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Important Commercial News – December 2014

1 Indian policies creating trade barriers: US report

US authorities have blamed Indian government's policies for acting as barriers to American exports and investments into India. In its report to a Senate committee released recently, the US International Trade Commission (USITC), a quasi-judicial Federal agency to probe trade issues, has identified several industries, ranging from wine and spirits to e-commerce, pharma and information and communication, where it believes there are barriers to trade and investment. Over all, the report said, the share of US companies adversely affected by restrictive Indian policies rose from 18.8% to 26.1% between 2007 and 2013, with shares for individual sectors in 2013 ranged from 7.7% to 44.1%. As a result, 60% of the affected companies have made strategic changes in response to these barriers, most often directing fewer resources to the Indian market, it said.

The government, however, did not react to the report. In the past, it had said that the USITC report was unilateral action driven by lobby groups and it had refused to participate. In fact, Indian officials were specifically asked not to meet a team from USITC earlier this year and the government had said that all concerns should be discussed bilaterally. From the extreme position, both India and the US have softened their stance in recent months with an agreement to prepare a clear work programme to improve trade and investment to improve relations.

Within the overall policy environment, there were two key areas of concern — tariffs and customs procedures, and taxes and financial regulations. "Other issues, including investment and intellectual property policies, have large negative effects on specific industries... If tariff and investment restrictions were fully eliminated and standards of IP (intellectual property) protection were made comparable to US and western European levels, (USIT) Commission model results indicate that US exports to India would rise by two-thirds, and US investment in India would roughly double," the report said.

In case of wine and spirits for instance, it has cited certain duties, while the patent regime in India has been blamed for impacting American pharma companies. Similarly, it has said that the rule mandating local sourcing for ICT (information, communication and technology) is hurting US players, while listing out mutli-level marketing firm Amway and e-tailer Amazon's experiences in India.

Based on a survey, USITC has listed seven key concerns related to FDI — getting approvals and licenses for investment, the FDI caps, export commitments, minimum capitalization requirement, area restrictions such as telecom licenses.

2 India looks to sway the US with nuclear power insurance plan ahead of Obama's visit

India is offering to set up an insurance pool to indemnify global nuclear suppliers against liability in the case of a nuclear accident, in a bid to unblock billions of dollars in trade held up by concerns over exposure to risk.

Prime Minister Narendra Modi's government is hoping the plan will be enough to convince major US companies such as General Electric to enter the Indian market ahead of US President Barack Obama's visit at the end of next month.

Under a 2010 nuclear liability law, nuclear equipment suppliers are liable for damages from an accident, which companies say is a sharp deviation from international norms that put the onus on the operator to maintain safety.

From the 1950s, when the United States was the only exporter of nuclear reactors, liability has been channeled to plant operators across the world.

India's national law grew out of the 1984 Bhopal gas disaster, the world's deadliest industrial accident, at a factory owned by US multinational Union Carbide Corp which Indian families are still pursuing for compensation.

The law effectively shut out Western companies from a huge market, as energy-starved India seeks to ramp up nuclear power generation by 13 times, and also strained US-Indian relations since they reached a deal on nuclear cooperation in 2008.

GE-Hitachi, an alliance between the US and Japanese firms, Toshiba's Westinghouse Electric Company and France's Areva received a green light to build two reactors each. They have yet to begin construction several years later, according to India's Department of Atomic Energy. Even Indian suppliers refused to sell equipment until the law is amended or they can be sure they are indemnified against any liabilities.

"We are working fast to address the concerns of suppliers. We are working on a solution with the insurance companies," R K Sinha, chairman of India's Atomic Energy Commission, told Reuters. State-run reinsurer GIC Re is preparing a proposal to build a "nuclear insurance pool" that would indemnify the third-party suppliers against liabilities they would face in the case of an accident.

Under the plan, insurance would be bought by the companies contracted to build the nuclear reactors who would then recoup the cost by charging more for their services. Alternatively, state-run operator Nuclear Power Corporation of India

(NPCIL) would take out insurance on behalf of these companies. Sinha said New Delhi believed the insurance plan was the best option given how tricky changing the law would prove, and that the proposal should be ready within the next two months. Details of the plan have yet to be thrashed out, and Sinha said the government was considering how it would better capitalise NPCIL.

India wants to generate 62,000 megawatts from nuclear sources within two decades from the current level of 4,780 megawatts, even as other countries shift away from nuclear energy following Japan's Fukushima disaster.

GE declined to comment on the Indian proposal to offer insurance cover. Westinghouse said it needed more information before it could comment. Areva said in a statement that the creation of an insurance pool was an "encouraging signal", and that the government appeared committed to working out a comprehensive solution soon.

However, India's nuclear liability regime remained open to interpretation and an Areva spokeswoman said the company needed more clarification to make the legal framework acceptable.

3 Amazon urges government to allow 49% FDI in e-tailers selling directly to consumers

Ahead of US President Barack Obama's visit to India next month, ecommerce major Amazon has asked the government to allow 49% foreign direct investment in e-tailers selling directly to consumers.

It has also asked the Centre to amend the law on value-added tax to overcome clashes with local tax authorities that have dogged its operations in Karnataka.

Amazon raised these demands at a meeting between officials from the industry ministry and US companies. The meeting was to address the concerns of USbased MNCs ahead of the first meeting of the inter-ministerial committee set up to fast-track investment proposals from the US.
Amazon, which has invested $300 million in India so far, argued that the current policy permitting only business-to-business (B2B) sales to foreign investorfunded companies restricts investments and local sourcing from manufacturers.

"Clarify and remove FDI restrictions in ecommerce. Allow at the minimum 49% FDI in business-to- consumer ecommerce," Amazon said, according to a document prepared for the meeting.

A government official privy to deliberations confirmed that Amazon has sought FDI in business to- consumer (B2C) ecommerce. Amazon also said the current VAT laws make it an agent, bringing its activities in direct conflict with restrictions on FDI in B2C ecommerce.

FDI up to 100% is allowed only in B2B ecommerce. While 51% FDI in multi-brand retail was permitted by the previous UPA government, the policy is effectively on hold as the ruling BJP had opposed it in its election manifesto. As a result, proposals on FDI in ecommerce are not being entertained. Representatives from Amazon, Morgan Stanley, BAE Systems and Ford, among many other companies, met with the DIPP secretary at the meeting, which was attended by officials from related ministries.

Ford raised the issues of connectivity and logistics which are affecting its Chennai and Gujarat plants. BAE, meanwhile, wanted the offset policy to be made broad-based while Flextronics Technologies asked for 100% FDI in defence. "It was an excellent and successful meeting. All issues related to procedural delays were referred to the respective departments. Policy issues raised by the American companies were taken note of by the officials (concerned)," said another government official. He did not disclose the government's response to Amazon's proposal.

Amazon operates through the so-called marketplace model in India, where sellers use the company's platform to reach out to buyers. The American etailer's demand could put the BJP government in a difficult situation. Commerce & Industry Minister Nirmala Sitharaman has said in the past that the government was examining whether opening up ecommerce will amount to a backdoor entry for foreign multi-brand players. The government would also need to take into consideration complaints by traditional brick-and mortar players against recent mega sales by online retailers.

Amazon also raised the tax problems faced by it in Karnataka and sought an amendment to the VAT law, which does not recognise it as a service provider. As a result, tax authorities in Karnataka have asked the company to pay taxes on products sold from its warehouse.

Further, tax authorities have asked sellers not to store products in Amazon's warehouse near Bangalore as it was not paying VAT on the products sold from there. Ford sought a meeting with officials from the Gujarat government and the railway ministry to work out a plan for development of rail infrastructure from its plant in Sanand.

It also asked the National Highways Authority of India and Tamil Nadu government to expedite the completion of the highway to improve connectivity to Chennai Port.

4 quick-serving restaurants line up to bite Ahmedabad market

Fast food lovers in Ahmedabad will soon be spoilt for choice as American quick serving restaurants (QSRs) are queuing up to set up shop in the city.

Tata Starbucks, a 50:50 joint venture between the US coffee chain and Tata Global Beverages, is planning to open at least two stores in Ahmedabad in the next fiscal. The company is in talks with a mall at CG road for one its stores. An official from the mall's management said, "Starbucks is considering an outlet at our mall. But it is yet to be formalized." Tata Starbucks replied to an email query by saying that the company continues to evaluate locations for its stores in key cities.

Jubilant Food Works, which operates Domino's Pizza brand in India, introduced Ahmedabad to another QSR Dunkin' Donuts, when it opened its first store last week. The outlet had over 100 people waiting in queue last Saturday morning to grab a piece of doughnut. "Gujarat being an important economic and industrial hub in the country has consumers who are well travelled, evolved and open to experimenting with different cuisines. This gives me confidence that this new idea of food that we bring to India will be well appreciated in this city," said Ajay Kaul, CEO, Jubilant FoodWorks.

Burger King, another American fast food restaurant chain, comes to Mumbai and Delhi by the end of this year, and plans to open outlets in Ahmedabad and Surat by January 2015. Gurgaon based Cybiz Corp is bringing American burger restaurant chain Carl's Jr to the city. The company will start operations this year with 100 outlets across Delhi, Gurgaon, Chandigarh, Ludhiana, Mumbai, Pune and Ahmedabad.

from past few years, social media networks have been abuzz with requests from well travelled people of Ahmedabad to open a franchise of these restaurants in the city.

Dheeraj Sharma, professor of marketing at the Indian Institute of Management, Ahmedabad attributes the increased fast food stir in the city to affluence and low rental rates. "Over the last few years, a substantial number of immigrants have come to the city. All the US-based restaurant chains have customized their recipes to suit the palate of Indians. Besides, there is a lot of disposable income now and people want to experiment with a variety of food. These chains guarantee at least hygiene, standardized processes and customer service and are hence popular."

5 China challenges India's polished diamond throne

India's long-held position as the world's top diamond polisher is being challenged by soaring output from China, compelling it to seek help from ally and top rough diamond supplier Russia to defend its market share.

India has traditionally relied on the middlemen in trading hubs of Antwerp, Tel Aviv and Dubai for its supply of rough diamonds, which mainly come from Russia or Africa. Most of the world's diamond output is sent to India for cutting and polishing before being retailed around the world.

But China has managed to break the established trade route by getting diamonds directly from African mines in which Chinese companies have a stake. This has boosted the value of China's net exports of polished diamonds by 72 per cent in the past five years to $8.9 billion.
While India's exports, supplied by firms such as Asian Star , Gitanjali Gems Ltd and Venus Jewel, rose 49 per cent to $14 billion over that time, shipments have seen a sharp drop this year.

"China's active procurement of rough supply from African countries was reducing the supply available to Indian manufacturers," said Sandeep Varia, an executive of Indian industry body Assocham. "Many units across the country had to lay off workers due to losses."

As a result, China's share of the global polished diamond market has tripled to 17 per cent in the past decade, according to data from the United Nations. India's share has fluctuated between 19 and 31 per cent.

During Russian President Vladimir Putin's visit to New Delhi this month, Russia's state-run diamond monopoly Alrosa signed a dozen deals to increase direct rough diamond deliveries to India that would help reduce the cut taken by middlemen in the secretive precious gems trade.

The direct deals would also reduce risks linked to Western sanctions imposed over Russia's annexation of Crimea, while Modi is additionally seeking arrangements that would allow Russian jewellery makers to send rough diamonds to India and re-import polished stones duty-free. But to compete effectively with China, India will also need to streamline its tax and import rules, industry sources said.

"China is not going to displace India as the leading diamond polishing hub any time soon, but India needs to reform its archaic tax rules to make the Indian diamond polishing industry more attractive for foreign miners," said Martin Rapaport, chairman of diamond and jewellery service firm Rapaport Group.

India is looking to build a special notified zone where companies can import rough diamonds on a consignment basis and re-export unsold ones, mirroring China's investor-friendly trading zones that avoid complicated export and import taxes. "These are positive moves for the industry," said Mehul Shah, committee member of India's Bharat Diamond Bourse. "It will increase profit margins of the Indian diamond manufacturing industry and make it more competitive."

Despite China's upper hand in securing rough diamonds, its cutting and polishing industry is not as organised as India's and rising labour costs are a problem. "The Chinese diamond polishing industry works on a contract-basis and through joint ventures," said Rapaport. "They are consistent at mass producing small stones, but lack the expertise required for bigger and finer stones."

6 USFDA vigilance on Chinese drug companies may benefit Indian counterparts

Indian drug makers see a significant business opportunity in the American regulator's decision to step up vigilance on Chinese companies that could lead to a dip in China's exports.

US Food and Drug Administration has decided to increase its inspection staff more than threefold in China to 26 from eight and the number of drug inspectors to 11 from just one at present.

India and the US are the two large importers of Chinese pharmaceutical raw materials, accounting for about $6 billion of purchases every year.
"Stricter USFDA action and rise in foreign inspections during 2008-14 have worsened drug shortages in the US. Based on China's DMF (drug master file) filings, a tougher FDA could potentially aggravate shortages in antibiotics, chemo and cardiovascular drugs," Anshuman Gupta of Edelweiss Securities said in his latest report. Several Indian drug makers are looking to ramp up their manufacturing facilities to meet the anticipated opportunity, according to a senior executive with a top pharmaceutical company. "Through trade bodies, these companies are urging the government to expedite the proposed bulk drugs policy with large incentives and execute at the earliest the promised manufacturing infrastructure," said the executive, who did not wish to be named.

India produces and exports a large portfolio of bulk drugs to the North American market, covering nearly 80% of product portfolio of China. "India enjoys several advantages over China. While we have 3,601 DMFs registered in the US market, China has only a third of it at 1,216 DMFs," said PV Appaji, director general of

Pharmaceuticals Export Promotion Council (Pharmexcil), adding that India depends on China for a few intermediates and bulk drugs that require fermentation technologies.

Lupin's spokesperson Shamsher Gorawara said the company sees a major opportunity for Indian manufacturers of bulk drugs and intermediates in case China suffers from increased inspections.

Atop Aurobindo PharmaBSE -2.68 % executive, who did not want to be named, said, "Most Indian companies including Aurobindo that have large bulk drugs manufacturing capabilities are set to benefit from any adverse impact that China may suffer. The Indian firms have the capabilities to fill the vacuum created by the Chinese firms in the US market swiftly but the US consumers may need to cough up more to buy Indian products given their superior quality." Indian drug makers could suffer a setback too since many of them are heavily dependent on Chinese raw materials.

"China may restrict Indian medicine makers from using its key raw materials intermediates to make bulk drugs for the US market in a bid fill the gap created by it," said Pharmexcil's Appaji. In such a scenario, a large number of Indian drug makers heavily dependent on Chinese raw materials could suffer badly till India achieves self sufficiency in manufacturing bulk drugs and intermediates," said a senior executive of the Bulk Drugs Manufacturers' Association, requesting anonymity.

The large importers of bulk drugs and intermediates from China including Ranbaxy, Sun Pharma, Cipla and Torrent did not respond to ET's emails seeking to know the likely adverse impacts.

China exports drugs, predominantly bulk drugs, worth $4 billion to the US market ever year while India exports close to $5 billion drugs to the North American market with formulations dominating the exports. Of the total $15 billion (about Rs 90,000 crore) exports of pharmaceutical products, the US accounts for nearly a third of it. India and China have about 600 each USFDA approved facilities, though Indian facilities have been subjected to increased inspections of late. Edelweiss analyst Gupta said increased inspections on Indian pharma facilities led to an increase in the number of import alerts last year. India saw 600 inspections in 2013 compared to 350 in China. The number of inspections shot up to 650 in India this year while China witnessed 480 inspections.

7 Boeing may set up manufacturing base in India

US aircraft maker Boeing is in talks with the government to set up an aircraft manufacturing base in the country. Once set up, it would be part of the 'Make in India' programme, under which the government wants companies to not only manufacture for India but export as well.

Senior Boeing executives have held a series of meetings with commerce ministry officials in the last two months, government sources told HT. "Boeing has not revealed their investment figure so far but they want to set up a manufacturing base in the country. We have asked them to come up with a specific plan before they put in a formal application."

A formal announcement is likely to be made during US President Barack Obama's visit to India next month, sources said. Seattle-based Boeing is the world's largest aerospace company and leading manufacturer of commercial jetliners and defence, space and security systems.

"Boeing continues to work with suppliers in India in not only manufacturing but the company has invested significantly in equipment, training, tooling and quality systems with partner companies," a Boeing spokesperson said. "They are now integrated into Boeing's global supply chain. Partnerships will be important to how we go forward, and selectively we may look at equity partnerships."

Sources said Boeing is evaluating equity partnership opportunities in India. "We had set up a factory with TAL (a Tata enterprise) in Nagpur where composite floor beams for the Boeing 787-9 are produced," a senior Boeing official told HT.

India, currently ranked ninth, is set to become the third-largest aviation market in the world in the next five years. About 600 business jets and small aircraft and 250 helicopters are likely to be added in the next 5 years.

8 Trade delegation

No trade delegation visited India from the jurisdiction of this Consulate.

9 Trade shows and seminars

The U.S. Trade and Development Agency (USTDA) organized the India Smart Grid Workshop and reception to meet key decision makers involved in smart grid development in India. The India Smart Grid Workshop was part of a reverse trade mission (RTM) to familiarize 12 Indian delegates with a broad range of U.S. smart grid technologies that will assist utilities in addressing India's growing power needs through grid modernization, demand side management technologies and the promotion of renewable energy generation.

The follow-up workshop in Bangalore, India, planned for March 3, 2015 – in coordination with India Smart Grid Week 2015 – will bring together Indian and U.S. power sector stakeholders for future smart grid project implementation. The agenda will highlight U.S. grid modernization and load reduction technologies and the best practices, policies and financing mechanisms to support them. USTDA smart grid grant participants and their U.S. contractors will share information gained through USTDA smart grid grant programs and introduce opportunities in the Indian power sector.

On the behest of the Consulate CII agreed to support this workshop. The Workshop in San Francisco was attended by following Indian Companies:

a Reliance Infrastructure Ltd.

b Central Power research Institute

c Tata Power Mumbai

d Tata Power Delhi Distribution Ltd.

e India Power Corporation Ltd.

f Rajdhani Power Ltd.

g Calcutta Electric Supply Company

h Indian Smart Grid Forum

From the U S side the following companies represented:

i Emerging Markets Infrastructure

ii Opower

iii Smart Utility System

iv Silver Spring Network

v BESCOM DAS Project

10 Trade Enquiries:

The following companies/organizations approached this Consulate for trade related enquiries:

a Avigham Exim, South India

b Emero Marketing, Tamil Nadu

c Contemporary Wooden Arts, Jaipur

d Radharam Sohanlal, Calcutta

e Shiv Shankar Rice Mill, Karnal

f Shree Ram Packaging Industries, India

11 Visas Issued:

During the month of Dec. **7879** Tourist and **1170** Business visas were issued from this Post.

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