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**India, Asia and the World Trade Organization:  
Are Regional Initiatives Moving into Global Governance's  
Territory?**

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*Paper prepared for the workshop "Regional Integration in Comparison"  
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## **India, Asia and the World Trade Organization: Are Regional Initiatives Moving into Global Governance's Territory?**

Laura Carsten, June 2009

One of the largest (and most-discussed) changes in the global political economy in the last twenty years has been the rise of the so-called emerging powers (EPs). Through rapid economic growth and integration into the international economic system, these states have increased the complexity of that system and, in particular, the governance of it. This paper will explore the relationship of one of these EPs, India, with one of the major institutions of global economic governance, the World Trade Organization (WTO) and, in so doing, address the role played by regional initiatives in India's current foreign economic policies. Specifically, it will attempt to answer the following questions. First, is India, which has benefited so much from its affiliation with the WTO, now trying to substitute the functions of this institution with regional strategies it has developed to perform these same functions? And, if so, why?

In the next section, the theoretical framework of the paper will be presented. This will be followed by case studies of two regional agreements in which India is involved, the South Asian Free Trade Area (SAFTA) and the proposed India-ASEAN Free Trade Area (IAFTA), as well as the WTO. The case studies will cover the two functional realms of the WTO, namely, trade liberalization and dispute settlement. The final section will briefly summarize the findings of the paper.

### **THEORETICAL FRAMEWORK**

To answer the questions posed above, I seek to establish a relationship between two independent variables – economic and political interests – and two dependent variables, the strategic choices of India to either simply use or to substitute the WTO in any given situation.<sup>1</sup> Simple use is defined here as using an institution for the purposes for which it was created; in this case, this would mean attempting to liberalize trade or settle trade disputes through the WTO. Substitution, on the other hand, means using alternative mechanisms to satisfy the tasks one would otherwise satisfy via institutional participation; this means here settling trade disputes and/or liberalizing trade through non-WTO means.

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<sup>1</sup> This paper is part of a larger (and more thorough) work which investigates a third strategy – reform – in the context of both the IMF and the WTO and which examines the choices of two emerging power. Hence, the absence of this strategy in this paper is intentional and results from space limitations.

To establish this relationship, I propose three hypotheses. The first suggests a correlation between the prominence of specific economic interests within the policymaking situation and the strategic choice made by the Indian government to either substitute or use the WTO. Economic interests are defined as the benefits that accrue to various private actors as a result of state strategic decisions. Under the theoretical scope of Moravcsik's liberal theory of international politics (1997), this definition assumes the domestic interaction of these actors' interests will ultimately determine the state's policy position, which is subsequently projected to the rest of the world. For the purposes of this paper, three economic interests – liberalization, protectionism and (regional) economic cooperation – are expected to appear in the analysis. H1, then, reads as follows: ***When anti-status quo economic interests dominate in a policymaking situation, emerging power states should prefer to substitute, rather than use, the WTO. When general economic interests - both status quo and anti-status quo - dominate, India should prefer to use rather than substitute the WTO.*** Anti-status quo interests are economic situations desired by societal or governmental groups which require a change in government policy to be fulfilled; an example would be allowing increased market access to a trading partner. Status quo interests, on the other hand, reflect a satisfaction with the given government policies and neither require nor desire change; an example would be maintaining a given degree of protection for domestic industries. It should be noted that all three of the economic interests listed above can fall into either category.

The second hypothesis proposes a correlation between the prominence of political interests within a policymaking situation and the strategic choice of India to use or substitute the WTO. Political interest is defined as the political benefits a government hopes to gain by pursuing a particular strategy. Although a number of things fall within this category, including power over outcomes, power over resources, etc., two particular political interests, autonomy and influence, are relevant in this framework. Autonomy is defined as a state's ability to pursue its goals despite limitations imposed upon it through external constraints, such as participation in governance regimes and agreements. Influence, on the other hand, can be either direct or indirect. Direct influence represents the Dahl's classic 1957 definition of power: "the ability of A to get B to do something B would not normally do" (Riker 1964, 342). Indirect influence is the ability to shape the system to reflect your goals and norms (Schirm 1994, 36-38) as well as the ability to shape what others want (Nye

1990, 181). Thus H2 reads as follows: ***When political interest dominates in a policymaking situation, emerging power states should prefer substitution strategies over simple use.*** The logic behind this hypothesis is that, regardless of whether a desire for more autonomy or for more influence (or both) motivates India's decision-making, it will only be possible to attain these interests outside the WTO given the proposed limitation of strategic choices to use and substitution.<sup>2</sup> While the (relatively) static nature of the WTO limits the degree of each member state's influence within the organization and while participating in the WTO simultaneously limits the degree of autonomy a state has from the WTO, the various possibilities for substitution offer both opportunities to increase autonomy (e.g., achieving institutional goals through non-institutional means) and influence (e.g. forming external coalitions which then exert influence within the organization).

The obvious question raised by H1 and H2, then, is under which conditions political interest, anti-status quo economic interest and/or general economic interest dominate a policymaking situation. To determine this, I propose a H3 which divides policymaking situations into three types:

- ***When policymaking questions focus on the short-term and economic interests are directly affected, anti-status quo economic interest should dominate political interest in its impact on state decision-making.***
- ***When policymaking questions show no specific time frame (neither short- nor long-term) but economic interests are directly affected, general economic interest should dominate political interest in its impact on state decision-making.***
- ***When policymaking questions focus on the long-term time frame and impact economic interests only diffusely, political interest should dominate economic interest in its impact on state decision-making.***

The components of H3 are defined as follows. Short-term decisions involve strategies whose effects will be felt by domestic actors within five years or less, and long-term within more than five years. Echoing Schirm (2008, 9), when economic interests are directly affected, meaning the state's decision results in adjustment costs for the actors, these actors are more motivated to organize and lobby for a strategic decision which will minimize these costs for them. Further, the short-term time frame means private actors will feel the effects of government decisions sooner rather than later, making any potential negative consequences seem even more threatening and more motivating. Thus organized domestic interest groups force economic interest into the

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<sup>2</sup> As indicated previously, a third strategic choice, reform of the WTO, would further specify this relationship but is being excluded from this paper due to space limitations.

forefront of the policymaking arena. Likewise, when the government's decision could result in only minimal adjustment costs for private actors, that is, when economic interests are impacted only diffusely, states will tend to focus on political goals. The long-term time frame links policymaking decisions under these conditions closely to questions of the role EPs will play both in global governance and inside their own region. Since the diffuse impact on economic interests is unlikely to catalyze significant lobbying activity from economic interest groups, this allows governments to focus on the implications of their political role in the world system. Thus under such situations, states will seek to achieve their political goals in order to clarify this role both for their citizenry and for power-hungry state competitors.

These three hypotheses will be tested below via discourse analysis of the events surrounding, first, the formation of the IAFTA, that of SAFTA, and in the WTO mini-ministerial meeting in Geneva 2008 (for trade liberalization); and, second, selected regional disputes as handled in the IAFTA, SAFTA and WTO dispute settlement mechanisms (DSMs) (for dispute settlement). The time frame of the analysis will run from the beginning of the Doha Round of multilateral negotiations in 2001 up to the present day. Governmental positions will be determined from statements and publications of ministers in the relevant ministries – the Ministry of External Affairs (MEA) and the Department of Commerce (DoC) – while industry positions will be determined from statements and publications issued by the industry associations representing the industries to be affected by the policymaking decision. Given the standard methodological criticism of discourse analysis– namely, that one can find a statement to support any given position – these results will be further supported via a comprehensive review of the various media outlets and governmental sources for the time period of each case study and, in a future extension of this paper, through interviews with relevant industry and governmental actors as well as expert interviews with scholars working in related fields.

## **FIELD 1: TRADE LIBERALIZATION**

### **South Asia Free Trade Area (SAFTA)**

Starting in the second round of negotiations regarding the Schedule of Concessions for the South Asian Preferential Trading Arrangement (SAPTA), the South Asia Free Trade Area (SAFTA) became the cooperative, economic goal of the, then,

seven members<sup>3</sup> of the South Asian Association for Regional Cooperation (SAARC) (Udagedera 2001, 23). The first meeting regarding the transition from SAPTA to SAFTA occurred in 1997 (Udagedera 2001, 25), with the final agreement being signed nearly seven years later on January 6, 2004. On March 22, 2006, SAARC declared the agreement retrospectively in force since January 1, 2006 (SAARC March 22, 2006). Apart from a renegade move by Pakistan to apply the agreement to all SAARC members but India, to be discussed later, implementation since 2006 has been relatively problem-free, with member states now discussing an expansion of SAFTA to include trade in services as well.

Media coverage of the SAFTA negotiations frequently reported that the negotiations, particularly the implementation negotiations, were being held up as a result of “domestic industry concerns” (Tariff Row Among Pakistan, India, BD May Delay SAFTA Launching August 8, 2005; among others). Two (related) industries in particular, the textile and garment industries, appeared especially worried about the potential effects of SAFTA.<sup>4</sup> As the President of the Clothing Manufacturers’ Association of India (CMAI) noted in 2006, these two industries were already suffering from a plague of problems:

“Infrastructure and power sector reforms should be undertaken at a high speed to facilitate the smooth functioning of the industry. India has high energy and capital costs, multiple taxation, and low productivity, all of which add to production costs and make the sector uncompetitive internationally” (Textile Exports in WTO Regime Still Lacklustre January 1, 2006).

Thus it is clear that these industries during the SAFTA negotiations already felt their well-being threatened by the existing economic situation. The statements below indicate fears that applying SAFTA to their industries would directly, immediately and negatively impact their situation even further. The statements from the general industry associations the Federation of Indian Chambers of Commerce and Industry (FICCI) and the Associated Chambers of Commerce and Industry of India (Assocham), on the other hand, argue that inclusion in SAFTA would directly benefit Indian industry as a whole:

- Memorandum from the Southern Indian Mills’ Association: “Under these circumstances, removal of specific duties on textile products [as demanded by SAARC members in the SAFTA negotiations] will severely affect the

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<sup>3</sup> Full membership of SAARC, since acceptance of Afghanistan’s membership application in 2005 by SAARC leaders, includes Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. Of this group and especially in terms of SAFTA, India, Pakistan and Sri Lanka are considered non-LDCs, while the remaining member states qualify as LDCs.

<sup>4</sup> For a list of all industry associations investigated for this paper, please see Appendix 1.

competitiveness of the industry [...] would lead to flooding of low-value products from neighboring countries" (Textile Industry Plea to Centre September 20, 2005).

- Confederation of Indian Textile Industry (CITI) official on the relative impact of SAFTA on affected industries within SAARC member states: "The phased tariff liberalization program when SAFTA comes into force would benefit countries such as Bangladesh as during the first two years, non-LDCs [like India] have to bring down tariffs to 20% while LDCs will bring them down to 30% only" (Srivats and Sasi January 2, 2006).
- CITI official commenting on the impact of recent Indian FTAs, especially the potential effects of SAFTA, on various segments of the domestic textile industry: "The real worry could be for the Indian powerloom and the decentralized sector players, who might not be able to face up to the competition from manufacturers from Bangladesh and other LDCs" (India Inc Worried over Govt Plan to Ink More FTAs October 27, 2005).
- FICCI Press Release (FICCI January 5, 2006): "If sectors like agriculture, textiles, leather, pharmaceuticals, rubber, light machinery, automobile parts, etc. are put under the sensitive lists then the region shall not be able to harness the benefits of SAFTA [...] With SAFTA now in place, the region is all set to reap the real benefits of regional trade liberalization on the pattern of other trading blocs. The intra regional trade which was only 7 percent in ASEAN region before grouping, shot up to 49 percent by 2003 [so, within one year]."
- Assocham's president Venugopal N. Dhoot, in a press release which estimated SAFTA would have little damaging impact on domestic industry: "Indian industry would fully support the government if it comes out with any package for our smaller neighbors since the size of our industry and economy is large enough to accommodate the requirements of these countries [...] India] should share the fruits of growth with the smaller members of SAARC" (India Should... March 30, 2007).

As is clear from these comments, the textile industry expected increased competition from LDC members of SAARC within two years, that is, in the short-term as defined here, given the different liberalization requirements for LDC and non-LDC member states. Likewise, the apex bodies indicate they expect to reap the benefits from SAFTA inside of one year, that is, also in the short-term. Finally, of the 40 documents, articles and statements reviewed for industry input, 22 of them called for either increased protectionism or indicated satisfaction with the level of protectionism already in place. Thus, from the public statements of these industry associations, it can be concluded that, regardless of whether they were in favor of increased protectionism and sought protection from SAFTA or whether in favor of increased liberalization and sought to be included in it, Indian industry associations expected SAFTA to impact them directly and in the short-term, thus fulfilling the conditions for the predominance of anti-status quo economic interest in the government's policymaking situation.



In government statements during and shortly after the end of the negotiations, anti-status quo economic interest, as predicted, appears to reign supreme. As is evident in the statements below, two anti-status quo economic interests, a desire for increased liberalization as well as one for increased regional, economic cooperation, dominate official discourse:

- Kamal Nath in a DoC Press Release: “Our regular trade has failed to register the kind of growth, which would give us satisfaction. Implementation of SAFTA will help to correct this by further strengthening our trade with SAARC countries [...] The objective of SAFTA [...] is to reduce existing tariffs to less than 5% within the stipulated time frame among the member countries of SAARC” (DoC December 26, 2005).
- Foreign Secretary Shyam Saran: “The objective of SAFTA is to promote free trade among member countries on a regional basis” (MEA July 31, 2006).
- MEA Official Spokesman: “SAFTA would mark an important milestone on the road to a South Asian Economic Union [...] India is fully committed to honor its commitment and prepared to shoulder a major share of responsibility to promote intra-regional and other forms of economic and technical cooperation” (MEA July 7, 2006).
- Kamal Nath in a DoC Press Release: “SAFTA has important ‘F’s – Freer, Fairer and Faster Trade” (DoC February 26, 2007).
- Minister of External Affairs, Shyam Saran: “Clearly the creation of a free market of 1.3 billion people with rising purchasing power, can be a significant additionality for SAARC” (Indian Foreign Secretary Speaks at India International Centre on ‘India and Its Neighbors’ February 14, 2005).

The predominance of a desire for liberalization and increased regional, economic cooperation in the government consciousness was further verified in government actions. India’s SAFTA sensitive list for LDCs, for example, decreased from 744 items in 2004 to only 500 in 2008 (DoC March 3, 2008), giving credence to governmental insistence that India was willing to undertake “asymmetrical responsibilities, including opening her markets to South Asian neighbors without insisting on reciprocity” in order to facilitate increased regional trade (MEA April 4, 2007). The 500 items which remain on the Indian SAFTA negative list, on the other hand, suggest the worries of the textile and garment industries did have some effect on government decision-making and thus that the government was trying to balance its desires for liberalization and integration with certain domestic industries’ desire for increased protectionism. As Minister Nath stated in 2008, “In India, we are trying to see that this transformation [SAFTA] is least painful both for the producers within the country and those connected with our supply chain outside the country” (DoC March

3, 2008).<sup>5</sup> Finally, of the 52 government-based documents, articles and statements reviewed, 42 thereof included statements calling for either increased liberalization, increased protectionism, increased regional integration, or some combination thereof, underlining the strong presence of anti-status quo economic interests in the policymaking situation.

What about the political interests of autonomy and/or influence? Although one of the 52 government statements underlined the importance of the “two-track” trade liberalization, that is, simultaneously pursuing trade liberalization bilaterally through FTAs and multilaterally through the WTO (Declaration of the Fourteenth SAARC Summit April 4, 2007), this is as close as any statement gets to indicating a desire for even partial independence from the WTO. Thus autonomy does not appear to have figured largely in governmental decision-making vis-a-vis SAFTA. Likewise, official discourse shows no indication that a desire to increase Indian influence within the WTO (for example, using regional partnerships to advance goals within the WTO) was motivating their participation in SAFTA. Thus the political interests of autonomy and influence appear to have played little role within the Indian decision-making process about SAFTA.

In sum, the discourse surrounding SAFTA within India verifies the nature of SAFTA as a substitute for the WTO and validates both H1 and H3. Given the increased market access and economic cooperation facilitated by SAFTA, which, according to the Indian think tank Research and Information System (RIS), should treble from \$6 to \$18 billion in five years (Srinivasan June 30, 2006), one can conclude that the creation and implementation of SAFTA successfully fulfills the task of trade liberalization otherwise accomplished via the WTO. Likewise, anti-status quo economic interests did, in fact, dominate governmental thinking, or at least discourse, throughout both the initial and implementation negotiations of SAFTA, fulfilling predicted conditions for this example of WTO substitution as predicted by H1. Finally, industry statements, whether in favor of increasing protectionism via inclusion in SAFTA's negative list or increasing liberalization by not doing so, indicated expectations that SAFTA would have a direct impact on their economic situation in the short-term, fulfilling the conditions suggested for the dominance of anti-status quo economic interest over political interest in H3.

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<sup>5</sup> The revised, 500 item sensitive list for LDCs had yet to be released at the time of writing. This explains why the data from 2004, as opposed to that from the alleged updated list, is used here.

### **India-ASEAN Free Trade Agreement**

As in the question of SAFTA, an analysis of the proceedings surrounding the negotiation and implementation of the India-ASEAN Free Trade Agreement (IAFTA) verify its role as a substitute for the WTO in the task of trade liberalization. Likewise, the analysis also validates the conditions set forth in H1 and H3 for the strategic choice of substitution and the dominance of anti-status quo economic interest, respectively.

A Framework Agreement for Comprehensive Economic Cooperation was signed between India and the 10 states of the Association of Southeast Asian Nations (ASEAN) on October 8, 2003. Following this, as Commerce Minister Kamal Nath noted, "It took six years for India and ASEAN to understand the sensitivities of each other" (India Clinches ASEAN FTA August 29, 2008), but understand them they eventually did. As of May 2009, the IAFTA was expected to be signed at the next ASEAN Summit in October 2009 (Chandola and Bhuyan May 28, 2009).

Tariff reductions on three agricultural products – pepper, coffee, and tea – were described in the media as "stumbling blocks" (India Clinches August 29, 2008), "contentious issues" (Arun May 6, 2008); and in need of government assisted "strengthening" to withstand implementation of the proposed FTA (FTA with ASEAN on Dec 17 November 10, 2008). These three industries, therefore, are one focus of industry activity for the IAFTA negotiations. In addition, as before, statements made by representatives of the three, apex Indian industry groupings, FICCI, Assocham and the Confederation of Indian Industry (CII), will also be considered as they represent the interests of both industries which desired more liberalization or protectionism via the IAFTA, as well as those content with the status quo.

The statements from the pepper, tea and coffee industry associations below show a general desire for increased protectionism vis-à-vis the proposed IAFTA. The pepper and tea industries indirectly call for protectionism by emphasizing that at the existing level of imports from ASEAN countries, particularly Vietnam, these industries were already faring poorly. This, in turn, justifies the logical inference that with an increase in those imports, as would be expected through the lowering of tariff barriers via the IAFTA, these problems would intensify. It is therefore accurate to claim that a potential IAFTA was perceived by the tea and pepper industries as a direct and immediate threat to their existence. The coffee industry, on the other hand,

conveys its fears about the proposed IAFTA more directly, requesting coffee be included in IAFTA's negative list and emphasizing the direct, negative effects – unemployment, intensified competition at home and abroad – of not being included. Fears amongst these industries that any additional threat could “kill” their ailing industries implies the immediacy of the threat perceived by these industries from the IAFTA. Thus the statements below make clear that these industries felt directly threatened in the short-term by the proposed IAFTA and consequently pushed for increased protectionism vis-à-vis ASEAN trading partners:

- India Pepper and Spice Trade Association (IPSTA) President, Kishor Shamji: “The domestic market has been killed by imports” (Nair July 2, 2002).
- IPSTA President, M.L. Parekh: “Since prices of pepper in India are higher, the food processing and manufacturing industries are importing pepper from cheaper markets like Indonesia, Brazil and Vietnam” (Pepper Imports May Rise on Rising Domestic Prices, Lower Output November 16, 2007).
- ITA President, Chandrakant Dhanuka, on the combination of factors, including rising costs, decreasing revenue, and increased international competition, affecting the Indian tea industry: “The Indian tea plantation industry is suffering terribly. So much so that the future of Indian tea has been put into question” (Basu November 20, 2003).
- Coffee Board Chairman, G.V. Krishna Rao, on the price difference between Vietnamese and Indian coffee: “The importance we give to exports is not for plugging dollar deficit, but job deficit” (India Wants Coffee on ASEAN FTA Negative List March 29, 2006).

Like the Indian coffee, tea and pepper industries, the apex industry bodies of FICCI, CII and Assocham also promoted an anti-status quo interest within the context of IAFTA negotiations. Unlike these industries, however, the apex bodies tended favor increased liberalization and economic cooperation, not protectionism:

- FICCI Secretary General, Amit Mitra, noted at the conclusion of the IAFTA negotiations: “The FTA in goods will be vital for expanding the space for economic engagement between our two economies. FICCI urges for an early start of negotiations in services and investment so that we could reap the full benefits of a comprehensive economic cooperation agreement” (Accord Reached... August 29, 2008).
- A CII study in 2004 noted “the agreement for a free trade area (FTA) between India and the regional group [ASEAN] holds great potential to raise the volume of trade” and “would result in opening up India's north-east for integration into the global economy” (India-ASEAN Trade May Reach \$30 B By 2007 March 22, 2004).

What, then, did the Indian government have to say? As the statements below indicate, industry desires for increased protectionism were certainly in the forefront of the government's perspective throughout the negotiations. However, as in the case of

SAFTA, a desire for increased liberalization as well as increased regional economic cooperation also appear prominently in government statements:

- Minister of Commerce Jairam Ramesh: "I do not see any national interest to put coffee from Vietnam on zero import duty list [sic]. It would be better to have coffee on the negative list when we finalize the FTA" (India March 29, 2006).
- Minister of Commerce Jairam Ramesh: "What we need now to do is to take proactive measures to ensure that the competitiveness of tea, coffee, and pepper economy is bolstered so as to meet the low-cost competition from plantation crop producers like Vietnam" (Srinivasan December 4, 2008).
- Prime Minister Atal Bihari Vajpayee in a speech at the ASEAN Business and Investment Summit (October 7, 2003): "It is India that seeks to partner ASEAN in this era of globalization. India's trade and economic interaction with ASEAN countries has been steadily growing, but not fast enough."
- Minister of External Affairs, Pranab Mukherjee: "India has concluded negotiations on a free trade agreement (FTA) with the Asean, which will ensure lowering of duties and free flow of trade in goods. The agreement will create a market of over 1.5 billion people in the region. We will now work for commencing discussions in the investment and services sector" (Mukherjee 2008).
- Minister of Commerce, EVKS Elengovan, on the potential IAFTA: "Regional trade agreements provide a useful platform for expanding India's economic space and for ensuring preferential market access for its exports" (India Committed to ASEAN-India FTA December 3, 2004).

These statements make two things clear. First, all of the statements indicate a desire to alter the status quo, whether by increasing protectionism (Ramesh on March 29, 2006 and December 4, 2008), increasing economic cooperation (Vajpayee and Mukherjee) or increasing liberalization (Mukherjee and Elengovan). This pre-dominance of anti-status quo economic interest is further supported by the numbers: of the 55 statements reviewed for government commentary, 35 of these called for a change to the status quo, while only 8 indicated preference for the status quo itself. Likewise, of these 55 statements 0 indicated a desire for more influence or autonomy, suggesting the very limited, even non-existent, role played by these political interests within the decision-making situation. Second, the goal of regional integration within Asia oft cited in Indian government statements about the IAFTA is categorized as one motivated by economic interest.<sup>6</sup> The broadening of trade liberalization in this case from a bilateral to a regional level consequently underlines claims of India's FTA efforts as substitution for WTO liberalization. In sum, the process of the IAFTA

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<sup>6</sup> For more on the government's statements regarding IAFTA and regional integration, see the Prime Minister's statement prior to the 6<sup>th</sup> ASEAN-India Summit in 2007 (Singh November 19, 2007); his statement at the Summit itself (Singh November 21, 2007); or the Keynote Address given by the Minister of External Affairs to the ASEAN Business Council in 2005 (MEA December 12, 2005).

negotiations supports both H1, as evidenced by the prominence of anti-status quo economic interests in India's substitution of the WTO via the IAFTA, and H3, as indicated by the statements of affected Indian industry groups, which felt they would be directly impacted by potential liberalization of trade with ASEAN member states in the short-term. Further the analysis provides evidence that liberalization through IAFTA can be considered a substitute for WTO liberalization.

### **WTO Mini-Ministerial Negotiations, Geneva, July 2008**

Like the two regional trade agreements explored above, an analysis of the discourse surrounding the WTO's mini-ministerial in Geneva in July 2008 provides support for both H1 and H3. General economic interests, both status quo and anti-status quo, dominate official discourse in this case of IEO simple use, thus fulfilling the conditions set forth in H1, though it should be noted that the political interest of influence has a notable presence in official discourse as well. Likewise, the overwhelming majority of industry association discourse shows the groups vocal throughout the negotiations in Geneva expected to be directly affected by the WTO deal should one of the proposed drafts of the agreement actually be implemented. They did not, however, place this threat within a time frame, thus fulfilling the conditions set forth in H3 for the dominance of general economic interest.

The mini-ministerial in Geneva brought together 30 plus trade ministers from around the world in hopes of reaching agreement on the seven-year-old Doha Development Agenda. Talks began on July 21, 2008 with WTO Director General (DG), Pascal Lamy, breaking the group down into a smaller one of only seven ministers described by USTR Susan Schwab as "the core group of seven leading members from the developed and developing world" in hopes of reaching agreement (Doha Round Talks Sways, Shows Signs of Breakdown. July 29, 2008). The negotiations focused on two sectors, agriculture and Non-Agricultural Market Access (NAMA). Following a tumultuous nine days of negotiations, the talks were ended on July 30 following a disagreement between India and China on one side and the US on the other regarding the appropriate trigger level at which developing countries would be allowed to implement the Special Safeguard Mechanism (SSM) to protect their farmers from a surge of agricultural imports under the scope of the proposed Doha agreement (WTO Chief Lamy to Visit India Next Week August 11, 2008; Indian Minister Urges Removal of "Flaws" in World Trade Talks. August 12, 2008; among others).

The Indian negotiating team, and especially its leader, Commerce Minister Kamal Nath, played a very visible role throughout the negotiations. Data gathered from these statements as well as from media coverage of the negotiations revealed five industries expected to be affected, positively or negatively, by the final WTO deal: agriculture, automobiles and automobile components, textiles, gems and jewelry, as well as the services sector. In addition to statements from the respective industry associations, as before, statements from the apex industry bodies which represent multiple industries – FICCI, CII and Assocham – will also be included in the analysis.

In accordance with H3, the industry associations reviewed were overwhelmingly in favor of protectionist positions within the negotiations due to the direct, negative effects they expected to result from implementation of the various drafts of the final deal. As indicated in the statements below, industry fears varied, ranging from worries about job loss to a loss of investment to increased competition from cheaper imports which would unduly impact the livelihood and even the existence of said industries. It should be noted that these statements argue primarily against a change of the status quo which would increase liberalization but do not specifically call for increased protectionism. In other words, in these statements, all fears are linked to future developments which would occur via a final Doha deal, making them more anti-liberalization than pro-protection as well as being examples of status quo economic interests:

- Vijay Jawandia of agriculture association Shetkari Sanghata: “Any compromise by the Indian government [at the WTO] will jeopardize the future of farming” (Farmers’ Leader Seek India to Reject Drafts on WTO June 11, 2008).
- Automotive Component Manufacturers’ Association executive director, Vishnu Mathur: “If the sectoral tariff elimination programme [...] gets a green signal, it would mean cheaper import of finished products vis-à-vis imports of raw materials and this would hit the auto component industry in India” (Caution! NAMA Bend Ahead June 28, 2008).
- Society of Indian Auto Manufacturers senior director, Sugato Sen, on clauses included in the NAMA draft: “We are very concerned. These clauses, if included in the final deal, can kill the auto industry in India and other developing countries. It will drastically reduce tariffs in the country and create distortion in the market [...] it also would result in investments in the sector going awry” (Wary of Fresh WTO Text, Automakers Meet Nath July 12, 2008).
- Secretary General of FICCI, Amit Mitra: “The current proposals will hurt Indian small and medium enterprises which provide employment to millions

of people” (NAMA Text Belies Indian Industry Hopes Says FICCI to WTO Chief June 26, 2008).

- FICCI's Mitra on the SSM: “This mechanism is protecting our farmers from any surge of artificially cheap and subsidized imports from developed countries” (India Inc Supports Govt's Tough Stand at WTO Talks July 30, 2008).

Statements from other industry associations, however, fall into the anti-status quo category of economic interest. These statements can be divided into two types. The first group calls for increased protectionism, not just outlining the negative consequences of increased liberalization, but arguing that there was already too much of it (CII) and that the government should actively protect their industries (CII, Singh). The second group, primarily composed of the services and the gems and jewelry sectors, saw themselves as internationally competitive and the deal as a way to expand their existing markets and capabilities and to increase profits. They were, thus, in favor of increased liberalization:

- CII in a letter to WTO DG Lamy (CII July 24, 2008): “The current NAMA proposals would result in a disproportionate impact on certain, key sectors, relatively labour intensive sectors [...] There are some sectors that are sensitive [...] which are already experiencing high levels of import penetration [indicating] the already existing open trade regime [...] The level of the flexibility option offered is insufficient [...] to safeguard the sensitive industrial sectors.”
- Yudhvir Singh, spokesperson for the Indian Coordination Committee of Farmers, on the failure of the mini-ministerial: “We are very happy. Indian farmers have always wanted agriculture to be taken out of the Doha Round talks” (Farmers Happy over Doha Failure July 31, 2008).
- Gems and Jewelry Export Promotion Council (GJEPC) chairman, Sanjay Kothari, on Indian industry's move to expand into new facets of the diamond trade: “We're trying to make India the largest trading centre and manufacturing centre for diamonds” (Allen July 12, 2008). Motivations such as these indicate a desire for access to new markets and thus are compatible with the increased liberalization that would presumably accompany a deal in the Doha Round.
- FICCI Secretary General, Amit Mitra: “Indian business is relying on the services negotiations to have effective market access in the areas of professional and other business services in developed countries” (FICCI Seeks Market Access for Indian Service-Providers at WTO July 21, 2008).

Two things should be noted regarding the industry statements reviewed. First, regardless of whether the statements reflected desires for protection or liberalization, it is clear that the industries suspected a completed Doha deal to directly affect their industries. Of the 56 statements reviewed for industry commentary, 45 of these indicate protectionist or liberal stances vis-à-vis expected repercussions from Doha. Second, notably absent from industry statements are indicators of the timely aspect of



the threat or bonus posed by a final Doha deal: although the argument made earlier that an immediate threat demands an immediate solution also applies to a limited number of industry statements (see Wary July 12, 2008; CII July 24, 2008; or Farmers July 16, 2008 above), the overwhelming majority make no reference to the time frame of the threat: of the 56 statements reviewed, 46 of these make no reference to an immediate threat or any other statement which could be linked to any kind of time frame, as opposed to only 4 which can be linked to such a time frame. Thus the conditions proposed in H3 for the dominance of general economic interest in a policymaking situation - industry expectations of a direct impact though not within any particular time frame - are fulfilled.

What about the official discourse of the Indian negotiation team?<sup>7</sup> As expected, the economic interests of protection and liberalization dominate official discourse leading up to, throughout and after the end of the talks in Geneva in July 2008. The protectionist statements below reflect status quo interests, since they support no change in the safeguard mechanisms present in previous, partial Doha agreements - the July 2004 Framework Agreement and the Hong Kong Declaration - designed to protect domestic industries in developing countries. Interesting here is that, unlike in the industry statements reviewed above, the infant industry argument - which argues for temporary protection of domestic industries for the purposes of development and which consequently sets a definite, short-term time limit on the threat posed by increased liberalization - does make an appearance in official discourse (for example, Singh July 19, 2008 and DoC July 31, 2008 below). The statements in support of liberalization, on the other hand, reflect anti-status quo economic interests since they clearly call for enacting the increased liberalization proposed in the Doha drafts:

- Commerce Secretary, Kamal Nath: "There is no hope or scope of any concessions which will compromise India's industries like engineering, chemicals, textiles, automobiles...The provisions for their protection (in July 2004 Framework Agreement and Hong Kong Declaration) cannot be diluted." (Singh July 19, 2008) [Ellipsis and parentheses in original text].

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<sup>7</sup> Unlike the bilateral and regional agreements previously surveyed, responsibility for the WTO negotiations falls totally within the province of the Indian Department of Commerce (DoC), government statements in this case study, unlike those in the bilateral and/or regional deals surveyed previously, will originate exclusively with DoC officials or with texts signed by the Indian government throughout the negotiations. That is to say, the Ministry of External Affairs (MEA), in this case, will make no appearance.

- Commerce Secretary, G.K. Pillai: "It is absolutely essential for us to protect the livelihood concerns of subsistence [sic] farmers and therefore special products and special safeguard mechanisms are indispensable" (Unfinished Trade Agenda Hurting Doha Round July 23, 2008).
- Nath in his statement at the end of the talks (DoC July 31, 2008): "Developed countries started a major campaign for restricting the flexibilities given to developing countries in industrial products [...] which was vigorously opposed by most developing countries as infant and vulnerable industries needed to be protected."
- Nath, speaking on India's negotiating position and specifically the areas where India was open to more liberalization: "We are willing to look [at increased liberalization] because we have our gems and jewelry sector which is strong" (India Has "Walk-Out" Option July 16, 2008).
- Nath: "I'm very keen on the success of the round. The global economic outlook demands it. But not at the expense of millions of poor people" (Miller July 25, 2008). This statement makes clear the limits of the Indian government's commitment to liberalization as well as its prioritization of protecting domestic industries' interests over achieving a final deal in Doha. As is evident in these statements, general economic interest, combining anti-

status quo, liberal positions with status quo, protectionist positions, appears to have dominated Indian official discourse in Geneva in 2008. Further, in the comprehensive tally, this split was fairly even; anti-status quo interests appeared in 37 statements and status quo interests in 26. But what about political interests? Although autonomy surprisingly makes no appearance – no mention of substituting or even complementing multilateral with regional or bilateral liberalization occurs in any of the 70 statements and articles consulted for government commentary – influence is definitely present. Specifically, influence appears in statements made which emphasize the importance of Indian agreement for any final deal to be reached:

- Commerce Secretary Pillai: "There will be no deal if our core national interests are not protected" (Singh June 1, 2008). This indicates the government's belief that it can block implementation of any deal it perceives as unsuitable.
- Commerce Secretary Nath stated: "We have the full option to walk out. There can be no agreement unless India agrees" (Farmers July 16, 2008).
- Nath again, in a letter to DG Lamy: "Let me reiterate that if India draws out a blank in regard to its requests, it cannot be expected to show great enthusiasm on the other issues" (Lamy Faces Demands For Broader Doha Ministerial Agenda July 11, 2008).

These statements make clear India's intention to use its influence within the WTO to obtain its goals. An interesting implication of influence here is that if India successfully used its influence to obtain its preferred outcome or at least block less preferred ones - and, in fact, it did - this has the added bonus for India of further increasing that influence in future negotiations. The accusations of USTR Susan

Schwab which accused India (and China) of causing the failure of the talks (Thakurta August 3, 2008), for example, cement the global importance and skill of the Indian representatives and have results regarding Indian influence over future negotiations within the WTO. Further, WTO DG Lamy, for example, issued a statement on August 11, 2008 saying he was going to visit India first in his renewed attempts to revive the Doha Round (WTO Chief Lamy to Visit India Next Week August 11, 2008) notably before he visited either the US or the EU.

What does not appear in these statements, however, is any indication that this increase in influence was a factor motivating India's hard bargaining position in Geneva. A glance at the overall distribution of political and economic interest indicators within the statements reviewed suggest an overwhelming dominance of general economic over political interest within the policymaking situation. While 54 of the 70 statements reviewed for government commentary show signs of the economic interests of liberalization (24) and protectionism (30), indicators of influence appears in only 15. It is therefore reasonable to argue that general economic interests dominated political interests in determining the Indian negotiating team's position(s) during the mini-ministerial meeting in July 2008.

In sum, as predicted by H1, in this case of simple use of the WTO for trade liberalization, the predominance of general economic interest in the policymaking situation did, in fact, lead to the strategic choice of simple use. Likewise, the conditions given in H3 to predict this dominance – direct consequences for domestic industry groups in no given time frame – were verified in the analysis of industry statements. Regarding the question of whether the Indian government's regional trade liberalization activities are an attempt to substitute the WTO, this case study provides little new insight.

## **FIELD 2: DISPUTE SETTLEMENT**

Since all disputes handled under the scope of the WTO or of the various bilateral or regional agreements involve questions of whether states have kept to the given agreement regarding their actual v. the expected degree of liberalization, this makes the expected economic interests in cases of trade dispute settlement protectionism and liberalization. In addition, given the regional nature of the trade agreements here, another expected economic interest is that of regional economic cooperation. The political interests of influence and autonomy are also specified within the dispute settlement context. Influence here means an increased ability to

gain desired outcomes within the WTO Dispute Settlement Body (DSB) through activities both within and outside of that institution. Autonomy, on the other hand, means capably settling disputes without needing to recourse to the WTO DSB.

There are a number of ways in which these interests as defined above link to the topic of dispute settlement. One argument claims the relatively weaker enforcement capabilities of regional and bilateral trade agreements as well as their more limited membership make protectionist governments more likely to favor these fora, and those wishing to promote broader liberalization to favor multilateral fora (Busch 2007, 736). Davis (2003, 18-19) agrees, though for different reasons, arguing that protectionist interests should support bilateral and regional dispute settlement because the WTO DSB traditionally rules against protectionist interests and in favor of liberal ones. The bias of the WTO DSB against protectionist interests is echoed by Chorev (2005, 337) who attributes this change to increased legalization within the WTO vis-à-vis its predecessor, the GATT.

A final link connecting these economic interests to the strategic choice of a forum for resolving trade policy disputes – and the most interesting for this paper - involves the varying time periods required to settle disputes multilaterally as opposed to regionally or bilaterally. Bilateral and regional DSMs tend to take (or at least should take) significantly less time to resolve disputes than the WTO DSB. For example, it takes 1,040 days to complete the WTO DSB process while a case under the DSM of SAFTA can be completed in only 330 days, or roughly one-third of the WTO time. It is likely then that, given a direct threat, the more immediate this threat is perceived to be by industry groups, the more in favor these groups would be of the fastest possible solution to said problem. Put differently, the shorter the short-term for industry groups is felt to be, the more likely they are to support settlement of disputes in a regional or bilateral context rather than in a multilateral context.

#### **SAFTA Dispute Settlement Mechanism**

As you will see below, an examination of the only case yet to be initiated dealing with SAFTA and using various parts of the SAFTA DSM indicates support for both H1 and H3. The affected industry groups appeared to be directly and immediately threatened by the status quo situation which resulted from Pakistan's decisions, thus fulfilling the conditions predicted by H3 for the dominance of anti-status quo economic interests within the policymaking situation. Further, a review of official discourse throughout the dispute process indicates that these economic

interests – which pushed for Pakistan to change its policy and implement SAFTA for all SAARC members – were predominant in the policymaking situation, confirming H1's prediction that India choose to substitute rather than use the WTO DSB.

SAFTA incorporates a DSM designed to provide “sympathetic consideration” of and “adequate opportunity for consultations regarding representations made by another Contracting State with respect to any matter affecting the operation of this Agreement” (SAFTA January 6, 2004, 11). Although SAFTA has been operational since January 1, 2006, and its trade liberalization program (TLP) since July 1, 2006, certain parameters of the DSM were still being discussed at the SAFTA Ministerial meeting in March 2008, with the ministers requesting member states submit suggestions on solutions to these problems to the SAFTA Ministerial Council (SMC) by the end of April 2008 (SAFTA Council Meeting Indian Obstacles for Pakistan Exports to Go March 4, 2008). Thus, officially, as of writing, no dispute has been mediated under the DSM as described in Articles 10, 19 and 20 of SAFTA. There has been one major dispute, however, regarding implementation of SAFTA which has made use of the already existing parts of the DSM, and this is the dispute which will be focused upon below.

The dispute between India and Pakistan regarding the implementation of SAFTA revolves around India's allegation that Pakistan's decisions to deny Most Favored Nation (MFN) status to India and to ratify SAFTA but exclude trade with India from its scope “jeopardize[d] the implementation of the agreement on free trade in South Asia” (SAARC Squirms as India, Pakistan Bicker August 4, 2006). Put differently, Pakistan's decisions meant that Indian industry was thus limited to exporting the 773 product lines to Pakistan that it already could export, per the positive list in the Pakistani Import Policy Order (PIPO) 2005-2006, rather than the 4,872 which would be allowed under the negative list scope of SAFTA (Kumar July 26, 2006). The Pakistani government, on the other hand, maintained granting MFN status was not required by SAFTA (Pak to Continue Trade with India on Positive List of Items February 16, 2006 SAFTA Has No Provision on According MFN Status to India. July 8, 2006) and that such issues should be settled in a “composite dialogue” which, according to Pakistan's Commerce Minister, also resolved “political disputes, including Kashmir” (DoC November 24, 2004; Tikku January 9, 2007; Sen March 28, 2006; Subramanian July 8, 2006). In a letter to SAARC Secretary General Chenkyab Dorj on July 6, 2006, Indian commerce minister Kamal Nath outlined India's

complaints and then stated: "We request you to convene the SAFTA Ministerial Council meeting urgently for consideration of this important matter" (India Approaches SAARC Secretariat Against Pakistan July 7, 2006). As of spring 2009, bilateral consultations to conclude the matter were still underway. A timeline of the negotiations and preliminary results can be seen in the table below.

#### **India-Pakistan Dispute over SAFTA Implementation**

<b>Date</b>	<b>Event</b>
1-6-04	SAFTA signed with implementation date of 1-1-06
2-15-06	Pakistan ratifies SAFTA with footnote saying trade with India would be governed not under SAFTA but under the positive list from Pakistan's Import Policy 2005
7-4-06	India receives formal notification of Pakistan's decision
7-6-06	India requests SAARC Ministerial Council call urgent meeting of the SAFTA Ministerial Council to discuss Pakistan's positive list as well as the denial of MFN status to India
8-3-06	Pakistan accuses India of violating SAFTA by not lowering tariffs and by maintaining non-tariff barriers (NTB)
11-2006	Pakistan adds 302 new items to its positive list for India
2-17-07	India agrees to remove NTBs for Pakistan, Bangladesh and others
2-19-07	SAFTA Committee of Experts (CoE) meets to discuss implementation, NTBs, sensitive lists, the SAFTA DSU, and the India-Pakistan conflict
2-25-07	Nath threatens to withdraw concessions to Pakistan under SAFTA
3-18-07	Nath announces India will not withdraw SAFTA concessions from Pakistan
7-31 to 8-1-07	4 <sup>th</sup> round of India-Pakistan talks on economic cooperation; India asks Pakistan to include roughly 500 more tariff lines in its positive list
4-12-08	India asks Pakistan to expand positive list and threatens to SAFTA concessions if it does not
7-18-08	Pakistan adds another 136 items to positive list and states it will consider granting India MFN status despite unresolved Kashmir issue

SOURCE: News reports from Business Standard; Financial Express; Press Trust of India; United News of India; Indian Express; The Hindu; The Statesman

Given that India is the more liberal party in the dispute, the status quo situation at the time of India's filing was a protectionist one for all Indian industry groups representing tariff lines included under SAFTA but excluded under the PIPO of 2005-2006 for export to Pakistan. Of the industries which have been identified as likely to export goods to Pakistan, including iron ore, dyes and chemicals, drugs and pharmaceuticals, and plastics and linoleums, among others (Indian Tea to Get a Boost with SAFTA January 2, 2004), the textile and garment industries were the only industries essentially absent in the Pakistan Import Policy Order 05-06.<sup>8</sup> These industries, therefore, will be the focus of the industry observations below. In addition,

<sup>8</sup> Of the 773 tariff lines included in the PIPO 05-06, only 20 are part of the textile industry and, of these 20, most are primary, not processed products, including animal hair, silkworm cocoons, and raw wool (PIPO 05-06, Appendix G).

as before, the statements made by representatives of the three, broader, Indian industry groupings, FICCI, Assocham and the CII, will also be considered as they represent the interests of both industries which desired more exports to Pakistan and those content with the status quo following Pakistan's implementation decisions about SAFTA.

So what did Indian industry groups have to say regarding the dispute between India and Pakistan? In the articles and documents reviewed related to industry positions, neither the textile and garment industries nor the more general industry associations had much to say regarding the potential loss of Pakistan as an export market in summer 2006, when the dispute began. As time progressed, however, so too did their fears, or at least their vocalness. As is evident below, while the textile and garment industry associations primarily focused on the difficulties already existing in their industries at the time, those from FICCI, CII and Assocham address the India-Pakistan conflict, and its implications for Indian industry, more directly:

- CITI Secretary General, D.K. Nair: "Considering the labour-intensity of the sector, the Government ought to do something, or approximately five lakh [500,000] jobs would be lost by March 2008" (Booming 11-10-07). This statement emphasizes the immediacy and directness of the threat felt by the industries: within five months the export situation *as is* would lead to widespread unemployment! Any further limit on export possibilities, as would result from Pakistan's decisions, must therefore deepen this pain.
- Chairman of CMAI, Premal Udani: "The current state of the Indian textile and apparel industry is quite bad. Exports are down and the immediate prospects [...] are also gloomy" (Rao March 18, 2008).
- Assocham president, Venugopal N. Dhoot: "Pakistan's reluctance to grant most favored nation (MFN) status to India, even under the recently ratified SAFTA, is another issue that warrants an immediate solution" (Assocham for Duty-Free Access to Smaller SAARC-Countries March 29, 2007). This statement underlines the immediacy of the expected impact of Pakistan's implementation decisions on Indian industry, as demanding an "immediate solution" implies an immediate threat, that is, one both negative and within the short-term.
- FICCI President, Habil Khorakiwala, commenting on the relationship between interregional disputes and regional economic cooperation: "Bilateral relation between India and Pakistan is very important to have an enabling environment in the SAARC region" (India Decides to Remove NTBs, Technical Barriers to Boost Regional Trade February 17, 2007).
- FICCI Secretary General, Amit Mitra: "At the SAFTA level, [the] free trade agreement in the region, progress has been tardy because of the fact that Pakistan is not quite following the understanding" (SAARC Foreign Ministers Meet Ahead of Summit April 2, 2007).

The statements from FICCI and Assocham above directly address the immediate and direct threat posed to Indian industry by the dispute with Pakistan as well as these associations' desire for a change from the status quo dispute situation to a non-conflictual one in which implementation of SAFTA should be easier and bring more benefits to their industries. Those from the textile and garment industries, on the other hand, are more indirect. Two persistent themes in the textile and garment industries' statements above, however, link back to this dispute. First, worries about job loss, profit loss, and even the more severe "survival" were all linked by these groups to their *given* low level of exports; to lose another potential market in Pakistan, it can be assumed, would not necessarily have worsened the current situation of the represented industries, but it also would not have helped it. Thus the inference that these groups would not be in favor of Pakistan's then current interpretation of SAFTA and very much in favor of gaining increased access to the Pakistani market via enforcement of SAFTA, that is, of increased liberalization, is logical. Put differently, these statements indicate industry fears of a direct impact resulting from the status quo situation in the short-term. The second argument, that the given position of the industries made them globally uncompetitive, is blamed for India's loss of global market share as well as survival difficulties. This argument too suggests the Indian textile and garment industry, at least, should have supported obtaining increased market access under SAFTA, since regional trade competition, as the "stepping stone" argument goes, should help prepare them for the more threatening global competition. Thus, the statements above indicate clearly widespread Indian industry fears regarding the direct and negative impact Pakistan's implementation decisions would have on them in the short-term given the existent global competitive situation, as well as their desire to alter the status quo situation. Consequently, the conditions are fulfilled for the dominance of anti-status quo economic interest as per H3.

What of official discourse throughout the SAFTA implementation dispute between India and Pakistan? In the 54 articles reviewed for government commentary on the dispute, only a single comment made any direct reference to India's strategic choice to pursue resolution under the then-existent parts of the SAFTA DSM rather than going to the WTO DSB, under whose scope the allegation about MFN denial in particular also falls. At a press briefing on July 6, 2006, Minister of Commerce Jairam Ramesh stated India was "not keen on raking up the issue in WTO [sic] as it still hopes that Islamabad will respond favorably and also as New Delhi was



committed to having deeper economic relations with Islamabad” (MFN Issue India Knocks SAARC Doors July 6, 2006) and that this was done “in the overall interest of building good political relations” (Pakistan Refuses to Start SAFTA July 6, 2006). Although this seems to place political interest in the foreground of the policymaking situation vis-à-vis the choice of a forum for resolving the implementation dispute – contrary to H3’s predictions above – a closer look suggests the continued dominance of anti-status quo economic interest in the Indian official position. First, a minor point: “good political relations”, though certainly a political interest, do not fall under the scope of the two institutionally-related political interests deemed relevant in this work, namely autonomy from the WTO and influence within it. Second, Ramesh qualified these political motivations as a means of enabling increased economic cooperation and trade, that is, as a way of fulfilling the economic interests promoted so clearly by the anti-status quo industry groups. Thus the focus here is not the maintenance of political relations but, rather, the maintenance of conditions amenable to fulfilling the economic interests of the various interest groups. Finally, this interpretation corresponds to India’s general policy towards SAARC and SAFTA as indicated by Foreign Minister Saran in February 2005: “Our approach to SAARC was the only one logically sustainable – we set aside our differing political and security perceptions for the time being, and focus on economic cooperation” (Indian Foreign February 14, 2005). This pragmatic policy stance is also evidenced in Indian actions throughout the SAFTA implementation period, such as New Delhi’s offers to unilaterally liberalize beyond the scope of the agreement to allow neighbors more access to the large Indian market.

Statements made in the majority of official discourse further support the dominance of anti-status quo economic interests in the policymaking situation throughout the India-Pakistan implementation dispute, as predicted by H3, as well as the prediction of H1 that this should lead to substitution of the WTO DSB. As is evident in the statements below, the economic interests of increased liberalization is prominent in official discourse, as is the goal of increased, regional, economic cooperation:

- Indian High Commissioner to Pakistan, Shivshankar Menon: “The biggest obstacle to normal direct trade between our two countries is Pakistan’s positive list approach to imports from India, when India gives Pakistan MFN access to the Indian market [...] If SAFTA is implemented as it was intended

to be, then it will allow us to begin realizing the potential of direct trade” (Safta Meaningless if Pak Fails to Abolish Restrictions June 30, 2006).

- Foreign Secretary Saran responding to Pakistan's notification (MEA July 31, 2006): “This matter needs to be resolved with the utmost urgency. We believe that economic cooperation under SAARC cannot be advanced until this matter is resolved.”
- Minister of External Affairs, Pranab Mukherjee, on Pakistan's demand that the implementation dispute be linked to the Kashmir dispute: “I would therefore urge that the realization of genuine free trade in the region not be undermined by linking it to extraneous political considerations” (MEA March 19, 2007).
- MEA Spokesperson (MEA July 7, 2006): “The credibility of the participating member countries and SAFTA itself will be seriously questioned if attempts are made to introduce additional conditionalities that were neither discussed nor agreed to when SAFTA was negotiated. [...] India is fully committed to honor its commitments and prepared to shoulder a major share of responsibility to promote intra-regional and other forms of economic and technical cooperation.”
- Commerce Minister , Kamal Nath, noted in a press conference, the dispute was “not a matter of disagreement or dispute with Pakistan but only a question of Pakistan's compliance with and implementation of its obligations under the Agreement “ and further “pointed out that this approach fractures the solidarity of the economic engagement among SAFTA countries” (DoC February 26, 2007).

As is evident in these statements, anti-status quo economic interest, whether as a desire for increased liberalization in the region or, more generally, simply for economic cooperation among states, appears to dominate Indian official discourse during the time period of the dispute. Of 54 the government statements and documents reviewed, 44 of these indicated a desire to change the status quo situation, while only 4 indicated satisfaction with it. Likewise, 47 of the 54 statements indicated a desire for protection, liberalization, economic cooperation or a combination thereof.

It should be noted that government spokespeople went to great lengths to extract the (economic) trade conflict from other conflicts between the two states. They did this in two ways. First, they emphasized that Pakistan's actions would have regional, not just bilateral implications, since they undermined the legitimacy of SAFTA to capably govern trade in the region (e.g. MEA July 7, 2006 above). Second, they emphasized that Pakistan was violating the international norm of a legally binding contract by ratifying SAFTA as is and then making alterations thereafter (e.g. DoC February 25, 2007 above). Combined, these two arguments echo the point made previously, namely that the Indian government was trying to ensure a regional environment amenable to its desire to increase trade liberalization and regional

cooperation by extracting political disputes from the discussion and thus focusing discussion on the economic nature of the implementation dispute with Pakistan.

What about the political interests of autonomy and influence? Indicators of a desire to gain more influence within the WTO or its DSB appears in none of the 54 articles and statements reviewed for government commentary. Likewise, though India's decision to file its claim through SAFTA's partial DSM rather than through the WTO DSB is, in itself, an assertion of increased autonomy from that body and its rulings, nothing appeared in the discourse to indicate that autonomy from the WTO was the reason for this choice. Especially noteworthy is that indications of influence and autonomy as motivators were absent despite the very present discussion of increased regional cooperation and economic integration – both of which offer opportunities for confidence-building which could then spill over to cooperative efforts within the IEO or an expansion of substitution activities outside of it.

In sum, examination of the only case yet (partially) filed under the SAFTA DSM provides support for both H1 and H3. As evident in their statements, industry groups did, in fact, feel directly threatened in the short-term by the status quo situation which resulted from Pakistan's decision to alter the implementation of SAFTA vis-à-vis India. Thus the conditions for the dominance of anti-status quo economic interest in a policymaking situation, as predicted in H3, were fulfilled. Likewise, anti-status quo economic interests did dominate within the policymaking situation in this case of the Indian government substituting the WTO. Finally, the Indian choice to pursue its two-part dispute with Pakistan in the existing parts of the SAFTA DSM when the MFN issue, in particular, was clearly a likely candidate for a favorable WTO DSB ruling suggests this case as a definite example of India substituting the WTO in the field of dispute settlement.

#### **IAFTA Dispute Settlement Mechanism**

According to the Framework Agreement signed between India and ASEAN (IAFA) in 2003 the Agreement's DSM should be used for "any disputes concerning the interpretation, implementation or application of this Agreement" (October 8, 2003 Article 11.1-11.2 ). Delays in the negotiation of the agreement itself, however, appear also to have hindered finalizing the terms of the DSM. As of May 2009, the IAFTA Dispute Settlement Mechanism (DSM) was not yet signed, but was expected to be signed simultaneously with the IAFTA at the next ASEAN Summit in October 2009 (Chandola and Bhuyan May 28, 2009).

The IAFA provides an alternative to the DSM for disputes arising between contracting parties prior to establishment of the DSM, namely settling issues “amicably by mutual consultations” (October 8, 2003 Article 11.2). One could argue that disputes arising between parties during negotiations of the IAFTA fall under this category since they necessarily exist within the broad scope - “interpretation, implementation or application” - defined for the future DSM in IAFA’s Article 11 and since the nature of the FTA negotiations largely occurred through bilateral negotiations over contentious issues. Further, given the recent announcement that IAFTA and its DSM would be signed in October 2009, one could argue that this provisional arrangement had been successful in resolving such disputes.<sup>9</sup> The relevant question, though, is whether such disputes qualify for examination here. For two reasons, the answer is no. First, how much the parties should open their markets to one another does not fall within the purview of the WTO DSB given that this development within a FTA agreement is, by nature, discriminatory. Also, given that the (non-existent) FTA has yet to be notified to the WTO, disputes related to it would thus also not yet be reviewable within the WTO’s rule-based system. Second, these conflicts were less about the “interpretation, implementation or application” of the IAFTA than about which terms would be interpreted, implemented or applied in the future between contracting parties, thus making them ineligible even for the provisional IAFTA DSM.

Thus the case of the IAFTA can shed no light on the accuracy of H1, H2, or H3. Further, it reveals little at this time about the question of whether regional initiatives are assuming the tasks allotted to the multilateral WTO. Given the lack of trade disputes between states within the Southeast and South Asia regions within this period which fall under the scope of the WTO DSB or any other DSM which could substitute it, it is impossible to predict where India would turn should such a conflict arise. Thus, an examination of the IAFTA DSM adds neither support nor the lack thereof to the questions posed in this work. Likewise it can provide no data regarding whether the future IAFTA DSM will serve as a substitute for WTO-supervised dispute settlement.

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<sup>9</sup> Major disputes were primarily that between India and Vietnam regarding the degree of access Vietnamese coffee, tea and pepper would have to the Indian market; as well as that between Malaysia and Indonesia, on one side, and India on the other regarding access of ASEAN palm oil to Indian markets. For more on these disputes, please see Lin and Chatterjee November 20, 2007; Arun May 6, 2008; India Shows More Flexibility December 24, 2006; India Clinches ASEAN FTA August 29, 2008; among others.

### **WTO Dispute Settlement Body**

Since 2001, India has filed seven claims with the WTO DSB, two against the United States; three against the European Communities; and one each against Brazil and Argentina (WTO 2009). Although these cases suggest the global scope of India's disputes within the DSB and, in the case of Argentina and Brazil, are valid examples of trade disputes which could be handled in multiple fora, they cannot shed light on the ability of regional DSMs within Asia to usurp the place of the WTO DSB. As is obvious from the description above, none of these conflicts involve other states in the Southeast or South Asia regions, except as interested third parties.<sup>10</sup> Thus, in the framework of this paper, India's disputes within the WTO since 2001 give no indication of the extent to which regional DSMs are substituting the WTO DSB, nor of the reasons for this substitution should it occur.

### **CONCLUSION**

The admittedly limited empirical analysis above provides several insights regarding the questions posed here. The first question, that of whether India is now trying to substitute the WTO, yields different answers in the different fields governed by the WTO. Regarding trade liberalization, regional agreements such as SAFTA and IAFTA, not to mention the thirteen bilateral agreements India is negotiating or has negotiated with its neighbors, have certainly been more successful at liberalizing trade in Asia than the WTO since the start of the Doha Round in 2001. Though the official discourse analyzed in the regional case studies above contains no direct link between these agreements and the multilateral one under negotiation, multiple statements made by Kamal Nath in Geneva in 2008 reaffirmed India's commitment to the multilateral trading system. The question then becomes whether actions – India's negotiation of regional deals, which some economists view as stumbling blocks for WTO liberalization (most prominently, Bhagwati 2008 or 1991) – speak louder than words. The signing of IAFTA later this year will hopefully provide more data for further research of this question.

Regarding dispute settlement, in Southeast Asia regional dispute settlement certainly seems to be substituting the WTO's DSB. Admittedly, the limited empirical evidence available to test this claim makes this conclusion very preliminary, but a number of factors suggest it could be pointed in the right direction. Most importantly,

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<sup>10</sup> Bangladesh was a third party to dispute DS243 with the US, and Sri Lanka and Pakistan to India's dispute DS246 with the European Communities (WTO Homepage).

the limited resources of India's potential dispute partners in the region, the correspondingly high costs of employing the WTO DSB for both parties in a trade dispute (Davis 2003, 16), and the fragile security situation in the region, all indicate a likely future preference for regional rather than multilateral dispute settlement. In any case, the signing and implementation of the IAFTA DSM as well as the full implementation of the SAFTA DSM in the coming years will provide fruitful empirical evidence to further test this claim.

The second question explored in this paper, that of why India would substitute the WTO when it has benefited so much from its participation in it, was tested through the three hypotheses proposed in the theoretical framework section. In all four case studies, the correlation expected between different types of economic interest and the strategic choice made by the Indian government predicted by H1 was verified. H2, on the other hand, proved surprisingly un-testable in these case studies: despite the regional nature of the two trade agreements, no evidence was found that these regional initiatives were intended primarily to either increase Indian influence within the WTO or obtain autonomy from it. For this reason, the third part of H3 also proved un-testable. Finally, the first two parts of H3 were verified by the evidence in the case studies: when industry groups felt directly threatened in the short-term, anti-status quo economic interest was likely to dominate the government's policymaking situation. Likewise, when they felt threatened, but on no particular time frame, general economic interest, combining both status quo and anti-status quo interests, was likely to be at the forefront of government decision-making. As with the answers above to the first question, these conclusions are limited in their applicability by the limited number of case studies as well as, in parts, the lack of available empirical data. This will, however, be addressed in future research.

## APPENDIX 1: INDUSTRY ASSOCIATIONS EXAMINED BY INDUSTRY

<b>Industry</b>	<b>Industry Association(s) Reviewed</b>
Agriculture	The All India Agricultural Labour Association; the Farmer Entrepreneurs Association; Shetkari Sanghtana ;Bharatiya Kisan Union (BKU); the Seed Association of India; the Confederation of Indian Farmers Associations; the Federation of Farmers' Associations; Indian Coordination Committee of Farmers
Automobile components	The Society of Indian Auto Manufacturers (SIAM) and the Automotive Component Manufacturers Association (ACMA)
Coffee	Union Planters' Association of Southern India (UPASI); the Coffee Board of India*; the Indian Coffee Exporters' Association
Gems and Jewelry	The Gems and Jewellery Export Promotion Council; the All India Gems and Jewellery Trade Federation
IT-BPO Services	National Association of Software and Service Companies (NASSCOM)
Pepper	The Indian Pepper and Spice Trade Association; Spices Board of India
Tea	The Union Planters' Association of Southern India (UPASI); the Indian Tea Association (ITA); the Tea Board of India
Textile and Garments	Confederation of Indian Textile Industry (CITI); the Southern Indian Mills' Association (SIMA); The Textile Association (India); the Clothing Manufacturers' Association of India; the Northern India Textile Mills Association (NITMA)

\*The missions of the government-sponsored Spices Board of India, Tea Board of India, and Coffee Board of India are focused on lobbying for and improving the situation of their respective industries. Thus these Boards are treated as industry representatives despite their partial affiliation with the Indian government

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