

*Training Programme on*  
**Strengthening Skills on Commercial and  
Economic Diplomacy**

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**A Report of the Proceedings**



**CUTS International**

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

Phone: +91-141-228 2821, Fax: +91-141-228 2733

Web: [www.cuts-international.org](http://www.cuts-international.org), Email: [cuts@cuts.org](mailto:cuts@cuts.org)

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## **Introduction**

CUTS International organised a training programme on “Strengthening Skills on Commercial and Economic Diplomacy” for senior-level civil servants during January 19-21, 2009 in Jaipur. This was a sequel to the training programme that was organised earlier on August 18-21, 2008 in Jaipur for junior-level civil servants and executives.

This is the seventh programme in a series of high skill training sessions organised by CUTS targeted at Indian government officials and representatives from business organisations handling international affairs and negotiations.

The Department of Commerce, Ministry of Commerce and Industry, Government of India is supporting these programmes, which seeks to build institutional capacity and skills up gradation of the Government functionaries for improving India’s commercial and economic diplomacy.

This programme brought experts/resource persons together to explore and deliberate various aspects of commercial and economic diplomacy. Over a period of three days the participants were able to sharpen their skills on commercial and economic diplomacy through lectures, real life experiences of resource persons, simulation exercises, and group discussions. Participants on their part acknowledged that the learning that they were able to assimilate during the course of the programme was extremely valuable and emphasized on the need to conduct more such more such programmes to strengthen commercial and economic diplomacy skills of the Indian government officials. Based on the feedback received from the participant and resource persons, the programme was successful in terms of:

- quality of interaction
- resource persons;
- resource materials; and
- administrative and logistical arrangements.

## **Objectives**

- To meet the imperative of having trained government officials at various levels who
- are involved in commercial and economic diplomacy;
- To ensure coherence between India’s domestic policy on trade and investment-related
- issues with international commitments; and
- To enhance skills by developing/strengthening capacity for taking effective part in
- trade negotiations and implementation aspects of related international agreements.

## **Scope**

The programme covered the following areas related to commercial and economic diplomacy:

- International Diplomatic Environment
- A Practical Approach to Negotiations
- Trade Promotion Activities: A Field Perspective

- India and the Multilateral Trading System – From Uruguay Round to Doha Round
- Simulation Exercise on Trade Negotiations

## **Participants**

The programme was attended by 8 officials from Department of Commerce, Directorate General of Foreign Trade (DGFT), and Ministry of Science and Technology. These officials have been handling work related to promotion of trade and investment and negotiations on various bilateral, regional and multilateral issues in their respective territorial divisions.

## **Resource Persons**

Resource persons were comprised of eminent experts, practitioners and academicians in the field of commercial and economic diplomacy and related matters, which included:

- Kishan S. Rana, Former Indian Ambassador to Germany and Course Director of CUTS Commercial Diplomacy Programme
- B. K. Zutshi, Former Indian Ambassador to the GATT
- Geza Feketekuty, President, Institute for Trade and Commercial Diplomacy, Washington DC

## **Inaugural Session**

**Pradeep S Mehta, Secretary General, CUTS International, Jaipur**

**Kishan S Rana, Former Indian Ambassador to Germany and the Course Director**

**B K Zutshi, Former Indian Ambassador to GATT**

**Pradeep S Mehta** welcomed the resource persons and the participants. He provided a short background of the training programmes. He recalled that the participants in the past and even the senior negotiators have appreciated the importance of such a course for the Indian diplomacy. He pointed out that the programme was cut back to three days from five due to time constraints and to give the government officials few days to discharge the respective duties they are engaged in.

**Mehta** said, other than the Ministry of commerce, the course is also useful for other ministries. Further more the negotiations in most realms of the government should be understood in the context of World Trade Organisation (WTO).

**Mehta** pointed out that the experience with the GATT and Uruguay Round of negotiations instilled a need that a more scientific training should be imparted to the negotiators in order to deal with such issues. Moreover, India is negotiating many Regional Trading Agreements (RTAs) which also demand the kind of skills imparted by this training.

Further, emphasising on the need for holistic negotiating skills, **Mehta** opined that while dealing in the multi-cultural contexts it is important to understand nuances of a proposal and consider the possibility of misunderstandings. He drew the example of differences in understanding the English language, and stated that even language should be understood in the cultural context as they could influence the meaning drawn from the language used.

It has become evident that we need to be comprehensive in our understanding of the terminology; how a proposal is being made, how a proposal is analysed and its possible implications for the country.

According to **Kishan S Rana**, the course director, this three year course is the first instance that the Ministry of Commerce of the Government of India has taken up such an effort. He said that because the present course has a small group of participants it would be run as an interactive session.

He pointed out that the governments around the world are trying to bring in uniformity in their external relations, and that these actions cannot be handled by one ministry alone. The issues that the government deals with in the external arena like foreign policy, commercial policy, industrial policy, climate change, communications, have multiple internal agencies responsible. Both internal agencies as well as the government lead and support players. There is no monopoly of external action that may have existed in the past as today the fault lines have become diffused. This means that foreign ministries in particular act as coordinators, as networking agents, working with equal partners. Policy emerges from a consensual collegial process between different agencies. This ideal though, is not easy to achieve.

The UK, for instance try to bring in uniformity in internal processes through a series of conferences at the Wilton Park Castle organised by the Foreign Ministry of UK. These conferences are not just limited to foreign policy issues but encompass a range of issues. Foreign participants also attend as invitees and paid participants. The conference on foreign ministries that he attended in 2005 delved into the question of presenting a general view of a country and how difficult it is to achieve. Therefore the important poser is whether or not it is effective in a country to have separate foreign policy, foreign trade and investment activities or is it functionally useful to bring in uniformity of activity in some manner. Some 23 countries around world have a single Ministry for foreign affairs, foreign trade and usually investment promotion and aid management. In the Scandinavian countries all these major four activities are unified within one single ministry. Other countries like South Korea, Australia, Canada and Japan to an extent have tried to achieve the unified process. UK has a unique model. It has a separate Board of trade, which is essentially their commerce ministry; and a Foreign and Commonwealth Office. Both have come together to form a separate structure called "Trade and Invest Britain", which is embedded in the foreign office, but is answerable to both the Board of Trade and Foreign office. This is an example of concerted effort by various arms of the government in commercial and economic diplomacy.

The second question is who should do the work of foreign and commercial diplomacy? India has tried to have a unified foreign service, which was a brain child of Jawaharlal Nehru. Whereas, there are other countries like the United States who have completely separate foreign services. Even in Australia which has a unified foreign ministry, there is also a separate department dealing with commercial diplomacy.

Therefore, the question remains whether the unification of services or separate service is useful and feasible? And the proposition that who should do the work? In his personal opinion, **Rana** said, a model similar to the UK's would be better. He opined that, in India a major institutional change cannot be made. The given strength of the Foreign Service personnel is not enough to run the vast activities of the external policy. The proposed

doubling of the strength of the Foreign Service personnel is going to take a lot of time. The alternative method is to implement to some extent a level of radical thinking which will enable the Foreign Service to control the activities. However this will require further thought.

**B. K Zutshi**, the former Indian Ambassador to GATT, said that the context of the course has undergone a dramatic change post the Lehman Brothers' incident and the global economic crisis. Before the economic crisis some believed that developing countries like India are de-coupled from what was happening globally; and the meltdown of the financial system will not be affecting India that much. However, that has not been true due to the degree of India's integration with the international system. He strongly felt that globalisation is here to stay, despite its lack of flavour in some places like the US, as globalisation today is driven by technological innovations.

**Zutshi** said the outcome of the crisis will dictate the nature of International engagement. He believes that India has to engage more intensely with the international community. Therefore improving skills for the negotiators is important. Traditionally India has been perceived by the other countries of being wary of international engagement, particularly on trade.

**Zutshi**, said that the training programme would discuss the following issues- a) the nature of our international engagement in the context of the global economic crisis; b) how the Doha Round will be negotiated and concluded?; and c) look at how the level of stakeholder engagement in policy formulation can be deepened and broadened.

### **Floor Discussions**

The floor discussion followed centred around ways of strengthening the commercial and economic diplomacy of India. Participants expressed their views on how to build the capacities of the Indian commercial and economic diplomacy.

**Amarendra Khatua**, Joint Secretary, Ministry of Commerce opined that there is a problem of lack of specialisation in specific areas of negotiation amongst the negotiators, due largely to the institutional factors like reduced intake of new officers. There is also a dearth of inter-disciplinary approach in inducting officials from other line ministries. He suggested that the creation of an Indian Foreign Trade Services with dedicated personnel on the lines of other existing services might be helpful.

**Shyam S Agarwal**, Additional Director General, Directorate General of Foreign Trade (DGFT) on the other hand, thought that creation of Indian Foreign Trade Service may not help in ameliorating the problems with Indian negotiations, given the institutional constraints. Moreover, the negotiators should also have a good understanding of ground realities that would enable them to engage in economic diplomacy better. The exposure to the ground reality is important in building the strength in international negotiations.

**Pradeep Mehta** of CUTS International pointed out that it is very important and useful for the negotiators to be well informed and grounded. This grounding could be built by the negotiators being abreast with the current affairs. Though there are instances of separate services in other countries like the United States, it will be difficult to achieve this in India as the 'turf mind set' is one of our drawbacks. He further pointed out that

India should draw from the examples in other countries where lateral entry of able persons into diplomatic service and government is possible.

**Kishan S Rana** joining in the discussion said that diplomacy is indeed a specialised subject, specialised in the business of external connection. While negotiating at the international level it is essential to make inter-sectoral trade-offs. Therefore, during negotiations it is helpful if there are external inputs that could facilitate such holistic trade-offs. He further noted that bringing about radical changes in the present system may be difficult. Incremental changes, on the other, could be feasible. With regard to India, informal systems make things work at the international level and domestic arena as well. There is an effort now to induct people from outside, which has to be enhanced.

**Nirmal Singh**, Economic Adviser, Department of Commerce & Industry said that more than creating new structures it is important to have an integrated input mechanism from different sectors and ministries.

**Session I**  
**International Diplomatic Environment**  
**Kishan S Rana**  
**Geza Feketekuty**

**Kishan Rana**, opening the session delved on the key drivers of present day international diplomatic environment, as follows:-

- No ministry is an exclusive agency. They must coordinate with others, and sub-state entities in a federal country. The goal is ‘whole of government’ style. The role of state governments in economic diplomacy should also be explored. In the US where the individual States can explore inward investment promotion by passing the federal government as inward investment is treated as a state subject. Similarly in Germany, there is an intense competition between the states for investment. States can have external offices. In India the States do not have the right to have its own foreign offices; which is essentially a constitutional provision to keep the Federal structure intact.
- Non-state actors, Track 2 and Track 3 processes are growing. These have to be co-opted even if it is unpalatable.
- Issues to deal with have multiplied and often intertwined. This leads to high volatility.
- Networking with local and foreign companies, business chambers, think-tanks, and academia is vital for economic diplomacy.
- Heads of governments have been hyper-active in the recent years. They operate autonomously. There is a huge growth in summits and direct diplomacy.

**Rana** said given this background the question then is what is ‘good governance’ in economic and commercial diplomacy? Moreover, how can it be achieved? Criteria should be inclusive meaning that it must deliver value to all stakeholders. In foreign affairs economics is the major driving force, even a basis for security.

- Diplomacy is about tradeoffs, often on disparate issues and the application of leverages.
- The impact of ICT is that it integrates embassies into home capital.

- Moving beyond ‘commercial offices’ and reaching out to all embassies. Today, every ambassador’s primary activity is commercial diplomacy. Embassies can be tasked better when it comes to promotional work. Sometimes the individual initiative taken by the personnel at home alerting the foreign office of possible opportunities could bring in gains to the country.
- Economic ministries and the Ministry of External Affairs (MEA) must work together. Linking trade and investment promotion along with image management is important. Further ways to market India as an investment destination should be explored. One method would be by producing catchy slogans and leveraging from them. Also explore making use of events like the Festival of India, which was an Indian innovation to market culture. This was one of the most successful cultural festivals organized by any country. However, India did not use such opportunities to piggy back commercial diplomacy with other events.

**Rana** then tried to address some basic questions in commercial and economic diplomacy.

a) What is Economic Diplomacy?

**Rana** pointed out that there is no unanimity when defining ‘economic’ & ‘commercial’ diplomacy. According to him, activities like trade promotion, FTAs/RTAs, WTO and multilateral trade issues and FDI promotion fall in the category of commercial diplomacy. While, economic promotion would encompass dealing with international economic and financial organizations, aid, science and technology promotions, brand image and joint commissions. The two largely cover concurrent areas, but ‘economic diplomacy is the wider term.

b) Who Handles Economic Work?

Work is carried out differently within different countries. In Australia, Canada, Sweden and about 20 other countries, the work is done by a unified agency. While in the UK, and partially in Japan the work is unified. In Singapore a third agency does the work of economic diplomacy.

Advancement of national economic interest is at the core of external relations. The countries that have been successful in economic diplomacy practice ‘whole of government’ methods, with unified policy direction.

**Rana** said that embassies abroad are essential action tools. He said that there is a high opportunity cost of embassy under-use.

c) Country Promotion & Image

This essentially tries to show country brand in a ‘powerful, attractive and differentiated way’; but it must be rooted in reality. Image of a country affects all aspects of its external links, including commercial exchanges, investments. Many countries pursue branding and re-branding. Public-private partnerships work best for branding both at home and target country. Using local partners adds to credibility of the exercise. According to him, the brand equity fund in the PPP model is a good beginning.

According to Rana the promotion methods could be as follows:

- Assess the real situation objectively.
- Using both wide catchments of networks as well as pursuit of specific targets like companies and investors.



- Using locals and using “success stories” to market your case
- Outreach, integrating all diplomatic sectors and personnel, from culture to consular services and other agencies and Diaspora. Even using business delegations during the head of the state visits. This could lend credibility and accord higher import by the host countries.
- Mobilize regional approach.

Dealing with FTAs **Rana** raised the question whether India’s external policy will be more inclusive than in the past? Indians have a reputation of being a tough negotiator. Meanwhile, India wants to have a seat at the decision making process. He wondered if India can be seen as outlier and still claim a membership in the global leadership forum? A related question is how can India be a global player when our relationship in the neighbourhood is not the best? FTAs could transform the relationships with the neighbours as in the case of India-Sri Lanka FTA. This has evident benefits in the domestic arena as well. Wrong agreements implemented in wrong ways have hurt the interests of the country, he opined.

One of the participants pointed out that the costs and benefits of an FTA should be taken into account before entering into an agreement.

**Rana** responded that all FTAs involve some pain, but the key issue is the net gain, seen in a dynamic and holistic manner. Painless FTAs do not exist. We need to have an integrated, holistic view of our objectives in target markets. He quoted Jean Monet, the first one to propose a unified Europe, to state that we should start with narrow issues so that it will then grow into larger issues. He alerted the participants that in any FTA the final outcomes will be difficult to predict at the beginning itself. There is a high element of uncertainty when it comes to the possible outcomes of any FTA.

In conclusion **Rana** said.

- Target-setting through consultation and pursuing a unified strategy is worthwhile in commercial diplomacy.
- Building promotional networks, at home and abroad is important.
- Sustaining a ‘whole of government’ approach is crucial.
- The better utilization of embassy networks is important.
- Borrowing the Thai method of looking at a target country as a partner and developing a holistic strategy that encompasses all aspects of relationship, even when the primary drivers are economic issues.

The second presentation of the session was by **Geza Feketekuty**, President, Institute for Trade and Commercial Diplomacy, Washington DC on the following topic-

## **Managing the Participation of Stakeholders**

**Geza Feketekuty**

**Geza Feketekuty** started by saying that in the earlier courses the participants expressed the desire to know about managing stakeholders in India. In the US during his stint as the US negotiator on services, the stakeholder consultation was extensive. Consensus building is very important in the United States. The stakeholder consultation is also very

much part of democracy. India has come a long way in stakeholder consultations. However, this remains an important problem with many developing countries. He shared his experience of training negotiators of developing countries like Egypt where the stakeholder consultation has been a problem. There were issues with respect to the status and positions of the different participants, some of whom did not want to undergo simultaneous training. On the contrary, in Vietnam where there was absolute cohesion in the training process and where all the stakeholders participated, the course has been successful in creating the spirit of one team. In China meanwhile, the participants realized that working with other stakeholders made their job easy later on.

According to **Feketekuty**, stakeholders can be defined as groups inside and outside of government who may be affected by the outcome of a negotiation. This includes in particular groups that have some means to influence decisions by the government on the negotiations.

This list could be broadly comprising but not limited to the following groups:-

- Affected Central Government Ministries and sub-central authorities
- Affected enterprises and industry associations
- Labour unions
- Non-Governmental Organizations with a policy stake
- Academic experts

The benefits of consulting other ministries, regulators, and states are the following:-

- Other government entities have in depth knowledge of policy issues, regulations, and capacity to carry out research. One could draw from the information resources during stakeholder consultations.
- There is a possibility that other government entities can use their political influence to block outcomes desired by trade negotiators. By including them in the process you could be taken on board, reducing the resistance towards the possible negotiation point.
- Agreements involving regulatory commitments have to be implemented by the relevant regulatory authorities; therefore they should be taken in to confidence.

He recounted his experience and strategies adopted from running the US services negotiations in areas where he faced resistance from stakeholders. He employed measures like involving users of the services; direct consultation with the concerned parties to circumvent such difficulties.

**Feketekuty** then went on to state the benefits of consulting academic experts. Academic experts often have in depth knowledge in the subject they deal with. Moreover, other domestic stakeholders often look to academics for objective advice, like in the case of the Congressional hearing. Academic institutions often provide a neutral ground for interested parties to explore options. Finally, academic experts can provide a useful bridge to foreign experts

He stated that during the service's trade negotiating process he has made extensive use of academic inputs and writings to form consensus across various governments.

**Feketekuty** pointed out that consultations with industry stakeholders, can yield critical information on commercial, policy and legal issues at home and abroad; and understand the possible impact of various options the negotiators have.

Moreover, domestic industry consultations serves as a way to identify their interests and to manage their involvement in the domestic political process related to trade negotiating decisions. It offers insights into the interests and views of their counterparts abroad, and informal communication channels with their counterparts abroad. Since they deal with the foreign industry directly, the domestic industry will be in a better position to give information on the perceptions of the foreign industry.

Consultations with private stakeholders can also help obtain their involvement in a) building support among academics, legislators, regulatory agencies, state governments and foreign governments, through the support of academic research, books, conferences, seminars, and surveys. The industry support could provide financial resources for the studies conducted, conferences etc. b) Lobbying of other government stakeholders directly or indirectly through the building up opinions in the domestic arena of the respective countries through foreign subsidiaries. India has to mature itself in this particular measure and its uses.

Such processes could also result in making people become more comfortable with the issue, so that they will not be pushed into a defensive mode. As stakeholders become comfortable with issues there will be higher propensity to cooperate. Meeting and conferences attended by stakeholders facilitate this process.

**Feketekuty** said that there are discernible benefits of consulting foreign stakeholders as well. Consulting foreign stakeholders can provide information on the views of the players involved with foreign decision-making process while also providing a deeper understanding of negotiating the positions of other governments. He said in the United States this particular process is amply used in every negotiation. Even in China they have employed the same process, where the key people who feed the trade negotiators with inputs are consulted. This has provided good background information on the possible positions that China could take before the actual negotiation process takes place.

Further, such consultation provides opportunities to help shape the views and role of foreign stakeholders with similar interests, and to help shape foreign negotiating positions. This gives the country an ability to help mobilize domestic opinion in the other country and manage the internal processes abroad.

**Feketekuty** said consultation of foreign stakeholders provides broader insights into possible win-win solutions for both partners in the negotiation. Unlike government officials, interactions with foreign stakeholders could give more ideas on how the country's interest can be further developed.

He provided country specific instances of how foreign stakeholder consultation was employed to assuage the concerns and bring about desired outcomes in the services trade negotiations. In countries where the domestic stakeholders were circumspect of opening up were addressed with information on key benefits of trade opening up. In some cases the domestic constituents who were pro- services trade liberalization and against monopoly practices were encouraged to take part in the domestic processes. Even in the

case of India, where the negotiations were difficult to move ahead, the specific concerns about the livelihood and revealing the core interests of the US to influential domestic players helped in breaking the ice and building trust. In this strategy, it is fundamental to select the important stakeholders and with whom the consultation can be taken forward.

**Feketekuty** then enunciated the methods to manage domestic stakeholders. According to him, if there are multiple interests in play, it is important to seek to achieve a balance among competing stakeholders and serve as fulcrum. Also, ensure that each stakeholder hears the point of view of the other. This allows arriving at median solutions that can accommodate to all the interests. Also, the negotiators should select the representative stakeholder most likely to be influential and constructive. Another facilitation measure is to provide macro and economic analysis supporting potential compromises. The negotiators then should go back and show each stakeholder how their advice was incorporated and match outcomes and inputs.

During domestic stakeholder consultations it is also important to provide carrots and sticks; by ensuring that their interest will be taken care of in case of cooperation and no responsibility to pursue an outcome in the case of continued opposition. It is also important to give stakeholders an operational role to make them part of the team, and ‘make them responsible.

He said, while working with the foreign stakeholders the following points could be important drivers in selecting stakeholders. It is important to identify stakeholders with compatible interests; build bridges to neutral and objective academic research institutions so that they can be carriers; give foreign stakeholders with compatible interest’s analytical support. Finally use academic venues for brainstorming opportunities.

As final thoughts on managing participation of stakeholders, **Feketekuty** said that the negotiators will have to keep in mind what would work in the Indian context. It is tough to employ the Indian context into the methods enumerated in this presentation for stakeholders’ participation. He recounted that it is the same in the US as well, however, there are ways of getting around this for example by getting help from independent organizations. There has been a sea change in India’s involvement of domestic stakeholders. India has been less adept in working with foreign stakeholders. The effort to engage foreign stakeholders had been isolated.

### **Floor Discussions**

In the discussion followed, **Bipul Chatterjee**, Deputy Executive Director CUTS International, said that it would be relevant to look at case studies in which the country has a defensive interest as well. Secondly, we should put more emphasis on involvement of foreign stakeholders in FTA negotiations where India has considerable interest.

The interaction following this intervention debated whether India has been successful in reaching out in areas where it had a defensive interest. **Feketekuty** said that India has successfully utilized NGOs as in the case of Cancun WTO Ministerial. Further, he said that India should use the academic studies it carried out domestically in international academic fora similar to that of Wilton Park in the UK, and not just giving in to other governments.

**Kishan Rana**, responded by saying that in Asia there is no regular forum, except in the case of security matters and to a limited scale, which could be used for this purpose. Singapore has the Shangri-La Dialogue, on security issues. Malaysia organizes the Asia Pacific Round Table in Kuala Lumpur. China also has such a forum, whereas, India does not have such a regular forum for intellectual dialogue.

## **Session 2**

### **A Practical Approach to Negotiations**

**Kishan S Rana**

**Rana** opened the session by stating that all diplomacy is negotiation, as is most human interactions. Increasingly, negotiations are being handled by specialists, in ‘Paradiplomat’ roles. Bilateral & multilateral negotiations are similar, except that the latter has greater complexity in terms of the uncertainty of their outcomes.

He provided some historical examples to show that negotiations are not a new to human kind. In fact Arthashastra by Kautilya who was the advisor of Chandragupta Maurya was authored in 3<sup>rd</sup> Century B.C. It is an elaborate study on statecraft and not just diplomacy. François de Callières observed in his 1716 classic ‘The Art of Negotiating with Sovereign Princes’ that negotiations produce lasting agreements when both sides are winners. Whereas Francis Bacon (1625) said verbal negotiations provide a better opportunity to convey signals, and are more suited to the early stages of negotiation. An Italian diplomat ‘Guicciardini’ during the 17<sup>th</sup> century coined a term “ripe moment” for negotiation, which elaborates that in every negotiation there is a ripe moment when things can be packaged together, **Rana** pointed out.

He then led the participants in to the theoretical aspects of issues that negotiation involves.

Such issues include conflict, common interests, issues that cannot be solved unilaterally, commitment to issue resolution, and willingness to compromise.

The goal in a negotiation is to make the other side accept what one wants, concede least. However, he pointed out that, overdoing this is fatal.

He further stated that inter- government negotiations are similar to commercial negotiation; but they focus on long-term objectives. Very often ego and ‘face’ become major issues when governments negotiate. ‘Win-win’ formulas are superior to unilateral advantage, more so for long-term gains. In inter-government negotiations, he said, that the domestic opinion is an invisible presence at the negotiating table.

**Rana** then introduced to the participants some concepts on international negotiations:-

Robert Putnam puts forward some ideas where he states that while negotiating with foreign partners one has to see if your own stakeholders are with you. Stakeholders will have a range of concessions within which they are willing to accept a settlement, which Putnam called the win-set. This is also known as ZOPA- ‘zone of possible agreement’ a maximum and minimum range within which agreement is possible. The final settlement will be between the maximums and minimums that each side will be ready to concede. Any point within this range is a ZOPA.

BATNA, on the other hand, denotes the ‘best alternative to negotiated agreement’. This refers to a threshold below which one will not accept and demand.

Ripe Moment: refers to the last moment when the last set of the concessions are put on table. The final concessions cannot be made too early, if it happens there is a possibility of free riding. Both sides should understand that the offer is the final one possible. Therefore trust is important. Negotiation depends on trust. Negotiation involves building and winning trust.

**Rana** said that India does not go through the stages of negotiations as we should due to institutional deficiencies. The stages are preparation, pre-negotiation, negotiation and follow-up. We usually give importance to the negotiations stage, while the preparation and pre-negotiation stages that are equally important are not emphasized on.

The preparation and pre-negotiation stages are when the agendas are set, and when formats and schedules are laid out. In this stage the sides probe each other’s intentions. The track II and track III processes, like consultations with foreign stakeholders are held to figure out wants and demands of the other side. A pretty clear idea about the intentions of the other side is important basis for entering into the negotiation.

In the negotiations, a weakness has often been to overlook the opening statement as they are perceived to be known before hand. Rana opined that the opening statements are more important. For instance, a side may not state the concessions that they are going to make in the opening statement itself. However, if a country has decided to make concession they will not present a contradictory view in the opening statement. He drew the anecdote used by Sherlock Holmes about “the dog that did not bark” to drive his point home. Therefore, the negotiators should look for the missing elements in the opening statement.

Another important point during the negotiations is to communicate to the other side the rationale behind the choices that one country makes. It cannot be assumed that the other side knows the logic behind the stand we take, like the internal compulsions, industry pressures etc. Rana said to the participants that during negotiations, your concerns shave to be elaborated and the chain of thinking that impels us to take a certain position explained.

**Rana** said that in India, follow-up is often neglected, as it is taken as a done deal. However, follow-up with the stakeholders is important to facilitate the next level of negotiations. An internal de-briefing on the rationale behind the agreement has to be provided to the domestic stakeholders. The Japanese do not have to go through this stage as they have institutionalized an extensive pre-negotiation exercise called the *Ringi* process, even to the level of formal negotiation done on paper. While negotiating with Japanese if sudden proposals are made, they cannot respond to it. However, once the agreement is done the Japanese are very quick to put it into implementation due to the preparation process.

**Rana** went on to discuss the Harvard Method of negotiation called the Principled Negotiation. Harvard University had a project on negotiations going back to 30 years.

There are about a thousand case studies on negotiations. Their ideas have been applied in many countries.

In the Harvard Method there are four key principles that have been distilled from the research as described below:

- a) Separate people from the problem; examine the perceptions of the other side; make proposals that match the values of the other side, but not the perceptions. Treat emotions as legitimate, but do not react to those of others. Listen attentively; speak about your own self, not the behavior of the other side. These are done to de-personalize issues as much as possible.
- b) Behind adversarial positions lie interests that may be common. Quite often the basic concerns of the other side may not be completely understood. Realize that each side has multiple interests. Talk about one's own interest, which the other side may not be fully aware of. Make your own interests come alive; put the problem before the solution.
- c) Trying to share a pie, only allows you to look at one dimension. Search for options creatively. Assuming a fixed pie means looking for a single answer. Solving the other side's problem is part of one's own problem. Shared interests are often latent; therefore one should work to develop opportunities
- d) Looking to criteria may offer solutions. Prepare in advance fair standards, fair procedures as an approach. Frame each issue as a joint search for criteria on what is important to each. Reason and be open to reason; yield to principle, not pressure.

**Rana** then enunciated the Koh Principles of negotiations. Tommy Koh, one of the most experienced negotiators from Singapore has put forward these principles in a published essay.

1. Each negotiation needs intense preparation. Treat each negotiation as a separate process and do not carry forward the ideas from earlier negotiations.
2. Build cohesively, happy team- the notion of building a cohesive team of negotiators. This is alien to India, **Rana** said.
3. Master your own brief and understand the likely brief of the other side.
4. Know when and how to use foreign advisers. In India there is a resistance to foreign advisers due to the thought that the country's sovereignty will be eroded, whereas the smaller countries do not have such inhibitions. Though we have shed these inhibitions since 1991, **Rana** pointed out.
5. Build a common basis of facts.
6. Emotion intelligence: win trust, others must not lose face. ASEAN does this to take into account the comfort zones of the other side. They try not to push the negotiating partner to the extent that they feel threatened. Rana said that, India may not have taken this into cognizance in their negotiations; therefore, it is not surprising that the smaller neighbours of India feel India to be the big brother.
7. Culture intelligence: understand the culture box of the opponent
8. Think win-win. The final settlement must address the interests of both sides.

**Rana** talked about a few characteristics of Indian negotiations based on the writings of the scholars from other countries and on the interviews of stakeholders.

- We work towards the short-term, teams need visible gains; 'Indians love paper', as told by one Asian diplomat.

- Across-table negotiations are our strength along with fine institutional memory, superior to that of the United States.
- Very concerned with over status and ego
- Mastery over English; sometimes becomes a weakness as often we correct other people.
- Weak at preparation, the usual refrain is 'lack of time'.
- He said that little attention is paid to the four Stages of negotiations.
- Poor at listening to the other side; signals can often be missed.
- Stakeholders are often informed after the agreement, as it happened with the case of the nuclear agreement.
- Generally poor teamwork.
- Delegation integration is weak.
- Inadequate cultural understanding of other side and lack of efforts.
- Insufficient study of the experience of others and no training.

**Rana** then drew the attention of the participants to a series of experiments conducted by the Kellogg Management School in 2007. The School tried 3 experiments as reported in the Economist. They did this as an objective experiment.

- The best method: treat opponents with '**perspective-taking**', i.e. understand them from the perspective of the other side. The outcome is better even if only one side does this.
- **LISTEN** to the other side.
- **EXPLAIN** own position and make it come alive; the other side may not really understand you.
- **PREPARE** with utmost care, **ANTICIPATE** the other side

**Rana** suggested the following measures to improve Indian negotiations.

- Indians possess natural skills, but they need to be sharpened through training.
- Must blend concepts with practice and cannot afford to neglect theory. Understanding the theory will help in the negotiating process.
- Short-circuiting preparations is self-defeating
- Most importantly, Indians must expose young officers to the negotiation environment. The under secretaries and junior officers are underutilized. This cannot be handled at one level. The financial considerations also come into play against this process. The young officers have to be given training in international negotiations. The ministry of commerce should have the latitude to decide the size of the negotiation team. India has a unique way of having each ministry going back to the finance ministry in order to decide the utilization of its budgeted allocation.

**Geza Feketekuty**, while discussing a practical approach to negotiation, recounted some of his personal insights as a negotiator for US on things that can be done.

- a) Information Sharing: Give information as well as the rationale in public. Though people sometimes suspect some secret agenda. Unless the other side feels comfortable that they understand everything, they will be reluctant and defensive. One of the biggest handicaps in agreements is the lack of understanding. He recalled that he used to take every opportunity to disseminate the information in public forum like Congressional hearings. As people hear more about the issues



they feel more comfortable, therefore information sharing is crucial. Solutions are also the result of both sides understanding the issue.

- b) Consider the negotiators on other side as a partner and not enemy. Often the enemy attitude will prohibit private conversations that could facilitate understanding. It is not necessary to give back every punch. There is a need to explore the reasons for the grievances of the other side. It is better for outcomes if there is better understanding and a personal relationship is allowed to develop between the negotiators. It is important to understand that the other side also has pressures and the negotiators' role is to find the solutions that can bring together the interests of both sides.
- c) Simulate the negotiations and map out the positions of the other side. Simulation also brings out the best insights.
- d) Listening is very important. As negotiations deal with relationships of trust, with the stakeholders as well.
- e) Similarly, put the points of the other side in your words to communicate to the other side what you have understood of their views. This has advantages like the other side could correct the mistakes, if any. You could also make them realise that they have been unreasonable. Also, you may convince them that you have listened and you know, even if you do not agree.
- f) Understanding how you build momentum is important. Ensure success by picking up issues that are easy to achieve. Then go on to issues that are more difficult. This is also biological as success brings adrenaline. Find things that we can agree on at first and proceed from there.

**B K Zutshi** opined that the problem with WTO negotiations is that in multilateral negotiations it is difficult to find common grounds for all. This has been the experience with the multi-fibre agreement (MFA), where the developing countries, after some delay, got together to demand an agreement. However, the same could not be achieved in the Uruguay Round. Therefore the timing of arriving at the shared understanding is important. Secondly, ultimately it is counterproductive to get an agreement through stealth. He pointed out that negotiating in good faith does not mean that reveal one's own brief. The trust between negotiators is important.

### **Floor Discussions**

During the floor discussions the participants discussed their individual experience with negotiations. One participant said that negotiated agreements with China, Korea and Japan have been stalled because of reasons outside of the negotiators' control. Another pointed out that in the FTA negotiations each country's needs are different. For instance the BIMSTEC had 36 rounds of negotiations.

The participants further pointed out that in India, since the background work is not carried out during the initial negotiation stages; the negotiators coming later are just left defending positions.

**Feketekuty** said that it is useful if each member of the delegation is given a chance to speak. When they speak they become complicit to what you do. It is an important part of creating solidarity within the team. Creating this sense of team spirit is important.

**Rana**, said that there is a perception problem with India being seen as arrogant by the international counterparts. This could hurt India's chances in the international fora. Even in South Asia there is the same perception problem. India cannot play a larger role in the international arena unless its own background is safer.

### **Session 3**

#### **Trade Promotion Activities: A Field Perspective**

**Kishan S Rana and Geza Feketekuty**

In this session **Kishan S Rana** and **Geza Feketekuty** provided Indian and American perspectives, addressing the issue of trade and investment promotion.

**Rana** recalled WTO Director General Pascal Lamy's speech at CUTS-FICCI Conference on 13 Aug 2008 where he stated that "Making trade possible, and making trade happen are two different things." **Rana** said that too much time is being spent in New Delhi on making trade possible rather than making trade happen. There is need for a greater promotional policy from the Commerce ministry aimed at trade instead of what is taking place at present. Even the CAG report stated that there is not enough work taking place in the promotional activity, less than two percent of the funds are directed towards actual trade promotion activities. Though, efforts to change this are currently underway.

He put forward a set of propositions to support his argument.

**Proposition 1: Too many trade ministries focus on the regulatory frame, and not enough on promotion.** He said that comparative analysis of the different government budgets on promotional activities should be carried out.

**Rana** said that economic diplomacy traverses four stages. Instead of a stage by stage process, economic diplomacy typically operates in four concurrent stages like:

1. Export and investment promotion
2. Sustained networking, abroad and at home
3. Managing regulatory and economic environment, FTAs, RTAs, dumping issues.
4. Image and brand management.

Right up to the sixties India did not have an integrated approach to economic diplomacy. Oil shock of 1970s and the need to earn foreign exchange to pay for imports gave a sudden push for economic diplomacy. India went in to West Asia and North Africa with the aim of earning money for the imports through project contracts. **Rana** was an Ambassador at Algeria in 1975. Algeria was not a commercial post. However, the entire embassy was engaged in commercial work as **Rana's** predecessor had 'cultivated' a state enterprise of Algeria, trying to market electric substations from Tata Exports. This project was ultimately won. Commercial promotion at that time was carried out by a clutch of people who were not necessarily commercial officers.

**Pradeep Kumar Chaudhery**, Additional Secretary, Department of Commerce, raised the question whether there is mandate for the Ministry of Commerce officials to promote the private enterprises from India? He suggested that on the question of investment promotion, India's investment in other countries should also be studied.

**Rana** responded that in Embassies abroad their primary objective of commercial promotion is to increase exports from India. Helping public enterprises and private enterprises from India come next. However, with the private sector companies the role of the embassy was limited to facilitating local contacts. In very rare cases like in the case of Tatas mentioned above, the private cause was pushed further. In this case the headquarters have been informed regularly about the engagement. Also, the embassy personnel should not take personal interest in the issues they engage in. The mandate for doing commercial work is not assigned by India however; the embassies can take it up on its own.

Elaborating on the role of embassies, **Rana** said that the field units contribute to all tasks, but their specific expertise is in promotion, networking and management of image. Regulation is mainly a headquarters task, but embassies provide important inputs. Close Headquarters-Embassy interactions produce ideal results and embassies must be tasked for this. Embassies can contribute to policy, but unlike headquarters, they have a pure marketing task.

In his opinion we should look at the question if the embassies are given sufficient tasks. The embassies should also contribute to finalizing each country target.

**Proposition 2: Most embassies have unused reserve capacity; need better ‘TASKING’**

On export promotion, **Rana** said, the role of embassies can be in the following ways

- A. MARKET SHARE ANALYSIS: Provide information on the country’s share in the import basket of the target country; the key products; list out the missing items; and information on the competitors.
- B. FIX HARD TARGETS: the targets can only be indicative as external factors are responsible for achieving them, but it helps improve the focus of embassy.
- C. INFORM and MOTIVATE HOME ENTERPRISES: This is done through Export Promotion Councils, apex chambers, and direct outreach
- D. NEW PRODUCTS and MARKETS: This is a key priority which hinges on information and overcoming local hurdles.
- E. DELEGATION VISITS: facilitating ‘match-making’ and advance preparation
- F. FACILITATE BUSINESS VISITORS: proactive mindset to help in local contacts and use embassy facilities.
- G. BUYER-SELLER MEETS AT EMBASSY: It is possible even with modest infrastructure.

**Proposition 3: Teaching craft skills of commercial and economic diplomacy is sadly inadequate in most developing countries**

**Rana** maintained that India has not fully utilized the potential of trade fairs abroad for advancing its commercial objectives. This could take the form of participating in its own road show or by participating in already established shows.

Own trade shows have the following advantages

- Getting visitors is the biggest hurdle
- Works well with established local buyers
- Also helps in making a splash in a new market which is not accustomed to trade fairs
- Useful to gain attention

Joining an established show has the following advantages

- Best option in sophisticated markets
- Provides rich market intelligence, product trends
- Requires discipline, conforming to norms for maximum impact
- Master methodology

#### **Proposition 4: Trade Fairs are underused**

Further **Rana** said that investment promotion is another important role embassies could play.

- Entails 2 parallel tasks: Addressing BROAD CATCHMENT in potential investor country: PURSUIT OF IDENTIFIED TARGETS, which is possible only by careful study of own needs.
- We are yet to find our optimal investment agency (after demise of India Investment Centers): a PPP model is one possibility
- Foreign Investment Promotion Board makes little impact on ground.
- Embassies which operate on self-motivation are underused
- Embassies pursue targets on basis of local assessment; Fortune 500 type lists could be used.
- Experience confirms that sustained efforts aimed at identified potential investors yield result, as does the establishment of mission's 'target-10' kind of lists.
- Export promotion, local networking and outreach integrate into one another.
- Technology targeting tasked from home.
- Outbound FDI from India is new phenomenon, offers limited role for embassies.
- Success stories' are more effective than any amount of one's own publicity.
- Networking with local business chambers, industry associations, business press helps
- Organizing one's own investment promotion seminars is good, but joining such events held by others may work even better
- State-level marketing works well if pursued seriously

#### **Proposition 5: UK's 'Trade & Invest Britain' is a good promotional mode, however it needs further research.**

Challenge funds are being implemented currently by India. The monitoring of such a programme is crucial.

- A British innovation, it sets up a competition among field units, for promotional funds
- Typically, modest amounts are disbursed to 10 or 12 best project proposals

- Project must cover a real target
- 10% of allocation used to measuring impact, 6 months after event
- Encourages competition and innovation
- Builds up a ‘library’ of workable ideas
- Encourages emulation and spread of ‘best practices’

#### Other Methods

- Identify 5 or 6 target countries for export plus invest in promotion for a maximum of 2 years
- Follow up through embassies to convert ‘approved’ FDI into implementation
- Use public-private partnerships (PPP) in promotional activities and in innovative fashion
- Treat dispute settlement as a priority and with a promotional value

#### Country Brand

- Integrate ‘brand marketing’ into FDI and export promotion, esp. IBEF
- Treat country branding as a core activity, relevant to all promotions and integrated with tourism marketing
- Accelerate the modernization of India’s own exhibition & convention facilities, which integrate directly into branding.
- Further professionalize trade fair hosting

#### **Proposition 6: Branding needs policy direction, e.g. French & UK ‘public diplomacy boards’**

#### Harnessing ICT

- Canada offers a ‘virtual’ permanent trade exhibition on the website of its combined Department of Foreign Affairs and International Trade.
- We can do the same through ITPO, FICCI and others, as a means of trade promotion.
- The bulk of market reports and product surveys should be on the websites of the EPCs which are linked to one another
- Similarly, embassies should post the bulk of their promotional information and reports on their website.

#### Local Outreach

- Bilateral chambers (AmCham, Indo-German) are often neglected in our promotional efforts
- India-based purchase offices of foreign buyers are potential multipliers in export promotion and should be harnessed
- Our apex bodies (Assocham, CII, Ficci) should not be used to joint action, but can be mobilized for targeted marketing

#### **Proposition 7: Economic diplomacy demands a ‘Whole of Govt’ approach and promotional direction**

The open discussions which followed debated about the practical aspects of implementing the suggestions made in Rana’s presentation. **Pradeep Kumar Chaudhery**, Additional Secretary, Department of Commerce said that in some countries

where the presence of our exporters is limited the embassies role is critical. In the case of some local regulations the role of embassies are very important.

Following this presentation, **Geza Feketekuty** made a presentation originally used to motivate Indonesian field staffers called:-

***“YOU, the Overseas Representative and your Role and Link to the Trade Policy Process”***

**Geza Feketekuty** started his presentation by recounting from the experience of running a small team of four core staff members who created a global consensus on service trade negotiations. Despite the size of the group, the team was able to create leverage as a strategic center and force multiplier through their contacts. This shows, he pointed out, that with a single minded purpose and a group of people, working as a chain and force multiplier, could achieve even the larger goal.

**Feketekuty** made the point that the overseas representative is the last link in a policy chain that goes from trade policy and trade negotiations to export contracts. Also, they are the first link in a chain that goes from the identification of an export opportunity to trade policy and to trade negotiations. Identifying the problems is important in facilitating the trade policy process.

The overseas representative is the last link in a policy chain as trade policy and trade negotiations in a market economy only creates opportunities, not sales. To get actual export sales you need a willing and able domestic producer and exporter, and your job is to help domestic producers to identify and obtain a sale.

Helping to overcome market failure is an important role for the embassy personnel. One of the major reasons why many developing countries believe the system does not work for them is because trade liberalization has not resulted in actual sales. The overseas representatives' role is therefore crucial to the success of your country's trade policy and to the functioning of the Global Trading System

The overseas representative is also in many cases the first link in the trade policy process because as they will often have the first contact with a potential exporter and therefore the first to learn about remaining barriers that prevent that exporter to make a sale. The agenda of the headquarters is often the result of the actual efforts to export. The commercial officer will be the first person to know about the problem in the ground level and relay it back to the headquarters.

The filed representatives may not always solve the problem; but can help in solving the problem. They are in a position to put the exporter in contact with the right trade officials at the Embassy or in the capital.

So the job of the overseas representative is to a) turn a potential export opportunity created by trade negotiations and trade agreements into an actual export. And b) help exporters sort out their problems by converting an opportunity into a contract. Obtaining the right help for problems related to distribution or marketing, export financing and facilitation, and trade or regulatory measures

**Feketekuty** then discussed the steps that can help in addressing trade issues that are identified.

1. Consultations between enterprise and host government; first the exporters should make a direct effort to solve the problem.
2. If the first step fails, consultation between commercial attache or embassy officer and host government should be facilitated as the embassy may have had past experience in the specific problem area. Here the embassy and the exporters should be encouraged to send separate reports to the Capital.
3. Then facilitate consultations between home government and host government at increasingly higher levels depending on the importance of the issues.
4. For issues with general pattern, consultations in multilateral forum could be taken up.
5. Use of formal negotiating mechanisms or dispute settlement procedures, the choice of which depends on the nature of issue and the options available.

According to **Feketekuty**, trade problems can arise as a result of mainly inadequate information. More than half of the issues that he faced while at the United States Trade Representative were due to inadequate information, which could be dealt with through consultation. There could be misunderstanding of regulation by a firm or of proposed activity by regulator. In such issues the embassy could get involved directly without consent from the headquarters.

On the other hand, in issues related to regulation/law it is more trade restrictive than necessary to accomplish objective, the headquarters need to get involved.

The issues can be resolved on the basis of: good will, reciprocity in the matters; legal obligation under GATT/WTO or FTA rules. The commercial officers have to understand even such complex issues.

He then presented his observations on the process

- Most problems that arise in trade are resolved through a mutual problem solving approach
- Only problems that cannot be resolved between enterprises and foreign governments should go to government to government level, enterprise have an important role to play here.
- Only problems that cannot be resolved between the embassy and host government should go to capital for capital negotiations
- Multilateral forum provides basis for testing scope of issue, potential allies, and ultimately more negotiating leverage.
- Issues covered by trade agreements can go to dispute settlement.

**Feketekuty** pointed out that the regulatory issues are really the source of concern in trade today. Domestic regulations and standards form the principal issues in trade. Trade allow governments to set their own social objectives, but also require governments to adopt the least trade restrictive approach to achieving the objective

To address regulatory issues trade professionals can:

- Clarify information and correct any misunderstandings
- Point out trade restrictive impact of regulation

- Clarify objective of regulation and where its appropriate to identify less trade restrictive approaches
- Set out any violations of international rules, commitments, or generally accepted practices
- Explain how adjustment of regulation could promote economic growth and preserve a desired social goal
- Identify reciprocal help, and consequences of failure to solve problem.

**Feketekuty** said that the role of diplomats and other overseas representatives has fundamentally changed as a result of

- Internet as a new communication channel
- Jet Aircraft
- Internet as a source of information
- Globalization
- 

We have to recognize that lot of the traditional roles of the embassies are not needed today. How do we make the embassies useful is an important question. For instance, foreign stakeholder consultation can be carried out by the embassies. There is a need for a higher level of trust and initiative between the functionaries at the capital and embassies.

Overseas Representatives have a reduced role in government to government negotiations because representatives in capital more often travel to see their counterparts and stay in touch through email.

Even arranging for visits from capital could be made more productive by identifying the right stakeholders for consultations and better networking. Spend more time providing logistical support to visiting officials from capital.

Officials from capital increasingly, have other means of communicating with key decision makers in the foreign government. They can use the Internet to acquire information that previously used to be supplied by overseas representative.

However, **Feketekuty** said that, the role of the filed representatives is still relevant as globalization has vastly increased the need for:

1. Information in the capital about the views of stakeholders influencing decisions in other countries.
2. The importance of establishing relationships with a wide network of stakeholders in other countries
3. Increased the scale of activity officials at home need to handle, and therefore can use your help in lightening the load by even some role in policy making. Employing available manpower to more productive use.

**Kishan S Rana** intervened and pointed out the use of confidential intranet channels have made the overseas post nested within the organization. This has transformed communication between the headquarters and overseas posts. It has become possible to bounce ideas fast and effectively. Germany, Austria, Canada treat the embassies as integral parts of ministries. This has had the direct implication of reducing the numbers of middle level officials. The UK and Canada has formed thematic or regional groups that have been effectively used.



**Feketekuty** outlined how the embassy representatives could use the ongoing changes in their roles to create more opportunities. They are:-

- Use visits by officials from capital as opportunities to learn and better understand the home government's policy from the senior officials.
- Use the Internet to stay in touch with a wide network of contacts at the home ministry, in other ministries and in the business community at home by becoming integrated with headquarters.
- Make yourself useful by conveying information about and from stakeholders active in the trade policy in the host country

As final words of advice, he said the embassy representatives could:

- Stay in close touch with embassy colleagues
- Maintain your network of contacts
- Never ask home government officials to change their policies, instead supply them with facts that may lead to a change in policy
- Never undercut your Ambassador or home ministry.
- Make yourself useful to the home government by supplying them with information about stakeholders and developing contacts for them.

**Kishan Rana** suggested that the Ambassador's conference could be utilized for deliberating on the commercial issues as well. This could be made into an annual event. In India it is not a permanent fixture at the moment, though plans are afloat. In many countries the annual leave of Ambassadors are tied to interaction with ministries. He pointed out the need to set up interactive networks that could facilitate better communication.

#### **Session 4**

### **India and the Multilateral Trading System – From the Uruguay Round to the Doha Round**

#### **BK Zutshi**

In this session, which was divided in to two sections **BK Zutshi** discussed the topic India and Multilateral Trading System viz. From Uruguay Round to Doha Round and Doha Round.

#### **a) From Uruguay Round to Doha Round**

**Zutshi** first presented a brief history of the multilateral trading system; and the conditions that led to the Uruguay Round of WTO negotiations like shifts in competitive advantage in favour of some developing countries, technological development and increasing importance of intellectual property rights, and fragmentation of the multilateral system under GATT. GATT was becoming irrelevant and was divorced from ground realities and suffered from the free rider problem by its members.

During the preparatory and negotiating phases of the Uruguay Round the domestic political economy was characterized by import substitution model of development; high cost centrally planned economy; low rate of growth and structural rigidities; and high tariff walls and quantitative restrictions in the external sector. Technological obsolescence had set in by late 1960s.

According to **Zutshi** India's economic policy framework had remained unchanged from the days of Jawaharlal Nehru. In the 1980s there were sporadic attempts at reform; however they have not been successful due to vested interests and ideological predilections. The foreign exchange crisis of 1991 forced India to take up economic and trade reform. India's economic reform during the Uruguay Round helped it to leverage some benefits in tariff reduction.

**Zutshi** said during the UR negotiations, India's interests lay in improving market access in its areas of export interest, by seeking reduction of tariff and non-tariff barriers in the relevant sectors. India's principal objective in this regard was the abrogation of the Multi Fibre Agreement (MFA) and the integration of the textile and clothing sector into the GATT. India took a defensive stance in agriculture because of food security, livelihood and employment concerns of subsistence farmers.

Defensive posture in intellectual property rights (IPRs) was for a variety of reasons, including the then domestic legislation on the subject. India also wanted protection of a weak and inefficient service sector, particularly in infrastructure services like banking, insurance, telecommunications and other utilities. There was a strong ideological opposition to liberalization in general and trade liberalization in particular for historical reasons.

The preparatory process of the Uruguay Round had to deal with a lot of contentious issues like service trade and agriculture. **Zutshi** provided a detailed account of how the Uruguay Round managed the negotiation process through a series of bargains and consultations, especially between the developed and developing countries. This negotiation was divided into two a) trade in goods and b) trade in services.

**Zutshi** recounted that the national preparation and consultation processes in India in the preparatory phase of Uruguay Round was a reluctant engagement. There was no tradition of stakeholder consultations, not even with the state governments, who had substantial stakes in subjects like agriculture. There was hardly any informed public debate on issues under negotiations or inputs from academic circles and think tanks. For stakeholders outside the central government, including state governments, the processes were non-transparent.

National preparation and consultation processes in India during the Negotiating Phase witnessed hardly any change from the position in this regard during the preparatory phase.

In fact there was minimal participation at the political level of the negotiations.

Meanwhile, in the multilateral consultations, India played an important role even to the extent of preventing consensus at crucial meetings like Montreal (1988) and Brussels (1990).

**Zutshi** pointed out that the result of the Uruguay Round of negotiations viz. the Marrakech Agreement 1994 had some key distinguishing features from the GATT, which are as follows.

- Unlike GATT, WTO is an institution.
- Third leg of the International Economic Order Conceived at Bretton Woods.
- Much larger coverage by inclusion of services and TRIPS.

- A forum for continuous negotiations.
- Trade policy review mechanism (TPRM).
- Single Undertaking
- A common Dispute Settlement and Enforcement Mechanism

**Zutshi** then offered an assessment of the Uruguay Round for India which showed that the country had mixed bag with temporary relief in areas like agriculture, textiles, services, TRIPS.

#### *Road to Doha*

**Zutshi** pointed out that scattered throughout the various WTO agreements there were commitments for future negotiations, some time bound in the matter of their initiation. Two such areas were services and agriculture. In services the next round of liberalization negotiations was to start from Jan 2000 and for agriculture from Jan 2001. There was also a commitment to study the trade and environment interface.

Negotiations in these areas were initiated according to the committed time schedules, but got subsumed in the wider Doha Round negotiations and are now a part of that ongoing Round.

**Feketekuty**, in his intervention recounted that agriculture was the major challenge during the negotiations at the Uruguay Round. Agriculture was a sensitive issue for all the countries. Agriculture measures in different countries were numerous and calculating the subsidies was a problem. This was over come by clubbing all the government expenditures on agriculture in to one head.

**Feketekuty** further stressed the need to decouple the support to the farmers and subsidies. This has not happened in the case of the United States, while the countries in Europe have managed to do it to an extent. The decoupling, he said, would be effective in keeping the agriculture sector viable as well. However, he admitted that even in the US the domestic farmer politics related to agriculture could not be managed effectively to build support.

#### **b) Doha Round**

At the outset **Zutshi**, said that the idea for a new round gained currency even before the first Ministerial Conference of WTO at Singapore in 1996.

The driving force was the built-in agenda for negotiations from the Uruguay Round. Developed countries pushed for expanding the subject matter coverage and even the remit of the WTO. Singapore issues like investment, competition, government procurement and trade facilitation brought to the fore. While, developing countries highlighted the implementation problems in textiles, NAMA and argued that these issues must be addressed before the commencement of a new round.

The key feature of the Doha Round Mandate was the inclusion of the “Development Agenda” to put needs and interests of developing countries at the heart of WTO’s work programme. However, **Zutshi** said this was a symbolic claim. He expressed his doubts if a WTO round could be cast around development, as it purely deals with trade issues. The only significant development issue under Doha mandate was in TRIPS on the public

access to affordable medicines. Similarly, issues of concern of developing countries figured in the negotiating mandate whereby, implementation related issues and their concerns were included.

**Zutshi** pointed out that a number of safeguards were introduced to protect the interests of developing countries in the Doha agenda. On “Singapore issues”, negotiations were to commence only “by explicit consensus”. On NAMA negotiations were to take fully into account the special needs and interests of developing and least-developed country participants. On agriculture the negotiations were to effectively take account of the developmental needs of developing countries, including food security and rural development.

**Zutshi** pointed out that India’s preparations on Doha Round marked a clear advancement from the background work on the Uruguay Round. India’s strategies in the Doha round, therefore, were well planned out.

**Zutshi** said that India’s national preparations and consultation process included creation of Expert Groups for Agriculture, NAMA, Trade Facilitation, Environment, and Rules of Origin. In certain cases, the Expert Group also interacted with other stakeholders as well as regional/local industry associations or stakeholders and provided necessary inputs to the Government

Ministry of Commerce (MOC) commissioned pre-negotiation & impact assessment studies by eminent institutions like NCAER, ICRIER, RIS, Centre for WTO Studies, and UNCTAD India Project. These studies provided inputs for policy formulation and drawing up of negotiating strategies for different subjects under negotiations. This helped the Government to take informed positions on critical issues.

Department of Commerce constituted Expert Groups to discuss specific policy issues. The expert group included eminent scholars, experts from related fields, stakeholders, representatives of Apex Chambers of Commerce & Industry and representatives of administrative Ministries/Departments. The recommendations of Expert Groups formed part of Government policy formulation and negotiating position.

Further, extensive consultations at the inter-governmental level, consultations with the State Governments, consultations with apex chambers and industry associations in Delhi, were carried out. Consultations at the local level on a sectoral/stakeholders cluster basis were also conducted. Consultations done by UNCTAD – India Project as a part of their study were also made use of.

**Zutshi** then discussed the negotiating dynamics in areas like agriculture and NAMA during the Cancun Ministerial.

On agriculture there were deep divisions between the agricultural exporting countries (the Cairns Group) and the developing countries having defensive interests. Prominent developing countries, led by Brazil and India, came together to form the G-20 to articulate their interests. African group, on the other hand, voiced their concern on the lack of transparency in the negotiating process.

On NAMA Developing Country groups emphasised the need to focus on the elements of the negotiating mandate that spoke of the needs and interests of developing countries. However the developed countries ignored these demands.

The divergent views and the insistence of the European Commission to push for negotiations on the four “Singapore issues” hastened the closure of the Cancun Ministerial Conference in 2003.

However, the Doha negotiations were resurrected through the July Framework Agreement in 2004. Progress was made in getting a broad consensus on the agriculture and NAMA modalities. Except trade facilitation, all other “Singapore issues” were dropped from the current negotiating round. Intensive negotiations were undertaken with a view to having a final deal in the Hong Kong Ministerial Conference of 2005.

**Zutshi** recounted that the Hong Kong Ministerial Conference made considerable progress in certain areas.

In agriculture, steeper reductions on high levels of trade distorting support were agreed upon. Elimination of export subsidies by 2013, were agreed upon and subject to confirmation. The provision for Special Products (SPs) and Special Safeguard Mechanism (SSM) for developing countries was also provided for.

On NAMA, “Swiss Formula” was adopted as the modality for tariff reduction. Tariff reduction was to be carried out taking into account the special needs of developing countries. This included through less than full reciprocity in reduction commitments, which has become a contentious issue. It provided developing countries with certain flexibilities like less than formula cuts for a proportion of the total tariff lines, and keeping a proportion of total tariff lines unbound.

On services, improvements in the Mode 4 Approach were achieved. It was decided that the multilateral negotiations will complement the multilateral process. Clear timelines were laid out to ensure balance.

Other important decisions of the Hong Kong Ministerial included the following:-

- Developed countries to provide duty-free and quota-free for products originating from all LDCs.
- Operationalizing an “Aid for Trade” initiative.
- Formalisation of the Decision of the General Council of 6 December 2005 on an Amendment of the TRIPS Agreement on Access to medicines.
- Implementation of the TRIPS and public health issue for countries that did not have manufacturing capacities for producing pharmaceuticals.

Providing an assessment of the Hong Kong Ministerial, **Zutshi**, said that agreement on all major areas remained elusive. Applied tariffs in developing countries continued to go down, giving rise to even higher demands by businesses in the developed world. Meanwhile, pressure mounted in the developed countries for the retention of peaks and escalations as some developing countries became competitive in mid-range manufactures. Moreover, domestic politics in the US thwarted moves for reforming the farm subsidies regime.

Spectre of global economic slowdown from the third quarter of 2007 put pressure on the trade negotiators to conclude the deal. However, there are few a bottlenecks in clinching a deal like disagreement over the structure of Special Safeguard Mechanisms and cotton subsidies of the US.

**Zutshi**, then encouraged the participants to share the views on questions related to the future course of negotiations like the inclusion of non-trade issues; regional vs. multilateral trade liberalisation; and global economic crisis

**Feketekuty** said it is important to get an agreement on the Doha Mandate. The major issues will be to economic stimulants, finance and trade. He said that a major political consensus is not forming in the US in favour of an agreement. He further said that issues like labour and environment could not be included by the US in the WTO. However a deepening and broadening of the NAFTA and other FTAs could include these issues.

**Zutshi** said that in the case of non-trade issues countries have resorted to the WTO due to its dispute settlement mechanism and enforcement mechanism. Trade sanctions can be misused by protectionist interests and moreover they do not address the real problem. The way out then could be to have enforcement mechanism in other sectoral organisations than to burden the WTO with such responsibilities.

**Amarendra Khatua** said that environment, labour, and climate change, are entering in to the WTO mainframe through US RTAs. India will have to wait till it forms appropriate stakeholder based responses to these questions.

**Zutshi** opined that India, Brazil and South Africa should now get equal treatment in agriculture and not ask for special and differential treatment.

**Feketekuty** opined that a meaningful dialogue should be facilitated internationally, where the issues would be placed on table by the various stakeholders and deliberated up on so that many of the issues will become clearer to the countries themselves.

**Feketekuty** further said that the future of the world architecture should reflect the economic reality to include India, China, Brazil, as well as the EU and the US.

He pointed out that there is a need to bring in more transparency into rule making in the international organisations and need for involvement of actual stakeholders. He pointed out that not many would know that the standards for each automobile component are made at the United Nations Economic Commission for Europe.

## **Session 5**

### **Simulation Exercise on Trade Negotiations**

#### **Geza Feketekuty**

Geza Feketekuty conducted a simulation exercise with the objective of assessing the sextant to which the negotiators are able to exchange information in order to come out with a win-win outcome. The issues dealt under the simulation exercise were drawn from many actual negotiations.

The simulation exercise pertained to a bilateral negotiation between two hypothetical countries, namely: Novartis and Sunderland, on bilateral FTA. The simulation exercise focused on the last phase of the negotiations during which a number of the most sensitive and difficult issues have to be resolved. The negotiators have the added pressure that the two Presidents of the countries want to sign the agreement during an official visit. There are a number of stakeholders from within and outside the government whose views have to be taken into account, as well.

Participants were divided into two separate groups comprising of two teams representing each country. Each team was given some common facts and a set of confidential instructions. After the conclusion of the negotiations, one has to review the outcome of each of the negotiations and how an optimum result could be achieved through a careful analysis of the interests, constraints and priorities of each of the two countries.

In the hypothetical case study, Novartis was a large developed economy, and Sunderland was an advanced developing economy about one tenth the size of Novartis. The study showed an extensive economic relationship between the two countries, as a result of a large immigrant population from Sunderland in Novartis, extensive investments by Novartis companies in Sunderland, and heavy dependence of the Sunderland economy on exports to Novartis.

Sunderland was also an important tourist destination for Novartis citizens, which was a major source of income in Sunderland. Novartis was among the largest trading countries in the world and it represents around 40 percent for Sunderland exports and imports. Sunderland represents less than one percent for Novartis trade.

**Feketekuty** explained the issues involved in the case study, including:

- Desire of Novartis to gain access for its banks & telecommunication firms in
- Sunderland, which are highly competitive
- Requests by Sunderland for an increase in number of temporary work visas and business visas
- Labor standards
- Agriculture issues
- Textiles
- Issues related to democracy and human rights (terrorism)

Negotiations started with a round of discussion (15-20 minutes) followed by an analysis by **Feketekuty**. The two groups negotiated in isolation and presented their case at the end of the negotiation.

The main out comes of the negotiations in the two groups were on the following lines.

#### **Group 1**

- The current level of visas from Novartis for IT, temporary work visas will continue considering the problem of unemployment in Sunderland and need for IT professionals.
- Banking branches to be opened by Novartis; but catering only to the tourists and not to the local population.
- On labor laws Sunderland agreed to follow the international conventions.

- Quotas on agriculture will remain and it will be increased by 10 percent over a period of five years.

The trade-off of the deal was on access to ATMs and agriculture.

## Group 2

- The Sunderland banking sector was to be opened with restrictions that only a few branches and ATMs will be allowed. It would be accessible to both tourists and locals, as it was deemed that the technological changes should be benefiting local population as well. This decision was to be reviewed in a time bound manner.
- Temporary work visas were to be increased; the details are to be worked out by a joint task force.
- On labor standards Novartis agreed to provide capacity building and aid for upgrading skills.
- Novartis agreed to open up agriculture sector to an extent.
- There was no agreement on the long staple cotton issue; however the parties agreed upon setting up a consultation on this issue.

While analyzing the case, **Geza Feketekuty** suggested the following:

1. A method to clinch a deal is to first focus on the negotiable issues and leave out what are not so important. Getting the ball rolling in terms of easier issues being resolved could be produce a snow-balled effect into an agreement on more difficult issues.
2. It is important to understand in negotiations the domestic compulsions on the negotiators and act accordingly. Understanding the most important concerns of the other side will be helpful in clinching the deal.
3. When multiple domestic agencies and interests are involved it is important for the negotiators to present the case for making the concessions. At times, splitting-up issues would be helpful in solving them. Piggy backing sticky issues with the concessions gained in some other sectors will be important to gain domestic currency.
4. On banking, Novartis wanted access to banking services in Sunderland. Novartis had strength in IT and hence an edge over various aspects of banking services in Sunderland such as ATM machines, traveler's checks, financial services and credit cards.

Novartis can settle for access to IT and related aspects in Sunderland. On the other hand, Sunderland might have pressure from stakeholder, namely: local banks as they are not competitive enough and hence like to avoid competition. Sunderland hence can offer Novartis to establish ATM machines, tourism financial services and also help in training the people. The access may be limited and only restricted to alternative financial services and not in the traditional financial services in order to avoid competition. Finance Ministry of Sunderland may have the problem of regulating foreign banks; however this could be resolved through intervention of the Tourism Ministry that wants the access of alternative financial services under their purview because the simplification of financial process and accessibility of ATM machines will help the tourists in Sunderland.

5. On agriculture, **Feketekuty** mentioned that the requesting country is Sunderland and one of the prominent stakeholders is cotton industry, which is exporting heavily and



interested in having market access in Novartis. Novartis concerns were skeptic about their domestic agriculture and textile community. In agriculture they may be worried about competition from cheaper cotton and certainly want to avoid competition in short fiber cotton. Hence, they can offer quota within the FTA without necessarily disrupting multilateral framework agreement. Novartis can eliminate the restriction on long fiber cotton and may allow its import in the country because the domestic textile industry also requires long fiber cotton.

6. On the visa issues, **Feketekuty** stated that the requesting country Sunderland wants to send people to Novartis. They particularly want to send young people to get trained in hospitality and banking sector. Hence, they want short-term and temporary visas. Novartis is concerned about its domestic labor union since they too were lobbying for employment in IT industry and hospitality sector. Another stakeholder in Novartis is the hospitality industry, which needs skilled manpower, and the same can be available from Sunderland.

7. On terrorism, **Feketekuty** mentioned that security is a concern for Novartis though the intelligence agency of Sunderland is very effective and hence both countries can exceed cooperation among each other.

8. On labor standards, **Feketekuty** pointed out that Sunderland could offer a paragraph in their schedule of commitment, wherein they can mention their labor standards. If there is a further emphasis on the sovereignty, one can provide verbal commitment and/or sideliners that Sunderland will follow all the labor standards and thereby the rule and conventions of ILO.

### **Closing and Evaluation**

In the closing session, participants were requested to provide the feedback on the training programme. **Pradeep Kumar Chaudhery**, Additional Secretary, Department of Commerce representing the participants thanked CUTS and the resource persons. He appreciated and acknowledged the rich experience and expertise of resource personnel, quality of resource material and overall coordination of the training programme.

**Pradeep S Mehta** thanked the participants and resource persons for their participation and hoped that the training session had been enlightening. He further thanked the Ministry of Commerce for their support of the programme. He said that such programmes should have a multiplier effect of the skills being transferred to others in the department and thereby adding value and increasing the output.

**BK Zutshi** said that the challenge in this training programme is to customize the course according to the needs of the various participants. Over a period of time the course has been revised with the inputs from the participants through the course evaluation sheets. He said that the course could be modified through the responses in the evaluation sheets and the debriefing session that was to be conducted subsequently. He encouraged the participants to express their opinion about the course and their assessment of it in order to improve it further.

***Strengthening Skills on Commercial and Economic Diplomacy***  
**Training Programme for Indian Government Officials and Business Executives**

**19-21 January 2009, Jaipur, India**

**Agenda**

<b>Day One (19<sup>th</sup> January, Monday)</b>	
0930-1030	<b><i>Inaugural Session</i></b>
0930-0940	Pradeep S Mehta, Secretary General, CUTS International
0940-0950	Kishan S Rana, Former Indian Ambassador to Germany and the Course Director
0950-1000	B K Zutshi, Former Indian Ambassador to GATT
1000-1030	Discussion
1030-1100	<i>Tea/Coffee</i>
1100-1300	<p><b><i>Session 1: International Diplomatic Environment</i></b>  Diplomacy (Narrow definition vis-à-vis broad definition); difference between commercial and economic diplomacy; understanding of international diplomatic environment; integrated relationships among issues; trade-offs and leverage across sectors; evolving ‘whole of government’ approaches; optimal management of human resources; networking skills, motivation and understanding intercultural management</p> <p>Kishan S Rana, Former Indian Ambassador to Germany</p> <p>Geza Feketekuty, President, Institute for Trade and Commercial Diplomacy, Washington DC</p>
1300-1400	<i>Lunch</i>
1400-1600	<p><b><i>Session 2: A Practical Approach to Negotiations</i></b>  An examination of the broad issues in negotiations and possible improvements in external negotiation process</p> <p>Kishan S Rana, Former Indian Ambassador to Germany</p>
<b>Day Two (20<sup>th</sup> January, Tuesday)</b>	
0900-1100	<p><b><i>Session 3: Trade Promotion Activities: A Field Perspective</i></b>  What are the practical methods for trade promotion? the methods of market share analysis (for products and target markets); a proactive promotional mindset by embassies abroad; support measures from the Trade Ministry; visits by business delegations; participation in trade shows; the method of ‘challenge funds’; spreading awareness of best practices, etc</p>

	Kishan S Rana, Former Indian Ambassador to Germany
1100-1130	<i>Tea/Coffee</i>
1130-1330	<p><b><i>Session 4: India and the Multilateral Trading System – From Uruguay Round to Doha Round</i></b></p> <p>This Session will link the strategies at various stages to the policy objectives India was pursuing in these negotiations. It will focus on the following:</p> <p>a) India’s participation in the multilateral trading system from the preparatory process for the Uruguay Round through the Uruguay Round negotiations, the preparatory process for the Doha Round and the ongoing Doha Round negotiations</p> <p>b) The trade policy objectives India was pursuing in these four different phases of its engagement with the multilateral trading system and how these objective evolved and changed during this period</p> <p>c) What negotiating strategies were deployed to secure the objective with what degree of success?</p> <p>d) The nature and extent of national preparation, including stakeholder consultations at home and how this process has evolved since the preparatory phase of the Uruguay Round; the progress that has been made over the years in improving India’s substantive preparations, and where more could be done</p> <p>e) India’s role in promotion of coalitions and participation in coalitions promoted by others over this period of time</p> <p>f) Outside perception, particularly that of the US, of how India’s policies and approaches changed over this period of time</p> <p>B K Zutshi, Former Indian Ambassador to GATT Geza Feketekuty, President, Institute for Trade and Commercial Diplomacy, Washington DC</p>
1330-1430	<i>Lunch</i>
1430-1630	<b><i>Session 4 Continued</i></b>
<b>Day Three (21<sup>st</sup> January, Wednesday)</b>	
0900-1100	<p><b><i>Session 5: Simulation Exercise on Trade Negotiations</i></b></p> <p>A negotiation simulation involving four issues involved in a free trade agreement, aimed at exploring the manner in which a bilateral negotiation unfolds, and the possibilities of trade-offs, based on the mutual and shared interests of the two sides, which may lie beneath the surface</p> <p>Geza Feketekuty, President, Institute for Trade and Commercial Diplomacy, Washington DC</p>
1100-1130	<i>Tea/Coffee</i>
1130-1300	<b><i>Closing Session: Evaluation and the Way Forward</i></b>
1330	<i>Lunch</i>

**Strengthening Skills on Commercial and Economic Diplomacy  
Training Programme for Government Officials**

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**List of Participants**

<b>S. No.</b>	<b>Name</b>	<b>Designation and Coordinates</b>
1.	Shri Pradeep Kumar Chaudhery, IAS	Additional Secretary Department of Commerce Ministry of Commerce and Industry Room No. 243 Udyog Bhawan New Delhi 110 011 India Phone: +91-11-2306 1100 Fax: +91-11-23061100 Email: <a href="mailto:pkchaudhery@nic.in">pkchaudhery@nic.in</a>
2.	Shri Dinesh Sharma, IAS	Joint Secretary Department of Commerce Ministry of Commerce and Industry Room No. 250-B Maulana Azad Road, Udyog Bhawan New Delhi 110 011 India Phone: +91-11-2306 1837 Ext#460 Fax: +91-11-2306 1837 Email: <a href="mailto:dineshsharma@nic.in">dineshsharma@nic.in</a> <a href="mailto:dineshsharma@hotmail.com">dineshsharma@hotmail.com</a>
3.	Shri Anil Mukim	Joint Secretary Department of Commerce Ministry of Commerce and Industry 162 B, Udyog Bhawan New Delhi 110 011 India Phone: +91-11-2306 1818 Cell: 098186 15860 Fax: +91-11-2306 3418/2261 Email: <a href="mailto:a.mukim@nic.in">a.mukim@nic.in</a>
4.	Shri Amarendra Khatua	Joint Secretary Department of Commerce Ministry of Commerce and Industry Udyog Bhawan New Delhi 110 011 India

S. No.	Name	Designation and Coordinates
		Phone: +91-11-2306 1664 Fax: +91-11-2306 1664 (TF) Email: <a href="mailto:a.khatua@nic.in">a.khatua@nic.in</a>
5.	Shri Nirmal Singh, IES	Economic Adviser Ministry of Commerce and Industry Room No. 228 Udyog Bhawan New Delhi 110 011 India Phone: +91-11-2306 1374 Fax: +91-11-23061374 Email: <a href="mailto:nirmal.singh@nic.in">nirmal.singh@nic.in</a>
6.	Shri Gajendra Bhujabal	Economic Adviser Department of Commerce Ministry of Commerce and Industry Udyog Bhawan New Delhi 110 011 India Phone: +91-11-2306 1341 Email: <a href="mailto:gbhujabal@nic.in">gbhujabal@nic.in</a>
7.	Shri Shyam S Agarwal	Additional Director General Directorate General of Foreign Trade Room No. 9, Udyog Bhawan New Delhi 110011 India Phone:+91-11-23063466 Fax: +91-11-23061586 Email: <a href="mailto:shyam.agarwal@nic.in">shyam.agarwal@nic.in</a>
8.	Shri Niraj Kela	Director Department of Science & Technology Technology Bhawan, New Mehrauli Road New Delhi 110016 India Phone : +91-11-26524894 Fax: +91-11-26524894 Email: <a href="mailto:niraj.kela@nic.in">niraj.kela@nic.in</a>