

IACC Presents Wish List to Trump Administration

December 22nd 2016: Mr. N.V.Srinivasan, National President, Indo-American Chamber of Commerce (IACC) said that India and the US should exchange a bouquet of “wish lists” aimed at fast tracking resolution of bilateral issues that impede accelerated flow of investment between the two countries. Broad contours of the wish lists should include amicable settlement of IPR issues leading to earliest conclusion of the Bilateral Investment Treaty (BIT), Totalization Agreement, a sound legal framework to expeditiously settle disputes, settlement of issues emanating from non-tariff measures and importantly a fast solution to nagging visa problems.

“There is a growing realization among the US corporations that India, lying mid way between West and the East, has the potential to emerge as a Gateway for serving both markets. Many corporations are seriously discussing these ideas in their board room meetings, while others are taking concrete steps towards investing in India with a renewed interest. We have to capitalize on the situation by removing impediments to flow of investments and take concrete step to ease doing business in India to leverage our position as an attractive investment destination,” according to Mr. N.V.Srinivasan.

The US President - Elect Donald Trump has made it very clear that he is averse to regional trade agreements like NAFTA, emerging Trans Pacific Partnership (TPP) etc. which, according to him, have been militated against the US interests. He is in the process of recalibrating the policies to deal pragmatically with each country by their level of importance and economic engagement. Against this backdrop, India’s recent policy initiatives like Make in India, Digital India, Smart city project, high budget investments in infrastructure etc. where critical technical and financial investments are needed, would stand to benefit.

Flagging the contentious issues that are coming up in the bilateral economic negotiations, such as retrospective tax regime in India, tardy Intellectual

Property Rights (IPR) protection and their enforcement, insistence on deciding economic disputes under Indian laws etc, IACC President said that these issues can be settled in a spirit of give and take. “We are happy and privileged to have two administrations in the US and India, which are pro-business and believe in creating an environment for seamless business activities. Donald Trump’s significant business interests in India in various sectors and his statement of intent to forge a strong business relationship are pointers to an exciting bilateral business relationship, Dwelling on a fast track legal framework to accelerate the economic activities in the country, Mr. Srinivasan said that though the Commercial Court and Appellate divisions have been set up with an objective of providing a specialized forum to deal with commercial disputes and is indeed a laudable move considering the huge backlog of cases, which in particular has been detrimental to bilateral relations, there are still several gaping loopholes that need to be addressed. The capacity of the judiciary in handling complex commercial laws with international ramifications and the alarming dearth of judicial representation is not very assuring. The Amendment to the Arbitration Act after a period of 20 years on the other hand has been well thought of especially for disputes pertaining to international commercial arbitrations. The introduction of time limits to conclude disputes is a positive measure to expedite the delivery of awards. According to Mr. Srinivasan, there are still several other tweaks that would be required to be made to the Act to ensure a much more efficient and effective dispute settlement mechanism. Companies internationally have traditionally distanced themselves from resolving disputes in India and this has thereby affected several bilateral business dealings. Hopefully, with the introduction of these new legislative changes coupled with strengthening our intellectual property and taxation laws, will go a long way in improving the trust foreign conglomerates will have while doing business with India.

Another area that needs immediate attention is the earliest conclusion of the double taxation avoidance treaty on social security taxes, often referred to as Totalization Agreement, to avoid double taxation of social security both in the

home country and the country where an employee works. Currently, temporary migrant Indian workers in the US have to make dual payment of social security contributions, both at home and in US. India has around 3 lakh workers in the US in a given point of time, contributing over \$2 billion every year towards social security taxes and they do not get any benefits. To avail social security benefits in US, one has to stay there for over 10 years, but work visas in US are generally provided for a maximum of 6 years. Over the years, nearly \$25 billion have been lost by India.

Referring to the difficulties faced by the Indians in getting the US visas, IACC chief said that one has to take a long term and philosophical stand on these issues and not one driven by short term gains. There has been a proliferation of Indian companies and start-ups in the US, mostly in the ICT sector. These are set up mostly by people who migrated to the US at various stages, particularly during the dotcoms days. Their business enterprises are providing gainful employment to many US citizens. Also, most of the IT and technology platforms in India, such as mobile telephony, credit/debit card networks, climate tracking equipment, heavy duty computers, drones, sensors etc are working on equipment mostly imported from the US.
