

# Global downturn and the looming trade wars

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In this age of high-speed internet where information spreads fast from one corner of the world to another and conflicts can be resolved at the click of a button there has been no dearth of trade wars and trade disputes. In fact, their numbers just seem to be growing.

In the first three months of 2012, the World Trade Organisation's (WTO) Dispute Settlement Body (DSB) had before it nine complaints, while the whole of 2011 had just eight cases. In all, since the global financial crisis erupted in 2008, the DSB has seen an astonishing 67 complaints.

Has the sluggish global trade kindled a surge in protectionist measures and trade disputes? Or was it a case of the tail wagging the dog: protectionist measures and trade disputes triggering the slump in global trade.

The outlook on global trade is gloomy. The WTO, in its recent report, has projected that the growth in world merchandise trade volume would slow down to 3.7 per cent in 2012, indicating a further deceleration from 5 per cent in 2011. In 2010, world trade seemed to have rebounded from the financial crisis to register a 13.8 per cent expansion.

The WTO has projected world trade volume for 2013 to slightly recover to 5.6 per cent but not to the pre-crisis levels.

Observing that the further slowing of trade expected in 2012 reveals that downside risks remain high, the WTO Director-General, Mr Pascal Lamy, said, "The WTO has so far deterred economic nationalism, but the sluggish pace of recovery raises concerns

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He then exhorted that, "It is time to do no harm. WTO members should turn their attention to revitalising the trading system and to ensuring such a scenario does not materialise."

But the member nations do not seem to be listening. And the Dispute Settlement Body continues to have its hands full.

There are recently reported cases of the US dragging India to the WTO over the latter's poultry import ban and India taking the US to the WTO over America's high duties on steel pipe imports and the fee hike for skilled workers' temporary visas. Then there are WTO complaints against China by the US, EU and Japan over the former's rare earths export curbs.

There are many high profile trade wars including the one where around 25 countries such as Brazil, Russia, India, China and the US are looking at possible retaliatory measures against the European Union's controversial carbon tax on airlines; and the solar power industry seeing the US taking on India and China for different reasons (Washington objecting to China 'dumping' of 'illegally subsidised' solar

panels in the US as well as to India's solar mission's mandatory local sourcing norm).

With the conclusion of the decade-old Doha Round negotiations (for a deal on greater liberalisation of world trade) now likely only by 2014 due to the ongoing global slowdown and polls in key member countries such as the US, one can expect many more disputes on the highly contentious matters such as food and energy security as well as climate change issues.

In fact in December last year itself, the Commerce Secretary, Dr Rahul Khullar, had cautioned that countries that are not in a position to enter into bilateral free trade agreements would block shipments from other countries using the legal options available in the WTO system (such as pointing fingers even at relatively 'insignificant' export incentives of other countries and imposing anti-dumping and countervailing duties).

He also predicted an increase in trade disputes due to the grey areas in the WTO rules. Dr Khullar had warned that India needs to be prepared for such disputes.

Mr T.S. Vishwanath, principal adviser, APJ-SLG Law Offices, said in times of a slowdown in world trade,

disputes generally tend to increase due to the perceived denial of market access to the affected country.

Also, times such as these put focus on the WTO's role in dispute settlement as more people are recognising that WTO's Dispute Settlement Body is fair and transparent in resolving such cases, he added.

Dr Ram Upendra Das, Senior Fellow, Research and Information System for Developing Countries (a New Delhi-based think-tank), however, said every dispute at the WTO need not be related to protectionist tendencies.

For example, an anti-dumping case will be related to alleged unfair trade practices of some countries 'dumping illegally subsidised' goods in other countries, misusing the latter's openness.

But there are also instances where protectionism may be implied such as India's cases against the US on the latter's high duties on steel pipe imports as well as the visa fee hike, he added.

However, more trade disputes would be music to the ears of international trade lawyers.

This is a good time for trade lawyers also to get a better understanding on international trade law, Mr Vishwanath says. "Many Indian law firms are working closely with the Commerce Ministry and India Inc on such cases," he adds.

Protectionism, retaliatory measures and winning trade wars may be fine to earn short-term political gains. But in the long run, nations would do well to keep in mind Mahatma Gandhi's reported words: "An-eye-for-an-eye ... ends in making everybody blind."