

12 July 2013
New Delhi

To
Shri. Dr. Manmohan Singh
The Hon'ble Prime Minister
Government of India
South Block, Raisina Hill,
New Delhi.
India-110011.

Sub: Forum Against FTAs calls upon the Government of India to reject undue pressure from US administration and business groups on India's economic policy

Dear Dr. Manmohan Singh,

In the backdrop of the US-India Business Council (USIBC) Leadership Summit held in Washington on July 11, 2013, the Forum Against Free Trade Agreements (FTAs) in India, a coalition of over 75 organisations, farmers groups, trade unions and other development activists, call upon the Government of India, to review its forthcoming economic engagements with the USA, and, reject pressure from the US government and business lobby groups and compromise its economic policies in key sectors, which are crucial for India's economic and social development. India's future economic growth and its potential to create sustainable livelihoods should not be sacrificed for US economic interests, the Forum urges.

Ahead of John Kerry, US Secretary of State's visit to India and the US - India Strategic dialogue, in June 2013 the US law makers and business groups had urged the US government to apply trade tools and diplomatic pressure on the Indian Government for strict adherence to 'market based path to development'. Letters from the US senators also issued veiled threats that India should toe the line to support US business interests in India, in order to continue to be the beneficiary of US programme of Generalised System of Preferences (GSP), which requires reauthorisation soon.

It is rather unfortunate that US law makers and business chose the most inopportune time when India is staring at economic uncertainty in the form of increasing trade deficit and current account deficit. One could fairly assume that, the US business wants to gain at the India's moment of crisis. Some of India's key policy decisions to fulfill its developmental priorities and employment generation; such as compulsory licensing for life saving drugs, preferential market access for domestically produced electronics goods and solar energy equipments, licenses for foreign banks are being opposed by the US business groups. This pressure comes notwithstanding the fact the current economic scenario demands such kind of policy response from the government.

Patents and Life Saving Medicines: US business' attempts to force India to change its policies on intellectual property rights (IPR) are a threat to the availability of affordable high-quality medicines for poor patients in India and other developing and least developed countries. This is even more surprising given the US administration itself has proposed steps to limit so-called 'evergreening'– abusive practices used to extend intellectual property monopolies and keeping prices high for as long as possible. Under India's World Trade Organisation (WTO) TRIPS' commitment India has the right to use legal tools available in TRIPS flexibilities.

Compulsory licenses (CLs) are such legally recognised means to overcome barriers in accessing affordable medicines under international trade rules. According to *Medicines Sans Frontieres* (MSF), through CLs India could allow generic production of medicine 'sorafenib tosylate' to treat kidney and liver cancer patients at the cost of INR 8,800 per month (approximately US\$175), while the same patented medicine produced by German company Bayer at the cost of INR 280,000 per month (approximately US\$5,500).

India is also well within its legal rights to set a higher patentability threshold to limit the practice of 'evergreening'. Recently, the Supreme Court of India upheld the decision to reject patent application of Novartis. India is completely within its obligation under the TRIPS Agreement to curb the multiple patenting of known substance. The current US stance tramples upon the privilege of the Indian government, judiciary and legislature.

Preferential Market Access (PMA) Initiative: The pressure from US business group Information Technology Industry Council (ITI) to provide further market access for US business in India's ICT sector, if conceded, will deeply affect employment generation and India's effort to manage escalating trade deficit.

India's PMA policy initiative of local content requirements in procurement of electronics goods by the government and private entities comes with multiple objectives; to create domestic manufacturing base and create innovative product design and development capability to manage trade deficit, generate employment, sustainable economic growth and also strengthen strategic national security. These objectives and policy initiatives are in conformity with policies of other developing countries like Brazil, and even with US government procurement practices. However, coming under the pressure from the US. the government has announced the review of its preferential market access for domestic electronics products policy.

It is also important to note that as a signatory to the WTO plurilateral Information Technology Agreement (ITA), India faced huge imports of electronics and telecom products and lost the opportunity to build domestic manufacturing in information and communication technology sector. Recognising this fact, India has decided not to participate in the ongoing WTO negotiations in the expansion of ITA, known as ITA – II. But this stance is meaningless if India suspends its PMA initiative in the ICT sector.

Further, the revelations of snooping by the US government, made by Edward Snowden, former US National Investigating Agency (NIA) employee confirm India's strategic and security concerns.

India's National Solar Mission Plan: The Government of India Jawaharlal Nehru National Solar Mission (JNNSM) aims to create 20000 MW power by 2023 and is expected to provide a significant boost in the transformation of India's rural economy and to attain the movement for decentralised and dispersed industrialisation. Given a much needed objective of boosting local industry, Phase I of the NSM required that for projects using modules with crystalline silicon technology all modules be sourced from India and developers need to use domestic equipments. Now when the Phase II of JNNSM is about to begin, the US government pressures India to allow US companies to supply for procurements under JNNSM and has raised a dispute on domestic content requirements rule against India in the WTO. Now Japan and Australia have also joined the US in seeking consultations in this regard.

It is important to mention that the JNNSM is a government programme and purchases made by the government are designed to promote domestic manufacturing and employment. While it is important for the government to address some of the critical issues emerging from domestic content requirements in terms of quality and innovation of products, the government of India should not deviate from its stated objective. By conceding to international pressure India will lose a significant opportunity to create manufacturing employment and build domestic capacity in producing green energy.

Agriculture, Food Sovereignty and Biosafety

The USIBC has a specific Executive Committee on Food & Agriculture, with the US TNCs Cargill as its Chair and Monsanto as its Vice Chair. This Committee undertakes lobbying and advocacy in both India and USA for its business interests, including on law and policies. These include legislation on seed and biotechnology, which favour the use and marketing of genetically modified organisms in agriculture. Yet USA has since 1992 held off being a party to the global Convention on Biological Diversity, also refusing to bring itself and its corporations under the global regime on liability and redress. This can come at a huge cost to India's ecological security and food sovereignty. Given that a national Food Security Ordinance has also been promulgated by the President of India, there should be every effort by the GoI to refrain from taking steps that might limit government's ability to deliver safe, nutritious and healthy food to the over billion people it is aimed at. The people's Forum on FTAs is also critical of USIBC's key advocacy priorities to promote the opening of India's multi-brand retail sector. As part of its Business Advocacy Agenda (2012-13), USIBC's Committee also pushes for the reduction of tariff and non-tariff barriers on fruits, vegetables, dairy, processed foods, etc.

The Minister of State for Commerce and Industry Ms. D Purandeswari had only recently in a written reply to the Lok Sabha herself pointed out that as per their latest notifications to the WTO in 2010, the US provided about \$4 billion of support to their agricultural producers "under the

category of Current Total Aggregate Measurement of Support (i.e. support considered under WTO classification as trade-distorting)". And any appeal from the Indian side to USA to put an end to such agricultural subsidies have not been heeded.

As described above some of the recent decisions by the Government of India were in line with the domestic development priorities and many such bold initiatives need to be taken to improve India's economic situation, manage trade and current account deficit and improve the lives of its people. The undue pressure on India from US business, US policy makers and US government pose serious threat to effective policy space to generate employment and fulfill development objectives. Such corporate demands and mounting pressure of the US administration against domestic procurements in National Solar Mission and of electronics goods, compulsory licenses for life saving medicines, and forcing India to join WTO plurilateral agreements namely Information Technology Agreement (ITA), International Trade in Services Agreement (TISA), conflict directly with India's developmental priorities and therefore needs to be strongly resisted.

We demand that:

- 1) The Government of India should withdraw its announcement to review its PMA policy, resist undue pressure from US administration that compromises its policy space and give primacy to India's developmental priorities;**
- 2) The Government of India should not jeopardise its capacity to generate employment through domestic manufacturing, provide affordable medicines to millions and revive the rural economy.**
- 3) The US policy makers and the government should not side with US business interests while ignoring interests of the Indian people, 847 million of whom live under US\$ 2 per day.**

Yours Sincerely

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