

**Event Report of
Training Programme on
Developing Skills on Commercial
and Economic Diplomacy
(CDS.03)**

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CUTS Institute for Regulation & Competition

D-217, Bhaskar Marg, Bani Park, Jaipur 3020016, India

Ph: +91-141-228 2821, Fx: +91-141-228 2733

Web: www.circ.in, Em: circ@circ.in

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Executive summary

CUTS Institute for Regulation & Competition (CIRC) organised a training programme on “Developing Skills on Commercial and Economic Diplomacy” (CDS.03) for Junior-Level Civil Servants and Executives from October 22-26, 2007 at Jaipur. This training programme was a sequel to the training programme that was earlier organised by CIRC, during August 22-25, 2007 at Jaipur (Building Skills on Commercial and Economic Diplomacy (CDS.02) - Training programme for Mid-Level Civil Servants and Executives). The Department of Commerce, Ministry of Commerce and Industry, Government of India supported CIRC to conduct the training programme to address the need to fill the vacuum that exists in terms of absence of institutional base to offer training/educational programmes on commercial and economic diplomacy in India.

The training programme brought experts together to explore and deliberate various aspects involved in commercial and economic diplomacy namely, Ahmed Farouk Ghoneim (Associate Professor, Cairo University), B.K.Zutshi (Former Indian Ambassador to GATT and Member, Governing Council of CIRC), Kishan S. Rana (Former Ambassador of India, Senior Fellow, Diplofoundation), Suhail A. Nathani (Economic Law Practice), Bipul Chatterjee (Deputy Executive Director, CUTS International) and N.C.Pahariya (Associate Professor, University of Rajasthan).

The training programme was attended by 32 participants comprising government officials from various ministries/departments of the Government of India handling work related to international trade and negotiations on various bilateral, regional and multilateral issues. The training programme brought experts/resource persons together to explore and deliberate various aspects of commercial and economic diplomacy. Over the period of five days the participants sharpened their skills on various aspects of commercial and economic diplomacy through lectures, real life experiences of resource persons, simulation exercises, group discussions, etc. The agenda of the training programme is enclosed. (Annexure I)

Based on the feedback received from the participants and resource persons, the programme was successful in terms of quality of participation, resource persons, resource materials, and administrative and logistical arrangements. Participants acknowledged that the learning experience was very valuable. All the participants expressed their interest to attend similar training programmes in future. This report summarises the presentations, principal issues identified and points discussed in the training programme.

“The aim of this training programme is to bring you to the world of diplomacy, identify that you need to understand some of the basics and based on it you need to take your own steps in enhancing skills and knowledge.”

Ahmed Farouk Ghoneim (Associate Professor, Cairo University)

“My expectation has been fully met. The training programme included lecture, sessions, followed by case analysis, stimulation exercises etc. helped me to develop better understanding of the dynamics of commercial and economic diplomacy.”

P K Mukherjee, Deputy Director (EA), Office of the Development Commissioner (MSME)

“To a very large extent my expectations have been fulfilled. It would be pertinent to place on record that terminology of this subject would not be new to me now to say the least.”

Lalit Grover, Section Officer, Ministry of Corporate Affairs

“This training programme has conveyed how little I know, how much more is there for me to cover and how can I reach there.”

B K Malhotra, Under Secretary (Eastern Europe), Department of Commerce

Objectives

The principle focus at the training workshop was on three main objectives: -

- meet the imperative of having training government officials and corporate managers who are involved in commercial and economic diplomacy;
- ensure coherence between India's domestic policy in trade and investment related issues with international commitments; and
- enhance skills by developing and strengthening capacity for taking an effective part in trade and implementation aspects of related international agreement.

Participants

Participants were mainly from various ministries/departments of the Government of India. This included Department of Commerce, Ministry of Corporate Affairs, Ministry of Environment and Forests, Ministry of External Affairs, Ministry of Labour and Employment, Directorate General of Foreign Trade (DGFT), Ministry of Steel, Ministry of Micro, Small & Medium Enterprises and Department of Agriculture and Cooperation. The list of participants is enclosed in Annexure II.

Inaugural

Bipul Chatterjee

Bipul Chatterjee inaugurated the training programme with a warm welcome to all the participants and presented a brief background of the training programme. He mentioned that CUTS has initiated such capacity building programmes while realising the lack of institutional base in developing countries to offer training/education on commercial and economic diplomacy. He thanked the Department of Commerce for having faith in the capacity of CIRC to organise this training programme. He pointed out that during the last training programme in August 22-25, 2007, CIRC circulated a feedback form and the response that we received was very fruitful in designing the strategy for the present training programme. He further mentioned that this training programme would serve the purpose of imparting basic skills and knowledge on commercial and economic diplomacy.

B K Zutshi

B K Zutshi while delivering opening remarks mentioned that earlier India had a reputation with rest of the world that it did not want to take obligation and engage internationally in an agreement. But now the perception is fast changing and India has entered into an area where it is actively engaged with rest of the world. India is opening its economy, which includes agreement (as bilateral, regional or multilateral) with rest of the world. However, before entering into such agreement there is a need for policy formulation and engaging stakeholders for wider consultation. While highlighting the importance of stakeholder's consultation before entering into an agreement, he referred to the negotiations in Uruguay round, where India did not performed well. India was not able to manage stakeholder consultation before the beginning of the Round. The only consultation that took place was with the pharmaceutical industry and that was not only because of the patent problem but also because of the pressure from the pharmaceutical industry. Thus, such similar agreements have generated the requirement for skilled officials at various levels to carry forward and managing these agreements effectively and efficiently. Thus, capacity building programme such as the one organised by CIRC have assumed greater importance.

According to Zutshi, diplomacy in the present era of instant communication has collectively assumed a different complexion than what it used to be earlier. However, the underlined principle

remains the same, i.e. diplomacy that ensures security, safety, peace and means of development through trade and other commercial agreement. In fact, commercial and economic diplomacy flows directly from political economy concerns of a nation state that holds immense significance in this age of globalisation. He emphasised that advancement of communication and information technology have been the drivers behind the process of globalisation, enabling instant communication and wide dispersion of production of goods and services. This has increased the economic interdependence and has had a profound impact on trade relations globally. It has given rise to the need to have new rules in the new areas of international commerce. Moreover, the intensity of globalisation has led to institutionalisation of rules and regulations at international level, which in turn results in further deepening of globalisation in a mutually reinforcing circular motion.

He further mentioned that India is on the move accompanied by its vibrant economy, i.e. GDP growth rate of 9 percent, foreign direct investment (FDI) balance is equivalent to US\$250bn, share of world trade in merchandise goods is nearly 1 percent and share of world trade in services is nearly 1.4 percent. On the other hand, India is facing with the problem of abysmal poverty, disease and ignorance, and there are 21-24 percent people living below the poverty line. He concluded by saying that there is a need to bridge the gap between the poor and prosperous India, in order to achieve the development with sustainability.

Expectations of the participants

At the close of the inaugural session, the participants were requested to introduce themselves and express their expectations from the training programme. They responded that they looked forward to learn the skills and art of negotiations, understanding the nuances involved in bilateral, regional and multilateral agreements, World Trade Organisation (WTO) issues and their compatibility, safeguard mechanism, rupee appreciation (including how to tackle it), tax concession and monetary assistance to small and medium size enterprises (SMEs), trade in information technology (IT) sector (export unit), dispute settlement body and procedure, various tools and techniques of commercial and economic diplomacy and its application, trade offs during negotiations, macro policy and economic development, difference between economic and commercial diplomacy, strategic partnerships etc.

Session I

Opportunities and Challenges for India in an Emerging Globalising Economy – N C Pahariya

While discussing the opportunities and challenges for India in an emerging global economy, N C Pahariya referred to a statement which says, India's growth rate has been impressive, i.e. 9.7 percent in 2006, 8.9 percent in 2007 and viewing at 8.4 percent in 2008. The World Investment Report of UNCTAD says that China is the most preferred investment location followed by India, US, Russian Federation and Brazil. India's ranking in inward FDI performance index has also improved to 113 in 2006 from 121 in 2005. He quoted the Lehman Brothers statistic, which states that the Indian economy can grow at 10 percent in the coming decade with structural reforms and emphasised that even at 8 percent the economy will double in size in the next 9 years.

He mentioned that the performance of Indian economy since 1990 could be divided into several highlights that include high growth trajectory, integration with world economy, service sectors revolution, low inflation and fiscal discipline. Beside these highlights, Indian economy poses several lowlights that includes slow agriculture growth overburdened by heavy population, stagnant manufacturing growth, subsistent economy with high poverty, infrastructure bottlenecks, rigid and outdated labour laws, bureaucratic hurdles and low FDI flow.

He emphasised that during last three years Indian growth rate in GDP have been consistently higher than 8 percent. Now it is expected that during the 11th Five-Year Plan (2007-2012) an annual growth rate of over 9 percent could be achieved. Since 1991, India has transformed itself from one of the most closed large economies of the world to a relatively more open one, with trade (exports plus imports) as a percentage of GDP reaching 40 percent in 2004 and 45 percent in 2005 from as low as 16 percent in 1990. In 1990-91 India's total exports in current dollars stood at US\$18.1bn, which rose to US\$102.7bn in 2005-06. He said that it took 9 years (1990-91 to 1999-00) for India to double the exports growth whereas in the recent years, exports have almost doubled in just three years from US\$52.7 bn in 2002-03 to US\$102.7 bn in 2005-06. Likewise, India's share in world exports rose from 0.5 percent in 1990-91 to 0.7 percent in 1999-00 and further to 1 percent in 2005-06.

He mentioned that in terms of merchandise export, India has achieved tremendously in past three years, though our share in world trade is still struggling with one percent. He mentioned that the exports/GDP ratio has tripled during 1990-91 and 2005-06. This shows that India is integrating with the world economy. Moreover, the service sector revolution has been significant as it contributed more than agriculture and manufacturing sectors taken together. The percentage of service exports, i.e. 1.4 percent in 2006-07 is more than manufacturing exports and grew by 16 percent during 1994-2005. This is significantly higher than the world average (7.3 percent). In India, service sector contributes 30 percent (both exports and imports) and the share of IT and IT Enabled Services (ITES) is one-third of the total export earnings (i.e. 49 percent of total services exports).

He said that the Revealed Comparative Advantage (RCA) Indices in services is increasing, for example, in 2004 it was measured at 1.427, but it was not the case with China, Brazil and Russia. He said that as compared to Latin American countries (where inflation rate was in 3 or 2 digits) and Commonwealth Independent States (CIS) countries (where it was more than 30 percent), India still manages to have low inflation rate, (i.e. 4.65 percent in 2007). He said that low inflation rate and rupee appreciation is the biggest problem for an economy since it might create macro economic disturbance, if both went together. One of the most notorious parameter in Indian economy creating disturbance was high fiscal deficit, thus India has set a target to reduce fiscal deficit to less than 3 percent and revenue deficit by half a percent each fiscal year and eliminate it by April end 2009. He mentioned that the Sixth Pay Commission (which will come soon) is as liberal as the Fifth, and hence, it might create economic and financial problem for the poor states like Rajasthan.

Focusing his discussion on the deteriorating contribution of agriculture, he said that Indian economy is struggling with burdens like population and labour force, which is still very high (over 700 million people i.e. 70 percent of total population are still engaged in agriculture). In the 11th Five Year Plan, more emphasis is laid on inclusive growth, which can only be achieved when priority is given to agriculture sector. He was of the view that India needs to concentrate more towards the contribution of agriculture sector in GDP. Moreover, the growth of agriculture sector is directly related to poverty reduction in India. He emphasised that the other disturbing element for Indian economy is the stagnant growth in manufacturing sector, which contributes nearly 15 percent in the GDP but it employed only 11 percent of the workforce. Out of these 11 percent, less than 3 percent is in modern private sector and rest (i.e. more than 90 percent) in informal sectors. He referred to a statement by Jagdish Bhagwati, which says that there is a possibility to reduce poverty rate, if a country can augment the growth rate to a higher level. He said that poor infrastructure (power, transport, ports, etc) is one of the pertinent problem within the Indian economy and it is badly affecting exports. India takes 2.5 days to 15 days in clearing an export

consignment at ports, whereas the same gets cleared in less than 12 hours in China, Brazil and Russia.

He further mentioned that doing business in India is still tough and lengthy process (as ranked by World Bank, i.e. 113 rank out of 152 countries). He referred to the obstacles involved in starting and closing a business in India as compared to China and Brazil. In order to improve the competitiveness of the industry, India needs to concentrate more on research and development (R&D). India's strength lies in the impressive growth rate, qualified scientists and engineers in R&D, service sector revolution, low inflation, demography (population) and political consensus regarding economic reforms etc. He concluded by saying that in economic terms, India is still poor and a small economy. It holds a sixth of the world's population but accounts for just 1.3 percent of world's goods and services, and 0.8 percent of FDI flows (compared with 6.6 percent and 8.2 percent respectively for China). Indian business will grow if the economy grows at 6 percent a year, but if the country is to catch up with China, in the lifetime of the youth population (and provide them with jobs), India needs to grow much faster. Otherwise, poverty will persist for decades and social tensions will tend to mount.

Floor Discussions

While answering the questions related to Fifth Pay Commission, he referred to the efficiency based theory of economics which says that if government provides more remuneration, then the efficiency of an employee tends to go up. Efficiency of an employee can be measured in terms of productivity. Though, it is difficult to estimate the productivity of an employee, particularly in service sector, economists tried to estimate the productivity of an employee and a study conducted in 2000 says that in Indian context, "there is no increase in productivity after increasing the remuneration; however, in many cases there is a reverse trait, i.e. productivity has gone down". Zutshi intervened and emphasised that there is a political reason behind the increase or decrease in remuneration rather than economics. He quoted the example of Singapore and said that perhaps this is the only country in the world where there is parity between the remuneration of private and public sector. In rest of the world (whether US or UK) there is no parity between the remuneration of private and public sector. He was of the view that poorer the country, the greater the parity.

While replying to the question on structural reform, he explained that this term refers to financial position of a country such as deficit financing, inflation rate management, foreign exchange rate management and overall health of the economy. While discussing the question of time lag in reforms and its reflection in growth rate, he mentioned that India is a mixed economy and a reform does not reflect instantaneously in the economy. A monetary policy could have the immediate reflection in the economy, since there is no time lag (e.g. Increase in the cash reserve ratio by RBI) but in case of fiscal policy (reforms) there is a time lag of at least 1 to 3 years in a country like India. He quoted the example that even today India has not seen any reflection on growth rate of second-generation reforms such as labour reforms, capital account convertibility, etc. On the other hand there are some reforms that are reflecting in the growth rate, such as taxation reforms. Participants then discussed that how young population is going to affect the growth rate of Indian economy. Pahariya was of the view that young population is a strength that India has at this moment, though India should always think to augment inclusive growth rate, which includes increase in the growth rate of manufacturing, services agriculture and other sectors in India. A participant made an observation by saying that India could augment its growth rate through providing and generating right employment (both in rural and urban) for the young population, which Pahariya also affirmed.

Session II

International trading system and the Developing Countries - B K Zutshi

While discussing the international trading system B K Zutshi mentioned that WTO was set up in the eighth round of multilateral trade negotiations (1986-94), wherein Doha Round was the ninth round negotiation. He said that the General Agreement on Tariffs and Trade (GATT) system was not an institutional arrangement (though a temporary institutional agreement) and had comprehensive coverage of not only trade but also investment and employment, and was provisionally applicable, as International Trade Organisation (ITO) was rejected by the US Congress. Elaborating the genesis of the WTO, which had been shifted to comparative advantage between developed and developing countries particularly over manufacturing, Zutshi said that services became very important for developed countries. There was no international rule in services and because of technological innovation and development in competition, sectors like telecommunication has turned out to be more tradable among countries. There was an increase in the importance in intellectual property goods and to save these goods from being copied, the developed country, in order to preserve their competitive advantage in Intellectual Property Rights (IPRs), wanted international rules in GATT framework.

Discussing the fragmented nature of multilateral trading system, he mentioned that though agricultural was partially covered but textile was taken out and put under separate agreement called Multi Fiber Agreement (MFA). It is applicable only to developing countries while under Tokyo Round of negotiations (where countries have several agreement on subsidies and anti-dumping), there were no mandatory agreements to be accepted by all members, and hence developing countries did not accept these accords. As a result in early 1980s, members of GATT did not have same set of obligations despite all accepted agreement. This has resulted in the developed countries like US and EU to enter into bilateral agreement with other developing countries on issues relating to subsidies and anti-dumping. He said that all those agreements were much more stringent than even the multilateral agreement on these issues which was accepted by the developed countries among themselves.

On the line of differences between the developed and developing country's on multilateral trading system, he informed that developing countries are interested in bringing about certain degree of coherence in the system and eliminating discriminatory instruments like MFA while the developed countries were of the view of bringing new areas into the WTO. He further elaborated the difference between GATT and WTO. He said that the Marrakesh Agreement established the WTO as an institution unlike GATT, which was followed by third leg of the International economic order conceived at Bretton Woods. WTO has much larger coverage by inclusion of services and Trade Related Aspects of Intellectual Property (TRIPs). It is a single undertaking, common dispute settlement and enforcement mechanism, forum for continuous negotiation and Trade Policy Review Mechanism (TPRM). He then elaborated the existing structure of WTO, which includes the ministerial conference (which meets every two years), general council, dispute settlement body and trade policy review body. He mentioned that members may participate in all councils, committees etc, except appellate body, dispute settlement panels, textile-monitoring body and multilateral committees.

He was of the view that WTO is a *sui-generis* organisation, which means a member-driven and member-administered. It also combines the triple function of governance, i.e. executive, legislative and judicial. The WTO's basic principles and rules include non-discrimination (two aspects Most Favoured nation (MFN) and national treatment), prohibition on quantitative restriction on imports and exports with some exception, reciprocity, market access and

transparency. WTO has certain trade measures that includes fair competition (i.e. safeguards) and unfair competition (i.e. antidumping, subsidies and countervailing measures). He then elaborated the actual working of system and how a member country could participate effectively. While discussing the actual working system of WTO, he was of the view that small and/or least developed countries' (NGOs) delegates were not participating effectively (even some of them were absent) in meetings that involve important discussion and/or decisions. While discussing the role and participation of civil society and Non-Governmental Organisations (NGOs) in WTO, he referred to the Article V (2) of the Marrakesh Agreement that envisages appropriate arrangements being made for consultation and cooperation with the NGOs concerned with matters related to those of the WTO. He mentioned that there are issues related to the participation of NGOs during a bilateral, regional and multilateral agreements that include availability of WTO document, access to dispute settlement process, right to file amicus brief and participation as observer. He was of the view that policy coherence and coordination is a concern in the multilateral trading system and it needs to be addressed through cooperative arrangements with other intergovernmental organisations such as UNCTAD, WHO, IMF, The World Bank, WIP, etc.

He mentioned that developing countries put all efforts in reforming the legal framework of the multilateral system because of the following objectives:

- Adequate freedom for themselves in employing commercial policy instruments to foster their industrial and economic development; and
- Enlargement of access in world markets for manufactured goods of export interest to them under the GATT, and, for both goods and services of export interest to them under the WTO

In WTO, provision concerning developing country members in Marrakesh Agreements includes recognition of general interest, fewer obligations, longer time framework for implementation and technical assistance. While elaborating Regional Integration Agreements (RIAs) he mentioned that these are exceptions to the principles of MFN clause, permissible under special and differential treatment (S&DT) and available in goods and services trade. He also mentioned the different models of RIAs that includes free trade agreements (FTAs), customs union, common market and economic union. He concluded by saying that a regional trade agreement (RTAs) has brought subset of like-minded countries, able to move further, more quickly in liberalising trade flows than in larger setting of multilateral trade agreements and a way to enhance greater market power.

Floor Discussions

Replying to the specific question regarding RTAs being negotiated within or outside WTO, Zutshi mentioned that RTAs are negotiated outside WTO, but the party has to file them at the world's trade body after notifying the intentions of the party concerned. The disputes in RTAs are examined by working party. He was of the view that it has been noticed that the working party never agrees and as result, recommendations are usually sidelined. Another participants asked a question regarding extending MFN treatment to Pakistan. Zutshi mentioned that India is trying to improve the economic relations but it seems that Pakistan does not want to have any trade relations and they are more focused on issues like Kashmir.

On the questions regarding movement of natural person (under Mode 4), Zutshi mentioned that services are nowadays tradable among various countries. It could be done through establishing a corporate entity or a natural person going and providing services abroad. During the discussion he elaborated the commitments under agriculture negotiations, green room negotiations, TRIPs and general subsidy agreements. Replying to a question regarding FTAs and RTAs creating obstacles in the multilateral trading system, he said that certainly these agreements were creating a trouble

in the trading system. He mentioned that only India and US were of the view that multilateral trading system should not promote RTAs and FTAs. He said that someday countries need to stop trade diversions through regional agreements and hopefully there will be a need to collapse these RTAs and FTAs in multilateral trading system.

Session III

Introduction to the Concepts of Commercial & Economic Diplomacy – Kishan Rana

While elaborating the concepts of commercial and economic diplomacy, Kishan Rana mentioned that to an extent the subject of commercial and economic diplomacy lies in the purview of Ministry of External Affairs. He defined commercial diplomacy as a genre that essentially deals with exports and trade whereas economic diplomacy includes investment, technology, aid and negotiations of agreement. Making distinction between the two, he said that negotiation of agreement under multilateral trading framework is part of economic diplomacy while rest is the part of commercial diplomacy. He emphasised that the bilateral framework within which economic diplomacy is practiced is established by multilateral treaties, especially the WTO, for its 150 members, by regional arrangements such as RTAs, a customs union or a PTA, and by bilateral accords covering trade investment protection, double taxation avoidance treaties and other arrangements between two countries. He further elaborated that Economic Partnership Agreement (EPA) whether global, regional or bilateral has increased significantly and these agreement bundles together trade, investment, services and tourism, aiming at greater trade-offs in the interest of the contracting parties.

He mentioned the pillars of economic diplomacy i.e. trade promotion, investment promotion, harvesting technology, tourism and managing economic aid. To supports all these pillars, country promotion is the foundation and enhancement of the home country image underlines most diplomatic activities of an embassy. He mentioned that image of a country is based on the goods, services and the action performed to enhance it. He quoted the examples that Titan, Kirloskar, Tata, Mahindra, etc, has created a niche market for their products abroad. They have certainly contributed to the image building of India in different parts of the world. The foreign ministries, embassies and diplomats are considered responsible for the projection of country's image in their respective countries. However, country promotion is an integrative approach and should not be considered as the responsibility of a single ministry/department or embassies abroad. He emphasised that an embassy could promote the image of a country by interacting with foreign companies, governments, conducting the market survey for the potential products to be exported. The supplementary methods may include image audit and often works through encouraging public-private partnerships (PPP).

On the issue of trade promotion, he highlighted India's foreign trade in term of market share. The market share analysis is a sharp instrument that allows diplomats to understand the country's image in the particular market. He referred to a study that says the market share of Indian products in the east coast was higher than those in the west cost of the US. He pointed out the reason that most of Indian exporter lacks knowledge, ground level information and familiarity of language in the west coast of US. He mentioned that the external promotion activity is based on two parameters, i.e. new markets and new products. He was of the view that one should always try to find new markets for products and services.

On the issue of investment promotion he said that this is a continuous activity that goes on, regardless whether it is a developing or developed country. Broadly, investment promotion falls under two categories i.e. broad appeal (creating a catchments of potential investors) and targeting

individual investors and getting after it. He quoted the example of Economic Development Board (EDB) of Singapore. The per capita income of Singapore is approx. US\$30,000 and EDB has made a significant contribution in the economy. While describing the work done by diplomats in Singapore he mentioned that they reached out to the potential investors and influenced them to invest in the country. Replying to the specific questions of promoting a country, he said that countries are making deliberate efforts in promoting goods, services and attracting investments - both inward and outward. He mentioned that Singapore has always promoted young people while sending a delegation for negotiations. These young people have generated investments for the country, negotiated agreements and have done a splendid job of promoting the country's image.

He mentioned that India's export promotion activities started with the oil shock of 1973. Since then, India has increased its economic competence through attracting investments, though, till today there is a wide gap between approved and executed investment because of the bottlenecks and lack of follow-up in India. He highlighted and appreciated the work done by investment promotion board of India. He concluded by echoing the statement made by Tony Blair that "in order to promote national interest abroad, public servant ought to be a risk taker not in narrow sense but in the public sense".

Session IV

Country Promotion and Image Building Process – Bipul Chatterjee

Bipul mentioned that a country's image is something that is perceived by outsiders and country identity is something that citizens think of their own country. He further divided India into several parts. A part of India is very developed, which involves software business, iron & steel sector, etc., and has been interacting with the world. Another part of India is called middle India (also called aspiring India or young India), which has little understanding about the aspiration of Indian people outside the country and the image of the country. He mentioned that beside these two parts there is an uneducated India, which does not understand and has lack of knowledge about outside world.

He explained that country promotion and image building process comes under public diplomacy rather than commercial and economic diplomacy. To promote country's image through strategic marketing, diplomats need to understand what are the strengths and weaknesses. There is a need to market or promote strengths in a strategic manner. He was of the view that whenever diplomat performs strategic marketing or public diplomacy they think of promoting the image the selected few countries. But there is a need to come out of that nutshell and explore other markets such as Africa (South & West), Latin America, South East Asia, etc. Also, there is a need to brand a nation on four different dimensions, i.e. tourism, public diplomacy, exports and FDI - both inward and outward.

He was of the view that there is huge market for FDI because of the imbalance between saving and investment. Attracting an FDI and tourism, India needs resource such as infrastructure. While describing state branding he outlined that this is no longer a choice but a necessity because states are competing against each other. He mentioned that many of Indian products had a ready market in Russia and CIS countries and the policy makers were not bothered about competitiveness and state branding. He emphasised that state branding is no longer a function to be performed by the state or individual companies but to be an integrated effort by all interested stakeholders.

Bipul explained that state branding is relevant because consumers and investors rely heavily on country image to make their economic decision. He quoted the example of South Africa and was

of the view that the law and order condition has deteriorated significantly in that country and one cannot imagine going out alone in the evening. He said that once this image has been created in the long run, it would be very difficult to change the attitude and perspective of the investor. He emphasised that investment promotion is more of personal issue rather than mass marketing. He further mentioned the example of website of investment promotion agencies or state government agencies hardly contain any information on investment promotion and whatever information is available is outdated. Hence, one needs to be self-motivated and should take initiative in order to attract investments and building image of the country.

Continuing his lecture on image building, he mentioned the term “Public Diplomacy”. He was of the view that public diplomacy is not about winning argument or “I win or you loose”, but it is all about engagement and win win situation in order to develop good image of the country. The government should engage with mass audiences not only through embassies but also working through foreign correspondents in capitals. He explained the three existing dimensions of public diplomacy i.e. communication (on day-to-day basis), strategic communication, and developing lasting relationships. He admitted that there are constraints in term of human resources in the Indian ministries/departments and embassies. Hence, one needs to priorities interests in order to utilise resources. He quoted the example of Bangladesh and mentioned that the commerce ministry is being managed and controlled by 5 people though they are engaged in more than 12 negotiations. He was of the view that India is still better in terms of human resources in comparison to other parts of the world.

He mentioned that public diplomacy also includes consultation with stakeholders such as civil society and NGOs before entering into an agreement. He concluded by saying that each one of us is a negotiator and a good negotiator is someone who can build trust of other party in the least amount of time and can continue developing further on that trust.

Session V

Effective Negotiation in Commercial & Economic Diplomacy – Kishan Rana and B K Zutshi

Kishan Rana

While discussing effective negotiations Kishan Rana explained that negotiations are never a zero sum games. In principle, zero sum game describes a situation in which a participant's gain or loss is exactly balanced by the losses or gains of the other participant(s). He emphasised that negotiations are in fact an integrative agreement rather than distributive. He further elaborated that even when a negotiator is sharing a finite resource, yet it not a zero sum game because in having that agreement he is building relationship with other negotiator or creating a trust with him. If an agreement leaves behind residue of goodwill, then it is integrative agreement rather than distributive.

He described that the economic diplomacy has moved through the three broad stages of salesmanship, networking and regulation management. These stages marked a progression, but they also operated in parallel. The negotiators in India are now at stage where they are doing all the three things together, as they are underpinned by ‘image’ or ‘country branding’. Rana categorised negotiations into four stages:

- Pre-negotiations: Includes formulation of agenda, venue, dates, delegations, identifying congruity (i.e. common interests) and divergences, etc. We basically settle preliminaries such as media management, building confidence and track II and track III processes. Track II process includes discussions with NGOs and track III process of negotiations includes citizens diplomacy that takes place almost in the defiance of government.

- Preparations: Includes establishing internal consensus among various stakeholders and to focus on strengths and weaknesses. He further explained the concepts of Best Alternative to a Negotiated Agreement (BATNA) and Zone of Possible Agreement (ZOPA). During this stage one should focus on building the team and political consensus in the country.
- Negotiations: Includes initial presentation, exploration, formula, detail, packaging, building & implementation, creative part and the recognition of end game.
- Follow-up: Includes the assessment of negotiations, communication of the result, learning's from the result, etc.

While mentioning ground reality about consensus Rana said that India first signs the agreement and then goes for the consensus building exercise with stakeholders. Indo-US Nuclear deal is such a living example that shows lack of internal consensus in India. He described BATNA as the minimum line, below which a negotiation is not acceptable practically. Negotiation goes below that line is not worth having that agreement and should be avoided. BANTA is a negotiator's private, internal calculation/document that lays down the zone of possible agreement. He then highlighted the importance of exploration stage during negotiations. He was of the view that most of the negotiations took place during tea and coffee breaks. One could easily expect to get an information or signal during the tea/coffee break while talking to each other.

Rana then described the Tommy Koh's principle of negotiation, which says that each negotiation is different and has to be approached accordingly. The principles of Tommy Koh includes building of a cohesive team (i.e. inter-ministerial team), mastering one's own brief and understanding the others brief, knowing when and how to use foreign advisors, using help from third parties, winning trust through emotional intelligence, understanding the other side's culture box and thinking on a win-win situation.

B K Zutshi

While describing negotiating techniques, B K Zutshi mentioned that 'getting to yes' approach has been developed under Harvard negotiation and it distinguishes between two methods, i.e. positional bargaining and negotiation on merit. Positional bargaining allows a negotiator to hold a position *vis-à-vis* the position of the other party. If the other party is attentive, then the negotiator should stick to that position as long as he could, but chances of win-win outcome are difficult. This may involve two approaches, i.e. soft and hard. Negotiation on merit include participants as problem solvers, win-win situation, separate the people from the problem, focus on interest (no position), invent options for mutual gain, insist on using objective criteria and result pressure and power play. While quoting the example of Kosi Gandak river agreement, he mentioned that the policy makers separated the people from the problem, hence, it was a policy that was soft on the people but hard on the problem. He was of the view that it is imperative for a negotiator to focus on interest rather than position.

He also highlighted the Prof. Raymond Saner approach of negotiations, i.e. distributive bargaining (zero sum game) and integrative bargaining (win-win result). In relation to multilateral trade negotiation, Zutshi said that agenda setting is in itself a complicated and long drawn process. To set up a balanced agenda, one has to ensure on one hand those areas where the country has aggressive interests and areas where the country has protective interests on the other. He mentioned that good negotiation requires consistent positioning over all areas during the negotiation, i.e. one needs to look at the negotiating positions of agriculture, services, non-agricultural market access (NAMA), etc. He mentioned that in agriculture, India has both offensive and defensive interests. Offensive interest describes that India wants developed countries to reduced subsidies and domestic supports to agriculture, so that India could have comparative advantage. Under the defensive interests, India has a very large dependence on

employment in agriculture. A large number of people were engaged in this sector hence, India has to ensure that the country does not open up its market to the extent that might hurt the domestic industry. He was of the view that while negotiating on service, India needs to build safeguards.

In actual negotiations, a negotiator has to identify area and issue of interests and concerns on the basis of research studies. One needs to formulate initial and subsequent national positions after consultation with all stakeholders such as NGOs and civil society. He mentioned that negotiator needs to deploy domestic liberalisation and reform agenda for seeking concessions. Moreover, at the same time one needs to harness multilateral engagement in order to facilitate domestic reform process and credibility.

Zutshi emphasised that internal reform and liberalisation process should be coordinated with multilateral negotiations, however the same is not the case with India. Once a negotiator undertakes the autonomous liberalisation process, there arise the issue of its binding. In case of tariff, liberalisation is considered as binding but the same is not with services. This shows lack of internal coordination among Indian negotiators to line up internal reform and liberalisation with multilateral negotiations. He mentioned that a critical factor for effective participation in multilateral negotiations is manpower resource development. He emphasised the need of subject experts during the negotiation process and pointed out that the process should not be restricted to the purview of a single ministry/department.

He elaborated the important role of regional grouping and coalition of various kinds in the multilateral negotiation. He said that such negotiation takes place outside the formal negotiation structure through bilateral and plurilateral contacts. He quoted the example of Association of Southeast Asian Nations (ASEAN) and mentioned the presence of high degree of closest coordination among the member countries. He described the negotiation (particularly in market access) in agriculture and services. While discussing the linear tariff cut, he mentioned that earlier it was based on request and offer approach. In the present round of negotiations the linear tariff was based on the “Swiss Formula”. However, the coefficient of Swiss Formula is the bone of contention between developed and developing countries. The formula would have been accepted, if the proportionate cut by the developing country will be higher than that of developed country. He then elaborated on the issue of base rate in the current Doha Round of negotiation.

While replying to a specific question of reliability of theories and skills of negotiations, Zutshi mentioned that theories of actual negotiations were derived from the practice of negotiation (i.e. based on practitioners experience). He mentioned that each negotiation is unique in itself and should be considered differently, while developing strategy. Rana was of the same view and mentioned that India has not yet practiced any theories of negotiations given by scholars or academicians. India’s preparation before negotiation was found weak and the situation will remain same till one does not develops the required skills and knowledge. While concluding the session he emphasised the need for proper training and capacity building in the field of effective negotiation techniques.

Case study

A case study was given to participants on negotiation wherein they were required to draft a proposal related to FTA between India and Bangladesh. Participants were being told that this proposed FTA with Bangladesh will not have any direct connection with long-delayed SAFTA process, and they could assume the FTA to be a *de novo* exercise. Participants are suppose to prepare a draft proposal that will be finalised by the commerce secretary, as the basis for discussion at the meeting of the Committee of Secretaries taking place in next four days time. They have been instructed that an inter-ministerial approach is essential this time so that the

activities proposed reflect a ‘whole of government’ approach (some people claims during informal discussion that this is a novel idea and that might not work, but the minister is keen on this method).

During the stipulated time period, participants (formed as groups) negotiated among each other. Rana guided the entire group to achieve a successful negotiation. The format of the draft proposal was good but a few things were being missed out by most of the participants. It includes time frame, BANTA, zone of possible agreement, zone of possible congruence, involving consultation with different institutions such as NGOs, studying the FTA of other countries for comparative work, etc. While concluding the session he appreciated and thanked all the participants for their effort in understanding the tools and techniques of negotiation.

Session VI

Effective Communication in Commercial & Economic Diplomacy and Writing Effective Resolution – Kishan Rana

Kishan Rana mentioned that the key feature of a resolution is having a single full stop accompanied by several semi colons, irrespective of the total number of pages (i.e. 5 lines to 5 pages). He explained the two important elements of a resolution, i.e. preamble and operative. Preamble begins with verb in present continuous tense and the operational paragraph begins with the same. He further emphasised the importance of signaling and verbal communication. While quoting one of the citations of *Babarnama* he emphasised the significance of plain or simple language and clear words as a part of good writing skills. The documents (draft resolution) are divided into internal document and public document with certain characteristics like brevity, precision, credibility, truthfulness, completeness and language. One important point in the resolution is constructive ambiguity (i.e. for flexibility) and material breach. Deliberate vagueness in language is a device used in certain documents to bridge over differences of substance and the same is left to the concerned parties to interpret. He then described the Cipher Telegram as a powerful tool for communication, but at the same time flagged that it is double-edged, since it could hurt badly the originator of the message. He elaborated the elements of resolution texts that includes, time element, conditionality, action imperative and combining clause.

Rana quoted the example that Germans have a system whereby the draft of a letter goes directly from the desk officer to the State Secretary (i.e. Secretary to the Government). In case the draft is issued under the name of State Secretary or needed his approval it goes parallels to all the in-between levels including the State Secretary. But in India this would be a revolutionary idea. The advantages of such system in the ministry or between the ministries are to shorten delay and act as a motivating factor (i.e. a negotiator’s work product carries the label of his name). He concluded the session by saying that communication skills grow with practice and continuous learning. He advised the 10 practical points to effective communication. These are:

1. Who is the audience? What is the level of sophistication of the arguments that should be used, as also the level of information that should be supplied? To judge this wrong weakens the message. One easy mistake is to give too much information. Place your message in a context that appeals to the audience.
2. Ask yourself: what do I want to say? This will help to shape the message. In a short speech (e.g. five minutes) it is best to stick to two or three points. In a longer speech the arguments can be developed in some detail, but it helps the audience if the speaker sets out his goals, and presents them in a format that helps them to recall the

essence of the message. Remember, the audience does not have the full text! (Do not distribute the full text before the speech is completed).

3. Avoid clichés, or phrases that are stereotyped. A short sentence is better than one full of clauses and conditions. A direct, affirmative statement is better than one couched in negative terms. And even when dealing with sensitive issues, one must not appear defensive or lacking in self-confidence.
4. Give a concrete example, whereby it illustrates the point you are making, offering something that may interest the audience. Using a good quotation at the right place is also a good way of holding the attention of the audience.
5. Avoid abbreviations or acronyms that your audience may not understand (example: 'LOC', 'FTA', 'MoU'). Make a conscious effort to drop typical home terms when you speak before a foreign audience that may not be familiar with your syntax.
6. Stick to the time that is allotted. This makes life easier for the organisers and pleases the audience.
7. Voice modulation, change of pace and use of appealing language are among the methods that good speakers use to hold the attention of their audience. One good way of improving one's own technique is to study other good speakers and borrow some of their methods. Eventually one should aim to develop one's own style, but that comes with practice and experience.
8. Learn to think on your feet, to respond to changing mood among the audience, and to points made by other speakers.
9. Treat a questioner with respect and seriousness, even if the point made is repetitive or insubstantial. Use it to make the points you want to convey.
10. Make it a habit not to use the words of the questioner to frame your response; that forces you to find an answer that suits your own position.

Case Study

Rana then conducted a drafting resolution exercise with participants. The participants were divided into groups and they were asked to draft resolutions. Three tasks were given to all the groups on drafting resolution. The format of the draft resolution on an average was good but a few things were missed out by most of the participants such as compactness in language, etc. He concluded the session by describing that a resolution should be in simple writing, using less passive voice and deliberate ambiguity, if the situation demands.

Session VII

Simulation Exercise on Trade & Investment Negotiation – Ahmed Ghoneim and Kishan Rana

Ahmed Ghoneim conducted a simulation exercise with all the participants. The simulation exercise was about two countries, i.e. Northistan and Southistan. Northistan is a large developed economy, and Southistan is an advanced developing economy about one tenth the size of Northistan. Northistan is among the largest trading countries in the world and it represents around 40 percent for Southistan exports and imports. Southistan represents less than 1 percent for Northistan trade. Ghoneim then outlined the main problem during negotiations, i.e. negotiating without knowing the objectives, and hence a negotiator loses the tempo of negotiation and ends up discussing minor issues and forget the overall objective.

Ghoneim explained the issues involved in the case study. These issues are as follows:

- a) Desire of Northistan to gain access for its banks & telecommunications firms, which are highly competitive
- b) Requested by Southistan for an increase number of work visa and business visa

- c) Labour standards
- d) Issue concerns agriculture
- e) Textiles
- f) Related to democracy and human right

The case study outlines the facts that Northistan is a country that represents 40 percent for Southistan export and import, largest trading and developed country, extensive investment by domestic companies, loss of manufacturing jobs (due to decline of wages for low skilled workers), reduction in the temporary work visas (because of recent terrorist attack). The facts of Southistan outlines that it is an advanced developing economy and constituted 1 percent of northistan trade, heavy dependence on export to northistan, a well known tourist destination, few sectors of the economy such as banking and telecommunication is still not liberalised due to the social and political repercussions.

Participants were then divided into two groups. Each group consists of Head of delegation, incharge of different ministries, private sectors (act as lobbyist) etc. The confidential instructions were given to both Northistan and Southistan teams for better negotiations. The Negotiation started with preliminary round (10-15 minutes.) followed by II & III rounds and then final round of negotiation. Groups (as Northistan and Southistan) under the guidance of Ghoneim developed their country strategies and negotiated till they get the best deal for themselves. Ghoneim then thanked all the participants for their efforts and making the simulation exercise successful and interesting.

Floor Discussion

While discussing the case study Ghoneim explained the existence of GATS and TRIPs in WTO. He said that the developed countries lost the comparative advantage in traditional goods but they were very aggressive and successful in intellectual property (not only medicine but software, trade mark, copyrights etc.) and services (telecommunication, banking, health, education etc.). Thus they need to access the markets and make sure that their access to developing country is protected and reserved. Before the WTO (during GATT), they had access though it was not protected and reserved. With the inception of GATS and TRIPs in WTO, the developed country gets access to the market and an edge over other competitors. The main idea behind FTA and RTA was to have better market access for developed country than any other countries in possession.

Replying to the specific question on GATS commitments or GATS plus Ghoneim explained that liberalisation of goods becomes easy, i.e. it passes the boarder and tariffs are paid. A country shows its commitment (i.e. not the tariff but anchoring the law) only when they feel that their market access is being secured. He further said if India wants to liberalise its services it has to put its commitments under GATS, which is based on MFN status. In FTA, a country asks for GATS plus which means GATS commitment plus extra. While responding to the question on liberalisation of trade in services, he mentioned that it could take place not only by crossing boarder but also by four different Modes of production i.e. Mode 1 (cross-border supply), Mode 2 (consumption abroad), Mode 3 (commercial presence), and Mode 4 (presence of natural persons). While mentioning liberalisation of trade in services, Ghoneim said that liberalisation of trade in services means not only reducing or removing the tariff but also changing domestic law and regulations.

Session VIII

Trade-offs in Negotiation – B K Zutshi and Ahmed Ghoneim

B K Zutshi

B K Zutshi mentioned that the premise and hypothesis of any negotiation is to resolve conflicts and to cooperate in different ways to achieve the common objective. All successful negotiations between sovereign states lead to some abridgement of the sovereign right of freedom of action. This essentially means trade off between the nature and extent of the loss of freedom of action and a possible gain resulting from a negotiated settlement. He emphasised that another way to assess the bargain or trade off in a negotiation is to look at the deal on a cost benefit equation.

He mentioned that the main reasons for multilateral negotiations between sovereign countries are as follows:

- The need to cooperate in order to manage services such as cross border commitments, air traffic control and maritime navigation;
- Problem of having cross border implications like in case of environment; and
- The cases where *status quo* is unacceptable.

The trade off is between giving up individual country technical parameters and receiving the concerned services. It is a good bargain whichever way it may be assessed. He mentioned that the challenge of identifying trade offs has been difficult and complex. He explained the example of trade offs during the Uruguay Round of negotiations. He said that there was a linkage of the phase in periods for product patents with the complete abrogation of the MFA. There is a limited scope for trade off within TRIPs agreement for India, because of the fact that it is an importer of new technologies and innovations rather than an exporter. India therefore had to look for a trade off outside this agreement. India settled for the complete abrogation of the MFA agreement in the shortest possible period, but when the 10 years phase out period was proposed for the MFA, India linked it to the phase in period for product patents on pharmaceuticals and agrochemicals. Zutshi emphasised that India's acceptance of TRIPs was contingent on the complete passed out of the MFA and if in case MFA is not abrogated completely, our tariffs on textile items would slab back to the level that obtained in September 1986, i.e. 200 to 300 percent.

The second one comes up in order to address an issue or problem having cross border dimension, i.e. environment, global warming etc. He mentioned that the issue of trade off is bit complicated and will need an assessment of the short-term costs. There are negotiations where *status quo* on any issue is unacceptable to a country or group of countries seeking improvement in market access, such as incorporation of IPRs in the multilateral trading system during the Uruguay Round. It was totally unacceptable to the US and EU that intellectual property, particularly, patents would be used in an unauthorised manner by any other country. They believed that this was a source of comparative advantage for them. He mentioned that TRIPs agreements are the most complex and contentious in the Uruguay Round of negotiations and continue to be so in some respects in the ongoing Doha Round of negotiations.

He then described the trade offs in bilateral negotiations and was of the view that there is no complication of interest and concerns of the many parties taken on board while negotiations, but otherwise bilateral negotiations can be quite complicated depending on the issue under negotiations. He further put forward the example of trade offs in the Indo-US civil nuclear deal and 123 agreement, wherein it was stated that the broad objective was to gain access to fissile material, its technology and know-how and retain the freedom in development of nuclear

weapons, its testing, reprocessing and stockpile. The cost parameters were the separation of the civilian and strategic nuclear programme and placement of the civilian programme under the International Atomic Energy Agency (IAEA). He further said that the benefits or gains from the agreement were the ending of the isolation and pariah status as a nuclear power for the country. While concluding his session he stated that before entering into a negotiation, one needs to know his standing or status and the same could be done by indicators such as economic, legislative, political regime, trade interest, foreign relations and public opinion. In the Indo-US nuclear deal, India has failed to safeguard its strategic and security interests, lost the ground of future testing. Hence, India will now attract sanctions, denial of access to nuclear fuels and technology, return of fuel and materials supplied under the agreement.

Ahmed Ghoneim

Ahmed Ghoneim while discussing trade offs emphasised that before entering into a negotiation, one needs to know his standing or status, and this can be gauged by some indicators such as economic, legislative, political, trade interest, foreign relations and public opinion. He further described in details these economic indicators and emphasised the presence of political economy constraints during trade negotiations.

While explaining the objective of negotiation, he said that a negotiation is not about giving up something, rather minimising the costs and maximising the benefits. He then outlined the tips for better negotiation which includes avoiding personal influence, checking the safeguard provisions, having the national interest, keeping more than one option ready, applying gradualism (transitional period to enter into an agreement), asking for the moon and always possessing a wide vision (not a narrow mercantilist vision). He explained that in negotiation there must be a desire in asking for the moon (i.e. aiming high), though one must remember that the moon should be within the border of box. In return one would end up getting probably less than what he has asked.

Floor Discussions

While replying to the specific question on Indo-US nuclear deal Zutshi emphasized that it is a fair trade off in terms of cost benefit equation. He mentioned that during the negotiation India's strategic programme was outside the purview of negotiation. The agreement is silent on India's sovereign right to undertake further test in future and has secured a commitment on building reserves of fissionable material for the lifetime of nuclear power plants in order to avoid possible disruption of supplies in the event of India testing in future and Nuclear Supplier Group (NSG) imposing ban on further supplies.

Ghoneim then explained the national treatment that means treating the trading partners' goods with the same respect as own goods. In case of services, negotiators are allowed not to abide by the entire national treatment, which is a kind of safeguard in term of flexibility. He further explained the Rules of Origin (RoO), which means a criterion needed to determine the national source of product. Their importance is derived from the fact that duties and restrictions in several cases depend upon the source of imports. RoO are used

- To implement measures and instruments of commercial policy such as anti-dumping duties and safeguard measures;
- To determine whether imported products shall receive Most favoured Nation (MFN) treatment or preferential treatment;
- For the purpose of trade statistics;
- For the application of labeling and marking requirement; and
- For government procurement.

While discussing the RoO Rana was of the view that it is only used in the FTA (for example NAFTA) and not applicable in customs union, to which Ghoneim agrees and said it a rising star in the area of protectionism.

Case study

An exercise was given to all the participants for identification on possible trade offs in context of Doha Round of negotiations on market access. The background information of the case is distributed among the participants. Participants are required to identify possible trade offs in the services negotiations, within services negotiations themselves and also across sectors like agriculture and NAMA. The participants have to indicate the process for identification of the trade offs that they may recommend. Participants were divided into five groups and each group presented their recommendations, by outlining the process and briefly indicating the reasons for the recommendation on the basis of their understanding gained from the sessions on negotiating skills and trade offs. Zutshi guided the entire group to achieve the successful agreement.

Session IX

Dispute Settlements in Trade and Investment Agreements –Suhail A Nathani

Suhail Nathani mentioned that the WTO came into being in the year 1995 and it is one of the youngest of the international organisations, and the successor of the GATT (1947), which was the parent body facilitating multilateral trade. While highlighting the dispute settlement mechanism, he mentioned that it is the most successful part of the WTO that allows smaller countries to voice their concern such as policy or demand compliance over developed or developing countries. He quoted the example of Bahamas that took US to the WTO in relation to its gambling restriction.

He mentioned that dispute settlement mechanism works as the guarantor of rights and obligations, provides stability, predictability and protection against unilateral action. The functioning of the Dispute Settlement Body is governed by the WTO agreement called “Understanding on Rules and Procedures Governing the Settlement of Dispute”. The Dispute Settlement Body has emerged as an effective mechanism for the resolution of disputes for a variety of reasons such as settling dispute in a stipulated time period, inability of the losing country to block the ruling and retaliatory mechanism.

He further explained that once a country decides to refer a dispute to the WTO dispute settlement system, there is a specific process that must be followed, which involves five stages which includes:

- a) Consultation and mediation (duration is 60 days)
- b) Setting up panel and panelist (duration is 45 days)
- c) Panel report to parties (duration is 180 days)
- d) Panel report circulated to WTO members (duration is 21 days)
- e) Adoption of report (duration is 45 days)

He mentioned that India possesses brand and competent people, though there is no dedicated team of lawyers who can facilitate trade. In the earlier disputes, India relied on foreign lawyers or WTO centre for trade resolution, now it is building indigenous brand. He pointed out that the biggest success of WTO dispute settlement process is settling more than 300 disputes in the last 12 years, out of which 84 cases were related to India. Overall, India’s record at the Dispute Settlement Body has been reasonably descent, albeit it has lost some cases, for example, the Patent and the Quota Restriction case. India has been able to use the Dispute Settlement Body

effectively, in order to gain market access. He referred to the example of EC Bed Linen case. However, Nathani cautioned that many times WTO Dispute Settlement Body, as an effective body to resolve disputes, is not being used to the desired extent. He further explained the dispute resolution mechanism and private party rights in terms of access to the dispute settlement under RTAs and FTAs.

He discussed the wines and spirits case in which the US has taken India to a Dispute Settlement Body. He mentioned that the additional customs duty and the special additional (SAD) customs duty imposed under Sections 3(1) and 3(5) of the Customs Tariff Act, 1975 were the measures under this dispute. The additional customs duty had been withdrawn but US was contesting the SAD especially with reference that whether it was really countervailing state levies such as sales tax or VAT, octroi, municipal taxes etc.

Nathani discussed the EU GSP case and the Byrd Amendment case. In the former case, India had contested the EU Generalised System of Preferences (GSP) scheme, which provided for concessions to Latin American countries and Pakistan as a measure to combat drug trafficking. EU had lost the case and came out with a new GSP formulation effective from January 1, 2006. Zutshi intervened and mentioned that even this had flaws since it mandated reciprocity in terms of the beneficiaries having to sign onto good governance agreements. On the Byrd Amendment, the issue of the US disbursing the antidumping and countervailing duties to the affected parties was raised wherein the panel decided that the measure was tantamount to providing a subsidy.

He explained the US shrimp dispute case, where the US Trade Representative (USTR) was willing to withdraw the bond requirements but the US Customs was unwilling to budge from its position. The case of Antigua and Barbuda taking the US to dispute on its ban on Internet gambling was also highlighted to explain that even smaller nations could take economic superpowers to dispute. He concluded by saying that the high costs of litigation coupled with lack of domestic expertise in the field acts as a big deterrence. It is important that developing countries like India should take part in the large number of disputes as third party participants, so as to generate greater understanding of the system.

Case study

The case study related to dispute concerning import prohibition of certain shrimp and shrimp products (Republic of Bharat as complainant v. United States of Dubya as respondent) were given to all the participants. Participants (as groups) were requested to formulate the argument and relevant pronouncements. Nathani guided the groups in order to formulate the argument as compliant and respondent. He then appreciated and thanked all the participants for their effort in understanding the mechanism of Dispute Settlement Body and formulating arguments against compliant and respondent.

Closing and Evaluation

Before the summing up of the session Zutshi explained the analysis of trade offs exercise done by participants. He mentioned the various steps involved during the trade offs in order to get the best deal in negotiation. Bipul highlighted the importance of research inputs during negotiation. He mentioned that during the Uruguay Round, India did not have much capacity to do research, hence all negotiations took place on the analysis and the wisdom of negotiator. After the formation of WTO the research was based on supply driven approach. Research organisation conducts research and the same was been forward to Commerce Ministry or any other ministry/department for their consideration. He mentioned that research becomes prominent and significant only after the Doha Round. Ghoneim was of the view that there is a gap between research and the policy making. Policy makers were not so positive of accepting research work of

an organisation before making any policy because of the quality of research and unavailability of data.

While highlighting the importance of training programme Ghoneim mentioned that the aim of this training programme is to bring you to the world of commercial and economic diplomacy. He was of the view that one must understand the basics and would try to enhance the knowledge and skills as a continuous process. He mentioned that the Doha Round was entitled as a “Developmental Round”, which would focus on the needs of developing countries. Initially, the Round was expected to be completed by 2004, but the talks progressed slowly and with disagreements. Hence, no consensus among US, EU and developing countries, further delayed the Round. The Round was then suspended at the end of July 2006. Earlier this year, repeated attempts were made to reach a broad agreement, so that the Round could be completed by mid 2007. Despite these attempts there is no end to this impasse. During the discussion Ghoneim provided with the overview of Doha Development Agenda (DDA), reasons for the launch of this particular round, main issues and concerns in agriculture, NAMA, services and other related issues under the ongoing negotiations, the prospects of its resumption and possible consequences of the long term suspension or collapse and potential gains from the round.

Bipul thanked all the participants and resource persons for their participation in the training programme. The participants were then asked to provide general views on the programme. Participants were of the view that the training programme provided them with better understanding and exposure of various aspects related to commercial and economic diplomacy. They appreciated and acknowledged the rich experience and expertise of resource persons, quality of resource material and overall administration of the training programme. They provided the following recommendations:

- The programme could have been for at least a week or ten days.
- It could also have covered specific aspects of the WTO agreement on services, negotiations on agriculture, steel and environment sector, issues of labour reforms, child labour and industrial relations, strategies to dismantle barriers to trade and various strategies for negotiating a trade agreement. A separate session on trade agreements (bilateral, regional and multilateral) could be included.
- One resource person from government/industry could have been a value addition for the training programme while conducting the session on negotiations. A serving resource person might have elaborated on ground realities of current negotiations.
- Some of the participants felt that the course content and discussions were more focussed on the work of Department of Commerce and Ministry of External Affairs. The programme would have been more cohesive if the relevant work and topics of other ministries/departments could have been included.
- A small toolkit (may be a dictionary) could be designed by organisers for a layman person to understand the economic and basic terminology of commercial and economic diplomacy.
- A film/short documentary (an audio visual) of a negotiation could have been shown to the participants in order to get a better understanding of the negotiation process.
- Some of the participants felt that the session was too lengthy and they were of the view that the two-hour session at a stretch could have been broken into two different sessions with 5 minutes break

To conclude, the following are some of the highlights of the programme.

- The programme was a success in terms of quality of participants, resource persons, resource materials, administrative and logistical arrangements.
- Participants were of the view that the simulation exercise on trade and investment negotiation conducted by Prof. Ahmed Ghoneim was like a “reality show”. This has benefited the participants (those who never encountered actual negotiation) in understanding the process of negotiations.
- The discussions among participants during case studies were very fruitful and cohesive. It encouraged the participants in generating new ideas and skills in the field of commercial and economic diplomacy. Moreover, interaction within the group (participants from various ministries/departments) facilitated understanding of the work areas of various ministries/departments.
- Participants were of the view that the organisers managed this training programme with dedication and it was well planned. However, there is a scope for improvement and the feedback provided by participants would help organisers in customising the course module and methodology for conducting such training programmes in future.
- Resource persons were eminent experts in their subject, having wide experience. They related theoretical aspects with their practical experiences and made the learning process easier for the participants.
- Resource persons and participants found the resource material very informative and useful in terms of imparting knowledge on various aspects of commercial and economic diplomacy.
- The atmosphere was congenial and conducive for learning; sessions were structured in a manner that it could provide enough time for discussions.
- Participants found that logistical arrangements were very good. They had a comfortable stay at the venue.
- All the participants wanted to attend similar training programmes in future. However, a few of them were of the view that it would be better if topics pertaining to their area of work are incorporated – in other words, there is scope for offering customised training.

Annexure I

Programme Agenda

***CUTS Institute for Regulation & Competition (CIRC)
Training Programme on Commercial and Economic Diplomacy
October 22-26, 2007, Royal Orchid, Jaipur***

Day 0 (Sunday): 21.10.2007	
1300-2000	Arrival/Registration of Participants
2000	Dinner
Day 1 (Monday): 22.10.2007	
0845-0930	Inaugural
0845-0850	Bipul Chatterjee, Deputy Executive Director, CUTS International
0850-0905	B. K. Zutshi, Member, Governing Council of CIRC
0905-0930	Participants' Expectations
0930-1000	Tea/Coffee
1000-1130	Session 1: Opportunities and Challenges for India in an Emerging Globalising Economy What have been the achievements of the Indian economy in present era of globalisation and economic liberalisation; what are the challenges and their implication? N. C. Pahariya, Associate Professor, University of Rajasthan
1130-1300	Session 2: International Trading System and the Developing Countries An overview of the working of the international trading system with special emphasis on the World Trade Organisation. Discussions on the emergence of preferential and regional trade agreements. B. K. Zutshi
1300-1400	Lunch
1400-1600	Session 3: Introduction to the Concepts of Commercial and Economic Diplomacy What is commercial diplomacy? (Narrow definition <i>vis-à-vis</i> broad definition); How different is it from economic diplomacy? Elements of commercial and economic diplomacy; Relationship between commercial diplomacy and political diplomacy; How does commercial and economic diplomacy help in fostering better political relationships? Kishan Rana, Former Ambassador of India, Senior Fellow, DiploFoundation and Course Director of CDS
1600-1630	Tea/Coffee
1630-1800	Session 4: Country Promotion and Image Building Process Promotion of country's strengths in order to promote trade and investment, attract foreign investment; how to build the image of our country in an international market, etc. Bipul Chatterjee
2000	Dinner
Day 2 (Tuesday): 23.10.2007	
0900-1100	Session 5: Effective Negotiation in Commercial and Economic Diplomacy Effective negotiating techniques appropriate for the various types of negotiations; technique and skills of interest based negotiation; research and

	analysis on negotiation; how to build a consensus, lobby decision makers and formulate a comprehensive negotiation strategy, etc. B. K. Zutshi Kishan Rana
1100-1130	<i>Tea/Coffee</i>
1130-1230	<i>Group Discussion on Session 5</i>
1230-1300	<i>Presentation on Group Discussion</i>
1300-1400	<i>Lunch</i>
1400-1600	<i>Session 6: Effective Communication in Commercial and Economic Diplomacy, and Writing Effective Resolution</i> Written and oral communication in commercial and economic diplomacy; developing contents with focus, organisation, accuracy, timeliness and enthusiasm; how to use a hook or grabber to capture the attention of the audience; how to set an agenda; how to integrate all parts of a presentation seamlessly, etc. Kishan Rana
1600-1630	<i>Tea/Coffee</i>
1630-1730	<i>Group Discussion on Session 6</i>
1730-1800	<i>Presentation on Group Discussion</i>
2000	<i>Dinner</i>
Day 3 (Wednesday): 24.10.2007	
0900-1100	<i>Session 7: Simulation Exercise on Trade and Investment Negotiation</i> The process and content of negotiation through simulation exercise to showcase how negotiations are progressed. Ahmed Ghoneim, Associate Professor, Faculty of Economics and Political Sciences, Cairo University Kishan Rana
1100-1130	<i>Tea/Coffee</i>
1130-1230	<i>Group Discussion on Session 7</i>
1230-1300	<i>Presentation on Group Discussion</i>
1300-1400	<i>Lunch</i>
1400	<i>Free time</i>
2000	<i>Dinner</i>
Day 4 (Thursday): 25.10.2007	
0900-1100	<i>Session 8: Trade-offs in Negotiation</i> Trade-off usually refers to losing one quality or aspect of something in return for gaining another quality or aspect of the same and/or a related thing. In a successful negotiation, there should be win-win situation for all the parties. The objective should be to reach an agreement rather than victory. This session will enlighten the participants the meaning, scope and analytical tools used in understanding trade-offs. B. K. Zutshi Ahmed Ghoneim
1100-1130	<i>Tea/Coffee</i>
1130-1230	<i>Group Discussion on Session 8</i>
1230-1300	<i>Presentation on Group Discussion</i>
1300-1400	<i>Lunch</i>
1400-1600	<i>Session 9: Dispute Settlement in Trade and Investment Agreements</i> Dispute settlement mechanism in the WTO; the evolution of dispute settlement in the GATT/WTO context; various stages of dispute settlement;

	India's experience at the Dispute Settlement Body of the WTO; rules and procedures of handling disputes in the WTO; dispute settlement mechanism under regional and bilateral free trade agreements; dispute settlement in agreements between market operators from different countries, which generally (but not solely) takes the form of international arbitration, etc. Suhail A. Nathani, Partner, Economic Law Practice, Mumbai
1600-1630	<i>Tea/Coffee</i>
1630-1730	<i>Group Discussion on Session 9</i>
1730-1800	<i>Presentation on Group Discussion</i>
2000	<i>Dinner</i>
Day 5 (Friday): 26.10.2007	
0900-1100	<i>Evaluation of the Training Programme</i> Kishan Rana B. K. Zutshi Ahmed Ghoneim <i>Closing Remarks</i> Bipul Chatterjee
1100-1130	<i>Tea/Coffee & Departure</i>

Annexure II**List of Participants**

S.No.	Participant Name	Designation	Department
1	Mr. Upendra Kumar Vats	AGM	APEDA
2	Mr. P C Pandey	Under Secretary	Department of Commerce
3	Mr. Manabendu Sen	Under Secretary	Department of Commerce
4	Mr. S K Sharma	Under Secretary	Department of Commerce
5	Ms. Jean G V Zingkhai	Under Secretary	Department of Commerce
6	Mr. Dinesh Kumar Verma	Under Secretary	Department of Commerce
7	Mr. Kuldip Kumar Phull	Under Secretary	Department of Commerce
8	Mr. B K Malhotra	Under Secretary	Department of Commerce
9	Mr. Prabhu Singh	Under Secretary	Department of Commerce
10	Mr. V Ashok	Senior Analyst	Department of Commerce
11	Ms Sameera Saurabh	Assistant Director	Department of Commerce
12	Mr. R S Raghawa	Section officer	Department of Commerce
13	Mr. Vinod Kumar	Section officer	Department of Commerce
14	Mr. C S Rao	Section officer	Department of Commerce
15	Mr. J S Murty	Section officer	Department of Commerce
16	Ms. Manju Rishi	Section officer	Department of Commerce
17	Ms Debanjana Ray	Section officer	Department of Commerce
18	Mr. Shakha Roy	Section officer	Department of Commerce
19	Mr. Jitender Kumar	Section officer	Department of Commerce
20	Mr. Lalit Grover	Section officer	Ministry of Corporate Affairs
21	Mr. S Puri	Section officer	Ministry of Environment and Forest
22	Mr. Satendar Kumar	Under Secretary (PC, PD, PE)	Ministry of External Affairs
23	Mr. Pankaj Saxena	Under Secretary	Ministry of External Affairs
24	Mr. Vinod Kumar	Deputy Director	Ministry of Labour & Employment
25	Mr. P.K Mukherjee	Deputy Director (EA)	Office of the Develop. Commissioner
26	Mr. Dhruv Chakravarty	Desk officer	Ministry of Steel
27	Mr. R K Pandey	Under Secretary	Department of Commerce
28	Mr. A K Mehrotra	F.T.D.O	DGFT
29	Mr. S N Sharma	F.T.D.O	DGFT
30	Mr. Puneet Sharma	F.T.D.O	DGFT
31	Mr. Raghu Nath	F.T.D.O	DGFT
32	Mr. Rajiva Kumar	Under secretary	Department of Agri. and Cooperation