Opinion

THURSDAY, JUNE 13, 2019

TRADE WAR & HUAWEI

President of the USA, Donald Trump

At the same time it could be very well that we do something with respect to Huawei as part of our trade negotiation with China. China very much wants to make a deal. They want to make a deal much more than I do

RationalExpectations

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Govt gets tough with auditors, at last

Given their role as watchdogs, auditors must pay the price for negligence; complex structuring, though, makes auditing tougher

AFTER BEING QUITE lenient, thanks partly to a sluggish oversight body, the government is cracking down hard on audit firms. While the last big action taken was against Pricewaterhouse Coopers (PwC) for not detecting the Satyam fraud even while it was its auditor—Sebi banned it from auditing for two years and fined the firm ₹13 crore—a few days ago RBI banned EY affiliate SR Batliboi from auditing banks for a period of one year, and now, the government has approached the NCLT for a five-year ban on audit firm Deloitte Haskins & Sells and KPMG affiliate BSR & Co for their alleged role in the IL&FS Financial Services (IFIN) meltdown/scam.

The government has tightened the rules, so apart from compulsory auditor rotation, the law now says that the parent firm will also have to bear the liability in case of audit negligence/fraud; a new regulatory body, the National Financial Reporting Authority (NFRA) was also set up once it was found the existing oversight body, the ICAI, wasn't really taking much action against erring auditors/firms. Given the spate of NBFCs—not just IL&FS—whose accounts are turning out to be much worse than imagined, and the serious flaws in audits of bank defaulters that detailed forensics have now revealed, it is not clear that the changes have had the desired effect; NFRA is, of course, relatively new.

What has happened, though, is a flurry of auditor resignations, possibly due to the fear that, this time around, the government/NFRA will take action. According to NSE Infobase, while 12 firms' auditors quit in both 2016 and 2017, this rose to 48 in 2018 and 14 in the first half of this year. PWC is the latest to resign, as an auditor of Reliance Capital and Reliance Home Finance. While the two firms have said that they have furnished all necessary clarifications/documents to PwC, the auditor maintains that Reliance Capital had not convened an audit committee meeting on time; PwC also said it had not received a satisfactory response to its queries.

While the charge in the IFIN case is that the two audit firms colluded with IFIN's management to hide the details of bad loans, the net could widen further since, while IFIN had a large amount of hidden debt, much worse happened in the case of the parent firm IL&FS where auditor fees rose from ₹4.5 crore in FY15 to ₹15.9 crore in FY17, before falling to ₹13.7 crore in FY18. The IL&FS annual report for 2018, for instance, stated that the company's net profits for the year were ₹584 crore within the first few pages, but it took till the 210th page to know that group incurred a net loss of ₹1,869 crore that year. And while the company's borrowings are ₹15,935 crore, it is only in the consolidated balance sheet—also in the same annual report—that you get to know the group debt is ₹106,483 crore. While reporting the data, the auditor says there are 141 subsidiaries, 12 associates and 26 joint ventures whose accounts were audited by other firms, and, additionally, it did not audit the financial statements of 18 subsidiaries, 6 associates and 17 joint ventures.

> It is not just auditors & raters that got it wrong in IL&FS, so did RBI and other regulators. Govt needs to fix its rules and there has been little or no action on reports of siphoning funds by using opaque structures

You would think that, given that the auditor knew that there were such a large number of subsidiaries and related entities where close to ₹90,000 crore of debt was parked, it would have flagged this and pointed out that it needed to audit the step-down subsidiaries as well. And surely the auditor was derelict in not pointing out, upfront, that the rosy financial ratios in the annual report meant little once the overall group picture was looked at?

It is, of course, also true that given the financial jugglery many firms such as IL&FS indulge in, auditing has become a lot more complex. The latest report on India's NBFCs by market intelligence firm REDD points out, for instance, that several of these high-profile firms use what they call 'box companies' to hide loans/debt and to avoid regulatory requirements such as on capital adequacy or exposure to related parties. As REDD puts it, "By using the box structure, we also reckon that some of these companies have found an alternative to the concept of a rollover or evergreening ...Banks and NBFCs just lend to a new proxy/dummy entity which advances funds to the borrower entity to repay the loan to Banks/NBFC, avoiding reporting NPAs and a knock-on effect on equity multiples".

While the authorities need to examine the intricacies of these structures and the fund flows that REDD details, the government also needs to revisit the issue of how many layers of subsidiaries should be allowed; IL&FS had 347 entities held via four levels of step-down subsidiaries; and there were 142 entities at level 4! And while the government is penalising auditors, no action has been taken against the company's independent directors—the risk management committee, headed by the LIC managing director, met just once in three years, years when the consolidated debt almost doubled.

And, while it is true that the rating agencies also gave IL&FS a good rating by failing to look at consolidated accounts, they weren't the only ones at fault. Apart from the fact that regulators like RBI were napping, it is shocking that Sebi was willing to put in abeyance its August 2017 circular that made it mandatory for all listed companies to disclose all defaults in payment of interest and repayment of the principal within one working day. Not only did RBI fail to realise what was happening in IL&FS despite it being classified as a systemically important company but also it continued to push for not making names of defaulters public along with the dates of default—without 24x7 defaults data, how can a rating agency construct a model to predict default? Nor did any regulator insist that all firms be forced to put out some basic group-level data. With India being rocked by one NBFC crisis after another, the least one should expect is that the government will come out with a comprehensive solution, and take more than action on banning auditors.

AilingREGULATION

Without an effective grievance redressal body in the healthcare space, violence by patients' families will continue to occur

THE RECENT ATTACK on doctors in a public hospital in West Bengal, by a mob alleging medical negligence, is a symptom of a larger unmet need—a formal mechanism for grievance redressal in healthcare that inspires trust. While it is not known yet if there was, indeed, negligence as alleged in the Bengal incident—given the typical burden on government hospitals, it is likely that the staff was already stretched too thin—there are enough cases of medical negligence and malpractice while patients have very little recourse against transgressing doctors and hospitals. Indeed, while the now-defunct Medical Council of India (MCI)—the regulator of the healthcare ecosystem in India that comprised solely of medicos and degenerated into a cabal that protected corrupt doctors and hospitals—had no data on medical negligence, a 2016 Parliamentary Committee report notes that just 109 doctors had been indicted by the MCI's Ethics Committee between 1963-2009.

Although the proposed National Medical Commission Bill, which creates a body to replace the MCI, has several progressive clauses on regulation of malpractice and misconduct by hospitals, it is still hanging fire in Parliament. While taking the legal route is one option—under IPC provisions, under the Consumer Protection Act following the judgment in the *Indian Medical Association vs VP Shantha*, or tort laws, that path is beset with delays. Till the government provides for an effective redressal mechanism, West Bengal like incidents, however unfortunate, will continue to occur.

GROUNDING AIR INDIA

THE UPA GOVERNMENT HAS A LOT TO ANSWER FOR IN THE CASE OF THE CIVIL AVIATION SECTOR'S LINGERING PAINS

How the UPA clipped Air India's wings

SANJEEV NAYYAR

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IT TOOK FIVE YEARS of the Modi government for the Enforcement Directorate to summon former civil aviation minister Praful Patel for questioning "over an alleged aviation scam".

While law will take its own course, this article jogs your memory with what happened then—Air India/Indian Airlines merger, acquisition of aircraft and bilateral traffic rights.

One, have you heard of a company that makes a financial commitment of about ₹67,000 crore for purchase of 111 (AI 68, IA 43) aircraft on an equity base of ₹586 crore (AI ₹153.84 crores, IA ₹432.13 crore) and carry-forward losses of ₹776 crore (Indian Airlines brought forward loss of ₹957 crore less Air India profit reserves ₹181 crore) as on March 31, 2006?

According to a 2011 *India Today* report, it is clear that Air India's financial problems began in 2004, when Praful Patel chaired a meeting of the board, in which, the airline suddenly inflated its order for new aircraft from 28 to 68 without a revenue plan, or even a route-map for their deployment.

This is substantiated by the former executive director of Air India and author of *The Descent of Air India*, Jitender Bhargava: "The Air India Board-approved purchase of 28 aircraft in November 2003 includes 10 medium-capacity long haul aircraft. During UPA, the number of long-haul aircraft was increased from 10 to 50," and, "despite the recommendations of the techno-economic committee and the AI board that two-third of the 50 aircraft should be ordered on a 'firm basis' and the rest on 'option,' the empowered group of ministers decided to order the entire lot on a firm basis."

Two, one does not need to be a qualified accountant to know that making huge financial commitments on a low equity base is a precursor to bankruptcy or a government bailout.

It can be argued, fairly, that aircraft orders were placed because IA had not purchased any new aircraft since 1990. However, financial commitments must be based on the ability to repay debt.

Three, the UPA presented the merger of Air India with Indian Airlines as a solution to their problems. Before the merger proposal, UPA changed the name of Indian Airlines to 'Indian' accompanied by a smartly designed logo.

Even before all the IA aircraft sported the new logo, the Ministry of Civil Aviation, in a letter dated April 20, 2006, asked the Air India board to work towards a merger with Indian Airlines.

Further, Bhargava wrote, "It took more than two years for the ministry to initiate action on a merger, and then the matter moved with uncharacteristic haste. What makes the timing suspect is that it was done barely months after both airlines had placed their orders for large number of aircraft IA 43 and AI 68. If merger was on the cards the orders could have been placed together and NACIL could have gotten a far better deal."

The merger of AI with IA was to give scale and integrate operations, but many issues, including human resources, were left unresolved.

With this, the 'Indian Airlines' brand, as much a part of our lives as Colgate, was now dead.

Four, in a July 18, 2009, *Business Standard* article, Surajeet Dasgupta says, "Within the overall west Asian pie, Emirates has seen its capacity rise four-fold, from 12,400 seats per week in 2004 to 48,600 in 2008; Etihad Airways from 1,600 to 8,500, even tiny Air Arabia's capacity is more than that of British Airways and is quickly closing in on Lufthansa."

Further, a January 21, 2013, *Business Standard* report states, "The Comptroller and Auditor General (CAG) on Thursday criticised the civil aviation ministry for granting "massive increases" in bilateral air traffic rights to Gulf nations in 2004-05, despite Air India's (AI) "strong reservations," as this was its most profitable international sector. Between May 2007 and March 2010, the Dubai sector saw the number of seats per week rise from 18,400 to 54,200."

Five, the same report also tells how 6th Freedom rights, under which foreign carriers can fly passengers from one country to another while stopping in their own country, choked AI: "Airlines like Emirates, Lufthansa, British Airways, Qatar, Gulf Air and Singapore Airlines—which operate large hubs (like Emirates in Dubai) and offer passengers onward flights to the US and Europe—have used it (the sixth freedom) effectively to increase their Indian market share at the expense of Air India (AI)." It further states, "the percentage of sixth freedom carriage in 2009-10 in the total passengers carried was as high as 59% for Emirates, 78% for Qatar Airlines, 87% for Lufthansa, 49% for Singapore Airlines and 61% for British Airways, among others. Nearly one-fourth of the sixth freedom carriage was done by Emirates alone, which has been one of the chief beneficiaries."

> Acquisition of more aircraft than required, a badly planned merger, and massive increase in bilateral air traffic rights to Gulf nations took Air India to the ICU

Acquisition of more aircraft than required, a badly planned merger, massive increase in bilateral air traffic rights to Gulf nations and grant of sixth freedom rights to foreign carriers took Air India to the ICU.

Since then, the national airline has received thousands of crores of taxpayer money as a bailout, as it continues to be on life support.

It is possible that this policy resulted in substantial foreign policy gains. Fair point, but can UPA publicly state such gains for India?

The first key beneficiary of UPA's actions was Emirates. Now, it was time to help Etihad.

Perhaps with good reason, the ministry felt the Etihad deal was critical for the survival of India's second-largest airline by passengers: its debt, then, stood at $2.6 billion. A *Mint* editorial, dated April 25, 2013, wrote, "Jet Airways had sought additional rights for the next three years to fly 41,600 seats a week to Abu Dhabi, ahead of the deal to sell a stake to United Arab Emirates' national airline, Etihad Airways PJSC. Following the announcements on the Jet-Etihad deal, the Indian government said late on Wednesday that seats would increase by 36,670 until 2015."

In a response in *Business Standard*, Bhargava wrote, "Was the grant of additional seats factored in for Jet Airways to obtain a higher valuation compared to what was being discussed in January 2013? Given that the two announcements—stake sale and grant of additional seats—came within hours of each other, was an assurance on additional seats demanded by the airlines and given by the government before the pronouncement of stake sale?"

Indians are forever defensive about dependence on oil and remittances from Gulf countries. Has anyone tabulated how India has contributed to the prosperity of select Gulf-based airlines?

The people of India would be grateful if the government pursues the current round of investigations and takes them to a logical conclusion. We hope it is not intended to pressurise formidable political opponents ahead of the crucial Maharashtra Assembly Polls.

Oil's next great deflationary force

Those countries that rely heaviest on oil and gas taxes will, of course, find it hard to loosen up. Equally, though, they will ultimately confront the prospect of rival producers taking a bigger share

LIAM DENNING

Bloomberg

IN A COMMODITY business, cost is king. The efficient producer ultimately wins more business and more investment—and that is as true for countries as it is for companies.

The shale boom, along with slowing energy demand growth in much of the industrialised world, has changed the global oil and gas business. Rising productivity in areas such as the Permian and Appalachian basins has been a deflationary force rippling out across the industry, forcing producers everywhere from Canada's oil sands to Brazil's deep-water fields to cut costs.

Similarly, North America has become a magnet for investment, with even such former globetrotters as Chevron Corp. and Exxon Mobil Corp. rediscovering an affinity for home. In parallel, Schlumberger Ltd., a bellwether for upstream spending beyond the U.S., trades around levels reached in the depths of the financial crisis, despite the fact that we are now about three years into a recovery in oil prices.

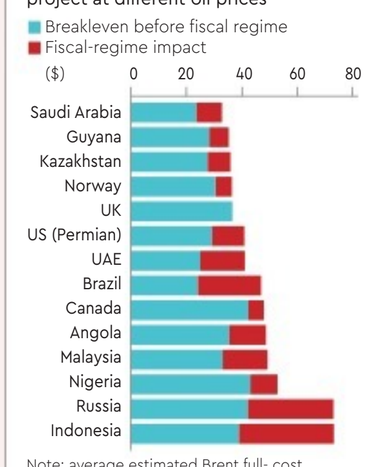
Oil and gas companies are working, with varying degrees of success, to redefine themselves in the face of this, with a particular focus on keeping costs down. One of those costs is largely out of their hands, except in the sense that they get to choose where they drill: taxation.

In a report published last month, analysts at Morgan Stanley surveyed nine countries, other than the U.S., where oil majors have typically been active. They found that the government's share of net present value in its remaining resources averages about 63% under current fiscal terms for those countries. The U.S. figure, meanwhile, is just 36%.

Industry griping about harsh fiscal terms is an old sport and one that amounted to little when it was thought that ever more of the world's supply would migrate to the likes of Saudi Arabia. Only a decade ago, oil majors were signing up to be paid a relative pittance per barrel for the chance to drill in Iraq. Times have changed. OPEC exists pretty much as a mere adjunct of Saudi Arabia at this point, with that country's latest round of haggling with non-member Russia over production cuts being the latest reminder. And with "peak oil" having morphed into speculation about peak demand, the old assumption that the value of petrostates' underground hoards would only appreciate over time has been overturned. So just as companies are competing to be the lowest-cost, Morgan Stanley's analysts point out that there is an incentive for countries to do the same.

Tax and fracks

Variance in fiscal regimes can make a big difference to the return on a new project at different oil prices



Note: average estimated Brent full- cost Breakeven price per barrel of oil equivalent for new offshore projects and the Permian basin. latter includes royalties paid to landowners.

Source: Rystad Energy UCube/Bloomberg

Rystad Energy, a research firm, has calculated breakeven prices for new offshore projects in various countries as well as in the Permian basin, both before and after factoring in the fiscal take.

Some countries have already loosened terms to attract more investment. For example, the U.K. slashed tax rates in 2016 in a bid to stem the slide in oil and gas production. Output in 2018 was 8% higher than in 2015, and Brent crude oil prices had risen 53% in sterling terms, but the government's overall tax take fell by almost a quarter. In a different way, and at the other end of the spectrum, Saudi Arabia's reform plans aimed at diversifying the tax base away from oil represents another attempt to effectively reduce the country's overall breakeven price.

What's striking about the accompanied graphic is that, absent the fiscal impact, the range from low to high in terms of breakeven costs is relatively small at about $20 a barrel, with Saudi Arabia at the low end with sub-$24 and Nigeria up at just over $43. Once you factor in the governments' take, that range doubles, spanning $33 to almost $74.

The implication is that, just as the shale-led decline in upstream unit costs has been deflationary, fiscal competition between states could add to that effect. Those countries that rely heaviest on oil and gas taxes will, of course, find it hard to loosen up. Equally, though, they will ultimately confront the prospect of rival producers taking a bigger share of a market heading toward a plateau. Barrels left in the ground don't provide any taxes at al.

This column does not necessarily reflect the opinion of the editorial board of Bloomberg LP and its owners

LETTERS TO THE EDITOR

Inclusive designing

Providence, Rhode Island, a town three hours from New York City, runs a public bus system that is quite extensive downtown but non-existent on College Hill. This becomes inconvenient for wheelchair users staring down a slope on their "walk" to college. Studying the transport system there and now shifting my focus back to India, the issue at hand in Providence is not as dire as what one sees in New Delhi.

Even though the city is well connected with its public transportation, mobility is an embarrassing nightmare for wheelchair users. From buses not stopping for special needs riders, to bus stops being higher set, mobility becomes impossible. Here we begin to merely scratch at the surface. This is a direct result of a lack in planning and design, which is often made up for by 're-designing' for disability. However, what if designing for disability isn't a politically correct after thought, but a part of the design process? It would benefit the DTC well to shake hands with industrial designers (skill) and NGOs (knowledge) to plan and set systems in place that work, and, is sustainable and permanent. Thinking of access and elevation so individuals with special needs can board public vehicles. Low-floor buses are of no use, if there's no space to stow a wheelchair. Thinking of designing universal objects and systems is the need of the hour. Inclusive design, not redesign. Government grants to fund design research of the these critical issues and possible solution hunting through design competitions would snowball into a substantial understanding of the situation. Only then we will begin to start making changes that matter.

— Rohit Sen, Gurugram

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5G & CYBERSECURITY

The great Huawei conundrum

Experts claim that there is little to suggest that Huawei's network hardware and phones are any more or any less vulnerable to attacks compared to the competitors' offerings. For India, it might be unwise to take any country or supplier for granted

THE STRATEGIC NATURE of communications technology requires that it be robust in its reach and quality, and pace with which the sector has proliferated is remarkable and historic. It is really unprecedented, yet progress on matters of security has lagged. Our world is replete with large-scale and organised system breaches, service attacks that can bring large systems down to their knees, and a plethora of spyware/malware designed for identity theft. It is, therefore, no surprise that authorities and organisations are actively studying and attempting to prepare themselves for future cyber threats.

The year 2016 was a watershed one as far as cyberattacks go, with some of the most high-profile attacks occurring within six months (Cisco). The "Pegasus" zero-day IOS malware was discovered in August 2016 and was found to have been used to spy on high-profile iPhone users. In October, denial of service attacks on DNS provider Dyn led to significant outages of significant websites. This was followed in November by a substantial data breach at an EU operator that exposed mobile user customer records to attackers. 5G networks pose unique challenges in such aspects. Unlike 2G, 3G or even 4G to a large extent, 5G is not a telecom-centric product but one that transcends industrial boundaries—it is a core technology that conforms to the requirements of where it is being applied. 5G is as much to healthcare, agriculture, auto-motive, manufacturing, and other sectors, as to telecom. It is then easy to recognise that challenges relating to the security of these networks will present new and unknown mysteries that will unravel as adoption intensifies.

As the new Government tries to accelerate the implementation of 5G (the telecom minister has firmly placed it in the 100-day agenda), one is much worried that security aspects could well become the next significant roadblock for again delaying progress

We need to understand that, after a great start through the establishment (in September 2017) of the High-Level Government Forum for 5G 2020, India has clearly faltered in its path and fallen behind in its mission. Many other nations have moved ahead undeterred, and we now lag by almost two years.

Adopting a reactive approach to 5G security will only delay us further. In addition to the numerous use cases that stand to be significantly influenced by the presence of security threats and pervasive attacks, the network topologies that are finding relevance in a 5G-era accompany their own unique set of security issues. Software-defined networks are soaring in popularity in 5G discourses and designs and are deeply vulnerable networks whose management interfaces can effectively be used by cybercriminals to bring down the entire system.

Such vulnerabilities are often the result of the same open & flexible features that make such technologies attractive in the first place. This, as would be expected, makes cybersecurity in a 5G era an elegant balancing act that must attempt to address critical vulnerabilities while maintaining open architectures. At the forefront of 5G network infrastructure design, manufacture and supply stand the Finnish vendor Nokia and the Chinese supplier Huawei. A little behind them is Ericsson and then Samsung and ZTE. Founded in 1865, Nokia is a highly reputed pioneer with excellent quality and very long experience in mobile telecommunications. Huawei, on the other hand, although only about 32-years-old, has made remarkable progress to become the world's largest telecommunications manufacturer, with 118,000 employees (about 76,000 in R&D!) and a ~$108.5 billion turnover in 2018. The latter's prices are the lowest and the quality also one of the best. There are questions and concerns in many quarters about the firm's connection to the Chinese government and the possibilities of espionage or sabotage through malware. However, there is apparently no firm evidence from anywhere. Experts also claim that there is little, if anything, to suggest that network hardware and phones manufactured by the company are any more or any less vulnerable to attacks when compared to what is offered by competitors. India is a fast-rising economic and political power, and it might be unwise to take any country or supplier for granted.

The financial and other implications of the security decision in 5G are enormous. For example, a couple of days ago, GSMA, the apex body globally for mobile telecommunications, cautioned that Europe will incur an extra cost of $62 billion and 18-months rollout delay if Chinese vendors are banned. Europe has a population 60% lower than India's and has a far lower dependency on mobile due to excellent wireline network penetration. If such is the impact for Europe, one can well imagine the humungous impact, both financially and in terms of delay in introduction of 5G, for India, with a population of 1.3 billion and an abysmally low wireline penetration. The thought is too scary, indeed.

National security is not a light matter where money can override other considerations, and one cannot but appreciate the unenviable task in front of state leaders. On the one hand, they must do every-thing in their power to help industry roll out communication services at affordable prices but must do so with due regard to national security and the safety of their citizens' data.

All possible safeguards regarding security need to be ensured while procuring and using any network equipment. This should not be, for India, a big challenge with the established Indian IT prowess—one of the best in the world and probably well ahead of Chinese capabilities—it is inconceivable that our engineers cannot devise the necessary tests and safeguards. We need to be scientific, objective, and dispassionate in addressing the Huawei risk and not be swayed by other political considerations.

Probably as a response to rising concerns, Huawei recently announced offers to sign No Spy Agreements to the UK and Germany, and stated that the company would be open to signing such deals with other nations as well. India could also demand this.

> Huawei recently announced offering No Spy Agreements to the UK and Germany, and stated that the company would be open to signing such deals with other nations as well. India could also demand this

In today's scenario when India is rising fast as a formidable power in both telecommunications and economic strength, we can ill-afford not having vigorous checks and safeguards universally applied. In this context, it is very heartening to hear that Government has just set up a Special High-Level Committee of Experts & Officials to consider Security Aspects of 5G Network and associated equipment. This is of great importance because the industry urgently needs clarity at the earliest as regards what is allowed and what is not.

Security vulnerabilities exist in all networks, but India cannot afford to fall behind further on 5G technology that is so vital for Digital India, merely based on speculative fears and political considerations without having leveraged its formidable IT skills to address the situation.

Research inputs by Kartik Berry

Sowing climate change adaptation

KUSHANKUR DEY

Author teaches finance at the IIM Bodh Gaya Views are personal

There is a need to dovetail climate change adaptation policies with customised climate-risk products

IN 2018, FOOD AND Agriculture Organisation (FAO) reported that the agricultural sector is the most vulnerable to climate change, having absorbed almost 30% of the impact of approximately $5.6 billion of natural disasters, and their financing warrants policy attention. Although (weather) insurance emerged as a potential adaptive instrument to climate change in early 2000, its penetration, along with the financing of weather-derivative products in developing and underdeveloped countries has been abysmal due to lack of reliable data, and re-insurance market, coupled with profiteering motive of insurance carriers.

In response, climate risk products, by blending a mix of insurance and derivative options, came to the fore in 2015-16, as an outcome of comprehensive and integrated climate change policy approach.

In Africa and Asia, climate change adaptation goals are 100% and 92%, respectively. Yet, while 18% of adaptation goals are determinable, more than 30% of these countries' Nationally Determined Contributions do not specify a time-frame for achieving targets.

United Nations Environment Programme reported that climate change adaptation costs could range between $140 bn and $300 bn per year by 2030, and between $280 bn and $500 bn per year by 2050. Given the potential demand, as measured by the United Nations Framework Convention on Climate Change, there is a supply-side constraint on global adaptation finance: only $22 billion of tracked investment is available to address climate change against the target amount. Multilateral/bilateral development finance institutions (DFIs) are major sources of adaptation finance, accounting for 36% ($8 billion) of the total sum tracked in 2015-16. In 2017, multilateral development banks (MDBs) funnelled 21% of the total climate finance into adaptation activities and mobilised $8.2 billion per year, from public and private sources, between 2015 and 2017 in co-financing adaptation. Bilateral donor governments and funding agencies channelised an additional $2.4 billion in 2015-16 for adaptation finance, while climate funds, such as Green Climate Fund (GCF) and Adaptation Funds or Green Bonds, contributed another $0.4 bn.

How has adaptation finance been institutionalised; what are the key products of adaptation finance? According to Climate Policy Initiative, MDB/DFI-sponsored market-rate loans, amounting to an average of $11 bn/year, are the main instrument used in adaptation or resilience activities. Backed by bilateral donor agencies and climate funds, concessional funds, like grants and low-cost loans, constitute a second instrument for adaptation financing, with a contribution of $5 bn.

In addition to these tried and tested instruments, green bonds have emerged as a new debt instrument in financing adaptation activities, accounting for 5-7% of total issued outstanding by 2017. Other climate funds, like GCF, commission private sector facility to fund and mobilise institutional investors in climate resilient activities.

It is evident that public sector plays a significant role in financing adaptation activities, while private sector participation has not gained momentum yet due to contextual barriers related to policy, institutional, market environment, capital and human resources; business model barriers related to cost and management policy, technical capacity, uncertainty in value-addition; and internal capacity barriers. IPCC, think-tanks and quasi-government bodies, in consultation with MDBs/DFIs and private investors, must dovetail adaptation policies with customised climate risk products.

An inclusive, bottom-up approach in financing is rather warranted to sustain climate smart projects that have scope of replication and financial mainstreaming. Before funding a project proposal, lending agencies should evaluate the proposal with respect to financial indicators—viz. payback period, net present value, modified internal rate of return and risk adjusted return on capital invested—along with social and environmental parameters. While impact investment or sustainable finance, is gaining traction as part of adaptation finance, private investors seek returns from such projects.

The new government should instil responsive bureaucracy to promote public-private partnership in financing climate change adaptation and encourage diverse stakeholders' feedback on sustainable business models of climate adaptation/resilience. Impact assessment is essential to gauge the effects of adaptation models.

India must take the US to the WTO

India is on a strong legal footing, and it must raise a dispute

RV ANURADHA

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GSP MOVE

THE GENERALIZED SYSTEM of Preferences (GSP), accorded by the US to imports from India since 1976, stood terminated as of June 5, 2019. The government of India had sought to mitigate the impact of this withdrawal, which would impact approximately $5.6 billion of India's exports, is not significant. Perhaps it is indeed not when seen against the overall exports to the US, valued at $230 billion. But the issue is not one of mere numbers, but one of legal principles as the systemic impact of US's brazen unilateral actions. It is also of the impact that the move would have on exporters of several goods such as jewellery, building materials, solar cells and processed foods, which will face increases of upto 10% in the US tariffs, not all of which exporters can absorb by increasing prices of products in their struggle to remain competitive. Spillover effects in terms of downsizing in export firms, diversification, exploring newer markets, and all the accompanying uncertainties therefore seems inevitable. To begin with, there is no right or entitlement that India, or any other developing country, has to GSP benefits from any developed country. GSP is a voluntary exercise of preferential market access that developed countries have the discretion to provide. However, the laws clear legal that a country that chooses to administer GSP needs to adhere to. This includes the legal requirement that GSP shall be available for all developing countries on a non-discriminatory basis, and they need to be accorded on a non-reciprocal basis, i.e., such preferences cannot be given or restricted on the ground of equivalence of some benefit from a developing country.

The US has unabashedly also confirmed that the GSP benefits to India has been terminated solely on account of its unilateral assessment that India does not provide "equitable and reasonable market access" to it. This is an admitted violation of the mandate that GSP needs be based on the principle of non-reciprocity. The object of US's trade concerns against India include requirements under Indian law for certification of dairy products, norms on pricing for medical devices, and India's laws on patenting which apply, in the view of the US, strict criteria for grant of patents for products and also allow for compulsory licensing. Each of these is a legitimate exercise of sovereign legislative and policy choices by India. The US has also expressed concerns on imposition of high tariffs by India in various sectors, including automobile, textiles, pharmaceuticals and distilled spirits, which, again, are all within the realm of India's WTO's commitments.

In other words, India's actions are all WTO-consistent domestic policy actions. The US, however, perceives these as limiting market access, and instead of playing by the multilateral rules, which would require trade negotiations on a reciprocal basis, it is resorting to leveraging the one tool that it is mandated to provide on non-reciprocal basis, i.e., GSP benefits.

The US action is an extension of its recent approach of unilateral action and strong-arm tactics to extract concessions. In a measured response, the government of India has indicated that, like the US, it too believes in maintaining its national interest and addressing development imperatives. It has also indicated the hope of arriving at a mutual resolution of the issues.

While amicable solutions are always the desirable objective in international relations, the approach with the US cannot be pegged on this expectation alone. In fact, there is no better example than the US itself that has used a combined strategy of bilateral dialogue, coupled with unilateral action, and most interestingly, recourse to the beleaguered WTO's dispute settlement system.

This is the second time that the US has hit India with its unilateral measures. The first time was a year back when, on June 1, 2018, the US imposed tariffs of 25% on steel and 10% on aluminium imported into the US. India has initiated a WTO dispute against this, as have several other WTO members. Some of these countries such as EU and China also imposed retaliatory tariffs on certain imports from the US, against which the US has initiated WTO disputes. While India announced retaliatory tariffs against the US several months back, it has been deferring the imposition of such tariffs.

It is strategically important for India to raise a challenge against US's GSP termination before the WTO. There are three reasons for this: (a) India is on a strong legal footing with regard to such a challenge; (b) the GSP issue is one of systemic significance within the framework of multilateral trade rules, and one country cannot be allowed derail the fundamental planks on which it stands; and (c) contesting a country's action through dispute settlement, and simultaneously holding bilateral negotiations, are not antithetical to each other and can often help a country leverage its advantages better.