural sovereignty and its food security. Obviously, an FTA which talks only about tariffs, and not about trade-distorting tricks such as subsidies and other incentives is detrimental to our agriculture.

Incidentally, access to food is a human right under the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR) of the United Nations (UN).

Another area that will impact India is opening up of procurement in central and state govern-

ment institutions. This is the life-line of many of Indian industries and medium and small enterprises, including small businesses run by women and other disadvantaged communities. If this is opened to the EU, the SMEs will find it extremely hard to survive.

Imagine a situation when our small vendors have to compete with EU for contracts in Railways or other public sector undertakings. India hasn't so far given this facility to any other FTA-partner, and acceding to the EU will lead to demands by others. Small town Indian vendors competing with a high-tech vendor in Japan for government contracts doesn't sound like level-playing field. It's not about exclusive, technologically demanding areas, but routine contracts.

Another hidden danger that will directly affect millions of Indians is on public health and access to medicines. If India gives into the machinations of the EU in intellectual properties, it will seriously affect manufacture of generic medicines as it will override TRIPS (Trade-Related Aspects of Intellectual Property Rights) flexibilities (such as compulsory licensing on life-saving drugs) allowed by the WTO.

In addition to medicines, the intellectual property provisions under the FTA cover a whole lot of areas that are detrimental to India. Therefore, activists demand that the provisions should not go beyond what is contained in India's FTA with Japan.

What has bothered the activists is that the negotiations that began in 2007 have hardly been transparent. Nobody clearly knows what exactly the FTA entails. Signing up with an influential econom-

***Under the proposed FTA, India has to remove 90 percent of the tariff.***

ic block without debate and transparency is not consistent with the principles of a democracy that with India's level of poverty and socio-economic inequality.

In the recent past, citizen groups have blocked an FTA of Thailand with the US because it compromised the country's interests. They literally laid siege to the venue of negotiations.

Interestingly India's concerns come from within.

India's Economic Survey (2010-11) notes: "While there are benefits from these FTAs for Indian exports, in some cases the benefits to the partner countries are much more, with net gains of incremental exports from India being small or negative. FTAs also lead to a new type of inverted duty structure with duties for final products being lower from FTA partners compared to duties for the previous-stage raw materials imported from non-FTA countries. This acts as a disincentive to local manufacturing which is not competitive against FTA imports because of the inverted duty structure. .... The policy challenge related to FTAs/CECAs should take note of specific concerns of the domestic sector and ensure FTAs do not mushroom. Instead they should lead to higher trade particularly higher net exports from India."

Who is Manmohan Singh listening to? □□

# Real story of Chidambaram's fiscal discipline



*Finance Minister's proud claim of having achieved lower fiscal deficit of 5.2 per cent for 2012-13 has robbed the nation of development spending by Rs 92,000cr. Had he not cut development spending by almost 18 per cent, the fiscal deficit for 2012-13 would be 6.1 per cent — 0.8 percent over Kelkar redline, finds S. Gurumurthy*

Finance Minister P. Chidambaram won almost unanimous acclaim for 'reining' in fiscal deficit, as measured in GDP terms, at 5.2 per cent in 2012-13 and 4.8 per cent for 2013-14.

Speaking on the deficit, the Finance Minister said, in para 10 of his speech, that with the acceptance of the Kelkar Committee prescriptions in September 2012, 'red lines were drawn for the fiscal deficit' at 5.3 per cent for 2012-13 and 4.8 per cent for 2013-14. Raising the curiosity of those who were listening to him he said, "I know there is lot of skepticism. In a little while, I shall tell you how we have fared."

An hour later, in para 118 of his speech, he recalled his promise

not to cross the Kelkar lines and shocked everyone by saying, "I have kept my promise" to contain the fiscal deficit for the current year at 5.2 per cent and the estimated fiscal deficit for 2013-14 at 4.8 per cent. The real surprise is not about the deficit for 2013-14, which is only an estimate, whose reliability will face test when actual figures are out next year. It is the disclosure that the fiscal deficit for 2012-13, which is based on reliable figures of revenue, expenditure and GDP, is miraculously low at 5.2 per cent — when everyone was expecting it to be higher — that surprised all.

How did this miracle happen, particularly in the last few months of 2012-13? By higher GDP? Or, by windfall tax revenues? Obviously neither.

The GDP for 2012-13 is lower than estimated last year by Rs 1.32 lakh crore and revenues were less by Rs 57,000cr than projected in the Budget. The clue to the lower deficit is therefore to be found in reduced spending by

huge Rs 60,000cr [net]. This explains the arithmetic of the lower fiscal deficit, but not the whole story. It does not need a seer to say that this huge spending fall could not be spontaneous and it could not have happened without the Finance Minister wielding scissors and deliberately cutting the spending.

But what kind of spending was cut? The answer to this question will unravel the real character of the fiscal discipline achieved by the Finance Minister. But the true story, though withheld by the Finance Minister in his speech, was the subject of a trailer to the Budget. A month before the Budget [January 31, 2013] a news report said, "Finance Minister P Chidambaram is putting Welfare, Defence and Road projects on the chopping block in a last-ditch attempt" to achieve a lower fiscal deficit target, risking short-term economic growth and angering Cabinet colleagues."

The report cited three finance ministry officials telling Reuters that the cuts would reduce spending by about Rs 1.1 lakh crore equal to some eight percent of the budgeted outlay, and reduce deficit by one per cent of the estimated GDP.

"It is the first time the scale of the cuts and details of where the axe will fall have been made



public, with officials revealing startling details about delays to arms purchases and belt-tightening for politically sensitive rural welfare schemes in an election year,” the report said. But, why tell Reuters, a global news agency? The report explains why.

“Chidambaram has staked his reputation” on lowering the deficit to 5.3 per cent following ratings agency threats to downgrade to junk India’s sovereign debt if action was not taken.”

Though the fiscal discipline story was no secret its grave details and implications still remain unraveled. A critical study of the Budget papers lifts the veil over the true story. The difference between the budgeted and revised spending estimates for 2012-13 reflected the spending cuts mentioned in the news report.

The non-plan expenditure for 2012-13 had actually overshoot the Budget estimates by Rs 32,000cr – being the net of Rs 54,000cr overrun on revenue account and cuts of Rs 22,000cr on capital account. With the non-plan spending uncontrolled, the only alternative was to cut the development spending. But, besides to reduce the deficit, the cuts had to be much more, to recover the overspending on non-plan – read non-development – account of Rs 32,000cr. So the Finance Minister has cut the plan spending – read development spending – by Rs 92,000cr. The non-development expenditure has actually risen by Rs 73,000cr on account of subsidies of Rs 68,000cr, on petroleum [Rs 53,000 cr], food [Rs 10,000 cr] and fertiliser [Rs 5,000 cr], forcing the Finance Minister to effect cuts in Defence [15,000 cr] Capital Out-

lay [Rs 16,000cr]; Grants to States [Rs 6,000 cr] and other items [Rs 5,000cr] to bring down the overrun on non-development account to Rs 32,000cr.

The cut in the development spending by Rs 92,000cr was partly used to set off the overrun of Rs 32,000cr in non-development spending and to bring down the deficit by Rs 60,000cr. The Budget papers admit this truth. The Expenditure Budget Vol I [2013-14] admits cuts in development spending for Agriculture, Atomic Energy, Chemicals and Fertilisers, Communications, Drinking Water and Sanitation, Health and Family Welfare, Human Resource Development, Minority Affairs, Power, Road Transport and Highways, Rural Development, Space, Textiles, Urban Development and Women and Child Development. It also discloses cuts in development capex spending on assistance to states, accelerated irrigation benefit programme, backward regions grant fund, urban renewal spending, and agricultural development spending. The climax of the story – namely grave extent of the head-wise cuts in development spending – is unveiled in Statement 13 of the Expenditure Budget, which discloses the shocking details of head-wise cuts in Budgetary allocations [2012-13] for development: Irrigation, by 66 per cent [‘847cr]; Energy, by 43 per cent [Rs 5,480cr]; Atomic Energy, by 59 per cent [Rs 974cr]; Village and Small Industries, by 36 per cent [Rs 2,090cr]; Fertiliser industry, by 94 per cent [Rs 151cr]; Roads and Bridges, by 45 per cent [Rs 19,419cr]; Postal and other communication, by 53 per cent [Rs 2,615cr]; Housing, by 19.6 per cent

[Rs 2,034cr]; Urban Development, by 18.5 per cent [Rs 1,332cr]; Welfare of weaker sections, by 16 per cent [Rs 1,450cr]; Labour/Employment, by 15.2 per cent [Rs 337cr]; Social Security and Welfare, by 14.3 per cent [Rs 2,595cr]; Nutrition, by 71 per cent [Rs 166cr]; Science and Technology, by 27 per cent [Rs 4,472cr]; NE Area allocation, by 18.5 per cent [Rs 5,165cr]; Education, by 9 per cent [Rs 5,931cr]; Water Supply, by 6.5 per cent [Rs 825cr].

By these cuts, the spending in 2012-13 on most these heads is far less than the actual amounts spent on each of them in the previous year [2011-12]. In some cases like Roads and Bridges the actual amount spent in 2011-12 [‘40,142cr] was 66 per cent more than the amount [‘24,155cr] spent [after cuts] in 2012-13. So, when the Finance Minister proudly claimed to have achieved lower fiscal deficit of 5.2 per cent for 2012-13 he did not tell that his achievement had robbed the nation of development spending by Rs 92,000cr. Had he not cut development spending by almost 18 per cent, the fiscal deficit for 2012-13 would not be 5.2 per cent as he had proudly said, but 6.1 per cent – 0.8 per cent over Kelkar redline. This is the true story of how the Finance Minister has kept his promise of fiscal discipline – a fiscal discipline drama that smuggled in and set off the fiscal indiscipline of Rs 68,000cr extra non-development spending into the development spending cut of ‘92,000cr and totally suppressed the true story in the Budget speech. □□

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# As Europe goes down, we need to be prepared for Consequences



*Europe is facing three types of crisis – economic, demographic, civilisational and it is not in a position to come out of these. All three are not recent ones; they were developing over a period and are now culminating into a catastrophe, explains* **Prof Vaidyanathan**

The European economic and social crisis is becoming worse with each passing day. One business channel asked me in 2008 how long it might take to recover and I responded saying 40 quarters – they never came back to interview. But now I forecast it may never recover.

Sri Aurobindo said that India will rise on the ashes of western civilisation and it seems to be coming true. It is important to recognise that the dominance of the West has been there only for last 200 odd years. According to Angus Maddison's pioneering OECD study, India and China had nearly 50 per cent of global GDP as late as the 1820s. Hence India and China are not emerging or rising powers. They are retrieving their original position. In 1990, the share of the G-7 in world GDP (on a purchasing power parity basis) was 51 per cent and that of emerging markets, 36 per cent. But in 2012, it is the reverse. So the dominant west is a myth.

Europe is facing three types of crisis – economic, demographic, civilisational and it is not in a position to come out of these. All three are not recent ones; they were developing over a period and are now culminating into a catastrophe.

The Debt to GDP ratio of most of Europe is at unsustainable

levels with our own Britain having above 500 per cent — I say our own since we are going to have to help them run their country sooner than later. There are three major constituents of debt — Government debt, corporate debt and household debt. Of the three, we find household debt has reached nearly 80 to 100 per cent of GDP in most of these countries. The reason is simple — unlike India, households in Europe and USA have forgotten one simple word — savings. They live on debt and are interned by debt.

The situation is made worse by the unemployment situation. Youth unemployment has reached 55 per cent in Spain and hovering above 30 per cent in most of the other countries. Youth is defined as being between the ages of 16 to 24, unlike in India where even a 43-year-old is a 'youth icon'. The overall unemployment is at more than 25 per cent in most countries and it is creating social turmoil.

Along with this is the demographic crisis. The population of Europe during the First World War was nearly 25 per cent. Today it is around 11 per cent and is expected to become 3 per cent in another 20 years. This is mainly due to low reproductive rates and in some countries is as low as 1 when 2.1 is con-

sidered as equilibrating rate. Europe will disappear from the world map unless migrants from Africa and Asia take it over. That is why Europe is being referred to as Eurobia and London as Londonistan.

The root cause of the issue is the attempt in Europe to nationalise families and privatise business. Old age issue/ health issues/ child care issues are all normal family activities that have been taken over by the state and the state is broke. Funded security schemes are facing crisis since not enough numbers are getting in to labour force due to low reproductive rates and unfunded.

security system is in difficulty since taxes are not adequate due to low population growth.

Coupled with economic and demographic crisis is the crisis of civilisation in Europe. It has renounced the Church and has become secular. Church attendance has fallen significantly and churches have become tourist attractions rather than places of worship.

Most of the migrants, particularly those doing 'brown colour work'—like garbage removal, cleaning plates in restaurant, porter jobs, and grape-picking—are people from Mauritania/Somalia/Algeria etc and most are Muslims by faith. Due to a high degree of employ-

[Continued on page no. 18]

## An aam admi's personal tribute to Sonia Gandhi!

*For one who began her public political career by engineering the 'coup de toilette' by directing her henchmen to lock up the then octogenarian national president of the Congress, she has always displayed a street-smart political sense which dwarfs her original compatriots of the Machiavellian mould, opines Anirban Ganguly*

As an unknown Indian fascinated by the dimensions of Indian politics and its varied and rapidly changing hues, I was tempted to also pay a personal tribute to the Congress president on her successful completion of 15 years at the helm of the family conglomerate. Being an ordinary Indian I did not have the gumption to walk up to 10 Janpath and seek to meet Madam in order to convey my heartfelt wishes, nor did I have, until today, the leisure to put my thoughts to paper. Therefore, readers will perhaps forgive me this

delayed homage to 'her who must not be named'!

For a person who had started off by saying that she would not enter politics, nor become a Congress member but 'only help the party as a person belonging to the Congress family', for a person who had declared 'I am just a four anna member, I will not occupy any position', the political journey of the last fifteen years has been a remarkable saga of survival and machinations. She has, in terms of political years, outlived most other Congress presidents and is about to equal – in

political terms – the records of her grandfather-in-law and her mother-in-law. For Congressmen eternally surviving on the first family's stock of political oxygen, she has already become part of the pantheon of the Congress immortals.

For one who began her public political career by engineering the 'coup de toilette' by directing her henchmen to lock up the then octogenarian national president of the Congress, she has always displayed a street-smart political sense which dwarfs her original compatriots of the Machiavellian mould.

With the help of some faithful, she went about demolishing her so-called adversaries. When Purno Sangma asked her in that fateful CWC meeting as to what answer he would give voters who ask him 'why she had lived in India as a foreigner for 17 years and why she had not opted for Indian citizenship in 1968', she promptly expelled him. Yet, unlike her mother-in-law who never forgot and rarely forgave, she forgave only to strike back. After a decade of that expulsion, she accommodated Purno's daughter in the Central Ministry, received him and talked him into publicly declaring that he had made amends and that she had graciously forgotten the past.



Right when things were appearing to look up for the former Speaker, she intervened to pull the rug from beneath his feet by denying him an audience when he came with his petition for the presidency. Similarly, she bought peace with Purno's erstwhile political colleagues in the NCP by distributing Ministerial berths and yet kept their ambitions and politics in check.

In this manner she neutralised most of her adversaries. The instance of the vocal anti-Bofors Jaipal Reddy is a case in point. She digested the man with a Cabinet berth for the last nine years and has politically silenced him forever. Karan Singh, who deserted her mother-in-law post emergency, was weaned back into the fold, made to oppose a party which articulated all that he stood for, was given a few crumbs of office, and by being kept away from major political assignments, was gradually made politically irrelevant. It hugely served her purpose to neutralise, to politically paralyse and yet keep within the fold a public personality who spoke of Hinduism, Bharatiya sanskriti and publicly recited the Vedas and the Upanishads.

With great dexterity and ruthlessness she went about consolidating her gains, turning the party into a complete family conglomerate, sharpening its international networking skills and seeing it returning to power over two consecutive turns with an increased tally. No one can fault her performance here, she has lived up to and even bettered her mother-in-law's legacy, taking control and using without restraint every state institution for the consolidation of her and her family's political stranglehold over the party and the people of

India. The brazen use of the CBI smacks of a mafiosiesque mindset which has long become extinct in mature democracies.

A distinguished non-resident Indian columnist calling her the socialist godmother of India said that her foreign origin issue was dead and the fact that she has lived in India for over four decades made her Indian. I think not, her origins and perceptions of India do remain an issue. We have, for example, never known in these long years, what her thoughts are on India, her traditions, way of being, ethos and civilisation. We have never seen her articulating her in-most thoughts on this land.

In the past, there often was a frivolous habit by sycophants of comparing her to Sister Nivedita, the Hinduised Western disciple of Swami Vivekananda, who lived in India for a little over a decade and died young after having stirred the imagination of Indian youth towards their culture, religion and

*parampara*. Nivedita was convinced of the need to internalise and connect with the triad of '*jana-desha-dharma*' if one aspired to truly serve the country in the public sphere. I am not sure if the object of my tribute has successfully brought that about in the last four odd decades, at least there never has been public displays of that connect. The issue of origin, orientation and assimilation remains – it is not dead. Electoral returns and dividends alone are not yardsticks for measuring issues of psyche and civilisational spirit.

During the days when he publicly opposed the Bofors deal, Jaipal was once at his eloquent best in Parliament, he is said to have told the Speaker that the main problem was not with the 'non-resident Indians', it was more crucially with the 'resident non-Indian.'

Too bad that while that problem persists and rankles, the likes of Jaipal have crossed over to the other side! □□

[Continued from page no. 16]

## As Europe goes down, .....

ment, there is resentment against migrants and this anger is turning into anger against Muslims. Added to this is the new front started by France in Mali to fight Islamic fundamentalists. Africa may become a new Vietnam for Europe.

Europe is sitting on a time bomb and any small spark could ignite it. Remember that all conflicts in the last 2000 years have started in Europe and became 'world' conflicts. India has already given \$10 billion or Rs 56,000 crore – nearly one per cent of GDP to help Europe. Not a sin-

gle European paper or leader has thanked us openly. One can only hope that we need not give more of our GDP or become cannon fodder in anglo-saxon conflicts.

We can never be certain about our Government. It may involve us in the emerging conflicts since our foreign policy is generally subservient to the anglo-saxon interests and we muddle along instead of doing strategic thinking. The sooner we evolve a strategy, the better, and it should be de-coupled from conflicts and focus on the eastern front.

## ***Restructuring of the economy for self reliant development needed – Bhaiyaji Joshi***

*Statement of Shri Bhaiyyaji Joshi, General Secretary, RSS on the current situation in the country*



The economic crisis aggravated by the myopic policies of the Government and neglect of the Agriculture, SSIs and such other employment oriented sectors is emerging as a serious cause of concern for the country. The growth rate of manufacturing sector has nose – dived to the lowest ever level since Independence. Growing unemployment due to this decline, unabated price rise, widening deficit in foreign trade and growing dominance of the foreign companies over the country's industry, trade and commerce are pushing us to a grave economic crises and foreign dependence. Besides, the growing scarcity of resources for Agriculture, Defence and Public Welfare on account of fiscal crisis is also a matter of serious concern.

Growing incidents of sui-

grave crisis, besides, affecting Food Security of the country.

It is a matter of grave concern that multi-lateral trade agreements and free trade agreements have been restricting the Government in taking decision in all areas in national interest and leaving it without option. In the given circumstances urgent initiative is needed for restructuring the economy for self reliant development.

Rivers like Ganga and Yamuna on the one hand are held as centres of profound reverence, and on the other hand they sustain the livelihood of crores of people besides sustaining ecological order of a large part of the country. The Government's attempts to obstruct flow of these rivers, its neglect of keeping them pollution free and its apathy towards the popular river protec-

tion movements by ignoring their sentiments are also matters of grave concern. The RSS welcomes all these popular movements.

tion movements by ignoring their sentiments are also matters of grave concern. The RSS welcomes all these popular movements.

On the other hand, river water disputes, like that of Cauvery, are also a matter of grave concern. Sharing of river water amongst the States must be done in a judicious and harmonious manner in the context of larger public good.

Likewise, the Ram Setu, besides being an object of faith for crores of Hindus, is effectively safeguarding the rare Thorium reserves, abundantly available in the region. The people in the country will never accept the obstinate attempt of the Government to go ahead with the Setu Samudram project by destroying the Ram Setu.

In the past as well, the Government had to give up before the wrath of the Ram Bhaktas, its attempt to start the work to build a shipping canal by destroying the Ram Setu. The affidavit filed by the Government in the Supreme Court, declining to adopt the alternative alignment, suggested by the Pachouri Committee raises the questions about its intentions.

We urge the Government to respect the popular sentiments and dare not touch the Ram Setu, else it will once again become a target of massive public fury. On all such issues, the Government should act in national interest, keeping in view the public sentiments. □□

If 22,000 more hands are included, the expenses would go up by Rs 3300 crore. Move to add more I-T officers in poll year;

## Tax collector to spend major chunk on himself



*There is a hidden agenda in the proposal to increase the strength of income tax officers. Larger the number of officials, larger would be the number of raids and witch-hunting. It suits the needs of keeping check on political opponents in an election year, feels Shivaji Sarkar*

There may be more politics than finance in the finance ministry proposal to increase the strength of income tax officers. Though the proposal is to increase 200 officers as of now, the total strength may finally increase by 22,000 more as per a proposal of the Central Board of direct Taxes.

The UPA government, which is going through a serious financial crisis, has come up with a strange reason for bolstering the strength of the income-tax department in an election year. It says that since the number of taxpayers has increased, they need more officers to scrutinize the tax returns.

There has been some increase. But it is not so phenomenal that its 47,000 officers cannot cope with. Since 2006 the country has added only 30 lakh more income taxpayers. In 2006-07, 3.19 crore paid I-T. The number has touched 3.5 crore in 2011. Total number of PAN cards issued so far is 5.4 crore. But all PAN holders are not taxpayers.

So what would the additional officers in the department do? A government facing severe cash crunch should have considered how to reduce the number of personnel in the I-T department. Its tax revenue is rising marginally. It was Rs 1.7 lakh crore in 2011-12.

It is estimated to rise to Rs 2.4 lakh crore in 2010-13 crore, an increase of about Rs 40 lakh crore.

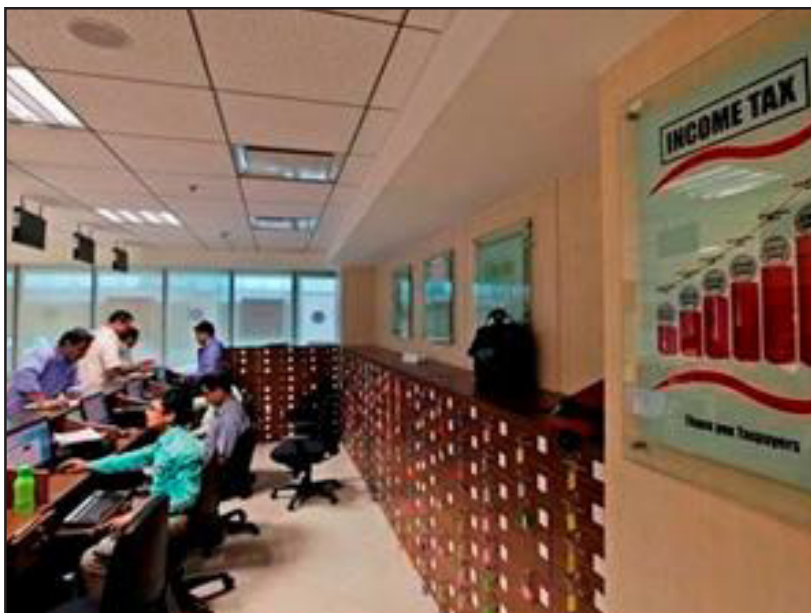
The expenses on tax collection are increasing in far higher proportion. It was Rs 19225 crore in 2011-12. In the next fiscal, the estimated expenses are Rs 22903 crore. It is almost equal to the expenses in social services (Rs 23114 crore)— education, health and broadcasting; and economic services (Rs 24334 crore) — agriculture, industry, power, transport communications and science and technology.

Simply put the expense on tax collection is much higher. As it plans to add more hands in the depart-

ment, its expenses are likely to almost double though the scope for tax collection does not increase much. According to an assessment of Comptroller and Auditor General tax collection increases by about 2.4 per cent a year. This increase would be there even without the department.

As the latest practices of three banks ICICI, Yes bank and Axis have shown that the I-T department can investigate but cannot stop technically illegal transactions if conducted through legal channels.

So why is the proposal to increase number of I-T personnel? They do not have much to scruti-



nize except some small discrepancies in over 98 per cent cases and large ones in the rest of the two per cent cases. Additional accrual of revenue has been minimal due to the efforts of the department. On the contrary, its expenditure on asset management has increased several times. The department has added many new properties all over the country. It has many more vehicles as well. Many of its premises remain unoccupied.

If one trusts the CAG report, the tax collection at its given pace of 2.4 per cent would increase without much of an effort.

The number of millionaires has increased from 88,000 in 2002-03 to approximately seven lakh now. Among them over 50 per cent are in the government service. The sixth Pay Commission has turned almost 70 per cent of the class one officers as millionaires. In other words, as taxes government is collecting what it is handing over to its employees as salaries.

The scenario in the corporate tax also follows a similar pattern. There are approximately less than 5 lakh corporate assessee up from 3.65 lakh in 2002-03. But a very large number do not have high income. In 2006-07, over 68,000 companies had reported income of more than Rs 10 lakh. The number has marginally increased since.

The number of companies with income of Rs 50,000 to Rs 10 lakh is shrinking.

It is one of the toughest times India Inc has faced. With a slowdown in the economy, rising inflation and eroding profits, there is tremendous pressure on companies across sectors. Of the ten top corporate tax payers, except the Reliance and Tata group, all others, in-

cluding ONGC, Indian Oil, SBI & LIC are from the public sector.

The taxes from these companies would even otherwise pour in. Addition to the department's strength is not going to add any revenue. It might erode more of the revenue earned.

It calls for better expenditure management in proportion to the revenue earned by the department. While funds spent in the social and economic sectors add to GDP growth, expenditures by the tax department only drain government resources. Various arguments have been given by the department for "the need to increase the numbers". Finance minister P. Chidambaram says it would better tax to GDP ratio.

In reality, it would be just the opposite. With 200 more officers – each costing over Rs 12 lakh a year in salary alone and another approximately Rs 3 lakh a year on other paraphernalia; the department would spend Rs 300 crore more.

There are other additional expenses on many non-productive activities as well. This may drain another Rs 500 to 1000 lakh more. If 22,000 more hands are included, the expenses would go up by Rs 3300 crore.

The tax bureaucracy in reality is not concerned about the realisation of more taxes. They are concerned more about their own welfare.

There were concerns raised by the income tax department about the narrowing down of their promotional avenues. In the IAS, officers are granted time-bound promotion. This is not the case with the department.

In the IAS, an officer can reach the level of a joint secretary in 16 years in the states and in 18 years at the Centre. But an income tax of-

ficer can hope to reach the grade only in 22 years. An officer can become a chief commissioner, equivalent to the rank of an additional secretary, after putting in 33 years of service. In the case of the IAS, an officer reaches the additional secretary rank in 25 years and can become a secretary in about 33 years.

The disparity in promotional avenues, income tax officers complain, starts at an early stage. While an IAS officer, who is selected from the same civil services examination, becomes a deputy secretary in eight years, an income tax officer takes 12 years to reach at that level.

The government hopes that with the creation of some 200 new posts, the promotional prospects of income tax officers will brighten considerably.

The government is aware that in the given circumstances the officers would not be able to mop up more revenue except that would come automatically. There is a hidden agenda. Larger the number of officials, as it did some ten years back, larger would be the number of raids and witch-hunting. It suits the needs of keeping check on political opponents in an election year.

Apart it is not a healthy trend to have too many officials in tax administration and policing. Countries with too many officials in these sectors have seen more unrest, stunted growth and rise in corruption. Parliament needs to question and stop this unproductive expensive move that is likely to drain the exchequer. It also needs to cut the non-plan expenditure of the income-tax department and force the government to freeze number of officers and employees in this department. □□

## Interest rates: Is the UPA goofing up big time?



*If Indian banks do not fix the right interest rates on deposits, they run the risk of dynamiting the social security of ordinary Indians, says* **MR Venkatesh**

Personally, I am spoilt for choice. Frankly, as a consumer, never in the past have I ever encountered something bigger, better and bizarre than this. Consider this: One car manufacturer offers to buy back the car that he sells to me now thirty-six months later at a pre-fixed price. Another gives me an equally titillating offer - buy now and begin paying EMI twelve months later. The third out did the first two - buy a luxury model and get a low end model absolutely free after five years.

According to press reports some leading manufacturers have over a month's inventory. In response, some are planning to suspend operations in some of their

production units. Others have begun to work on a single shift. Even waiting lists have evaporated that popular models enjoyed not so long ago.

Surely, something has gone terribly wrong with our automobile industry.

The blood-letting within this industry will in probability be highly contagious. Surely, it is bound to spread shortly to other sectors too. If experts are to be believed consumer durables and non-durables are the next on the chopping block. Why is this happening? What is at the root of this conundrum? Is this merely an economic crisis that will find its automatic cure with mere passage of time? Or is there some-

thing structurally wrong within the Indian economy?

The stock markets suddenly seem to be revving with a possibility of a rate cut by the Reserve Bank of India. Apparently, for markets the Budget is dead and buried. And the expectation from RBI? Half a per cent at best; one-quarter of a per cent at worst. Intriguingly, this is touted as a miracle cure for all the ills plaguing the Indian economy.

Most in the North Block housing the finance ministry believe that at the root of the present crisis is the higher interest rates set by the RBI. This view is endorsed even by the finance minister. So do several analysts and economists. Naturally, several businessmen believe higher interest rate to be a villain of the piece. That explains the clamour for the reduction of interest rates across the nation.

But the moot question remains - will it work? Will it trigger demand? How will a rate cut of a mere quarter per cent entice customers when even these lucrative offers of the like mentioned above are unable to do so? Rate cut or no rate cut, won't the customer having tasted blood wait for another bout of car wars?

Needless to emphasise we are in "interesting" times.



### Will rate cut trigger growth?

Come elections, politicians in most states in India make a standard promise - free power to farmers. Gullible farmers fall for this trap. Finding the offer irresistible they vote parties promising such outlandish ideas. Parties come to power backed on such promises without realising that even to this day India wastes 25 per cent of her power produced on transmission and distribution.

On top of it there is rampant corruption and thereby increasing the cost of power. All these are loaded on to the 75 per cent who are potentially billable. All this makes power costly in India. Given all this



*Come elections, politicians in most states in India make a standard promise.*

- where is the power to be distributed, much less freely to the farmers, in the first place? Yet, farmers believe they can get free power and with monstrous regularity vote for such outlandish promises.

One can possibly accuse the farmers of incapable of comprehending laws of economics. But can the same logic be held to our corporate, analysts and economists, especially on matters relating to interest rates? Simply put, has the RBI held the interest rate down - yes down - for too long? Did RBI artificially pin down the interest rates to benefit our corporate and stock markets? Is this not proving

to be counter-productive?

The reason for the same is not far to seek. Lower interest rates, classical economists explain, boost current consumption while also shifting savings from bank deposits into stock markets. On both counts the biggest beneficiaries of such policies are large corporate. That explains the collective clamour of chambers of commerce in seeking rate cuts.

Alan Greenspan in his highly acclaimed book the Age of Turbulence goes on to explain how he as chairman of the US Federal Reserve cut interest rates in dealing with various economic crisis and instantly triggered growth. In

a way he could afford to do so as Americans do not have much savings (barring the mandatory ones).

And wherever such savings existed, they were predominantly hooked on to the stock market. That explains, why rate cuts suited most Americans and how US economy responded to such rate cuts in the first place.

Readers must be aware that Americans depend on the savings of the rest of the world even for their domestic needs. In effect, a depression of its domestic interest rates benefits US, albeit at a tremendous cost to the rest of the world.

Is that why the response of

the western world, notably that of the US, even to the LIBOR scandal tepid? Put bluntly, the question is whether LIBOR scandal a tacit blessings of the Western World?

But in India the situation is significantly different. In a country where there are millions of depositors, (aggregate deposits in our banks exceed Rs 65 lakh crore) - the quintessential saver - the standard practice in the past decade or so has been to shift the debate in favour of lower interest rates for the borrower. In the process little do we realise that we are hurting small savers to favour popular narratives, stock market sentiments and corporate honchos.

Is fixing lower interest rates by RBI the Indian version of LIBOR Scandal?

### The non-negotiable laws of economics

Alan Greenspan in his above-mentioned work argued that only countries with an under-developed financial system and a primordial governance mechanism save. Developed countries like the US, he argued, need not save. And why should Americans do so when they have an elaborate state sponsored social security mechanism backed by a robust stock market?

In India, in the absence of a social security mechanism (and good governance including proper understanding of stock markets), bank savings has emerged as a viable, effective social security mechanism. Savings, in Indian context are an insurance against a rainy day - old age pension, health care, education for children and a host of other things all rolled into one.

Needless to emphasise, savings in banks are held by most as being liquid and absolutely reliable.

This is one crucial differential that most analysts miss when it comes to dealing with rate cuts in India.

Consequently, lower interest rates robs the ordinary Indians of his returns, makes him unsure and consequentially nervous of his future. Naturally, when inflation overtakes interest rates he responds by improving his aggregate savings. This lowers consumption. Alternatively, he shifts savings from banks to avenues that offer better but safer returns. In the Indian context that happens to be gold where every roadside pawn shop happens to be an ATM.

That explains why savings rate in the economy has fallen from in excess of 37 per cent in 2007-08 to less than 30 per cent in 2012-13 with a concomitant shift to savings in physical assets like gold and real estate.

Either way, rates cuts beyond a point is counter-productive.

There is another dimension to this debate. Artificially lowering interest rates is nothing but mispricing of capital. This allows flab by way of excess capacity to accumulate within the economy. Factories were set anticipating demand at lower interest rates. But even a partial upward adjustment of interest rates in the past few years has dynamited the assiduously built plans of our corporate!

And the extant of crisis in the automobile industry mentioned above is the outcome of this mispricing of capital.

Corporate do not seem to realise this argument. Like the gullible farmers they believe that lower interest rate will instantly revive growth. Possibly a rate cut will improve the demand, marginally, not substantially. When car manufacturers are offering one car for one

purchased, will a quarter per cent rate cut matter?

Strange as it may seem, if Indian banks do not fix the right interest rates on deposits, they run the risk of dynamiting the social security of ordinary Indians. Unless that is not addressed forthwith, Indians are not going to be confident of their future. A nervous Indian will not consume now. And till such time Indians regain their confidence, the economy will probably continue to be on a downward spiral.

Probably UPA under an economist PM does not realise that parking savings in banks is our version of social security, a privatised one at that. And for this reason cost of capital will be higher in India than elsewhere. And should UPA artificially attempt to suppress this, they will have lower interest rates but no capital at all! □□

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# Passion for gold and Indian Rupee



*The present banknotes and coins are standardized for its identity and acceptance and though its denomination wise face value is known, its real value is variable. Indians still like gold and rush for its accumulation. In the present monetized economy where rupee losses its value on daily basis, gold gives that most sought after security, explains Anil Javalekar*

Indian Finance Minister in his Budget speech (28.02.2013) referred to the passion for gold as one of reasons for the Current Account Deficit and suggested that the household sector must be incentivised to save in financial instruments rather than buy gold. However, there was little in budget to stop this passion for gold. The financial instruments, including holding of money in hand, are losing their stature and value in the inflationary economy. Indian Rupee is depreciating in its value when income level for most Indians remained low. Passion for gold is thus only a survival kit for most. All the talk of monetary reform, therefore, needs to concentrate on fixing the problem of this variable value of Indian rupee if anyone wants to stop this passion for gold.

## Monetization changed face of Money

Money has travelled long distance in human economic history from a convenient mode of exchange in barter system to full-fledged medium of exchange to store of valuables to its accumulation to now speculation facilitator. Initially humans controlled money but over the period money started



controlling the human beings. Money gained importance and reached to a status that no one reached before, neither by gods nor by kings. Human society accepted the importance of money and gave it a place in Socio-economic life. Slowly money expanded its horizons. Now human societies have the money that is omnipresent and has value more than anything that matters. Money has expanded its role from deciding the simple relationship of different goods and services to deciding of everything that matters to human relations. Monetization of money in the form of

paper currency and coins has, however, changed the face of money. Modern money in the form of Currency notes and coins is an integral component of today's human society. Gone are the days when money had a guaranteed value because of its metal content. Days are now of paper money, value of which is variable. This variable value of paper currency made difference to the economic life of people.

## Indian Paper Money

India has its paper money in the form of Rupees and coins. Rupee is primarily required to car-



***Most Indians are dependent on the agriculture and rural sector where the income level is low.***

ry out cash transactions. The Rupee is also held for future transactions or stocked as a precautionary measure. Indians prefer cash though the growth in banking has led to more use of cheques and recently using credit/debit cards and electronic fund transfers facilities. Rupee is thus important and whatever happens to this rupee affects all Indians. The large circulation of Rupee and its depreciation have become the greatest threat to Indians as they lose the value of their rupee vis-à-vis their labour and earnings. Declining value of Indian rupee is forcing Indians to think of gold as alternative mode to save.

### **What is happening to Indian Money**

Indian Rupee remained volatile throughout the independence period and consistently lost its real value. One rupee in 1947 is not the same as one rupee today though looks similar on its face. The banknotes have the same face value but its real value is declining. Rs 5 or less were sufficient to purchase one US \$ in 1950. Now Rs 55 required to purchase one US \$. Gold prices increased from about Rs 500 per gram to Rs 3000 per gram during last one decade. This is the

case for all goods and services. More and more money is required to purchase the same thing. Keeping money in bank in the form of deposits is also not helping this money to retain its value. The investment in shares or mutual fund or in such other financial instruments is no guarantee for return of money. It is true that many factors affect this money value but the situation at ground level in regard to the Indian middle and lower classes has not changed much. The poverty and unemployment levels remained high.

Most Indians are dependent on the agriculture and rural sector where the income level is low. The value of rupee is important as Indians have to purchase goods and services required for their livelihood with same amount of money. Income of most Indians is not indexed to inflation and thus not protected from depreciating value of Rupee.

### **Declining Rupee value**

*Ludwig von Mises*, the great Austrian economist, once said 'Government is the only agency that can take a useful commodity like paper, slap some ink on it and make it totally worthless'. India is

a unique example. Inflation is one major cause for the depreciating value of rupee. Real value of currency notes has declined and Reserve Bank of India (RBI) is changing the volume of denominations to suit the requirement, meaning withdrawing small coins and small notes and introducing higher denomination notes and coins. Indian rupee and coins are becoming worthless day by day.

### **RBI's Empirical Study on Modelling Currency Demand in India (February 2013)**

has recorded that the evolving denominational distribution of currency notes, even with the introduction of higher denomination notes (Rs 500 and Rs 1,000) was not commensurate with the underlying demand for the various denominations necessitated by the inflation path. The implication is that a consumer would need to carry a much larger number of currency notes than was the case earlier to purchase the same volume of goods and services. This was particularly evident during the high inflation phases (1973-74 to 1975-76, 1980-81 to 1981-82, and 1991-92 to 1995-96), as the denominational distribution of currency did not keep pace with inflation. RBI study observed that since inflation rate exceeded the growth in the average value of a note, there has been a decline in the average real value of a currency note of Rs 10 and above (Base: 1971-72) from Rs 21.6 in 1971-72 to Rs 5.8 in 1997-98 before a modest rise to Rs 8.9 in 2008-09. The average value of a currency note did not keep pace with inflation.

### **Growing Indian currency and its composition**

RBI's above Study noted that

there has been a phenomenal growth in both the value and volume of currency circulation over the years. The value of currency in circulation rose from Rs 172 crore in March 1935 when the Reserve Bank was established, to over Rs 9, 35,000 crore in March 2011. During the same period, the number of notes in circulation has gone up from 124 million pieces to over 64,000 million pieces.

The long term annual growth rate of currency circulation has in fact gone up from around 12 per cent during 1971-81 to 14 per cent during 1981-91 and nearly 15 per cent in the last decade. The study observed that during the past four decades, there has been a significant change in the composition of currency circulation across denominations. While high denomination notes (Rs1000, Rs 5000 and Rs 10000) were demonetised in 1978, subsequently, the Rs 500 note was introduced in 1987 and Rs 1000 was reintroduced in 2000. Rs 1, Rs 2 and Rs 5 notes have been progressively coined since 1990s although both notes and coins in these denominations co-existed for several years.

New currencies were introduced to reflect the changing payment pattern. The introduction of notes of Rs 20 denomination in 1972-73 and Rs 50 denomination in 1975-76, resulted in a migration to these denominations from the smaller denominations. In 1980s, there was a significant migration from the smaller denominations (Rs 20 & below) to Rs 50 and from Rs 100 to Rs 500 – the latter introduced in 1987-88. In 1990s, there was a significant migration from the smaller denominations (Rs 50 & below) to Rs 100 and from Rs

***The expanding & depreciating rupee is a matter of concern & unless solution is found to this variable value of rupee, passion for gold will not stop.***

100 to Rs 500, resulting in a significant increase in the share of Rs 500 denomination note followed by other denominations. In 2000s, after remaining relatively unchanged in the previous decades, the share of Rs 100 denomination declined significantly in 2000s with the introduction of Rs 1000 denomination in 2000-01 and the increasing share of Rs 500 denomination.

#### **Gold is Gold**

It is true that Indian Rupee and coins are popular and reached to most remote places and to most people including the lonely and isolated tribal population. However, earlier versions of money like gold and landed property still holds good. Important aspect of the gold and landed properties as well as the gold or silver coins of earlier ages was that they were visible and physically known for its value and utility. The present banknotes and coins are standardized for its identity and acceptance and though its denomination wise face value is known, its real value is variable. Indians still like gold and rush for its accumulation. In the present monetized economy where rupee loses its value on daily basis, gold gives that most sought after security.

Ron Paul, US congressman, in his book 'Gold Peace and prosperity- The Birth of a new Cur-

rency' narrated one story told by Martin Gilbert, head economist for Swiss bank. Among his employees was a young manual worker, "once a month" said Gilbert "he took part of his pay and bought one gold coin for his wife.

I remonstrated with him about it once, and he said, 'look, don't you Americans come over here and try to tell us how to live. I go home and give that coin to my wife, and I tell her, if something happens to me and to the bank or to the government, then you can go to the countryside and give it to a farmer, and with that coin you can eat for a week', I came around to the opinion that he knew something I didn't know". This is precisely what modern bankers and financial experts miss but common men and women knew and understood it by way of traditional wisdom. That may be one reason why Indians are surviving in the financial crisis.

#### **Need Monetary reforms**

The need is therefore for monetary reforms that guarantee the money value in real term. The expanding and depreciating rupee is a matter of concern and unless solution is found to this variable value of rupee, passion for gold will not stop. One straight answer is to revert to gold standard at least partially. Another is what Finance Minister has proposed. Inflation Indexed Bonds or Inflation Indexed National Security Certificates. There is also a need for inflation indexed income for all categories of people, including daily wage earners. Controlling inflation is best answer but the easy methods of printing money may not allow government to contain its expenditure. □□

## Corrupt politics of FDI in Retail



*Why should UPA risk another backlash from the common man by opening FDI in Retail? Reason is that UPA strategists have assessed that losses from opening FDI will occur in the long run; while the gains will be immediate, believes* **Dr Bharat Jhunjhunwala**



More than four months have passed since the UPA Government risked its survival and opened the country for FDI in retail. Major global retailers like Wal Mart, Tesco and Carrefour have not made any moves to set up shop in India. The ostensible reason is that they are seeking more clarity on certain provisions in the policy. The approved policy requires that one-third of the goods will have to be procured by the Retailers from small and medium enterprises within the country. While this is one reason, I think there are deeper issues. In particular the success

of organized retail in India is not certain in view of the tough competition provided by the traditional unorganized sectors.

I do not think the kirana stores will wholly go out of business with entry of FDI. Impact of FDI will be limited because these mega stores will be accessible only to the upper classes. It is not possible for the lower middle class and poor to pay higher price or to travel long distances to reach the store. The poor have ample time to check the quality in many stores before striking a bargain. The street market shops are very efficient. One can see the street

vendors sorting apples in various categories such as old and new, spotted and clean, large and small. Such sorting adds value to the goods. Organized retailers cannot do such sorting. My personal experience is that mega stores are not able to supply fresh vegetables as the street market. Therefore, I am confident that no disaster will strike by opening FDI in retail. Indeed, it is possible that FDI will act as a catalyst. Domestic organized retailers will face the heat. They may establish global supply chains and become MNCs few years down the line just as Tata Motors has bought Jaguar and become a MNC after foreign auto makers were given entry into India. Big Bazaar may open shops in the United States. This may also lead to generation of some jobs in the country. However, such job creation will be small in relation to our large population. Therefore, I do think there will be a decline in the conditions of the ordinary worker because of various negative impacts.

A number of studies in countries like Thailand, Russia, United States, Argentina, Chile, Hong Kong and Brazil have shown that small shops shrink with the coming of organized retail. This will lead to an increase in unemployment.

It is surprising that the media

is largely supporting FDI in Retail. The reason is that both the media and FDI in Retail cater to the needs of the upper middle class. FDI will enable the upper middle class families to buy a variety of Indian and foreign goods under one roof. This class has money but no time to visit many stores on the street and check the quality of goods. This same class is dominant driver of the media. This class has the purchasing power which attracts advertisements. Therefore, media is pandering to this class and creating hype in favour of FDI. The poor man begins to think that FDI in Retail is the correct policy.

More surprising is the decision of UPA to push this policy. The political fortunes of the UPA are sinking. Why should they risk another backlash from the common man by opening FDI in Retail? Reason is that UPA strategists have assessed that losses from opening FDI will occur in the long run; while the gains will be immediate. We have to keep in mind the basic objective of the Ministers in the Government, which is to get reelected. They need money to buy votes for this purpose for example for implementing the cash transfer scheme. This is difficult at present because the financial condition of the Union Government is weak. Expenditures are rising both due to populist schemes and leakages. On the other hand revenues are lagging due to the economic slowdown.

It is becoming difficult for the Government to raise monies for these purposes by taking loans because interest rates are high. Moreover, higher fiscal deficit and borrowing will lead to International Rating Agencies like Fitch downgrading India. That will affect for-



***Expenditures  
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eign capital flows adversely. This will lead to less liquidity in the market and to a further increase in interest rates. That will further increase the interest burden on a government.

The Government has pushed FDI in Retail to overcome these problems. Inflow of capital will make up for some of this loss. The growth rate may consequently increase. That would lead to more revenues and help the Ministers in getting reelected.

MNC retail companies will bring foreign capital and establish mega stores. This will lead to increased demand for labour, construction material and land. The economy may look up in the short run till the job-eating impacts of FDI are manifest. Inflow of foreign capital will increase liquidity in the money market and lead to lower interest rates. Other MNCs will also be buoyed and a torrent of foreign capital may be unleashed. This inflow will cut the negative sentiment, increase investment and the overall growth rate and tax revenues. This will enable the government to continue with leakages and also spend on populist schemes.

The opposition says that there will be no need to attract foreign capital flows if we stop the leakages from the system. It is also not necessary to dole out monies in populist schemes to secure people's

welfare. Protecting their jobs from FDI will secure their welfare better. These arguments have weight but they do not help the Government meet its objectives. Stopping of leakages will directly harm the ruling elite of Ministers and high bureaucracy. Obstructing FDI will anger the upper middle class which has decisive say in the line taken by the media. It will also not be possible to buy votes of the poor through populist schemes. Remember that the Congress won the last elections on the back of MN-REGA and loan waiver—schemes that are essentially unproductive and in the nature of doles.

The economy will continue to grow with- or without FDI. There will only be a change in focus. The focus of growth with FDI will be corrupt state machinery & the upper middle class. The focus of growth without FDI will be lower middle class and poor. It is a matter of some solace that major Retailers have developed cold feet on entering India. The statement by Rajnath Singh that NDA Government will reverse the policy has not helped. MNCs would prefer to wait and watch the results of the coming general elections before taking a decision. Thus far it is good. Let us hope that this anti-people policy is not implemented in the end. □□

## 5% Growth disappointing: Manmohan Singh

“Growth has slowed to 5 per cent, which is clearly disappointing ... We are seeing temporary downturn, partly due to global factors. We can get back to 8 per cent growth rate,” said Prime Minister Manmohan Singh. Addressing the CII AGM in New Delhi, Dr. Singh said the government will further relax the FDI policy and take steps to bring down inflation.

Dr. Singh also said India can get back to the high growth path of 8 per cent even while dealing with problems like corruption, bureaucratic inertia and the difficulties in managing coalition. Observing that the high fiscal deficit is unacceptable, Dr. Singh said “We are determined to do everything

possible to achieve the fiscal deficit target”.

As per the road map, the government aims to bring down the fiscal deficit to 3 per cent of GDP by 2016-17. As regards the Current Account Deficit (CAD), he expressed hope that it would moderate in the current financial year from a high of 5 per cent recorded in 2012-13.

He further said the government is contemplating other reform measures, including considering the recommendations of the Financial Sector Legislative Reforms Committee.

“The Land Acquisition and Rehabilitation and Resettlement Bill has been cleared by the Cabinet and will soon go to Parliament,” he said. □

### Plan panel faces flak

Members of the parliamentary committee on road transport have criticized the Planning Commission for causing delay in decision making by NHAI and highways ministry by raising objections to contract conditions. Members also objected to the “one-size-fits-all” approach of the plan panel on agreements to execute highway works.

Taking note of the NHAI flagging how plan panel’s adverse observations and comments impacted projects, members said they would soon summon representatives from the commission. All fresh proposals and matters relating to the concession agreement are sent to the plan panel for its comments.

The blame game between NHAI and Planning Commission has been on since UPA-2 came to power. While the authority claims that there is too much interference by the plan panel, the commission blames poor execution and contract management for dismal performance of the highway sector.

### Wheat exports at Rs 1,700 crore loss

At a time when the government is facing trouble maintaining its fiscal health and is set to add over Rs 1.25 lakh crore to its subsidy bill for providing food security to its poor, the UPA has burdened the exchequer further by exporting wheat at lower than its cost price—incurring an estimated loss of over Rs 1,700 crore.

Loss to the exchequer on account of exporting nearly 100 lakh tonnes of wheat at a subsidized rate, according to reports, has been estimated to be in the

range of Rs 1,700 crore for 2012-13. The Cabinet had cleared export of wheat with subsidy, as the international prices were lower than the government’s cost that includes procurement, storage and transportation.

The export date for wheat has now been extended till June 2013 to facilitate bulk sale as it has no storage space and the new procurement season is just ahead. Last year, the government spent Rs 85,000 crore on subsidy of foodgrains. This was just a shade lower than the subsidy government provides on oil and gas which was Rs 96,000 crore in 2012-13 as per the revised estimates.

### India’s CAD closer to that of Panama

A quick-run through the current account deficit (CAD) numbers of various countries will throw up Panama, Ukraine, Turkey and Kenya as possibly the worst. India, which reported a CAD of 6.7% of the GDP for the December quarter, is closer to these under developed countries than the ones Prime Minister Manmohan Singh was rubbing shoulders with in the recent BRICS summit at Durban.

### Revised NCTC proposal

Union home minister Sushilkumar Shinde has indicated that the National Counter Terrorism Centre (NCTC) will be divested of unilateral powers of search, seizure and arrest, thus taking care of the “federal” concerns raised by several chief ministers over its proposed jurisdiction.

Though Shinde did not elaborate on what exactly he meant by “operations”, reports indicate that

## I-T serves Rs 2,000 cr notice to Nokia

**The** Income Tax department has served a Rs 2,000 crore demand notice on Finnish mobile firm maker Nokia for alleged evasion of taxes in its business transactions in the country. The department had on 21st March asked the firm to submit the amount of Rs 2,000 crore in about a week's time, I-T department sources said.

The Delhi High court has granted an interim stay of the demand after the mobile phone manufacturing company filed a petition challenging the order. Nokia confirmed receiving the notice and said it is in full compliance with laws related to its business operations.

Nokia reiterates its position that it is in full compliance with local laws as well as the bilaterally negotiated tax treaty between the governments of India and Finland, and will defend itself

vigorously.

The IT department will soon file its reply in the Delhi High Court stating the provisions that "enable and authorise" it to issue such a time-bound notice, department sources said.

The notice has been issued by the I-T department after it completed its probe and had conducted a 'survey' operation on the premises of the Chennai in January this year.

The tax evasion, according to I-T department sources, pertains to royalty payment made against supply of software by the company's parent company which attracts a 10 percent tax deduction under the Tax Deducted at Source (TDS) category.

The department has analysed the company's business statements since 2006, they said. □

the NCTC, as per the revised proposal likely to be discussed at the CMs' meet here on April 15, would steer clear of searches or arrests on a real-time basis. "Whenever an arrest or seizure is to be made on the basis of intelligence collated by the NCTC, the state DGP will be duly intimated. Any operation, therefore, will be done keeping the state police in the loop and making it an integral part of any search or arrest," said a senior home ministry official.

According to Shinde, the local police will make the arrests and hence the state government would be involved with the NCTC.

Now, with the Centre further diluting these powers to make states' concurrence and participation mandatory for any seizure or arrest is their respective jurisdictions, the home ministry is hopeful of a securing the nod from the dissenting states at the April 15th conference.

### India backs Japan on maritime security

With both India and Japan facing an assertive China, New Delhi came out clearly on Tokyo's side on the high seas. During his visit to Tokyo this week, foreign minister Salman Khurshid said India would help Japan to ensure freedom of navigation on the seas, a key assurance before the visit of PM Manmohan Singh to Japan in May.

Japan has been involved in a dispute with China on the East China Sea, while this week Beijing's naval

patrols off Malaysia and Brunei have raised concerns there as well. India retains commercial interests in South China Sea, but may come up against China's aggressive patrolling there too.

However, to clarify matters officially, Khurshid said, "All this cooperation is not aimed at any other country but helps us to gain valuable knowledge and experience about the interoperability of our defence forces." He added, "Indian and Japanese Coast Guards have regular interactions as does the Indian Navy and Japan's Maritime Self-Defence Force."

### SC directs Sterlite to pay Rs 100 crore

The Supreme Court asked Sterlite Industries, a subsidiary of UK-based Vedanta Group, to pay Rs 100 crore as compensation for polluting environment through its copper smelting plant in Tamil Nadu but refused to direct its closure.

A bench headed by Justice A K Patnaik said that the environment has been polluted for a long time due to the discharge from the plant of the multinational company and it has to pay compensation.

The court said that the compensation "must act as deterrent" and the amount of compensation should be decided on the basis of financial strength of the company. It, however, refused to direct closure of the plant and set aside the Madras High Court's 2010 order on closing it down.

□□

## Obama throws weight behind yoga

The White House has wholeheartedly embraced Yoga as a worthy physical activity at a time some schools in America are railing against the ancient Indian practice, saying it promotes Hinduism. The White House announced that President Barack Obama and First Lady Michelle Obama will include a 'yoga garden' for children and their parents who attend the traditional Easter Egg Roll festivities on Monday. "Come enjoy a session of yoga from professional instructors," the White House exhorted thousands of workaday Americans parents and their kids from across the country who will troop into the Presidential lawns, reminding participants that the

event's theme is 'Be Healthy, Be Active, Be You!'

It is not the first time that Obama's residence has hosted a yoga garden for Easter, but this year's event is significant because of an ongoing lawsuit in California challenging the teaching of yoga in schools. In an indication of how deep-rooted mainstream yoga has become in the US, it turned out that the presiding judge himself is a yoga practitioner. "Does anybody have a problem with that?" San Diego Superior Court Judge John Meyer was reported asking at the start of the case. Dean Broyles, representing parents suing the Encinitas Union School District in a lawsuit. □

## Nasheed gets relief

In a major relief for former President Mohamed Nasheed, the Maldivian High Court stayed temporarily, the trial against him in an abuse of power case, till it decides legitimacy of the bench of the lower court. The temporary injunction was granted after Nasheed's counsel challenged the legitimacy of the bench, asking the High Court to declare the composition of the Hulhumale Court bench unlawful.

The HC order comes three days ahead of Nasheed's hearing at the Hulhumale Court over the arrest and subsequent detention of Chief Criminal Judge Abdulla Mohamed during his term. His party welcomed the order but expressed apprehension that the government might try to "drag" him into some other case. The composition of the three Judge bench of the Hulhumale Court by the Judicial Service Commission (JSC) has been up for much debate recently and is also being probed by the Parliament's Independent Bodies Committee. If convicted and sentenced to more than one year in prison, Nasheed would be barred from leading MDP into the presidential polls.

## Chinese han 'JIHADIST'

A Chinese national of the majority Han ethnic community has turned a Jihadi militant and joined the ranks of the Islamic militants to fight against the Bashar regime in Syria, according to a media report. Bo Wang, who calls himself Yusuf after his conversion to Islam was filmed firing his Kalashnikov rifle in YouTube video, the New York Times reported. He told the person filming him that after reading the works of Sayyid Qutb, the modern Islamist theorist, he had gone to study in Libya and witnessed the rev-

olution there. Then he travelled to Syria to help overthrow the government of Bashar al-Assad, which he said "is butchering every Muslim here in cold blood, including children and women", the report said. He spoke in Putonghua (a Chinese language). He called himself Yusef, but a subtitle in English on a YouTube said his Chinese name was Bo Wang.

On the surface, he appeared to be an extremely rare example of an ethnic Han Chinese joining a jihadist group in the Arab world, The Times said. The video first got the attention of some Chinese last week, when it was posted on YouTube and then on Youku, a popular video-sharing site in China. It was quickly deleted from there, possibly by censors. In the video, the man told the Chinese Government to drop its support of Assad or "all Islamic countries of the world will unite to impose economic sanctions against the Chinese Government".

## Medical entrance test discriminatory

Calling a new Medical Council of India (MCI) entrance test adopted by some state governments as discriminatory to NRI students, several Indian community organisations in the US have sought its gradual implementation over two years.

The new test requirement will hamper NRI students applying for medical and dental college admission in India as there are no test centres in the US, Europe and other countries with a large NRI population, the Global Organization of People of Indian Origin said in a media release.

Other community organisations including the Global Indian Diaspora Foundation, Federation of Kerala Association of North America (FOKANA) and

## Obama launches \$100 million initiative to beat India, China

The White House unveiled a sweeping new initiative to map the individual cells and circuits that make up the human brain, a project that will give scientists a better understanding of how a healthy brain works and how to devise better treatments for injuries and diseases of the brain. Unveiling the Brain Research through Advancing Innovative Neurotechnologies (BRAIN) Initiative, US President Barack Obama said he wanted the next job-creating discoveries to hap-

pen in the US and not in India or China. The program will be funded with an initial \$100 million from the president's fiscal 2014 budget, which the White House is slated to release next week.

Dr Francis Collins, director of the federally funded National Institutes of Health, likened the initiative to mapping the human genome, a \$3.8 billion effort he helped to lead as former director of the National Human Genome Research Institute. □

Federation of Malayalee Association of America (FOMA) have also written to the central and state authorities in this regard. Asking the authorities to maintain status quo on admission of NRI students to medical and dental colleges for two years, the GOPIO said otherwise most NRI students would not be able to appear for the examination scheduled for May 5.

About 2,000 NRI students apply to MBBS and BDS admissions in India every year.

### Another US bid to curb H-1B hiring

The rhetoric against outsourcing and immigration in the US was expected to die down after the presidential election. However, a section of US lawmakers is still trying to place immigration hurdles. And the latest bid is from US Senator Charles Grassley, who has introduced a new H-1B and L-1 Visa Reform Act 2013 that would require US companies to pay significantly higher wages to H-1B visa holders over their American peers with similar experience.

Some estimate the recommended wages would be up to 50% higher than the prevailing US wages. Given that Indian IT companies are the biggest users of this visa, the bill, if passed, could substantially increase the costs for these companies. The bill, put together by a bipartisan group of senators, requires firms to make a good faith effort to hire Americans first over H-1B visa holders. But the biggest impact of the bill will be to make it cost prohibitive and burdensome to hire a foreign national.

### U.N. passes historic arms trade treaty

The U.N. has passed an unprecedented arms trade treaty (ATI) to better regulate the international sale in weapons. It was passed in the General Assembly with 154 members voting 'Yes'; three – Iran, Syria and North Korea – voting no; and 23, including India, abstaining. The treaty's passage came after negotiations failed last

July when the U.S. pulled out abruptly.

Its adoption implies a major step forward in controlling the \$70-billion flow of arms across borders, particularly restricting its movement to and from areas where groups are suspected of violation of human rights.

In addition to India, the nations that abstained included China, Egypt, Myanmar, Russia, Saudi Arabia and Sri Lanka. Pakistan voted in favour of the treaty though its representative expressed concerns over the imbalance in obligations between arms exporters and importers. Speaking after the vote, Sujata Mehta, India's Permanent representative to the Geneva Conference of Disarmament during the UNGA session, said "At this stage we are not in a position to endorse the text contained as annexure to document. Therefore, India has abstained on the resolution".

### Eurozone unemployment rate hits 12%

The eurozone economy has passed another bleak milestone. Official figures showed that unemployment across the 17 European Union countries that use the euro has struck 12 per cent for the first time since the currency was launched in 1999.

Eurostat, the EU's statistics office, said the rate in February was unchanged at the record high after January's figure was revised up to 12 per cent from 11.9 per cent. Spain and Greece have mass unemployment and many other countries are seeing their numbers swell to uncomfortably high levels.

A total of 19.07 million people were officially out of work in the eurozone in February, nearly two million more than the same month the year before. For the 27-country European Union, of which the eurozone is a large part, the unemployment rate was 10.9 per cent. The 33,000 increase in the number of unemployed in February was the smallest monthly rise since April 2011.

## Farm Trade Talks Enter New Stretch

The race to make progress on farm trade negotiations ahead of the year-end WTO ministerial conference entered a new stretch, as the chair announced the start of ambassador-level talks on issues that members believe could be agreed at the December meeting in Bali, Indonesia. A proposal to ease farm subsidy rules on food stockholding purchases in developing countries will take centre stage, trade sources said, following several weeks of technical talks among delegates on how such schemes currently function in practice. The proposal was first tabled by the G-33 group of developing countries with large populations of smallholder farmers. However, negotiators were also believed to be putting the finishing touches on a new proposal on export subsidies and related measures, led by the G-20 developing country coalition that favours reform of developed country agriculture.

## South Africa backs Kyerematen

One of the emerging global economic powers, South Africa, is backing the African Union nominee, Alan Kyerematen, for the position of the Director General of the World Trade Organisation. South Africa, a member of the African Union, as well as BRICS, was presented with two options; either to support the Ghanaian African Union nominee, or a candidate from BRICS member country, Mr Roberto Carvalho de Azevêdo, from Brazil.

Mr Alan Kyerematen, a former Trade Minister of Ghana, was nominated by the African Union (AU) at a meeting in Addis Ababa in July 2012 to contest for the WTO position. Victor Mashabela, the Chief Director, Department of Trade and Industry, South Africa, says it was an early decision to support the candidature of an African and for that matter one that is endorsed by the AU—a regional body.

## Reconsider decision to drag India

A dozen odd eminent American and international organisations have asked the US to reconsider its decision to drag India to WTO over solar energy policy. In a letter to US Trade Representative, these organisations have said that dragging India to WTO related to local content in solar panels would not only undercut New Delhi's effort to reduce poverty, but also detrimental to developing a solar energy industry.

The organisations are 350.org, ActionAid USA, Center for Biological Diversity, Center for Food Safety,

Center for International Environmental Law, Earth Day Network, EcoEquity, Friends of the Earth US, Global Exchange, Greenpeace USA, Institute for Policy Studies, Global Economy Project and Sierra Club.

Regarding the case brought by the US at WTO challenging domestic content rules and subsidies in India's national solar programme, the Jawaharlal Nehru National Solar Mission (JNNSM), the letter said challenging this programme undercuts India's efforts to pursue appropriate economic development and reduce poverty and to take urgently needed steps to tackle the pressing and shared challenge of climate change.

## BRICS Cement Position Economic Landscape

Leaders from Brazil, Russia, India, China, and South Africa - collectively known as the BRICS - formally announced their plans to launch a new development bank, in what analysts say is a move to reduce the group's dependence on the Bretton Woods institutions. The two-day meet, held in Durban, South Africa, also raised issues such as the impact of developed country monetary policy on trade, and the importance of the next WTO chief being from a developing country. The 26-27 March gathering - the fifth in as many years - led to the eThekweni Declaration, named after the municipality that includes Durban and its surrounding towns. The event marked the first time that the summit was held in Africa. The final document outlines the importance of cementing the BRICS alliance further: aside from sharing an acronym, the five emerging economies have often found it difficult to reach common ground on various topics, and have varying political and economic characteristics.

## Indonesia objects to dispute settlement panel

Following Indonesia's objection, on 26 March 2013 the Dispute Settlement Body, which comprises all WTO members, deferred the establishment of a panel - requested by the United States - to examine a dispute on importation of horticultural products, animals and animal products. In his opening statement, the new Chair of the Dispute Settlement Body (DSB), Ambassador Fried (Canada) made some remarks on surveillance of implementation of recommendations adopted by the DSB. He noted that members had fallen into the habit of submitting more or less the same status reports each month, the only change being the date. □□