SUMMARY

1. During the period under review, India has continued to reap benefits from the process of trade liberalization and structural reform initiated in the early 1990s. This contributed to the high GDP growth rates achieved, the resilience of the Indian economy to the global financial crisis, and the expansion of both exports and imports. India responded to the global crisis by implementing an important stimulus package consisting of increased spending, lower excise and customs duties, and support measures. Reflecting India's shift towards lower tariffs, the simple average MFN tariff rate declined to 12% in 2010/11, from 15.1% in 2006/07.

2. India uses trade policy actively, sometimes as an instrument to attain its long-term goals, such as promoting overall economic growth, or fostering industrialization, development, or self-sufficiency. India aims at providing a stable trade policy environment to attain these goals. In certain circumstances, however, India also makes use of trade policy instruments to attain short-term objectives, such as containing inflation, which may detract somewhat from the stability sought, as this requires constant fine tuning of policies, rendering the trade regime more complex and creating additional costs.

(1) ECONOMIC ENVIRONMENT

3. The Indian economy continued to expand at a fast pace during the review period, despite the mild slowdown caused by the global financial crisis in 2008/09. Annual real GDP growth averaged over 8.4% between 2006/07 and 2010/11, supported primarily by strong domestic demand. Growth was particularly strong in 2006/07 and 2007/08, exceeding 9%, driven mainly by private investment and consumption. In the wake of the global financial crisis, growth was driven by government spending. In this respect, to face the financial crisis, the Government conducted a very proactive policy, introducing a large stimulus package consisting of increased spending, lower excise and customs duties, and subsidies. However, as inflation started to accelerate and growth strengthened, the Government reversed some of these stimulus measures. GDP growth at 2004/05 market prices reached 10.1% at an annual rate in April-December 2010. Growth has been led by services and manufacturing, with agriculture growing much more slowly. India's growth prospects remain strong, as potential GDP growth has been estimated at between 8% and 8.5%. However, sustained non-inflationary growth will require addressing bottlenecks and investing in infrastructure and education. It will also need the simplification of the business environment by eliminating overregulation, and defining more transparent trade and investment regimes.

4. India's process of fiscal consolidation, which began in 2004, has not resulted yet in the intended decrease in the fiscal deficit. Throughout the review period, India continued to post sizeable public sector deficits. Its public finances deteriorated partly as a result of lower revenue and the impact on spending of the stimulus package in the wake of the global financial crisis. Hence the consolidated fiscal deficit reached 9.5% of GDP in 2009/10. More recently, the focus of fiscal policy has been shifted back to achieving fiscal consolidation and tax rationalization. As a result, a gradual reform of the tax structure was implemented, to reduce customs and excise duties and rely more on direct taxes, particularly corporate income tax and on service tax revenues. However, indirect taxes, including taxes that fall solely or mainly on imports, continue to be an important source of revenue, and changes in their levels are a much used policy tool. For some time, India has intended to introduce a goods and services tax (GST) and consolidate several pieces of legislation regarding taxation. A new tax Code has been drafted to simplify the tax regime and increase reliance on direct rather than indirect taxes.

5. Merchandise trade as a percentage of GDP continues to increase despite the adverse

effects of the global financial crisis, illustrating India's increasing participation in the global economy. Imports continued to grow faster than exports, leading to a widening of the trade deficit. India posts a structural trade deficit, partly explained by its large population and development needs. Strong domestic demand and rising oil prices have contributed to the widening of the trade deficit, leading to a current account deficit throughout the review period. The deficit has been financed through large capital inflows, both foreign direct and portfolio investment, attracted by expanding domestic demand and the good prospects of the economy. Capital inflows have been somewhat volatile; this volatility has been largely accommodated by letting the exchange rate adjust. Although the floating exchange rate regime has served India well in accommodating short-term capital inflows, policies need to be designed to attract more medium- and long-term capital, particularly given India's infrastructure and general investment needs. The Government's recent decision to increase investor limits in the corporate and government bond markets is a step in this direction.

(2) TRADE AND INVESTMENT POLICY FRAMEWORK

6. India is an original Member of the WTO and provides at least MFN treatment to all Members and other trading partners. India accepted the Fourth and Fifth Protocols and is a Member of the Information Technology Agreement. India is a strong advocate of the multilateral trading system and has historically been party to few regional agreements. However, despite India's reservations, regionalism has increasingly become an element of its overall trade policy objective of enhanced market access for exports. This is evidenced by the seven preferential agreements it signed during the period under review and the negotiation of other agreements.

7. India's trade policy objectives are stipulated in its Foreign Trade Policy (FTP), which is issued every five years, but revised periodically, through the issuance of notifications, to take into account internal and external factors. In its 2004-09 FTP, India highlighted the need to expand trade, setting two objectives: to double India's share of global merchandise trade within five years; and to use trade expansion as a policy to promote economic growth and employment generation. In the context of the global crisis, India has sought to arrest and reverse the declining trend of exports and to provide additional support especially to the sectors hit badly by the global recession, as asserted in the 2009-14 FTP. India's short-term objective, in accordance with the latest FTP, is to achieve annual export growth of 15%; the long-term objective is to accelerate export growth to 25% per annum and double India's share in global trade by 2020. In order to meet these objectives, India implements a mix of policies including tax incentives, export promotion, and credit facilitation schemes, to "neutralize" the cost of imported inputs used in exports; however, such schemes may contribute to the complexity of India's trade regime. In its attempt to increase exports, the Government is also aiming to improve infrastructure. In the latest Budget, the authorities have further expressed the need to promote market and product diversification.

8. Measures to attract foreign direct investment (FDI) have included gradually increasing the number of sectors in which FDI is permitted and reducing sectoral restrictions. Therefore, most sectors are currently at least partially open to FDI, subject to a cap and specific conditions. However, FDI is prohibited in a number of sectors/activities, such as retail trading, some real estate activities, manufacture of tobacco and tobacco substitute, and some agriculture activities. A recent consolidation of all prior regulations on FDI is aimed at clarifying India's FDI policy and provides for better understanding and predictability of the foreign investment rules among foreign investors and sectoral regulators.

(3) TRADE POLICY BY MEASURE

9. India has continued to streamline customs procedures and implement trade facilitation measures. An electronic system for customs clearance has been introduced and a risk management system is in place to selectively screen high- and medium-risk cargo for customs examination. Despite the implementation of these measures, India's import regime remains complex, especially its licensing and permit system, and its tariff structure, which has multiple exemptions, with rates varying according to product, user or specific export promotion programme.

10. India's tariff is announced in the annual Budget; however, individual tariff rates may be changed during the year. In addition to the standard tariff rate, importers are required to pay an additional duty ("countervailing duty") and a special additional duty instead of local taxes. To determine the "effective" applied tariff rate (i.e. basic duties and other customs duty) on a particular product, separate customs and excise tax schedules must be consulted, which adds to the complexity of the tariff. India's tariff comprises mainly *ad valorem* rates (some 94% of tariff lines), levied on the c.i.f. value of imports, and some alternate or specific duties (6.1% of all tariff lines).

11. In general, the value of imports is based on the transaction value. A landing charge (for loading, unloading, and handling) of 1% is added to the c.i.f. value, to calculate the transaction value (earlier known as "assessable value"). India uses "tariff values"(reference prices), to calculate customs duty levied on imports of, *inter alia*, certain palm oils, as well as crude soybean oil, poppy seeds, and brass scrap. These "tariff values" must in principle be revised every two weeks and adjusted to align them with international market prices. In practice, however, some of the "tariff values" applied by India have remained unchanged since 2006.

12. The simple average MFN tariff rate declined to 12% in 2010/11, from 15.1% in 2006/07. This is reflected in a decrease in both agricultural and industrial average tariffs, due to India's shift towards lower tariffs. The average for WTO non-agricultural products (8.9%) is considerably lower than the average for WTO agricultural products, which is 33.3%. In 2010/11, tariffs ranged from zero to 150%. The largest proportion of lines (71% or 8,042) was subject to a tariff rate of between 5% and 10%, while 12.8% of total lines were subject to a tariff rate greater than zero but lower than 5%. This is a major change from 2006/07, when 65% of all tariff lines were within the 10-15% range, followed by 10.4% of lines at 25-30%. The percentage of duty-free lines has increased slightly, from 2.7% to 3.2% of the total.

13. Non-*ad valorem* rates apply to 690 tariff lines of which 5 are specific rates, while 685 are alternate rates affecting textiles and clothing. The simple average applied MFN tariff including AVEs was 13.4% (12% without AVEs) in 2010/11. The inclusion of AVEs in the tariff analysis affects only industrial average tariffs, which, when including AVEs, increase from 8.6% to 10.3% (or 10.6% for WTO non-agriculture). In particular, the estimation of AVEs raises average tariff rates applied on textiles and clothing, which increase to 16.2% and 25.7%, respectively, from of 9.6% and 10% if AVEs are not included. The use of specific rates considerably increases protection for certain products, in some cases to around and above 600%.

14. India's WTO bound tariff levels are much higher than the applied rates, especially for many agricultural products. These gaps allow the Indian Government to modify tariff rates in response to domestic and international market conditions.

15. Imports may also be subject to non-tariff barriers including prohibitions, licences, and restrictions, as well as packaging, quality, and sanitary requirements. Import restrictions may be imposed on grounds of, *inter alia*, health, safety, moral and security reasons, and for self-sufficiency and

balance-of-payments reasons. On occasion, India links the use of trade policy instruments to domestic policy considerations. For instance, import restrictions and licensing requirements are relaxed when imports are necessary to alleviate inflation or supply shortages. State trading is also used as a policy tool to ensure, *inter alia*, a "fair" return to farmers, food security, the supply of fertilizer to farmers, and the functioning of the domestic price support system.

16. India is one of the most active users of anti-dumping measures among WTO Members. It initiated 209 anti-dumping investigations against 34 trading partners during the review period, compared with 176 in the period covered in its last Review, and it imposed 207 anti-dumping measures, compared with 177. The products involved included chemicals and products thereof, plastics and rubber and products thereof, base metals, and textiles and clothing. India did not take any countervailing actions during this period. Since its last Review in 2007, India has also imposed several safeguard measures. As a result of an amendment of the legislation, since 2010 safeguard measures may also take the form of quantitative restrictions.

17. SPS matters continue to be governed and enforced through a number of laws and agencies. In 2006, India passed the Food Safety and Standards Act to consolidate separate laws, and to establish an institution to deal with SPS issues. However, the rules and regulations to operationalize this Act have not been notified yet and the Act is therefore not in force.

18. As in the case of imports, export prohibitions and restrictions are mainly in place to ensure domestic supply of specific goods and thus may be removed and applied as the circumstances require. In order to reduce the anti-export bias inherent in India's import and indirect tax regimes, a number of duty remission and exemption schemes are in place to facilitate exports. Tax holidays are also available to investors through export processing zones and export-oriented units.

19. India grants direct and indirect assistance to various sectors. Most central government subsidies are destined for agriculture. Other key subsidies include those for diesel and fertilizers. The states also provide additional subsidies, especially for basic services such as education and health, electricity, and water. Price controls, which apply to some commodities, are aimed at providing subsidies to farmers and a population under the poverty line, and to ensure "reasonable price" of quality drugs.

20. Since its last Review in 2007, India has made several amendments to its competition policy legislation, and the Competition Commission of India, created under the Competition Act 2002, started operations in 2009. In addition, some aspects of the law affecting mergers and acquisitions recently entered into force. India became an observer to the WTO Agreement on Government Procurement in February 2010. Its procurement system continues to be decentralized, comprising a multiplicity of entities at different levels of Government (including numerous central public-sector enterprises), and no common legislation governing procurement. Public procurement is considered an important government policy instrument and is used to obtain certain socio-economic objectives. As a result, the Central Government maintains reservations and price preferences as part of the procurement system. However, competition from foreign suppliers is ordinarily allowed.

21. Given the importance that an effective intellectual property system has on economic and social development, and the impact that intellectual property has on public policy issues (e.g. public health, the environment and food security), India, since its last review, has taken several initiatives to modernize its IPR administration and continue its efforts to enforce IPRs. However, enforcement, except at the international borders, remains under the

purview of the state governments rendering it difficult to collect data on the application of IPRs.

(4) TRADE POLICIES BY SECTOR

22. The structure of India's economy has not changed significantly since 2007. The services sector, which was the most dynamic sector during the review period, continues to be the largest contributor to GDP and has exhibited resilience to the negative effects of the global crisis. The share of the manufacturing sector in GDP has declined slightly, and so has agriculture.

23. Agriculture has been characterized by low productivity and modest growth rates. Its contribution to GDP declined from 18.1% to 16.6% in 2006/07-2009/10. However, despite this decline in its relative share, agriculture continues to be the mainstay of the majority of the population, occupying some 52% of the total workforce (including non-organized labour); the sector is also critical for achieving the Government's objectives of food security and price stability. Due to its strategic importance, India considers it necessary to maintain protection and offers this sector greater tariff protection than to others. Average tariff protection for agriculture (33.2%) remains, therefore, substantially higher than for manufactured goods (8.9%). India has also retained the price support system for basic commodities and implements other agricultural support programmes at the central and state level.

24. During the period under review, growth in manufacturing has been erratic. The sector showed robust growth over 2006/07 and 2007/08, but was subsequently affected by the economic crisis, which led to a decline in foreign demand, particularly in areas including textiles and clothing. In 2009/10, there was a resurgence of growth in the sector, mainly triggered by stronger domestic demand, particularly for consumer durables, capital goods, and industrial inputs. In general, India's tariffs are higher for processed goods than for semi-manufactures. In order to encourage investment in the manufacturing sector, India also offers a wide range of tax incentives, concessionary credit, and other types of assistance.

25. The services sector, which accounts for 56% of GDP, is the main driver of economic growth, expanding by an average 10% between 2006/07 and 2009/10. Growth in services continued to be led by the financial services subsector, and the trade, hotel, transport and communications subsectors. The importance of tourism, even though it is not apparent from GDP figures, is considerable. Tourism has good growth potential and the capacity to stimulate growth through its backward and forward linkages and cross-sectoral synergies. FDI up to 100% is allowed for most services activities, except for financial services, where limits apply to foreign ownership. However, specific market-access conditions or permits may apply, which in some cases may be more restrictive than an explicit investment cap.

26. Inadequate infrastructure has become a critical constraint to India's economic development. To address this concern, the 11th Five-Year Plan outlined a comprehensive strategy to improve both rural and urban infrastructure, including electric power, roads, railways, ports, airports, telecommunications, irrigation, drinking water, sanitation, storage, and warehousing. However, public investment alone would probably be insufficient to address India's infrastructure needs, particularly considering India's quest for fiscal consolidation. Hence, an increase in private investment in infrastructure would be necessary to attain India's goal. Further private sector investment, including foreign investment, may play an important role not only in developing infrastructure but also in providing an opportunity for foreign investors. This would result in more stable, less volatile, capital inflows.