



US – India Strategic Economic Partnership

**US India CEO Forum
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I. A New Vision for Economic Partnership

US-India: A New Vision for Economic Partnership

A new era of cooperation between the US and India was ushered in on July 18, 2005 in Washington DC when President George Bush and Prime Minister Manmohan Singh concluded a set of far reaching initiatives which will pave the way for a closer economic and strategic partnership between the two countries at Government and at industry levels.

One of the initiatives taken was to form a US-India CEO Forum, comprising selected CEOs from both countries, with a mandate to develop a road map for increased partnership and cooperation between the two countries at a business level. It was also envisaged that this joint Forum could identify issues which might be included in the Agenda for discussion between President Bush and Prime Minister Singh when they meet in New Delhi in March 2006.

The US and India share common values based on their democratic, multi-cultural, multi-ethnic and multi-religious societies, as well as a strong entrepreneurial spirit, all of which support the bilateral Strategic Partnership.

Both the US and India are committed to full exploitation of the mutual benefits of globalization, which is an irreversible process driven by technology and the development of human resources in an increasingly knowledge-based world. Through mutual harnessing of technology and human capital, the US and India can forge a unique partnership to achieve greater competitiveness and prosperity for the citizens of both nations.

The Forum believes the new Economic Partnership will present the US and India with substantial opportunities to increase trade and investment activity, enhance market access for goods and services and develop greater competitiveness in both countries by leveraging their respective strengths.

Following the “Priority Initiatives” outlined here, this document sets out the 6 Major Areas for Cooperation identified by the Forum, with initiatives that should be undertaken by the two Governments and/or by industry partnerships. These Areas would have the greatest impact on Economic Cooperation, as they impact multiple sectors.

In addition, and detailed later in this document in the Appendix, the Forum has recommended specific action in 15 business sectors with the potential for significantly enhancing trade and investment by policy initiatives by the two governments. And finally, also in the Appendix, are summarized the measures to create an “Enabling Environment”.

The Forum has defined 6 **Priority Initiatives**, drawn from within the report for consideration, as these could be implemented expeditiously:

- 1. Promotion of Trade and Industry** – encompassing greater freedom to invest in services sectors, freer movement of people, removal or reduction of tariff and non-tariff barriers and subsidies in agriculture and manufactured goods, on both sides. India and the US can partner to make the Doha Round of the WTO a success by showing leadership to support an ambitious outcome and making strong offers in all the key areas of negotiations.
- 2. Creation of an Infrastructure Development Fund** – This could act as a vehicle for US investment into Indian infrastructure. It is proposed that a corpus of \$ 5 billion be targeted, with minority Indian Government participation, and leveraging the expertise of the World Bank/ IFC/ ADB and other financial institutions in the selection and monitoring of investments.
- 3. Promote Technology Exchange in Agriculture, Biotechnology and Nanotechnology** – through a combination of exchange of scientists between Universities/Labs in the two countries and by setting up Centres for R&D in these fields supported by the two Governments.
- 4. Partner in Skills Development** – US and Indian companies could work together for joint sponsorship of select Industrial Training Institutes (ITIs) in India and/or in the setting up of new institutes.
- 5. Set up an Indo-US Centre for Industrial R&D** in product design and development – with support from US and Indian industry and government.
- 6. Establish a Dispute Resolution Mechanism** - a dispute settlement mechanism that has the power and jurisdiction to resolve commercial and contractual disputes quickly could be set up by India. Continued government focus at both center and state levels is also required to resolve legacy issues.

The US and Indian economies continue to show strong growth despite facing complex challenges. The new Vision of Economic Partnership is one of promise and mutual benefits combined with challenges which can be met, squarely, and overcome.

The members of the CEO Forum would like to record their appreciation for the trust reposed in them by President Bush and Prime Minister Singh.

Ratan Tata
Co-Chair, India

William Harrison
Co-Chair, US

II. Major Areas for Cooperation

Physical Infrastructure Development

India's infrastructure needs exceed its domestic (public and private) funding capacity. The US could assist/ participate in the development of India's infrastructure through technology sharing, systems design, or investment/ funding.

Specific initiatives proposed in this area are:

- (i) Public private partnerships must be encouraged and the Indian government must play a lead role in fostering speed, efficiency and transparency in the bidding process for Infrastructure contracts to attract more US companies.

Action: Government of India (GoI).

- (ii) The US could partner India in making Mumbai into a Regional Financial Centre. This partnership could extend from the 'softer' aspects such as an appropriate regulatory framework, to the 'hard' aspects of identification of infrastructure needs and participating in their financing.

Action: Expert Committee on the Mumbai Regional Financial Centre set-up by the Ministry of Finance (MoF), GoI

- (iii) Set up a \$5 billion plus private sector Infrastructure Fund (with minority government participation) drawing on the resources and expertise of World Bank/ADB/IFC and other financial institutions. The fund would lend long tenor debt as well as invest in the equity of infrastructure projects.

Action: CEO Forum, Working Group of US and Indian businesses/ associations, working with the MoF and RBI.

- (iv) Set up large scale Special Economic Zones (SEZ's) in India, designed to serve both domestic and export markets, that comprise world-class infrastructure with integrated real estate, power and transportation facilities, single window clearance approval and administrative process, flexible, internationally-competitive labor laws and transparency/clarity of governance.

Action: A US-India private sector Task Force comprising representatives from various industry/manufacturing sectors to work with the appropriate Central and State Government agencies to expedite execution of plans to set up such SEZ's.

Energy Security

India's need for reliable sources of power and energy are substantial and growing. Only 55% of households in India have access to electricity. Electricity supply remains a bottleneck for growth, particularly in the Indian rural/ agricultural sector. Captive and back-up power generation is costly and less efficient. An opportunity exists for US companies to be involved and invest in the power sector in India.

Specific initiatives proposed in this area are:

- (i) India should move more aggressively in reforming its power sector to ensure sanctity of contracts, encourage greater investment/ competition in generation, promote market driven tariff structure and achieve a separation of regulatory and adjudicatory authority, among other things.

Action: A US-India private sector Task Force comprising power companies to work with Gol and select state government agencies to facilitate on-time implementation of investments being made and resolution of legacy disputes in the Indian power sector.

- (ii) Support for cost effective technologies that foster a clean environment especially in the areas of Coal, where India has large reserves, Bio-fuels, Hydrogen and Wind energy.

Action: US Government (USG) and Gol.

- (iii) In the Petroleum and Natural Gas sector an early enactment of the proposed Petroleum and Natural Gas Regulatory Board Bill ('Regulatory Bill') and draft Natural Gas Pipeline Policy ('Pipeline Policy') is recommended. The sector also needs greater transparency and market driven pricing in petroleum products and natural gas and upgrade of retail marketing practices.

Action: Gol.

- (iv) The opening up of civil nuclear technology supplies from the US to India, which is currently on a government to government track, will not only bring the prospects of energy self sufficiency to India but open up a significant flow of technology exchange and build mutual trust between the two countries.

Action: USG and Gol.

Human Resource Development

Human Resources are the drivers of competitiveness and innovation and a strong foundation on which the Strategic Economic Partnership can be built.

India needs to improve the quality of education to its broad mass of people, outside of the few Indian Institutes of Technology (IITs) or equivalent universities. Unmet education needs extend from primary school to advanced research, but the greatest benefits would possibly come from relationships between leading US institutes and Indian institutions (with special emphasis on PhDs) in advanced research.

- (i) Sponsored participation in establishing institutions of higher education for research and PhD programs with leading US institutes like MIT, Lincoln Labs, Bell Labs, John Hopkins and Carnegie Mellon could become focal points of excellence in high technology. The intellectual capital developed and exchange of talent and ideas would benefit both countries.

Action: USG and GoI/ Knowledge Commission.

- (ii) India needs to encourage the setting up of new institutions of higher learning and give private educational institutions a free hand in terms of fees, course structure and affiliations.

Action: GoI/ Knowledge Commission.

- (iii) India's Industrial Training Institutes (ITIs) need to be upgraded and their curricula continuously made relevant and current. US companies could work with Indian companies to promote this skill building for industry and could also partner in the setting up of new institutes.

Action: US and Indian businesses and their associations.

Technology Exchange

Across all sectors Technology and R&D are key determinants of business prosperity and national competitiveness. India and the US are already cooperating in Technology and R&D. Based on a special effort to evolve closer ties in Technology, the future could witness an explosion of such activity.

In addition, India is a major buyer of high technology equipment from defense to avionics to engineering components/systems. It needs however, reliable, long-term sources of supply and simple and rational export licensing measures that carry a guarantee of stability and continuity. These will ensure that the US companies are not competitively disadvantaged in the Indian marketplace. Regulations permitting the export of technology sensitive items will mean that US companies can export to India or partner Indian companies to significantly accelerate various science and technology programs.

India, on its part, needs to create the appropriate policy and regulatory climate to encourage adoption of technology in sectors of national importance such as “green environment”, “safety and security” and “energy efficiency”. Specific incentives (lower taxes and/ or import tariffs) could be geared toward fostering increased use of such technologies.

Specific initiatives proposed in this area are:

- (i) The Forum supports the excellent progress made by the US-India High Technology Cooperation Group (HTCG) in simplifying US export licensing policies and procedures. These should continue to be supported, especially by legislative action where required, to:
 - Further relax restrictions on transfer to India of high technology and equipment e.g. extension of COMSAT rules to India/ ISRO
 - Accelerate transfer of dual use items/categories including material sciences, advanced electronics, semi-conductor technology, aviation related technology, key software systems and equipment

Action: USG and GoI.

- (ii) Removal of restrictions on R&D collaborations by the US and encouragement for establishing product design and development centers that would forge stronger and mutually beneficial ties between the two countries in this area. The setting up of an India-US R&D center for Industrial R&D is recommended.

Action: USG. R&D Center by US and Indian businesses and their associations working with USG and GoI.

- (iii) Promote technology exchange in agriculture and commodity markets by setting up an Indo-U.S. R&D center for Agricultural R&D and encouraging collaborations and exchange of scientists in agricultural research by leveraging the capability of US agriculture universities. This could be part of the “US-India Knowledge Initiative on Agricultural Education, Teaching, Research, Service and Commercial Linkages”

Action: USG and GoI.

- (iv) Partner in Biotechnology by jointly developing a regulatory pathway to ensure regulations surrounding the sector are based on sound science, are transparent and supportive of policies that encourage investment in and commercialization of biotechnology, and promote trade in biotech goods and services. Both countries (i.e. US FDA working with the Indian FDA) should harmonize legislation to provide opportunities and protection for US as well as Indian companies in biotech related IPR.

Extend the scope of the US-India R&D partnership to Nano-technology as well.

Action: USG and GoI. For Biotechnology - US FDA and Indian FDA.

Trade and Industry Promotion

With the objective of doubling trade every 3 years, promotion of trade and industry by removal of barriers needs to be a priority. The Forum would recommend that a US-India Comprehensive Economic Cooperation Agreement (CECA) which includes trade, be considered as a medium term objective.

Specific initiatives proposed in this area are:

- (i) Reduce restrictions on foreign investment, especially:
 - Expedite the decision to allow FDI in the Indian Retail Sector beyond the limited opening up of the sector provided currently (as an immediate first step, Gol could permit FDI in Retail in all SEZs and/ or permit joint ventures in retail with minority foreign investment)
 - Accelerate the timetable to raise FDI caps in the Indian Insurance sector and allow foreign FDI in Indian private sector banks as well as an accelerated approval of foreign bank applications for branches in India.
 - Remove restrictions on expansion/ new branches by Indian banks in the US.

Action: USG and Gol.

- (ii) Facilitate Movement of Business and Professional Personnel
 - US should liberalize the visa regime for service providers in fields ranging from IT (H1B/L1) to Nursing staff (EB3) where the US is facing a shortage of trained personnel. As in goods, progressively ease quantitative restrictions/yearly quotas of such visas. Further impediments on the grant of H1B/ L1 visas such as attestation requirements, reduction of periods of stay and prescriptive wage levels need to be dispensed with.
 - For select countries/ strategic partners, such as the US, India should provide visas for upto 5 years and remove Foreigners Registration Office (FRO/ FRRO) requirements to report in physically once a year.

Action: USG and Gol.

- (iii) Facilitate Tourism - The tourist flows between India and the US, though small at present, hold great potential given the strong linkages that India has with the US in trade, education and entertainment and leveraging off the "Open Skies" agreement signed between the two countries in 2005. Both countries would benefit by making tourist visas easier to obtain.

Action: USG and Gol.

- (iv) Sign a Totalization Agreement - It is estimated that over \$500 million is contributed annually by Indian companies to the US Social Security with no benefits to the people for whom these contributions are made. India and the US should sign a Totalization Agreement such that Social Security contributions are made in only one country or a refund-on-return regime is put in place when Indian employees leave the US and return to India.

Action: USG and Gol.

- (v) Set Up a Dispute Settlement Mechanism - A dispute settlement mechanism that has the power and jurisdiction to resolve commercial and contractual disputes quickly could be set up by India. An independent tribunal formed through the Arbitration and Conciliation Act 1996 should be a forum for dispute resolution. Specific focus on resolving legacy issues such as those impacting Dow/ Bhopal tragedy of 1984 and the Tamil Nadu IPPs would send a strong positive signal to US investors.

In addition, India could undertake to strengthen and reform the judicial system to address the large backlog of cases and the time taken to complete legal proceedings. The issues of no limit on the number of adjournments, too few judges/ too many vacancies, large number of court holidays and poor physical infrastructure, need to be addressed on an urgent basis.

Action: Task Force on Judicial Reform recommended – comprising representatives from Law Ministry, Gol, Supreme Court and CEO Forum members. Task Force to submit their recommendations in 3 months (possibly to the Law Commission that could assess/ approve these recommendations).

- (vi) Greater defense industry cooperation and a liberal offset regime. Specifically:
- US should treat approved Indian defense contractors on par with those of other strategic allies such as UK. Indian IT firms should be permitted to bid for US technology programs after receiving appropriate clearances.
 - India's could adopt an "indirect" defense offset regime by including areas such as commercial space, R&D, etc. The offset program could be based on a review of global best practices adapted to India's needs in defense and high technology.

Action: USG and Gol.

- (vii) Set up an Indian Institute for Regulation - An independent institute which develops into a think-tank with a strong research base will provide an excellent platform for development of regulatory practices.

Action: US and Indian businesses and their associations with Gol support.

Intellectual Property Protection

Intellectual Property Rights (IPR) protection has separated and divided US and Indian businesses in the past but there is an increasing convergence in the approach to IPR and supporting legislation. There is now a mutual, agreed agenda to frame laws, rules and processes to sustain the highest standards of protection to the inventor or the organization, which invests in IP.

The next ten years can witness a new surge in partnership in IPR between the U.S. and India which includes mutual cooperation in IPR implementation and enforcement as well as building a “patents” culture.

Specific initiatives proposed in this area are:

- (i) National coordination of IPR enforcement efforts in India must be stepped up. Today, enforcement is handled on the state level, and the results vary dramatically. Many of the specialized police units set up by the states are barely active and lack training, manpower and resources. Actions by the Ministries of Information and Broadcasting and Human Resources Development (HRD) to co-ordinate state enforcement efforts are important first steps.

The goal should be a national unit dedicated to IPR enforcement and with powers to enforce across state borders. As a first step, a single centralized body should be designated to coordinate IPR enforcement efforts, identify and publicize best enforcement practices at the state level, and direct national resources to IPR enforcement.

Action: Gol.

- (ii) Specialized intellectual property courts should be established to handle both civil and criminal matters. Establishing such courts is a practical first step toward whittling down the huge backlog of cases and making the enforcement system functional. To handle the piracy docket efficiently, judges, prosecutors, and other court personnel need specialized training. Specialized IP court divisions could also adopt their own rules to expedite the handling of cases. This approach, which has proven successful for several other countries in the region, such as Thailand, should be initiated in India. Pilot projects in select state court systems could be the first step.

Action: Ministry of Law and Justice, Gol.

- (iii) A national initiative to crack down on piracy in the educational and research sectors should be initiated. The Ministry of Human Resource Development (and other relevant ministries, such as Health, for

medical schools) could issue directives to all public and private educational and research institutions to stop using unauthorized photocopies of books and journals; take action against on-campus copy-shops engaged in illegal activity; and report periodically to the Ministry on what steps have been taken. This data would form the basis for more targeted efforts in the future.

Action: Ministry of Human Resource Development, GoI.

- (iv) Agreement should be reached between India and the US on cyber security to include data privacy, IPR etc. Create universal standards in data privacy to build confidence in Indian IT providers.

Action: USG and GoI.

Appendix

I. Business Sectors for Cooperation

Business Sectors for Cooperation

There is limitless potential for business cooperation between the US and India, across numerous sectors. In this section, a brief presentation has been made of select priority sectors.

1. Trade and Investment

Bilateral trade is relatively small. It was less than \$ 40 billion (2004) including products and services (China/US: \$ 235 billion). And, yet, the US is India's largest trading partner.

The US is also a major source of FDI, about \$ 4 billion¹ (over 10% of total FDI²) in India with major sectors being energy, telecom and electrical equipment.

An annual growth rate in trade of over 20 per cent per annum is achievable given the right impetus from both sides, including greater market access, IP protection, acceptance of WTO rulings, tariff cuts, removal of non-tariff barriers (NTBs) and eased licensing by the US Government on export of high technology items.

There is clarity on issues to be addressed and measured steps are being taken by Gol to promote foreign investment. The principal challenge is to overcome the deficit of confidence that foreign companies harbor about the processes and regulations of doing business in India. Policy stability, transparency and uniformity of interpretation would help address these concerns especially in relation to the bilateral Tax Treaty and treatment of dividends.

A small beginning has also been made with regard to Indian investment into the US; this trend is likely to grow over the coming years, given supportive US regulatory practices.

Resolution of litigation and contractual disputes, sanctity of contracts, establishment of a speedy dispute settlement mechanism and judicial reforms would greatly enhance confidence in investing in India. The regulatory framework also needs to be clear, consistent and legally enforceable.

Regarding FDI policy, the Forum recognizes the recent limited opening of the Retail sector in India and seeks early and further policy liberalization.

¹ Cumulative for 1991-2004

² Excluding US FDI that may be routed through Mauritius to benefit from a favorable double taxation treaty

Similarly, the Real Estate Sector needs to be fully open and FDI caps on print media, broadcasting, cable and satellite systems and e-commerce need to be removed. Finally, the Indian Companies Act provisions relating to privately-held companies (as many US companies are) need review.

2. Infrastructure Development

The key recommendation is to work jointly to make Mumbai into a Regional Financial Centre and cooperation would include all aspects, soft and hard, from regulatory issues to infrastructure, financing etc.

A second major recommendation is to create a \$ 5 billion plus private sector Infrastructure Fund, supported by World Bank/ IBRD, IFC, and ADB to promote infrastructure investments in India.

US industry, given the right policies, could participate in highways/ bridges, rail/ mass transit, townships, SEZs, airports, seaports, energy/ power, environment, water, etc, all of which are key to India's development and growth.

As part of the initiatives aimed at airport modernization and expansion, the government should explore options to implement state of the art electronic safety aids, such as those designed to help avoid runway incursions between planes, and should also participate in international programs such as the US government-led Next Generation Air Transportation System (NGATS), to optimize utilization and safety of the Indian airspace.

Additionally, the need for in-country Maintenance Repair & Overhaul (MRO) presence is growing. Today most private airlines send repair and maintenance work overseas. If the Indian government creates incentives for MRO facilities to set up in India – via a set of tax and fiscal benefits – it will not only generate employment opportunities in India, but will also lead to the migration of desirable technology into India. This will help position India advantageously to capture a greater share of Asian MRO activity. Signing of a Bilateral Agreement with FAA would help new MROs in India to be FAA-certified, increasing their potential revenue scope.

3. Financial Services

There are a number of issues which need to be addressed:

Capital Markets

- Permit foreign investors to transact in debt instruments with residual maturity of greater than 3-years to discourage interest rate arbitrage flows.
- Establish municipal bond markets to facilitate resource mobilization.
- Allow selling short bonds in a phased manner.
- Deepen the equity markets by broadening the investor base through encouraging participation from a wider class of investors including hedge funds.
- Limits affecting foreign institutional investor holdings in stock and bond investments should be eliminated and voting rights should be aligned with economic holdings in all industries.
- Expand the derivatives markets with products like exchange traded futures and interest rate options.
- Removal of any ambiguity on taxation on investments made by entities domiciled in countries having double taxation avoidance treaties with India. Continuity of the taxation policy in this regard should be assured to remove uncertainties and anxieties about any adverse changes in the future, especially on investments already made in the country.
- Netting legislation is critical to reduce counterparty risk and regulators should introduce laws permitting the same.

Banking

- RBI should advance its roadmap for foreign bank ownership of Indian private banks from its current timeline of 2009 to sooner. This will accelerate the infusion of capital, increase competition and enhance product and systems technology in the Indian banking sector.
- RBI should specify clear guidelines based on compliance and prudential regulations for permitting or rejecting foreign bank applications for new branches. Rather than setting a target for the number of applications to be approved, RBI should specify clear guidelines based on compliance and prudential regulations, for permitting or rejecting foreign bank applications for new branches.

- Corporate governance among banks should be improved, giving more independence and accountability to their boards. The Government should accelerate greater consolidation among state banks, encouraging rationalizing and redeployment of their workforce. RBI should review regulations on priority sector lending.

Insurance and Pension/ Asset Fund Management

- It is a matter of urgency to raise foreign ownership cap in insurance to 49%.
- Pension reform should include an open and transparent licensing system, and an integrated model with the insurance sector rather than creating a separate regulator, which will burden the industry. Tax concessions comparable with other financial investment instruments available in the market need to be considered.
- Foreign investment in insurance and pension should be allowed to own their businesses and distribute products to all potential customers in a free market. As India adopts pension reforms, the Government of India will want to be sure that the rules governing market entry are sufficiently encouraging to attract foreign investors.

Other Financial Services

- RBI is expected to issue guidelines on financial conglomerate operation, covering entities that are engaged in activities supervised by different financial regulators. While enhanced governance is welcome, there is apprehension that the guidelines may be restrictive and significantly curtail the flexibility hitherto enjoyed by finance companies. It will be particularly unfortunate if rules do not differentiate between entities based on their balance sheet quality, capital adequacy and accounting/governing practices.

Electronic Payment System

- Build a sound, robust and efficient electronic payments system to increase credit, debit and prepaid card usage and acceptance which will enhance the velocity of economic activity and bring efficiency in resource allocation.
- Sound legal base and institutional/regulatory framework.
- Robust technology (acceptance networks like point-of-sale terminals, ATMs, bank branches that are technologically sound, Internet access) and telecommunications infrastructure.

- Focus on risk mitigation efforts
- Efficiency enhancements
- Consumer information and education and developing consumer protection rules and code of practice.

Private Equity

Indian promoters hold in excess of 60% of the equities in public companies today. Significant FDI enhancement can take place if the rules and regulations for the buyout of secondary shares are more in line with international norms.

- The government must distinguish between long-term strategic acquirers of companies (FDI) from the security of shares and loans to stock market traders in issuing guidelines related to leverage.
- In addition, the rules related to purchasing secondary shares in public companies must change. Currently, any purchase of secondary shares amounting to greater than 15% of total equity triggers a clause to offer to purchaser an additional 20% shares from the public. This creates a huge barrier, since the stock price gets pushed up as the information leaks out, making the transaction unviable.
- Delisting of the companies should be made easier. Currently, taking companies private is a very lengthy and tedious process. Indian companies in general tend to go public much sooner than they do in the US. As many companies gear up to become scale/global players, they need to be restructured with several corporate actions which are best done when private.

All the above relate to India. With regard to the US, there is need to provide greater access to Indian banks into the US market through removal of restrictions on expansion/ new branches.

4. Pharmaceuticals and Healthcare

This sector could be a major area of US–India cooperation recognizing US' rising costs, India's talent pool of doctors, nurses and paramedics; the scope for FDI by the US in India (Healthcare could be given "Infrastructure" status for the tax incentives and access to funding), collaboration in capacity building and upgrading hospital standards; provision of a variety of services by India to

the US, e.g. clinical trials, other R&D services and outsourcing. A US-India Healthcare Partnership has real potential for mutual benefit.

With regard to Pharma, further action is required in India to ensure IP protection and enforcement, review of the pharma price controls policy, faster clearances at customs for finished products and cold storage facilities to handle sensitive products.

- The report just issued by the task force under the Chairmanship of Dr. Pronab Sen has recommended that price controls be expanded to every medicine on India's "Essential Drug List". This should be reviewed since there is absolutely no evidence to suggest that extending price controls will increase access to these medicines.
- In addition, the task force recommendation that patented medicines be subject to a price monitoring system with mandatory price negotiations and to the potential threat of compulsory licensing if agreement on the price cannot be reached is of significant concern. Also, the task force has suggested that if a medicine reaches a certain volume, as yet undefined, it should be genericized. Although the industry is confident that this particular recommendation will most likely not be adopted, it is troubling as it could portend future anti-industry actions by the government.

At the US end, the following action is required:

- Indian companies need to be able to get FDA and other accreditation/approvals for items manufactured in India and exported.
- Special focus on modifying US legislation that allows extension/ever-greening of patents by US pharma majors and restricts growth of the Indian generics market.

5. HIV/AIDS

The US and India are already cooperating in dealing with the HIV-AIDS pandemic. Advocacy, awareness building, provision of equipment and medicines, setting up of ART Centres, etc. are some of the ways in which companies are working individually and collectively. In this effort, USAID has played, and continues to play, an important part. Whilst this is not a "Business Development" issue, it is a "Business Protection" issue which needs to figure in the Economic Partnership agenda – and the cooperation between US and Indian businesses has to be enhanced to mutual benefit.

6. Defense

With the opening of defense supplies from the US to India, there are new opportunities emerging for private sector defense cooperation, including co-production and co-development, in due course. A joint Private Sector Task Force is already in dialogue as an adjunct to the bilateral government level High Technology group.

One issue which is to be addressed and resolved is the Offset Policy of the government of India and its implementation process. This could be framed taking into account global best practice, including ways of permitting “indirect” offsets in other high technology areas of importance to India such as the commercial space industry.

Another issue is the US licensing regime and the need to address Indian concerns regarding multi-layer licensing, delays and denials.

Integrating Indian private sector companies into the global supply chain of US defense manufacturers, combined with co-production, will help remove insecurity about the reliability of US defense supplies.

7. Oil & Gas

There are 4 issues for action by Gol:

- It is imperative that Parliament enact the proposed Petroleum and Natural Gas Regulatory Board Bill (‘Regulatory Bill’) which has been submitted by the Ministry of Petroleum and Natural Gas in conjunction with all sectors of the industry.
- We encourage the subsequent enactment of the draft Natural Gas Pipeline Policy (‘Pipeline Policy’) which will functionally serve as companion regulations to the framework ‘Regulatory Bill’.
- Greater transparency and market driven pricing are needed in petroleum products and natural gas. Upgrade retail marketing practices.
- The Government of India should support cost effective technologies that foster a clean environment.

Lack of an independent regulator complicates the investment climate. The current draft of the ‘Regulatory Bill’ is an important step forward. However, under this draft, the regulator is directed to act in accordance with directives from the Government. Since the Government is also the largest shareholder in the industry, the potential for biased regulation is a cause for great

discomfort for international investors. To alleviate this concern, the Government should ensure that regulators are truly independent and staffed with the most qualified professionals available from both the private and public sector.

8. Food and Agriculture

The key recommendations include:

- Open the food-processing sector in India to participants of all sizes to encourage economies of scale and to allow for significant investment in an important sector with excellent growth potential.
- Consider fiscal incentives for domestic and international investors to accelerate the development of the food processing sector and to establish a secure “cold storage chain” for fresh produce.
- Provide for unlimited movement of domestic and imported agricultural products across district and state boundaries.
- Review the Agricultural Produce Market Committee Act, which prevents buyers and processors of agricultural produce from participating meaningfully and disintermediating non value added costs.
- Replace any remaining agricultural sector subsidies with direct payments that are in the line of sight to the farmer. Indirect subsidies should be avoided as they distort and obfuscate sectoral investment and do not reach the intended beneficiaries.
- Liberalize import policies and tariffs around oilseeds, feed grains, and vegetable oils, which serve as inputs into further processed products.
- Review the range of technical barriers (TBT) and phytosanitary (SPS) measures imposed by India, which pose significant obstacles for U.S. agricultural exports.
- Focus on improving the regulatory approval process for agri-chemicals. To support increased yields and production, reform license application process, including allowing for annual renewals without requiring a new application each year. Increase transparency and reduce unnecessary delays that can impact the growing cycle.
- Eliminate policies that discriminate against foreign investors in the food and agricultural sector such as the discriminatory special excise duty on carbonated drinks and deflect unreasonable allegations made against the

beverage industry by establishing internationally accepted, science-based safety standards for the entire food and beverage sector.

- Reduction in Agricultural subsidies in the US so as to give India a chance to develop export markets for agricultural produce.
- Encourage collaborative research, leveraging the capability of U.S. agriculture universities.
- Set up an Indo-U.S. R&D center for Agricultural R&D and encourage collaborations in agricultural research as part of the “US-India Knowledge Initiative on Agricultural Education, Teaching, Research, Service and Commercial Linkages”
- Grant FDA accreditation approvals to exports of Indian processed foods to the United States
- Reduce tariff and non-tariff barriers to export of agricultural produce and seafood to the US
- Review restrictions on exports of agricultural products from India, such as tobacco, to the United States.

On biotechnology, United States and India should jointly develop regulatory pathway to ensure regulations surrounding the sector are based on sound science, transparent, and supportive of policies that encourage investment in and commercialization of biotechnology, and promote trade in biotech goods and services.

- Both countries (i.e. US FDA working with the Indian FDA) should harmonize legislation to provide opportunities and protection for US as well as Indian companies in biotech related IPR.

9. Manufacturing

Manufacturing is the traditional area of US – India industrial cooperation and, in the current and future context of globalisation, global supply chains and competitive pressures, offers new potential for partnership.

Some specific suggestions:

- The government could encourage states to set up “Investment Regions” with the primary focus of attracting FDI and local investment designed to serve both domestic and export markets (i.e. not just SEZs). The Investment Regions would also be a model for world-class infrastructure

that could be emulated in other states. Among other attributes, the Regions would offer:

- Flexible, internationally-competitive labor laws.
- Coordinated infrastructure investments of related real estate, power, connectivity, ports and airports developed in conjunction with the site.
- Single-window clearance – one stop approval and administrative process.
- Dedicated courts located within the Region, to ensure rapid local access to legal recourse.
- Align vocational and educational training in sectors.
- Fewer sites, but of a size (> 2500 acres) sufficient to achieve critical mass.
- Transparency, clarity and e-governance.
- Benchmarks for competitive positioning.

In addition, nationwide implementation of VAT, a flexible labour policy, simpler termination process for joint ventures and resolution of the legacy issues, continuing review and reduction in the scope of the reservation policies for the small scale sector and the process of tariff reductions would enhance India's attractiveness.

Some concerns in regard to US policies and processes which need to be addressed:

- Reduction of Import duties on certain products, such as Steel (where duties can be as high as 30% on some items) and Textiles (over 20% on some items)
- Remove Anti-dumping and safeguard legislation / anti-dumping duties on items such as steel
- Lower/ remove non-tariff barriers and technical barriers - Sanitary & phyto-sanitary standards legislation to be unbiased and equal on both sides
- FDA related issues – easier accreditation/ approvals for pharmaceutical items manufactured in India and exported to the US.

10. Telecom

This is a sector which has attracted significant FDI and technology and has resulted in huge benefits to the Indian development process. Telecom development can be expedited, with consequential benefits to India, if the following issues could be addressed:

- The Government must pursue transparent and truly technology-neutral policies that allow the full range of private telcos and the Public Sector (Government owned) telcos to compete fairly and fully.
- Adequate spectrum in useable frequency bands advocated by the ITU must be allocated to wireless service providers for their growth.
- The government further needs to ensure low regulatory, if at all, restrictions over new services such as Push-to-talk, IP-enabled services, particularly Voice-Over IP (VoIP), and various kinds of 3G services, while simultaneously ensuring a level playing field and no worse-off position for existing license holders.
- Duties on imported telecommunications and related equipment must be reduced to zero in order to promote competition in International Private Leased Circuits (IPLC) in India.
- In the past, the global manufacturers of products that form the core of telecommunications networking infrastructure have viewed India as a low-cost engineering resource to be developed to serve global markets. With the consumption-led rise of the Indian economy and the trend towards the small/medium sized businesses to build their linkages into the bigger supply chain, the technology multinationals are aiming to build substantial business mostly in consumer end user device segments like mobile, handset, PC's and networking product manufacturing. With the right policies, this trend could bring about a significant employment boost in its wake.
- Allow 74% FDI under the "automatic route"
 - Remove condition that senior management should be resident Indian nationals
 - Investor rights to be in proportion to shareholding levels

11. Information/ Knowledge Based Industry

This is a sector which reflects a unique partnership between US and India, which can be furthered given some additional steps:

- Foreign ownership caps in Information and Knowledge based sectors such as print media, broadcasting, cable/satellite systems, and e-commerce should be reviewed and relaxed, if not eliminated.
- Licensing requirements/regulations in Information/Knowledge based industry should be reviewed.
- Requirements to obtain licenses for certain information sector products and services that support business activities (for example, new periodical publications) should be reviewed in light of current conditions. The goal should be to eliminate the requirements where possible, and expedite action on license applications in any sectors where such requirements remain.
- Restrictions on licensees' business practices (for example, bans on exclusive licensing of distribution of content) should also be relaxed to the extent possible, thus increasing the attractiveness of further investment in sectors subject to licensing regulation.
- National coordination of enforcement efforts must be stepped up. As a first step, a single centralized body should be designated to coordinate IPR enforcement efforts, identify and publicize best enforcement practices at the state level, and direct national resources to IPR enforcement.
- Specialized intellectual property courts should be established to handle both civil and criminal matters.
- A national initiative to crack down on piracy in the educational and research sectors should begin now.
- India and the US must reach agreement on Cyber Security to include data privacy, IPR, etc. and create universal standards in data privacy to build confidence in Indian IT providers.

Further cooperation between the US and India in R&D would be enhanced if the following were addressed:

- Removal of restrictions on R&D collaborations by the US and establishing product design and development centers would forge stronger and mutually beneficial ties between the two countries in this area.

- Set up an India-US R&D center for Industrial R&D.
- Relationships between leading US institutes and Indian institutions (with special emphasis on PhDs) in advanced research.
- Sponsored participation in establishing institutions of higher education for research and PhD programs with leading US institutes could become focal points of excellence in high technology.
- At the same time, India needs to encourage the setting up of new institutions of higher learning and give private educational institutions a free hand in terms of fees, course structure and affiliations.

12. Biotechnology

The High Technology Cooperation Group (HTCG), at its meeting on 1 February 2006 has agreed to:

- Establish a private sector task force/ joint working group on biotechnology to keep the agenda moving faster.
- Agree on products and guidelines for conducting clinical trials to expedite USFDA's approval (for development of Clinical Research Organisations).
- Create a bi-national fund (with DBT on Indian side and appropriate body on US side) for supporting early stage risk ventures in biotechnology.
- Set up an Indian-US innovation promotion center.
- Put a plan in place for capacity building and training of Indian personnel to better implementation the Patent Protection Act of India passed in 2005.
- Establish a pilot project in one of the port/ airports in India for employing best practices in supply chain integrity of biotech products.

These need to be followed through with speed.

13. Real Estate

There are 4 recommendations for consideration to boost investment:

- Creation of a Regulatory Body for Real Estate
- NBFCs/ other lenders to be notified lenders under SRAFESI Act

- Single Window Clearance facility
- Revisiting the FSI (Floor Space Index) Calculation

US industry strongly encourages a change in policy that will allow foreign companies to purchase and own existing (versus only development) real estate assets. The benefits of such a policy change are manifold and include:

- The sale of existing assets would allow India to directly monetize its existing assets for full, fair market value, creating a deep and liquid sale-leaseback market, such as the ones that exist in the US and Europe.
- Providing exit strategies (capital) to existing developers who, in turn, can re-deploy such funds into new commercial, residential and infrastructure projects, and
- Creating a competitive, liquid real estate market which would effectively lower the cost of capital for developers who should pass along a portion of such savings to Indian corporations and MNCs.

14. Movement of People

(i) Business and Professional Personnel

- US should liberalize the visa regime for service providers in fields ranging from IT (H1B/L1) to Nursing staff (EB3) where the US is facing a shortage of trained personnel. As in goods, progressively ease quantitative restrictions/yearly quotas of such visas. Further impediments on the grant of H1B/ L1 visas such as attestation requirements, reduction of periods of stay and prescriptive wage levels need to be dispensed with.
- For select countries/ strategic partners, such as the US, India should provide visas for upto 5 years and remove Foreigners Registration Office (FRO/ FRRO) requirements to report in physically once a year.

U.S. service and manufacturing companies need the US authorities to institute a new business facilitation program for two reasons. First, existing programs do not work in today's fast-paced international business environment. And second, progress in bilateral and multilateral trade negotiations in all service sectors is dependent on the willingness of the United States to discuss business travel facilitation at the same time.

(ii) Tourism

The tourist flows between India and the US, though small at present, hold great potential given the strong linkages that India has with the US in trade, education and entertainment and leveraging off the “Open Skies” agreement signed between the two countries in 2005. Both countries would benefit by making tourist visas easier to obtain.

A more efficient business visa grant process for travel by Indian business persons to the US is required, to extend to GoI/ Public sector companies personal traveling on official business. New Delhi and Chennai have taken some steps in 2005.

US firms need a new and more efficient system to facilitate business travel to the United States and reciprocal systems in foreign countries, including India.

- Employees need ongoing training to maintain their performance and to qualify for promotions and increased compensation.
- Customers need training on how to use products and services.
- Businesses need to bring global management teams together on a regular basis.
- Sales representatives need to meet with potential customers.
- Investors need to evaluate opportunities.
- Consultants need to be on site to adequately and effectively perform the services contracted for.

A new category for entry into the United States should be established for “Travel for Business Purposes” (TBP). This would be truly temporary, and not in any way related to immigration under existing visa categories.

US Social Security

It is estimated that over \$500 million is contributed annually by Indian companies to the US Social Security with no benefits to the people for whom these contributions are made. India and the US should sign a Totalization Agreement such that Social Security contributions are made in only one country or a refund-on-return regime is put in place when Indian employees leave the US and return to India.

15. Indian Institute of Regulation

India is entering the regulatory age with regulatory bodies being established at the center and state levels. India has already put in place world-class regulatory agencies in insurance, financial markets and telecommunications. But the requirements are escalating for high quality, trained regulators, research on regulatory practices and “library facilities” to house international and Indian regulatory experience. India will be well served by establishing an Indian Institute of Regulation which would meet these purposes and would be funded from the fees which flow to India’s existing and to be established regulatory bodies.

Global and domestic market developments overtake regulations and policies. It is imperative that regulations take the lead rather than react to the market. An independent institute which develops into a think-tank with a strong research base will provide an excellent platform for development of regulatory practices. If India took an initiative of this nature, it would endow itself with training and expertise which is hard to find anywhere else in the world. The signal to international investors would be clear: India is determined to offer its foreign and domestic business communities world class regulation. The advantages to American businesses are equally clear: first rate regulation at the center and in the states, covering the diverse fields of infrastructure; financial markets; insurance and pension; telecommunications; biotechnology; etc. would create a stable and attractive framework for investors -- both direct and indirect.

India and the US can collaborate on this initiative. The strong presence of Indians in the US and their engagement in research of sectors covering financial markets/insurance, energy and environment will be advantageous. Talent pool from India and the US will be readily available. The CEO Forum can rally support of the industry on both sides of the initiative. Multilateral agencies such as the World Bank may also show interest in providing seed capital/financial support

II. Enabling Environment - Summary

Enabling Environment - Summary

Tariff and non-tariff barriers to be reduced in respect of all products, agricultural and manufactured, over a specified period of time by the US and India.

1. Need to foster speed, efficiency and transparency in the bidding process for BOT contracts in infrastructure in India.
2. Need for Indian power sector reforms to ensure sanctity of contracts, encourage competition, promote market-driven tariffs and separate regulatory and adjudication authorities.
3. Transfer of high technology to India to be relaxed by the US government in extension of COMSAT rules to India and ISRO.
4. US government to allow/ accelerate the transfer of dual use items/technologies.
5. Further liberalization of FDI in retail in India to be considered.
6. Insurance Industry FDI cap to be reviewed and raised by India.
7. Consider allowing FDI in Indian private sector banks; schedule for liberalization to be advanced from 2009.
8. Restrictions on expansion/new branches by Indian banks in the US to be removed/ norms liberalized.
9. Need to resolve commercial and contractual disputes quickly through an independent tribunal under the Arbitration and Conciliation Act, 1996.
10. Strengthen the regulatory environment in India, to be clear and consistent with legal enforcement through special courts at both Central and State levels.
11. Specialized IPR courts to be established to enforce IPR laws.
12. Strengthen the Indian judicial system to address case backlog, expedite legal proceedings, address the issue of no limit on the number of adjournments, inadequate number of judges, large number of court holidays and civil infrastructure.
13. Liberalize the US visa regime required for service providers in IT (H1B/L1), nurses (EB3), i.e. wherever U.S. is facing shortages of trained personnel. Also, ease quantitative restrictions/yearly quotas of such visas. Other

impediments such as attestation requirements, reduction of periods of stay and prescriptive wage levels may be dispensed with.

14. India to consider providing visas for up to five years and removal of FRO/FRRO requirements for US citizens to report physically once a year.
15. US to consider instituting a new business facilitator proposal to support US companies.
16. Both countries need to make tourist visas easier to obtain.
17. India-US Dual Taxation Treaty to be revised to include state taxes and federal social security/Medicare deductions.
18. India to consider treating dividends received from overseas companies in the hands of an Indian resident at par for tax as domestic dividends, so as to make outward FDI no less attractive.
19. India needs to develop TRIPS compliant IP system and IP protection, especially for software and published materials, print or electronic.
20. India to pursue truly technology-neutral policies in telecom, and ensure a level playing field so as to allow the full range of private telecom companies and public sector (Government owned) companies to compete fairly and fully.
21. Licensing requirements for certain information sector products and for services, which support business activity, should be reviewed and eliminated by the government of India.
22. The proposed Petroleum and Gas Regulatory Board Bill to be enacted in India.
23. The Indian Natural Gas Pipeline Policy to be adopted.
24. India to consider reducing restrictions on FDI in the Real Estate Sector. Also move ahead on urban land reforms, streamline the regulatory, tax and duty structure, revamp stamp duty and title registration regimes and reconsider change of use restrictions as was done in the US for decaying cities.
25. Elimination of FDI caps in sectors such as print media, broadcasting, cable and satellite systems and e-commerce to be considered by government of India.
26. The Offset Policy of India needs to be framed considering global best practices and the use of "indirect" offsets.

27. Review the Indian Companies Act, with respect to provisions relating to private companies, as many US companies are privately held.
28. US to pursue transfer of civilian-nuclear energy technology to India to enable India to meet its energy needs and achieve energy security.
29. Indian IT firms should be permitted to bid for US technology programs after receiving appropriate clearances.
30. The Indian & US economies to be opened up further for freer trade in services and products. Dialogue to be initiated on a US–India FTA to take bilateral trade and investment to a new level.

Note: In respect of each issue, explanatory papers are ready and would be made available, separately, to USG and GOI for appropriate action.

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