

Sabha. Here, the proposal is that the Bill, as passed by the Lok Sabha, be taken into consideration and I propose that it should be approved.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Thank you, Mr. Finance Minister.

Now, the question is :

That the Bill further to amend the Reserve Bank of India Act, 1934, the Insurance Act, 1938, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 7 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI PRANAB MUKHERJEE: Sir, I move:

That the Bill be passed.

The question was put and the motion was adopted.

The Foreign Trade (Development and Regulation) Amendment Bill, 2009

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, we will take up the Foreign Trade (Development and Regulation) Amendment Bill.

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI ANAND SHARMA): Sir, I move:

That the Bill further to amend the Foreign Trade (Development and Regulation) Act, 1992 be taken into consideration.

Mr. Vice-Chairman, Sir, the Foreign Trade (Development and Regulation) Act, 1992 is an Act to provide for the development and regulation of foreign trade by facilitating imports into and documenting its reports from India, and also for matters connected therewith or incidental thereto. Since the enactment of the Act in 1992, there have been many developments. The requirements have arisen necessitating amendments to the Act. Accordingly, a Foreign Trade (Development and Regulation) Amendment Bill, 2001 was introduced in the Rajya Sabha. The proposal, as such, was examined by the Department-related Parliamentary Standing Committee which submitted its Report in the year 2002. Subsequently, it was decided to withdraw the Amendment Bill, 2001. It subsumes the changes which were proposed by the Parliamentary Standing Committee in the Amendment Bill. Thereafter, on the 25th of November, 2009, this present Amendment Bill has been introduced and the earlier Bill of 2001 was withdrawn.

Sir, the amendments, which are proposed through the present Amendment Bill, provide for imposition of Quantitative Restrictions as a safeguard measure and these Quantitative Restrictions are in accordance with the WTO Agreement and Article XIX of GATT. It is important to understand the need for Quantitative Restrictions. When there is a surge in imports, when there are imports of a particular commodity or manufactured goods from another country at prices which are lower than the prices at which they are produced in that country or they threaten the domestic industry or will cause injury to the domestic industry, Quantitative Restrictions are imposed. Though the present legislation does have the inherent powers to take measures, there is no statutory provision under any law for the imposition of Quantitative Restrictions. Therefore, this is an enabling and empowering provision which will ensure that if a situation were to demand so, the Government can intervene and impose Quantitative Restrictions as a safeguard measure.

The Bill also proposes to bring in tighter trade controls in the case of dual-use goods and related technologies. That is in conformity with the provisions of the Act which has been passed by

the Parliament in 2005, that is, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act. This is quite essential because the implementing agency is the Director-General of Foreign Trade. So, if we have to implement that provision, it should be reflected in the Foreign Trade Development (Regulation) Act.

We also propose to bring in technologies and services within the ambit of the Act and that is to facilitate the trade in services and technologies. Since 1992, India's trade in services and technologies has increased manifold and there is, of course, potential for the trade in services to increase further. Therefore, what the Bill provides is to bring into its ambit those services and technologies which benefit from the Foreign Trade Act or the incentives which are provided by the Government, from time to time, and also to ensure that without prejudice to any other law, rule or regulation, we bring in the provision for granting permit or licence which shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except as may be required under the Foreign Trade Act or rules or orders made thereunder. This is being done to ensure that all the restrictions on imports or exports of goods notified by various Ministries and various Departments, from time to time, are consolidated and made available at one place so that a person or an institution or an entity applying for it does not have to make multiple applications seeking multiple permissions. This would be again in conformity with India's commitment in the WTO and will not amount to any waiver of any statutory requirement. This will also cut the transaction cost and is an enabling provision which will facilitate the trade by our institutions or business bodies or entities.

We also propose to delete one word which was earlier there, that is, "gravely" from the term "gravely prejudicial" in section 8 of the Act. Since having the adjective "gravely" in the main body of the Bill or the Act makes it difficult to prove what is "gravely prejudicial" when such cases go to the court. We are trying, through this Amendment Bill, to rationalise and improve the system of levying

and realising fiscal penalties through an effective mechanism and enabling the Customs and Central Excise Settlement Commission for settlement of customs and excise duty and interest.

We have also brought in a provision. The words 'certificate, scrip or any instrument bestowing financial or fiscal benefits' - which are given under the Foreign Trade Policy -" - have been added along with the word 'licence' in Section 9. Sir, the Statement of Objects and Reasons of this Bill makes it very clear that what we are doing, the changes which are being brought, will ensure that (a) we protect the domestic industry; (b) we empower through the Act of Parliament imposition of Quantitative Restrictions and also take measures to ensure that all our commitments, as have been accepted through this Act of 2005, which I referred to particularly, on the Weapons of Mass Destruction and their Delivery Systems and technologies, are brought within the purview of this Bill. I am sure the principle objective of this amendment Bill, which has been through the Standing Committee; and, as I have said, we have accepted all the recommendations of the Standing Committee, will be accepted by the hon. Members. With these words, I commend the Bill to the House.

The question was proposed.

SHRI RAVI SHANKAR PRASAD: Sir, are we sitting beyond 5 p.m.?

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Yes. I think that is the sense of the House. This Bill will not take much time.

SHRI RAVI SHANKAR PRASAD (Bihar): As the hon. Minister has stated, it is an enabling Bill because certain legislative instruments were required to be added, more precisely, Section 9 for imposition of Quantitative Restrictions and Section 14, to be precise, taking action particularly with regard to the applicability of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005. This imposition is being sought to be done in compliance of our GATT obligations. That is what I understand. Obviously, I am supporting the Bill, but some of the general concerns I would like to highlight. I would really appreciate if the hon.

5.00 P.M.

Minister, Shri Anand Sharma, in reply, would meet some of the points I am trying to highlight. If we read clause 9A, where you have taken upon yourself the power to impose Quantitative Restrictions, there is a proviso to that whereby if the article is being imported in a quantity of less than 3 per cent then you will not impose that restriction. If it is coming from a combination of many countries, then it will be 9 per cent. Kindly see the disconnect. The hon. Minister in his opening remarks stated that it is designed to ensure level-playing field for Indian manufacturers. Now you are putting the cap of 3 per cent. If the export is less than 3 per cent, you would not impose the restriction. Now, how this 3 per cent is going to be determined? Take the case of China. How many goods are exported in a transparent way and how many come in a non-transparent way, I think, Mr. Minister, you know much more than me. दीवाली के लक्ष्मी-गणेश भी आजकल चीन से आ रहे हैं। मुझे आपको इससे अधिक और कोई उदाहरण नहीं देना है कि लक्ष्मी-गणेश, जो इस देश के कुम्हार बनाते हैं - पटना में, जब मैं बच्चा था, तो घरों में छोटे-छोटे बच्चे बनाया करते थे - वे भी आजकल चीन से आ रहे हैं।

Go to any part of Delhi. I am not talking on the quality of those goods. That is a separate chapter altogether. Even in small items, the market is flooded with Chinese goods. I am sure much of those are coming through a process which is not legal. Now, in this situation, if you are going to impose a three per cent cap, it is surely going to be flouted with impunity. And, I regret to say that it is indeed being flouted with impunity. Now, what is the mechanism available to you? There are porous borders with Nepal. Chinese aggressive designs are well-known; I am not sure, this is not an occasion for me to debate about the Foreign Policy. But the aggressive design of China is too well-known. It wants to become an economic power. China has a problem with India because India is emerging as a great economic power. The world is taking cognizance of that. Therefore, this kind of a thing, which is going on, is something a matter of deep concern.

The second thing which I would like to raise in this regard is: How do we synchronise with the Free Trade Agreement? I am sure that is also one of the obligations being undertaken by your Department, that is, the Free Trade Agreement with many countries. And, there is an insistence of SAARC obligations on other countries. Now, how are the two going to be synchronized as far as the cap of three per cent is concerned? It is a question which is a little grey area, and we would like to have clarity on that. Sir, apart from the apprehensions from China, one more issue which I would like to highlight is this. Now, what is the object? As has been stated by the hon. Minister, for which I compliment him, he wants Indian manufacturers to come up, at least, in some of the substances. Now, what additional efforts are we making to ensure that the Indian manufacturing sector does come up? I am sure, the hon. Minister, my good friend, Shri Anand Sharma, is aware that he is the Minister for both imports and exports. Both come under his Ministry. Therefore, in order to compete properly, the quality, the effectiveness and the credibility of Indian manufactured goods are equally important so that we are able to compete. Then, we will have a level-playing field. What is the situation in that connection? Certainly, there is an enabling provision, and I am supporting it. But those concerns are required to be reflected. I am sure you are aware that the manufacturing sector is still not in a very happy state, and you will have to acknowledge it. The contribution of the manufacturing sector used to be very substantial in the GDP of the country. But it is going down and down. Therefore, how are you going to meet this challenge in the context of the Quantitative Restriction is a question to be considered. Take the case of the Indian agriculture. The contribution of Indian agriculture in the GDP is 17 per cent. But seventy per cent of India lives on agriculture. You are quite aware of this fact. माननीय मंत्री महोदय, भारत के किसानों की क्या स्थिति है, मुझे यह आपको बताने की जरूरत नहीं है, आप भी बहुत दिनों से राजनीति कर रहे हैं। भारत का किसान चाहता है कि उसे उसकी फसल का उचित दाम मिले। भारत का किसान यह भी चाहता है कि उसका जो उत्पादन है, उसकी जो प्रोडक्टिविटी है,

उसका मैन्युफैक्चरिंग सेक्टर में समन्वय हो, जैसे फूड प्रोसेसिंग है या बाकी अन्य चीजे हैं। Many other manufacturing processes are there. And, I don't think, you will dispute with me when I say, food products-related manufacturing process is indeed a manufacturing process. उसे आप मैन्युफैक्चरिंग के दायरे से निकाल नहीं सकते हैं। Now, you go to any mall; you go to any consumer market. The Indian markets are flooded with manufactured food products from a foreign country. I don't think the Indian product could not be of that level.

Now, in this light, if this kind of a thing keeps on coming, how would we safeguard the Indian agriculture? माननीय मंत्री जी, भारत के किसानों की दशा पर चिन्ता होती है। आप यह जो quantitative restrictions लगाने की बात सोच रहे हैं, उससे भारतीय किसानों का कितना भला होगा और अभी तक उनका कितना भला हो पाया है, यह एक बड़ा गम्भीर सवाल है। हम यह चाहेंगे कि अगर आप उसके बारे में थोड़ा मार्गदर्शन करें, तो बड़ी कृपा होगी।

Hon. Minister, I have one worry which I want to mention through the Chair. Don't bring the Inspector Raj in a very deadly form through this Bill. I am a little worried about it. Look at the experience that we have had in the last fifty-sixty years. License-permit-control-quota raj crippled the entrepreneurship of the Indian entrepreneur. I hope you are aware of that. I do not want to go much into the details of that. But under the garb of this whole regulation, the way the Inspector Raj is peeping from behind the curtain is a cause for worry for me. I would like to have an assurance from you on what sort of mechanism you are going to have to ensure that it does not kill the entrepreneurship and that you make the system transparent. I will come to why I am saying this. Let me give you a very concrete example.

The Indian IT sector -- you are aware of it and even the Standing Committee has taken note of that -- constitutes 6 per cent of the GDP. Its export potential is in the region of about 50 billion

dollars. I hope you are aware of that. It gives substantial employment, to two-three lakhs direct; let us not go into the other. We are very proud of the Indian IT industry which has risen because of Government support or in spite of that support and made a great mark the world over. The range of export, the hon. Minister is aware, is from the lowest end to the highest end, which is R&D, which is BPOs, which is software, hardware and every thing. Now, in IT industry, it is very difficult to ascertain from where import started and export ended or vice-versa. What is the stage of IT industry under this Act? Are we going to cripple that entrepreneurship is a question which is not very free from difficulty? Sir, I was just going through the Report of the Standing Committee. I would like to quote, with your permission, Sir. Let me just read out para 5 of this Report. After hearing the Secretary, Department of Information Technology, "Members raised questions regarding the regulatory authority for IT sector. India's stance on strict visa rules in the developed world, financial benefits for the Indian IT industry and so on were answered by the Secretary and the DGFT. He agreed to go into section 16 once again. Regarding quantitative restrictions, the DGFT confirmed that there was no intention to cover services and technology and will make it abundantly clear in the relevant clause"? Now, with my little legal training, Mr. Minister, I went through the law as it has been tabled and I could not get an assurance of that commitment made before the Standing Committee. I may be wrong. I would like to have some clarity from you. But why I am a firm advocate of the IT industry? Now, even President Obama today has to openly say that he has to put a cap on the Indian IT industry; they have unfurled the flag of Indian entrepreneurial and professional abilities all over the world. Now, the country, and the IT industry, in particular, is entitled to have an assurance that under the garb of the operation of this Act, Clause 9 is not operated in such a way that in respect of their legitimate right, which is both import and export, their international obligations get frustrated.

That is the question I would like to be assured with. One more issue, lastly, I have to flag to the hon. Minister and that is about the Weapons of Mass Destruction And Delivery System Act, 2005.

Certainly, dual technology ought not to be there, which may permit a dubious exporter or importer, as the case may be, to violate these security considerations. But the only thing I would like to highlight, Mr. hon. Minister is a very interesting experience. It was last year in New York, our baggage was being checked very thoroughly. We went in a Parliamentary Delegation. One Member of Parliament was keeping a small scissors for his mustache, and we had a great tiff there at the airport. He, in his very inimitable style, said, "Ravi, let us leave it. After all, it is a weapon of mass destruction". I am sure, under the garb of this Act, Mr. Minister, there has to be transparency, there has to be fairness, and there has to be a very reasonable mechanism to ensure that only those who are dubious are caught, and those who are promoting exports are not harassed. Sir, these are some of my concerns; otherwise, I support the Bill. Thank you, Sir.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, Shri Rajeev Shukla. ...*(Interruptions)*...

श्री रवि शंकर प्रसाद : उपसभाध्यक्ष जी, आप पहले उनसे बोलवा दिए होते।

SHRI RAJEEV SHUKLA (Maharashtra): See, this is the prerogative of the Opposition, so I don't want to take away that prerogative. Let them be in Opposition, and let us remain in the Treasury Benches. ...*(Interruptions)*...

धन्यवाद उपसभाध्यक्ष जी, the Foreign Trade (Development and Regulation) Amendment Bill, 2010, had been introduced in the Rajya Sabha on 25th November, 2009. After that, it had been referred to the Standing Committee. The Standing Committee studied thoroughly the provisions of the Bill, and it made certain recommendations. On the basis of those recommendations, certain amendments have been brought, and this Bill has been brought in Parliament by the hon. Minister. I would like to congratulate Shri Anand Sharma for bringing in such a pragmatic Bill, which will not only augment and foster the growth of export and import in the benefit of the country but also do away

with all aberrations. I am surprised to listen to the speech of my hon. colleague who was saying that it will bring the inspector raj back, as far as imports and exports are concerned. Actually, this Bill is going to discourage inspector raj, and it will help doing away with intricacies in the law, and it would be much easier for Indian exporters and importers to grow their business. The main changes recommended by the Committee included amendments to ensure that the interpretation of various provisions of the Foreign Trade (Development and Regulation) Amendment Bill do not adversely affect the growth of various service sectors, particularly the information technology. He was talking about information technology. Special provisions have been made in the Bill to help this sector. We also want our IT sector to grow because the IT sector is doing wonders in the world. So, special provisions have been made here. For the first time, service and technology, both have been brought into the ambit of this Bill. So, this Bill is going to help to catapult the growth of the IT Sector, in turn, the service sector and technology also. All legal safeguards have been provided in the Bill. But, at the same time, it has been kept in mind that everything is in accordance with the WTO provisions and the GATT provisions. So, we do not violate anything.

The Bill also proposes to bring technology and services within the ambit of the Act in order to facilitate trade in services and technology. I am emphasizing this point deliberately. The Bill further provides that without prejudice to anything contained in any other law, rule regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under the Foreign Trade (Development & Regulation) Act or rules or orders made thereunder. So, it gives plethora of opportunities to our exporters and importers as well. So, where is the question of bringing back the 'inspector raj'? In fact, it is open-ended, every thing has been opened except certain provisions under this Bill and the powers have been given to the Director-General of Foreign Trade. In case of weapons of mass

destruction also, powers have been given to the DGFT and that has to be done in order to contain terrorism and in order to provide internal security to our nation. In the interest of our national security, it is very essential that these provisions should have been brought. In India in energy sector soon we will be having nuclear energy plants. We are already working on a legislation which will soon be brought before the Parliament. All these provisions have to be there because we cannot take the risk. So, this is another important factor which has been brought into it. Sir, section 8 of the Bill gives the Director General of Foreign Trade powers to suspend or cancel the Importer-Exporter Code number if there is reason to believe that any person has made an export or import in a manner gravely prejudicial to the trade relations of India. The Bill proposes to delete the word 'gravely' in Clause 8 of the Bill since having the adjective 'gravely prejudicial' in the body of the Act makes it difficult to prove what is gravely prejudicial' when such issues go to court. This amendment would enable swift and exemplary action in trade dispute matters, when unfair practices have been adopted by certain exporters or importers which are prejudicial to the trade relations of India with other countries. On the one hand, this is going to save the exporter from the harassment and at the same time, all the precautions are being taken. In fact, I would like to request the Commerce Minister that being an important clause of the Bill, he should take all precautions to see that those exporters who are bringing name to the country, they are brought to the book, and their tendencies are curbed so that India does not get a bad name. I was told that about ten or fifteen years back, maybe, ten or twelve years back, India was the biggest exporter of tea to Russia. One Calcutta based exporter, who was the largest tea exporter to Russia, what he did was that first he started adulterating tea with sawdust and used to mix 30 to 40 per cent sawdust into tea. Later on, he enhanced the level up to 50 per cent. Finally, he booked two containers of sawdust in the garb of tea from Poland and he exported 100 per cent sawdust to Russia in the garb of tea. Subsequently, it was caught by the Russian

officers; it was shown on television there. There was a massive hue and cry in Russia and finally the Indian tea was discouraged, almost banned and Sri Lanka and other countries became the largest exporters of tea. So, one exporter damaged the reputation of Indian tea in the whole of Russia. So, it is good that the Minister has also made these provisions that the Director General of Foreign Trade has got the powers to take action against exporters who will try to bring bad name to the country. So, in the garb of 'gravely prejudicial' words, the exporters, the good exporters, the genuine exporters will not be harassed. Sir, in the same Bill effort has been made to ensure that all restrictions on imports and exports of goods notified by various Ministries and Departments are available at one place which would reduce transaction costs and avoid delay in clearance of consignments. This is in conformity with India's commitment to WTO and will not amount to any waiver of any statutory requirement under any other law as applicable.

I was talking about inspector raj. All these facilities are being provided. So, there is no more transaction cost and, at the same time, delay in clearance is also avoided because you must have seen that whenever these consignments go to customs for clearance, the exporters are always harassed. They have to pay something. They have to do some favours for clearance of their consignments. So, all these precautions are being taken. The Bill provides for rationalizing and improving the system of levying and realizing fiscal penalties through an effective mechanism and enabling the Customs and Central Excise Settlement Commission for settlement of customs and excise duty and interest. Apart from that, in order to realize the money of various Government Departments certain provisions have been brought into the Bill by which nobody is a defaulter. All the defaulters will also be brought to book. So, I think, put together this Bill is very pragmatic, modern and it will definitely bring an environment of growth in terms of export and it will facilitate the importers also. So, I think, it is going to augment the foreign trade of the country. Thank you.

श्री गंगा चरण (उत्तर प्रदेश) : धन्यवाद सर। मैं Foreign Trade (Development and Regulation) Amendment Bill पर बोलने के लिए खड़ा हुआ हूँ। मंत्री जी ने जो Amendment Bill लाया है, उसमें उन्होंने

Foreign Trade (Development and Regulation) Act, 1992 के प्रावधानों को amend किया है, वह प्रशंसनीय है, स्वागतयोग्य है और उन्होंने इंस्पेक्टर राज को खत्म करने की बहुत कोशिश की है, जिससे निर्यातकों और आयातकों को परेशानियां होती थीं। इसमें जो भ्रष्टाचार था, उसको दूर करने का प्रयास किया है। हम इस बिल का स्वागत करते हैं।

सर, मैं कुछ प्रावधानों पर आपके माध्यम से मंत्री जी से clarification चाहूंगा। उन्होंने घरेलू उद्योगों को बचाने के लिए जो quantitative restriction रखा है, Developing Countries को जो तीन परसेंट की छूट दी है, यह छूट क्यों दी गई है? जो Progressive Countries हैं या Developing Countries हैं, क्या उनके दबाव में यह छूट दी गई है? मैं समझ नहीं पा रहा हूँ कि यह छूट क्यों दी गई है।

सर, मैं आपके माध्यम से मंत्री जी से अनुरोध करना चाहता हूँ, क्योंकि WTO में sign के बाद हमारा देश ग्लोबल मार्केट में अपना स्थान बना रहा है और हमें यह प्रयास करना चाहिए कि हमारे जो निर्यातक हैं या हमारे उद्योग से जुड़े हुए जो लोग हैं, उन्हें ज्यादा से ज्यादा सुविधाएं मिलें और हमारा देश विदेशी व्यापार में अग्रणी हो। हमें कम से कम चीजों को इम्पोर्ट करना पड़े और हम ज्यादा से ज्यादा चीजों को एक्सपोर्ट करें। हमें ऐसी व्यवस्था करनी चाहिए।

सर, विदेशी व्यापार से ही सबसे ज्यादा विदेशी मुद्रा का collection होगा। मैं कुछ सुझाव देना चाहता हूँ, जो हमारे विदेश व्यापार नीति के लिए आवश्यक हैं। मैं बिल से हट कर भी कुछ बोलना चाहता हूँ। हमारे यहाँ हर्बल्स/जड़ी-बूटियों का उत्पादन सर्वाधिक होता है, इसलिए एग्रीकल्चर सेक्टर में इसको प्रोत्साहन दें और इसका एक्सपोर्ट हो, उसकी हम सुविधा दें। इसके लिए कुछ एयरपोर्ट्स भी बनाए जाएं। किसान जो हर्बल्स पैदा करते हैं, उनकी मार्केटिंग विदेश व्यापार करें। इससे हमें सबसे ज्यादा विदेशी मुद्रा अर्जित हो सकती है। चूंकि हिमालय में या हिन्दुस्तान के जंगलों में जो जड़ी-बूटियां हैं, वे दुनिया के किसी भी देश में नहीं हैं, इसलिए उनका एक्सपोर्ट करके हम विदेशी मुद्रा अर्जित कर सकते हैं। इस समय हमारी देशी गाय, गौ-मूत्र और गोबर का trading सबसे अधिक हो रहा है।

अभी कानपुर में एक गोशाला है, तोशनीवाल जी उसके अध्यक्ष हैं। उन्होंने बताया कि उन्होंने गोमूत्र से cold drink type एक पेय बनाया है और पूरे अमेरिका ने उस गोमूत्र के पेय को इम्पोर्ट कर लिया है। तो इन चीजों को यदि

हम बढ़ावा देंगे, तो हमारे गांवों में रहने वाले जो लोग हैं, वे भी विदेशी व्यापार से जुड़ सकेंगे। अभी तक बड़े-बड़े व्यापारी ही जुड़े हैं। अभी हमारे देश में, निचले स्तर तक इस विदेशी व्यापार से कोई नहीं जुड़ा है, किसान नहीं जुड़े हैं। कैसे हम आम आदमी को जोड़ें कि हमारे घरों में बनने वाली चीजें भी विदेशों में बिकने लगें, इसको हमें प्रोत्साहन देने की जरूरत है। जैसे हमारा "योग" आज world में सबसे ज्यादा बिक रहा है, उसकी ट्रेडिंग हो रही है। जो हमारे इस योग विद्या से जुड़े हुए ऋषि-मुनि, महात्मा हैं, मैं कहूंगा कि हमें इसको भी सरकारी स्तर से promote करना चाहिए कि आज स्वास्थ्य के लिए योग सबसे ज्यादा जरूरी है और इसकी हमें ट्रेडिंग करने की जरूरत है। आप विदेश व्यापार मंत्री हैं, मैं इसके लिए सुझाव देना चाहता हूँ कि हमारा जो विदेश व्यापार विभाग है, इससे हम हर देश में अपनी चीजों की ट्रेडिंग कर सकते हैं। हम इनकी मार्केटिंग कर सकते हैं।

इसी तरह गंगा जल है। गंगा जल से किन-किन बीमारियों का इलाज होता है, ब्लड प्रेशर, कैंसर, शुगर, तमाम बीमारियों का इलाज गंगा जल से होता है, जो हमारे यहां आम आदमी को available है, उसका भी हम व्यापार कर सकते हैं, तो इन सब चीजों से, हमें अपने देश को दुनिया की सबसे बड़ी ताकत बनाने के लिए, इक्कीसवीं सदी में महाशक्ति बनाने के लिए प्रयास करना चाहिए और खास तौर से जो डेवलपिंग कंट्रीज हैं, उनके शोषण से हम कैसे बचें, इस ओर ध्यान देना चाहिए। आज 9 अगस्त है और "भारत छोड़ो आंदोलन" का नारा आज ही के दिन दिया गया था। मैंने कल "हिंदुस्तान" अखबार में पढ़ा कि हमारे जो स्वतंत्रता सेनानी हैं, उन्होंने "अंग्रेजों भारत छोड़ो" का आंदोलन चलाया, बड़ी कुर्बानियां दीं, यातनाएं सही, जेल गए, शहीद हुए, तब देश आजाद हुआ और आज हम कह रहे हैं कि अंग्रेजों, भारत आओ, तो हमें इससे भी बचने की जरूरत है। कुछ लोगों के मन में शंकाएं हैं कि बहुराष्ट्रीय कंपनियां कहीं पुनः हमारे देश को गुलाम न बना दें, इन शंकाओं को दूर करने का भी हमें प्रयास करना चाहिए, सचेत रहना चाहिए कि हमारा भारत कहीं पुनः इन बहुराष्ट्रीय कंपनियों का गुलाम न हो जाए, क्योंकि अभी तक हमारे देश में विदेशी कंपनियों का 1,68,000 डॉलर निवेश हो चुका है। तो हमें यह प्रयास करना चाहिए कि जो हमारे देश के उद्योगपति हैं, उनको हम कैसे ज्यादा से ज्यादा प्रोटेक्शन दें, संरक्षण दें, सुविधाएं दें कि वे बाहर जाकर विदेशी कंपनियों को टेक-ओवर कर सकें। जैसे हमें खुशी हुई जब हमने पढ़ा कि ईस्ट इंडिया कंपनी को हमारे एक भारतीय ने खरीद लिया है। जिस ईस्ट इंडिया कंपनी ने दुनिया में राज किया, आज उस कंपनी को एक भारतीय ने खरीद लिया है, तो हमें अपने भारतीय उद्योग को पूरी मदद करने की जरूरत

है, न कि हम बाहरी लोगों को बुलाकर उनको सारी सुविधाएं दें और अपने भारतीय उद्योगों को चौपट कर दें, उनको खत्म कर दें या यहां के उद्योगपतियों को खत्म कर दें। इस चीज से जो समाजवादी सोच के लोग हैं, खास तौर से वह उनके लिए चिंता का विषय बना हुआ है। जिन्होंने आजादी की लड़ाई लड़ी - फ्रीडम फाइटर्स, उनके लिए भी यह चिंता का विषय है कि यह देश, जिसके लिए हमने जेल की यातनाएं सही हैं, संघर्ष किया है, कहीं यह पुनः गुलाम न हो जाए। एक तरह की आर्थिक गुलामी में हमारा देश जकड़ न जाए, क्योंकि आज इस समय कांग्रेस के नेतृत्व में यू.पी.ए. की सरकार चल रही है। महोदय, कांग्रेस ने आजादी की लड़ाई लड़ी है, महात्मा गांधी जी के नेतृत्व में, पंडित जवाहर लाल नेहरू के नेतृत्व में, और भी उनके साथ जो तमाम लोग, समाजवादी दर्शन से जुड़े हुए लोग हैं, खास तौर से कम्युनिस्ट पार्टी के जो लोग हैं, इन सबके लिए यह एक चिंता का विषय है कि कहीं अमेरिका और साम्राज्यवादी शक्तियों द्वारा दुनिया को आर्थिक तौर से गुलाम बनाने की आजकल जो साजिश रच रही है, हमारा देश भी उसका शिकार न हो जाए। इस चीज का भी हमें ध्यान रखने की जरूरत है, सचेत रहने की जरूरत है और अपने औद्योगिक घरानों को यह बताने की जरूरत है कि हम आपके साथ खड़े हैं, आप जाइए विदेश में, विदेशी कंपनियों को टेकओवर कीजिए, खरीदिए, हम आपकी पूरी मदद करने के लिए तैयार हैं। इन शब्दों के साथ मैं अपनी बात समाप्त करता हूँ, शुक्रिया।

SHRIMATI JHARNA DAS BAIDYA (Tripura): Mr. Vice-Chairman, Sir, the Foreign Trade (Development and Regulation) Act, 1992 was enacted to provide for development and regulation of foreign trade by facilitating imports into and augmenting exports from India. Since the enactment of the said Act certain requirements have arisen necessitating amendments to the said Act. This Act provides a statutory provision for safeguard measures, enabling imposition of quantitative restrictions. This is a welcome step. And, I support this Bill in view of the havoc made by the withdrawal of quantitative restrictions. We had strongly protested the withdrawal of quantitative restrictions, which has created serious crisis in the agro industries in the country. That led to even farmers committing suicides. This Act is nothing in comparison to the damages that are going to be inflicted after the India-EU Free Trade Agreement by October, 2010. The proposed amendments

would enable the Government to impose quantitative restrictions as a safeguard measure to provide the domestic industry a level-playing field. But the danger is lying elsewhere with the conclusion of Indo-EU Free Trade Agreement by October, this year. Already, the Free Trade Agreement with the ASEAN has created problems for India industries.

The Government is set to conclude negotiations on the India-EU Free Trade Agreement by October, 2010. Despite this having far-reaching consequences, the negotiations are being conducted with extreme secrecy and are keeping the Indian Parliament and the State Governments in the dark. The Free Trade Agreement, with the European Union, seeks to lower Indian tariffs to zero or near zero levels for 90 per cent of agricultural products, which leave untouched the huge subsidies the EU agriculture enjoys. This will allow the EU to dump subsidized European farm products in the Indian market. We have already seen the impact of such Free Trade Agreements on Indian agriculture with cheap palm oil imports destroying domestic production.

On intellectual property, the EU is asking for TRIPS-plus provisions and the rewriting of Indian patent and copyright laws. The Government is even discussing the re-writing of such laws with the EU. This shows the scant respect, which the current UPA Government has for the Parliament. Accepting product patents for drugs and pharmaceuticals under the TRIPS has already restricted the access to cheap medicines for the Indian people. A further set of pro-monopoly and pro-corporate measures being demanded by EU extension of patent life by five years, reduction of farmers' rights in favour of agro business, data exclusivity, etc. are all geared to further harm the interests of the people and their access to medicines, seeds and food.

The EU is also asking India to brand as 'counterfeit' all pharmaceutical products that are not in conformity with EU's patent laws that India exports to other countries through EU's patent laws, that India exports to other countries through EU territory.

The India-EU Free Trade Agreement also proposes massive cuts in import duties on industrial goods, which will greatly impact India's manufacturing sector that is already facing job loss and shrinking markets.

The investment and services provisions are asking for financial liberalization that this Government wanted to carry out and we, the Left opposed. While, India largely uses tariff barriers to protect its industry and agriculture, the EU uses non-tariff barriers, such as, engineering and phyto-sanitary standards and also heavy subsidies, particularly, in agriculture. In these discussions, the focus is almost entirely on tariffs and creating TRIPS Plus provisions -- it is completely skewed for opening the Indian market to EU and not India gaining market access. While India is discussing amending its laws, discussions on the EU's laws and non-trade barriers are not there even on the agenda.

This Bill seeks to bring in tighter exports or trade control in the case of dual-use goods and related technologies and providing enabling provision for establishing controls as are in the Weapon of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

The provision for dispensing with requirement of obtaining licence/permit for import and export needs to be examined and scrutinized properly and the Act should enlarge the lists of items to be imported with licence, requiring prior licence for import of such items which help in increasing our domestic production capacity.

Enabling India to become a major player in world trade requires not only the promotion of exports, which it is doing by following approaches like Focus Products and Focus Area, but similar measures also need to be taken to safeguard Indian industries from the onslaught of foreign imports that could have detrimental effects on indigenous industries. As India's comparative advantage lies in

producing commodities that are labour-intensive, it is imperative to protect this sector, most importantly, the textile sector. The Indian textile industry is the largest in the country in terms of employment generation and, currently, generates employment for more than 35 million people. It not only generates jobs in its own industry but also opens up scopes for the other ancillary sectors. Analysis of India's import data reveals that the textile sector has been affected adversely since the removal of quantitative restrictions on India's imports in 2001 and specially post the expiry of the Multi-Fiber Agreement (MFA) in 2005. There has been a sharp surge in the growth rates of textiles. Imports of table cloths and serviettes have shown an average rise of more than 500 in value per year over the periods 2001-04 and 2005-09. Countries like China, Hong Kong, Thailand and certain EU countries like Italy, France figure among the list of countries exporting those textile products to India that have shown extremely high growth rates over the aforementioned periods. India's markets are free for imports from China, which figure persistently in the list of importers into India. This becomes even more significant in view of the massive trade balances that India is running against China.

I conclude with the support of this Bill and demand a white paper on WTO and its impact on Indian peasantry. Thank you.

SHRI D. RAJA (Tamil Nadu): Sir, while broadly supporting this Bill, I rise to raise a few issues for the consideration of the Government and of the Minister.

Sir, we have been always maintaining that in a growing competitive global atmosphere, India, as a sovereign country, should maintain its right to impose quantitative restrictions. In the past also, we strongly argued for that. Now the Bill has made it very clear that the Government of India will maintain that sovereign right. In Chapter 3A on Quantitative Restrictions, it has been made very clear that 'it may, by notification, in the official gazette impose such quantitative restrictions on the import

of such articles as it may deem fit." I think, it is a very positive provision in the Bill. This is exactly what we have been telling the Government. We have been saying, 'don't withdraw the Quantitative Restrictions.' It may hit the domestic industry; it may bring very adverse impact on the economy as a whole. Now, by experience, I think, the Government has realized it and so it has declared through this provision that it would maintain its sovereign right to impose Quantitative Restrictions whenever it is needed. So, I find that it is very positive and I welcome this.

Secondly, Sir, Section 2 of the Bill talks about various issues, i.e., "import" and "export" means- (I) in relation to goods, brining into, or taking out of, India any goods by land, sea or air. (II) in relation to services or technology - (i) supplying, services or technology (A) from the territory of another country into the territory of India; (B) in the territory of another country to an India service consumer; (C) by a service supplier of another country, through commercial presence in India; (D) by a service supplier of another country, through presence of their natural persons in India;" It goes on like this. There, I think, the question of investments will become very crucial, and, I think, the Government will have to consider some kind of regulatory mechanism for investments because in the telecom sector we have been facing this type of problem. Even though the scale of the investments, foreign investments, has been provided there as 70 per cent, but we are not allowing more than 50 per cent practically. There, I think, the Government can consider setting up of a kind of regulatory mechanism for investments.

Thirdly, Sir, I talk about Section 3 of the Bill. I quote, "Notwithstanding anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods or provision for services or technology, nor any goods or provision for services or technology shall be prohibited for import or export except, as may be required under this Act or rules or orders made thereunder." I think, Section 3 do away with all licence requirements. This would come in conflict with other regulations in other service sectors. The Government can have a relook at it to see whether it can lead to some kind of a conflict. I have that apprehension because

as our good friend, Shri Ravi Shankar Prasad said, it is not bringing back the licence raj. But there should be some kind of regulatory mechanism.

We cannot leave everything to the market forces or external players to play havoc with our economy. I think, Government will have to re-look at this provision of the Bill.

Then, Sir, I wish to raise one more important issue, that is, with regard to the Special Economic Zones. This Bill talks about Special Economic Zones. I do not know what the role of the Director General of Free Trade is as far as dealing with Special Economic Zones is concerned. How are we going to deal with issues related to Special Economic Zones? The Government will have to address this issue, which is haunting several sections of our people. It is not only the question of land, but there are other issues related to Special Economic Zones as well. This, I think, the Government will have to consider.

Sir, the Act may be called the Foreign Trade Development and Regulation (Amendment) Act, 2009. Foreign trade is a broad concept and many issues can be brought under the subject. I wish to raise a very concrete issue here. The previous speaker had also referred to it. It is about Free Trade Agreements. Now, there are negotiations on these Free Trade Agreements with the European Union. I think, Government should not sign Free Trade Agreements without getting the approval of Parliament or the State Assembly. I am just raising this issue, which the Government will have to respond to. The Government of the day goes for some agreements whether Parliament ratifies it or not. Then it becomes fait accompli. With the European Union, there are many things at stake. Perhaps, Government is aware of the issues at stake if the Free Trade Agreements with the European Union are concluded: (1) The future capacity of our agriculture and manufacturing sectors to grow, upgrade, develop, agro-processing and value-added products if local production gets displaced by

imports through FTS and is taken over by FTA partners; (2) The future of our service sector to diversify beyond the IT sector and to become globally competitive in a large number of service sectors; (3) Employment losses in sectors where imports from FTA partners will displace our workers and producers in manufacturing and agriculture; and (4) Loss in equity because of large and powerful multi-national enterprises taking advantage of a liberalized investment regime.

Now, these are all genuine apprehensions. Government may say, 'no', but these are all genuine apprehensions. Not only the Left, but there are other forces which are agitating on these issues. These are all the apprehensions and I think these apprehensions are genuine. You may say that these apprehensions are not genuine, but it is for the Government to consider.

Then, Sir, Government will have to be very transparent. When Government negotiates on Free Trade Agreements with the European Union, there must be transparency and the country and the Parliament should know about it. The Government will have to come with a white paper, or any paper for that matter, to explain the position of the Government on Free Trade Agreements. I can go on listing out what the stakes are when the Free Trade Agreements are concluded. We are in a very competitive world and the competitive atmosphere has affected our domestic industry considerably in the past. We will have to safeguard our own domestic industry as well as our agriculture and service sectors, for which Government will have to address these apprehensions.

With these words, I broadly support this enabling legislation and thank you.

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI ANAND SHARMA): Mr. Vice-Chairman, Sir, I thank the hon. Members for broadly supporting the Foreign Trade (Development & Regulation) Amendment Bill, 2009 and the valuable contribution which most of the speakers have

made beginning with my dear friend, Shri Ravi Shankar Prasad, Shri D.Raja, Smt. Baidya who has made here maiden speech and other hon. Members. However my colleague in the Treasury Benches, Shri Rajeev Shukla, is not present, he extended his full support. The priorities have clearly registered with the Members of the House that this is an empowering legislation. Enabling provisions are there which I had explained in my opening statement particularly to ensure that as a trade safeguard measure we put in place a mechanism, the statutory provision, for quantitative restrictions to be imposed if there is an import surge, if there is dumping and if there is injury or threatened injury to Indian trade and to the Indian industry. These measures will be entirely in conformity with Article 19 of GATT's Agreement as well as with the WTO. We have said that when we put in place such restrictions those are not country-specific, but we are looking at the interests of the country, interests of its economy and interest of the industry. Shri Ravi Shankar Prasad did raise some specific issues. First with regard to the quantity of 3 per cent that is exempt and how will we come to calculate that quantity of 3 per cent and whether that is correct or not? Sir, I would like to inform the hon. Member that the statistics of imports -- as he himself is aware; he has been in the Government and dealt with the subject -- are maintained by the DGCI&S for each product and from all the countries, and by those statistics import in excess of 3 per cent can be easily determined. When it comes to imports by illegal processes, as the hon. Member did mention to, those are not imports. This is smuggling which is an illegal activity for which Customs and other organizations, which are in-charge of border controls, have to take effective measures. It is not only in this country but in other countries too where Customs Departments have the mandate to deal with such illegal processes or illegal activities to push in goods made in another country without payment of any tariffs and duties into another country. Hon. Member did specifically refer to the flood of toys and also some of the religious idols. Now what is legally imported is within the parameters of the laws or the tariffs which are clearly prescribed under the rules framed thereunder. But the Government does take action when

required to protect the domestic industry and to ensure that nothing is done which is injurious to our commerce as well as to our own manufacturing industry. We have taken action, number of them through the Directorate General of Safeguards and also through the Directorate General of Anti-Dumping when complaints are made by the industry.

But, the Government suo motu has taken action. We did impose a ban on the import of all toys vide a notification in the last June. That was because of the health hazard and safety standards. So, all toys, which do not comply with our safety standards, have been banned. So, this was not what was alleged or speculated as country-specific, but, yes, we did impose those restrictions and that includes import of toys from China. We did also impose a ban on the import of mobile handsets which did not have IMEI numbers, that is, International Mobile Equipment Identity, or, only 40s IMEI. Those cannot be imported into this country. In December last year, they were all immobilised, made unoperational. We have also, through notification, banned the import of milk and milk by-products including chocolates and chocolate products from China. Again, that is done because of health hazards, because of some toxic substances which were found in the milk by-products emanating from that country. In case of China, in particular, there is also special mechanism. As hon. Ravi Shankar Prasadji would know, when China entered into an agreement for acceding to the WTO, its accession agreement had a very clear provision, which was the transitional products specific safeguard mechanism which is applicable only to China where the countries concerned can impose restrictions if there is a market disruption. So, there are various measures which are available. They are invoked as and when required. I would specifically refer to the manufacturing sector. What was said by him, though the present Bill is not meant to be dealing with that subject, but yes, a concern has been expressed on manufacturing, making the industry competitive, and also on the agriculture sector which is the source of subsistence for a large number of our citizens. Even though agriculture may contribute only 17 per cent of the GDP today, but the fact remains that at least 60 per cent of our citizens are dependent on agriculture. Therefore, how do we empower the farmer, how do we ensure that this sector grows?

6.00 P.M.

Though FDI in agriculture is something which is not permissible as per the present policy, yet, in agro processing and food processing, definitely, it is there, particularly when we look at the backend. I will first deal with the agriculture because it is of a national concern. The productivity is low. It is not because the farmers are not hard working, or, efforts are not being made. The fact remains that only the Green Revolution ensured that we became self-sufficient in food production, not dependent on imports. But, at the same time, India has a history of settled cultivation of more than 5,000 years. Therefore, the productivity levels may not be the same as you may find in South American countries or in many countries of African continent where the land is virgin, fertile and has not been cultivated for prolonged periods of time. But, agro processing and food processing industry is engaging the Government's attention and very serious too, including investment, building of infrastructure, value chains and technology. This is where I would like my friends, particularly, Shri D. Raja and other colleagues from the Left, to understand that our post-harvest losses are close to 40 per cent; if not 40, then not less than 35 per cent. That much of food is just lost, particularly fruits and vegetables where we are the second largest producer in the world. Imagine losing that 35 per cent and also think about saving that 35 per cent, adding to the food chain which will strengthen food security availability. Through processing, through infrastructure building, millions of jobs in this country will be created. Farmer will get more remunerative prices, and also, the same products, what was being referred to by Shri Ravi Shankar Prasadji, though it was not done now, the processed food, packed food was available in the shelves of the stores, not during the UPA Government, but well before that.

When it comes to the liberalization, I would just like to remind the hon. Member that it was the present Prime Minister who was the Finance Minister in a Congress Government, who started this process. You were referring to the 'inspector raj', we don't believe in creating an environment which is disruptive or suppressive of commerce and industry.

Coming to manufacturing sector, it is again our concern. The share of manufacturing sector in India in our GDP is stagnating where it was in 1992. I am not saying it has not grown but our economy has grown manifold. But in percentage terms, its proportion to the GDP remains where it was, and, it is engaging my priority attention. That is why, in the beginning of this year, we declared that we will give this country a national manufacturing policy, create manufacturing and investment zones for integrated development to bring in high-technology to make our manufacturing industry competitive. In other emerging economies, the share of manufacturing is, at least, 8 to 9 per cent more than what the share of manufacturing in the GDP of India is. We have to do this; we recognize that because we are a country with large number of people. We will be adding, perhaps in one decade, close to 200 million to our workforce. We have to ensure that they are made employable. For that, we have to focus on necessary infrastructure, environment, and, training; and, the Government is seized of that. There is a draft Manufacturing Policy which we have put out in public domain on the 31st March for stakeholders' consultations, and, I hope that we have received useful inputs. It has generated absorbing debate in the country, and, surely, after taking on board the inputs which we have received, we will be able to create a national consensus for a policy, which after the industrial policy of 1991, will give a specific thrust to India's manufacturing sector.

Sir, there were some concerns expressed on the services front. There are no restrictions as such which are being imposed on the services. When we are talking of services and technology, we are only talking of those -- it is both for imports and exports -- who are directly benefiting from the incentive schemes under the Foreign Trade Policy, not otherwise.

We are conscious of the strength of the Indian IT industry, Indian pharmaceutical industry, Indian generics which have made enormous contribution in ensuring the availability of life-saving

medicines to poor people at affordable prices worldwide. Therefore, what we are concerned about is Mode 4 in the services. When we talk to our interlocutors, bilaterally, or, through the regional economic groupings, or, while negotiating an agreement, we ensure that our services sector, where we have very high level of ambition, is not weakened in any manner. Of course, these are decisions, which are sovereign decisions by other countries whether they raise the bar, raise the fee, lower the number of professionals, and, these issues are regularly taken up by the Government with the concerned Governments or in the multilateral forums as and when required.

I would like to refer also to what was said regarding the WMD Act by the hon. Member in her maiden speech. She has raised many concerns. I must tell her with all respect, while I was listening to her most attentively; surely, this is a policy paper which emanates from some think tank within the party.

It is not well-informed. It raises those concerns which we have been hearing for a long time. But, many of those concerns are not correct. Particularly, when it comes to what is being negotiated, that is being pure speculation, and I will come to that because my dear friend, Shri D. Raja, also referred to that. But, before I do so, I will refer to the WMD Act. What does this Bill seek to do, Sir? It only seeks to incorporate enabling provisions for the implementation of regulation on trade of dual use goods. Also, as I had said, this Parliament had passed an Act on Weapons of Mass Destruction and Technologies, that is, trade in that, in 2005. Therefore, we have to bring this provision to implement the same. But, this is also as per our international obligations with the United Nations Security Council Resolutions as well as with the Chemical Weapons Convention, and goods which are proposed to be regulated are notified. There is no ambiguity on this. Let me make it very clear that there is no ambiguity as to what can be imported or not. There is this COMET List, that is, the special chemicals, organisms, material, equipment and technology. That list is in public domain

and what cannot be traded in is clearly notified. So, if there are any concerns on this issue, these are not, I will say, correct. I would like to allay any misapprehensions or any fears. Now, when we are talking about the various FT As which are being negotiated, discussed, there are many references made. A reference has been made on the ongoing negotiations on trade and investment agreement with the EU; how it is going to affect our manufacturing industry; how it will affect our agriculture and our services. I would like to inform the hon. Member that these negotiations started after the Indo-EU summit, six years ago, had set up a high level group on trade and investment which recommended that India and EU enter into such an agreement.

Now, why does India do that? It is because other countries are engaging. Look at the number of trade agreements which China has signed even with ASEAN countries, even with Europe, even with the United States. If you look at it, we are only trying to move in the right direction and not to be left out in what you yourself referred to as competitive globalised economy. So, if India has to be a major player, which we are being acknowledged as, then, we have to engage with other countries. And, agreements are negotiated by experts. Agreements are not negotiated by the Prime Ministers or the Ministers. It is the sector specific experts who negotiate. With EU, there have been negotiations going on for five years. Ten rounds of negotiations have been completed. Countless hours and human resources have been expended. Now, if it was as easy as India walks into negotiations and accepts the wish list of the other country or their negotiators and signs on it, then this agreement would have been concluded in the year 2006. We are here in 2010 and it is still being negotiated. I must speak for our negotiators. They are our citizens. They are our experts. They are scientists. They are trade experts. They negotiate keeping in view the supreme national interest of the country. They are as sensitive to India's interest, as concerned about our industry and our economy as the hon. Member is and we ourselves are. So, what always is negotiated is based on a

mandate and that mandate, under our system of governance, is given by TERC, that is, Trade and Economic Relations Committee, which is chaired by none else than the Prime Minister of the country and has all the sensitive and strategic sectors represented which discusses and then gives the mandate.

After the negotiations conclude we go back to the TERC; and from there it goes to the Cabinet Committee on Economic Affairs. All those who sit in the Cabinet are also elected representatives and they have a responsibility. Then only we inform the Parliament. We bear in mind our strengths. Therefore, we have our own negative list, as was done in the case of the FTA with ASEAN.

I must inform the hon. Member that the reference that it has hurt Indian agriculture or Indian industries is not correct. We have ensured that the interest of the farmers, the interest of the fishermen, and the interest of the plantation sector are fully protected.

There was a mention of import of palm oil. We have applied rates, and we have bound rates when we talk of tariffs. It is 90 per cent when it comes to the refined palm oil and 75 per cent for crude. But applied tariffs are zero per cent and 7.5 per cent. Why? India has a huge shortage of edible oils. We have to import 8-9 million tonnes of edible oil. If we don't import, we will not have edible oil available here. They are further subsidised. After importing at zero duty, we further subsidise it for the public distribution system. You must ask the Chief Ministers or Ministers who are dealing with this subject in your respective Governments in the States, which are ruled by non-Congress or non-UPA parties that how important it is to ensure availability. Therefore, please be assured that when it comes to these matters or when it comes to the interest of Indian generic industry, India is not going to accept any condition which subverts or affects the interest of the Indian pharmaceutical industry. As and when a situation arose, we took up these matters very firmly. We

intervened at the highest level and made it very clear, particularly when it comes to the availability of life saving medicines which Indian pharmaceutical industry has ensured. The Government will not accept any proposition, any action of any foreign Government which is TRIPS-plus agreements which we are party to. We have our own intellectual property regime. Beyond that India is never going to accept anything.

And the last word is on whether the Government is moving in a transparent manner. We are transparent. Governments have accountability to the people and to Parliament. But, at the same time, we have a parliamentary democracy in India. We have our Constitution. We don't have a system like some other countries where ratifications take place before negotiations. Negotiations are conducted by negotiators. If we don't find a satisfactory solution, we don't do that. Trade is a two-way process. It does not go in one way. Trading takes place between countries only on the basis of supply and demand. If your economy, your industry needs something maybe for value addition, you will import. And when you produce something which some other countries need, they will import it. This is how the commerce goes. This is how the investments go. Time is not there for me to delve into the issue of investment business. I would just say one thing. Please don't feel that we will be swamped by multi-nationals. Yes, we welcome the Foreign Direct Investment. But, today, it is the Indian corporate entities, which are encouraged and supported with an enabling environment and provisions by the Government and by our financial institutions to step out of India and go in for acquisitions and mergers. Some of the biggest takeovers, acquisitions and mergers in Europe and America in recent history have been made by Indian companies beginning from Tatas, Mahendras, and Wockhardt. I have a long list to give. It is not that others are coming and taking over the Indian industry. Who would have thought that Jaguar, Land Rover, and Corus steel, all the iconic symbols of the UK, will be taken over by the Tata Group? Same goes for the wind energy. Same goes for pharmaceuticals and many other sectors. The purpose, as I have explained, Sir, for bringing this Bill is only to ensure that our practices are in harmony with the WTO Agreement.

And what was required to be done, has been incorporated in this Amendment Bill. I am grateful to the Members for their contribution. I have tried sincerely to respond to all questions, all concerns. With these words, I would commend that this Bill be passed by this august House.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, the question is.

That the Foreign Trade (Development and Regulation) Amendment Bill, 2009 be taken into consideration.

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, we shall take up Clause-by-Clause consideration of the Bill. Now, in clause 2, there are 3 amendments- Nos. 4 to 6 by the Minister.

Clause 2 - Amendment of Section 2

SHRI ANAND SHARMA: Sir, I move:

4. That at page 2, lines 28 and 29 be deleted.
5. That at page 2, line 30, for the bracket and alphabet ©, the bracket and alphabet (b) be *substituted*.
6. That at page 2, lines 41 and 42, for the words "or in respect of which conditions have been imposed on grounds" the words "because of imposition of conditions on the grounds" be *substituted*.

The questions were put and the motions were adopted. Clause 2, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, in new clause 2A, there is one amendment- No. 7 by the Minister.

New Clause 2A- Amendment of Title of Chapter II

SHRI ANAND SHARMA: Sir, I move:

7. That at page 3, after line 18, the following be *inserted*, namely:-

'2A. In the principal Act, in sub-heading bellow "Chapter II", for the words "EXPORT AND IMPORT POLICY", the words "FOREIGN TRADE POLICY" shall be substituted.

The question was put and the motion was adopted.

New Clause 2A, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, in clause 3, there are two amendments- Nos. 8 and 9 by the Minister.

Clause 3- Amendment of Section 3

SHRI ANAND SHARMA: Sir, I move:

8. That at page 3, for lines 20 and 21, the following be substituted, namely:-

(a) in sub-section (2),-

(i) for the words "import or export of goods", the words "import or export of goods or services or technology" shall be *substituted*;

(ii) after sub-section (2), the following proviso shall be inserted, namely:

Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies".

9. That at page 3, /erlines 23 to 30, the following be *substituted*, namely:

"(4) Without prejudice to anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder."

The questions were put and the motions were adopted.

Clause 3, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, in clause 4, there is one amendment No.10 by the Minister.

Clause 4 - Substitution of New Section for Section 5

SHRI ANAND SHARMA: Sir, I move:

10. That at page 3, for lines 37 to 38, the following be substituted, namely:-
4. For section 5 of the principal Act, the following section shall be *substituted*, namely:-
5. The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner, amend that policy:

Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations as may be specified by it by notification in the Official Gazette."

The question was put and the motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5 was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, in clause 6, there are two amendments Nos.11 and 12 by the Minister.

Clause 6 - Amendment of Section 7

SHRI ANAND SHARMA: Sir, I move:

11. That at page 3, line 42, for the words "import and export of services", the words "import or export of services or technology" be *substituted*.
12. That at page 3, line 43, for the words "service provider", the words "service or technology provider" be substituted.

The questions were put and the motions were adopted.

Clause 6, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, in clause 7, there are two amendments Nos.13 and 14 by the Minister.

Clause 7 - Amendment of Section 8

SHRI ANAND SHARMA: Sir, I move:

13. That at page 4, line 5, after the words "foreign trade policy" the words "or any other law for the time being in force" be inserted.

14. That at page 4, for lines 27 and 28, the following be *substituted*, namely:

'(B) in sub-section (2), for the words "import or export any goods", the words "import or export any goods or services or technology" shall be *substituted*.'

The questions were put and the motions were adopted.

Clause 7, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, in clause 8, there is one amendment No.15 by the Minister.

Clause 8 - Amendment of Section 9

SHRI ANAND SHARMA: Sir, I move:

15. That at page 4, for lines 29 to 31, the following be *substituted*, namely:

8. In section 9 of the principal Act,--

(a) in sub-sections (1), (3), (4) and (5), for the word "licence", wherever it occurs, the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be *substituted*;

(b) for sub-section (2), the following sub-section shall be substituted, namely:--

"(2) The Director General or any officer authorized by him may, on an application and after making such inquiry as he may think fit, grant or renew or refuse to grant or renew a licence to import or export such class or classes of goods or services or technology as may be prescribed and, grant or renew or refuse to grant or renew a certificate, scrip or any instrument bestowing financial or fiscal benefit, after recording in writing his reasons for such refusal.

The question was put and the motion was adopted.

Clause 8, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, in clause 9, there are 11 amendments Nos. 16 to 26 by the Minister.

Clause 9 - Insertion of New Chapter IIIA

SHRI ANAND SHARMA: Sir, I move:

16. That at page 4, for line 32, the following be substituted, namely:

"9. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:-"

17. That at page 4, line 36, for the words "article is", the words "goods are" be *substituted*.

18. That at page 4, line 39, for the word "articles", the word "goods" be *substituted*.

19. That at page 4, line 40, for the words "an article", the words "any goods" be *substituted*.

20. That at page 4, line 41, for the words "that article", the words "such goods" be *substituted*.

21. That at page 4, line 42, for the words "that article originates", the words "such goods originate" be *substituted*.

22. That at page 4, line 43, for the word "countries", the word "country" be *substituted*.

23. That at page 4, line 45, for the words "that article", the words "such goods" be *substituted*.
24. That at page 5, line 10, for the word "articles", the word "goods" be *substituted*.
25. That at page 5, line 12, for the word "articles", the word "goods" be *substituted*.
26. That at page 5, for lines 16 to 21, the following be substituted, namely:
- '(b) "domestic industry" means the producers of goods (including producers of agricultural goods) --
- (i) as a whole of the like goods or directly competitive goods in India; or
- (ii) whose collective output of the like goods or directly competitive goods in India constitutes a major share of the total production of the said goods in India;'

The questions were put and the motions were adopted.

Clause 9, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, in clause 10, there is one amendment^{*} No. 27 by the Minister.

Clause 10 - Amendment of section 10

SHRI ANAND SHARMA: Sir, I move:

27. That at page 5, for line 38, the following be *substituted*, namely:-

"subject to such requirements and conditions and with the approval of such officer, as may be prescribed:

Provided that the provisions of clause (b) shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefit under the foreign trade policy or is dealing with specified services or specified technologies."

The question was put and the motion was adopted.

Clause 10, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up clause 11. There are three amendments (Nos. 28-30) by the hon. Minister.

Clause 11- Amendment of section 11

SHRI ANAND SHARMA: Sir, I move:

28. That at page 5, for lines 39 to 46, the following be *substituted*, namely:

11. For section 11 of the principal Act, the following section shall be *substituted*, namely:

11.(1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy, he shall be liable to a penalty of not less than ten thousand rupees and not more than five times the value of the goods or services or technology in respect of which any contravention is made or attempted to be made, whichever is more.

(3) Where any person signs or uses, or causes to be made, signed or used, any declaration, statement or document submitted to the Director General or any officer authorised by him under this Act, knowing or having reason to believe that such declaration, statement or document is forged or tampered with or false in any material particular, he shall be liable to a penalty of not less than ten thousand rupees or more

than five times the value of the goods or services or technology in respect of which such declaration, statement or document had been submitted, whichever is more.

- (4) Where any person, on a notice to him by the Adjudicating Authority, admits any contravention, the Adjudicating Authority may, in such class or classes of cases and in such manner as may be prescribed, determine, by way of settlement, an amount to be paid by that person.
- (5) A penalty imposed under this Act may, if it is not paid by any person, be recovered by any one or more of the following modes, namely:-
 - (a) the Director General may deduct or require any officer subordinate to him to deduct the amount payable under this Act from any money owing to such person which may be under the control of such officer; or
 - (b) the Director General may require any officer of customs to deduct the amount payable under this Act from any money owing to such person which may be under the control of such officer of customs, as if the said amount is payable under the Customs Act, 1962; or
 - (c) the Director General may require the Assistant Commissioner of Customs or Deputy Commissioner of Customs or any other officer of Customs to recover the amount so payable by detaining or selling any goods (including the goods connected with services or technology) belonging to such person which are under the control of the Assistant Commissioner of Customs or Deputy Commissioner of Customs or any other officer of Customs, as if the said amount is payable under the Customs Act, 1962; or
 - (d) if the amount cannot be recovered from such person in the manner provided in clauses (a), (b) and (c)
 - (i) the Director General or any officer authorised by him may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the

District in which such person owns any property or resides or carries on business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue; or

- (ii) the Director General or any officer authorised by him (including an officer of Customs who shall then exercise his powers under the Customs-Act, 1962) and in accordance with the rules made in this behalf, detain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid, as if the said amount is payable under the Customs Act, 1962; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and costs including cost of sale remaining unpaid and shall render the surplus, if any to such person.
- (6) Where the terms of any bond or other instrument executed under this Act or any rules made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (5), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.
- (7) Without prejudice to the provisions contained in this section, the Importer-exporter Code Number of any person who fails to pay any penalty imposed under this Act, may be suspended by the Adjudicating Authority till the penalty is paid or recovered, as the case may be.
- (8) Where any contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy has been, is being, or is attempted to be, made,

the goods (including the goods connected with services or technology) together with any package, covering or receptacle and any conveyances shall, subject to such conditions and requirements as may be prescribed, be liable to confiscation by the Adjudicating Authority.

- (9) The goods (including the goods connected with services or technology) or the conveyance confiscated under sub-section (8) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be. :

29. That at page 6, lines 1 to 52 be *deleted*.

30. That at page 7, lines 1 to 15 be *deleted*.

The questions were put and the motions were adopted.

Clause 11, as amended, was added to the Bill.

Clause 12 was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up clause 13.

There is one amendment (No. 31) by the hon. Minister.

Clause 13 - Amendment of section 14

SHRI ANAND SHARMA: Sir, I move:

31. That at page 7, lines 24 and 25, for the words and brackets "the goods (including the goods connected with services or technology)", the words and brackets "goods (including the goods connected with services or technology)" be *substituted*.

The question was put and the motion was adopted.

Clause 13, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up clause 14. There is one amendment (No. 32) by the hon. Minister.

Clause 14 - Insertion of a new Chapter IV A

SHRI ANAND SHARMA: Sir, I move:

32. That at page 7, for line 26, the following be *substituted*, namely:

"14. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:-"

The question was put and the motion was adopted.

Clause 14, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up clause 15. There is one amendment (No. 33) by the hon. Minister.

Clause 15 - Amendment of section 15

SHRI ANAND SHARMA: Sir, I move:

33. That at page 8, for lines 36 and 37, the following be *substituted*, namely:-

15. In the principal Act, in sub-heading below "CHAPTER V", for the word "REVISION", the word "REVIEW" shall be *substituted*."

The question was put and the motion was adopted.

Clause 15, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up clause 16. There is one amendment (No. 34) by the hon. Minister.

Clause 16 - Amendment of title of Chapter V

SHRI ANAND SHARMA: Sir, I move:

34. That at page 8, for lines 38 to 40, the following be *substituted*, namely:-

- '16. In section 15 of the principal Act, in sub-section (.?), in the proviso, for the word "goods", the words and brackets "the goods (including the goods connected with services or technology)" shall be *substituted*.'

The question was put and the motion was adopted.

Clause 16, as amended, was added to the Bill.

Clauses 17-19 were added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up clause 20. There are four amendments (Nos. 35-38) by the hon. Minister.

Clause 20 - Amendment of section 19

SHRI ANAND SHARMA: Sir, I move:

35. That at page 9, for Wnes 14 to 16, the following be *substituted*, namely:-

- '(a) in clause (to), for the word "licence", the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be *substituted*;
- (b) for clause (c), the following clause shall be *substituted*, namely:-
- "(c) the class or classes of goods (including the goods connected with service or technology) for which a licence, certificate, scrip or any instrument bestowing financial or fiscal benefits may be granted under sub-section (2) of section 9;" ;
- (c) in clauses (d) and (e), for the word "licence", the words "licence, certificate, scrip or any instrument bestowing financial or fiscal benefits" shall be substituted; t(d) in clause (f), for the word "goods, the words and brackets "goods (including the goods connected with service or technology)" shall be *substituted*;
- (e) in clause (g), for the words, brackets and figures "sub-section (3) of section 11", the words, brackets and figures "sub-section (4) of section 11" shall be *substituted*;
- (f) for clause (h), the following clause shall be *substituted*, namely:-

"(h) the requirements and conditions subject to which goods (including the goods connected with the service or technology) and conveyances shall be liable to confiscation under sub-section (8) of section 11;" ;

(g) for clause (i), the following clause shall be *substituted*, namely:-

"(i) the manner in which and the conditions subject to which goods (including the goods connected with the service or technology) and conveyances may be released on payment of redemption charges under sub-section (9) of section 11; and."

36. That at page 9, line 17, for the brackets and alphabet "(b)", the brackets and alphabet "(h)" be *substituted*.

37. That at page 9, line 18, for the word "articles", the word "goods" be *substituted*.

38. That at page 9, line 20, for the word "articles", the word "goods" be *substituted*.

The questions were put and the motions were adopted.

Clause 20, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up clause 1.

There is one amendment (No. 3) by the hon. Minister.

Clause 1 - Short title and commencement

SHRI ANAND SHARMA: Sir, I move:

3. That at page 1, line 3, for the figure "2009", the figure "2010" be *substituted*.

The question was put and the motion was adopted.

Clause 1, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up the Enacting Formula.

There is one amendment (No.2) by the hon. Minister.

Enacting Formula

SHRI ANAND SHARMA: Sir, I move:

2. That at page 1, line 1, for the word "Sixtieth", the word "Sixty-first" be *substituted*.

The question was put and the motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up the Long Title. There is one amendment (No. 1) by the hon. Minister.

Long Title

SHRI ANAND SHARMA: Sir, I move:

1. That at page 1, in the long title, the word "further" be *deleted*.

The question was put and the motion was adopted.

The Long Title, as amended, was added to the Bill.

SHRI ANAND SHARMA: Sir, I move:

That the Bill, as amended, be passed.

The question was put and the motion was adopted.

SHRI D. RAJA: Sir, we should congratulate the Minister for the drastic amendments he has given.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Yes, I have already told him.
...(Interruptions)...

SHRI RAVI SHANKAR PRASAD: He has created history as the largest number of amendments are being moved by him.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Okay. The House is adjourned to meet tomorrow at 11.00 a.m.

The House then adjourned at twenty-five minutes past six of the clock till eleven of the clock on
Tuesday, the 10th August, 2010.