

India – As A Partner In The Global Network

This is really focused on the Economic relationship between USA and India, especially Trade and Investment. Let me paint a brief scenario and backdrop and how it is changing and how our strategy for the future is absolutely different.

Our bilateral trade has been fairly limited in terms of the basket of trade. India's exports of textiles, leather products, gems and jewellery, etc going on to Engineering products. More recently, auto components, Pharmaceuticals, etc are new elements in trade. Indian leadership in Steel, Auto, Chemicals, Pharma, etc ahead. And, of course, in the services sector, the real leader has been the IT sector, now moving on to Healthcare, Training, R & D, Consultancy, design, Film, Entertainment, etc.

Our bilateral trade in products is about \$ 25 billion and in IT another \$ 15 billion making a total of about \$ 40 billion.

What changes does one see? First, the trend is moving from export – import to investment. And, this is not only one way. Just as US is investing in USA. So, there is a new interest and agenda for India.

Second, in the knowledge industries such as Pharma, IT etc, US is the main target market. For Ranbaxy, USA is the principal target.

Third, the whole range of services sector industry. So the interdependency is growing and it is two – way, not one – way. In fact, US dependency on India is rising and will rise further and sharply. This, in fact, gives us another window into the US in Healthcare which will put IT in the shade as far as outsourcing is concerned. US spent \$ 1.5 tril. on HC in 05. By 2015 it will be \$ 3.5 tril. Share of GDP 20% +. By 2015, nurses shortage 1 mn. USA vulnerable. Can't sustain competitiveness and growth.

India can be the Healthcare service provider and partner – No country so positioned because of our young, HR talent.

A 10% saving for USA = \$ 350 Bn to be reinvested in economic development.

So, this is the scenario I see in Trade and Investment between India and USA with increased dependency by USA on India, increased vulnerability of the US and major opportunities for India.

I see a \$ 100 bn and trade volume in the near future with the balance in India's favour as it is now.

And, if Gol were to shed its generosity towards China by changing the policy towards SSI, then we can compete effectively in low – tech, lab – intensive products in the US and globally. Today, over 500 Products are not allowed to be made in large scale manufacture.

Let me now turn to the specific issue of WTO and TRIPS

-) Trade Related Intellectual Property Rights (TRIPS) has been a topic for discussion by India and US since the early 90s.
-) The US wants strict patent regime to ensure that the very high levels of expenditure on research by companies for patenting drugs and other products is protected in global markets.
-) India has over the last few years fully agreed and implemented these provisions to ensure that patent rights are protected in all areas of manufacturing, especially in drugs and chemicals because our position has changed from an importer to exporter.
-) India is implementing all its provisions under the TRIPS agreement today.
-) Two big issues on TRIPS in the Doha Round have seen India and the US on different sides.

TRIPS and Public Health

-) The first is the issue of Para 6 amendment, which is on TRIPS and public health, which allows poor countries to use the compulsory licensing route to import patented drugs from the cheapest supplier to contain an epidemic.

-) The debate with the US on one side and developing countries like India, Brazil and Argentina on the other has been on product and disease coverage, import eligibility, supply eligibility and safeguards.

-) Despite several attempts a definite solution to this long standing issue is still hanging fire.

-) US has been worried about the misuse of this provision for selling patented drugs.

-) Countries like India have, however, argued that putting stringent conditions would make the provision completely useless.

-) Both sides seem right in their arguments but if a quick and satisfactory compromise solution is not found then this very humanitarian issue in the Doha Round will be lost although some countries like Canada have already started implementing this decision through a national legislation.

TRIPS and Convention on Biodiversity

-) The second is the issue of disclosure of the source of biological materials and related traditional knowledge in patent applications.

-) The two countries have differences on whether such a patent-based system is necessary to ensure the equitable sharing of benefits from genetic resources.

-) India has been insisting that disclosure requirements are necessary and has argued that under the current intellectual property regime, genetic resources and associated traditional knowledge are often erroneously dealt with as if they formed part of the public domain, open to appropriation by anybody without any obligation to ask for permission and pay back the provider.

-) The US has been advocating contract-based approach -- which simply encourages national authorities to enact a legislation telling companies to set up private contracts with the holders of genetic resources.

-) This India feels would not prevent international misappropriation as it is difficult to enforce a foreign obligation for an act that is not prohibited in the country in which it is to be enforced. As most genetic resources are used and patented by

multinational companies in foreign countries, India argued, a multilateral approach was necessary.

-) India wants three types of disclosure requirements, namely (1) disclosure of source and country of origin of the genetic materials and associated traditional knowledge used in developing the invention claimed in the patent application; (2) disclosure of the evidence of prior informed consent and (3) disclosure of the evidence of benefit sharing agreement.
-) In particular, India has stated that such a system would prevent the issuing of bad patents rather than forcing the burden of revoking bad patents on aggrieved third parties after they have been issued.
-) The Indian submission at WTO also refuses US allegations that disclosure requirements would increase uncertainty and lead to additional burdens and obligations on patent applicants and offices.
-) The December 05 Hong Kong declaration, however, does not make it mandatory on countries to include this as part of the single undertaking. But India is likely to pursue this issue since it impacts a large section of poor people in backward districts in India who want their bio-diversity and traditional knowledge protected.

The TRIPS agreement is very sensitive for most countries and India and the US would do well to sit across the table and try and find a solution to the problems on a bilateral basis. We can negotiate from a position of strength, not weakness.

Let me only add that, in our own national interest, we need to improve the efficiency of our legal system – the delays, the repeated adjournments, the shortages and inadequacies in our legal infrastructure, hard and soft because India is emerging in the world as a major economic and industrial player.

From a isolated, protected economic/industrial regime between 1947 & 1991 which bred inefficiencies and rent-seeking, liberal and comp has put pressure on Indian Industry which has been able to restructure, achieve global competitiveness and move from a defensive position to an offensive, aggressive stance.

In fact, I would go so far as to say that if legal services were opened to foreign participation we need not worry. Our lawyers are on par with US lawyers just as our entrepreneurs, scientists, engineers, doctors, etc.

I am constantly dealing with the US and see huge opportunities for India which will help us to 10% GDP growth and beyond. We now have a strategy on the trade and investment side covering manufacturing services, food and agriculture, infrastructure, Industry

R & D, knowledge Industries, etc to access the US market not just incrementally but to multiply our engagement and partnership.

To summarize – the future is the past and the present shows it; US department in India rising, opportunity for India multiplying, legal systems difficulties can be addressed and resolved; shed fears and unsecurity and partner USA based on our HR and Technology Strength.