

India readying rebuttals to US charges on patent regime

Foreign Ministry putting together information for Indian Mission in Washington

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New Delhi is preparing responses to issues that may be raised up during the US internal investigation on India's intellectual property regime and what it calls trade barriers.

The foreign Ministry, at the request of the Indian Mission in Washington, is collecting information from various Ministries and Departments on US-related trade matters.

It is also short-listing problems faced by the Indian industry in the US.

"This will be used to respond informally to the investigations through consultants or in outreach activities by the Indian Mission," a Government official told *Business Line*.

The investigation on trade, investment, and industrial policies in India has been launched by the US International Trade Commission — a quasi-judicial federal agency. The focus is on India's IP regime, pharmaceutical industry, trade barriers and FDI caps.

The US pharmaceutical industry is strongly critical of India's IP regime which, it alleges,

BONES OF CONTENTION

Accusations by the US

- Indian Patent Act doesn't give adequate protection to patents
- Compulsory licences disregard existing patents
- National Solar Mission's domestic content norms violate WTO rules
- FDI regime in retail and Pharma restrictive
- Market access for agriculture products restrictive

India's counter

- Patents rejected only when innovation is incremental and leads to ever-greening
- Only one compulsory licence issued so far in strict compliance with TRIPS agreement
- Power to be purchased by a public sector body and is thus government procurement, which is outside WTO's purview
- India has liberalised its FDI regime to a large extent and continues to do so
- Agriculture is sensitive issue as it involves millions of poor farmers

against which the US issues trade sanctions. Although the USITC investigation does not make recommendations on policy matters, its findings and analyses guide policy making by the US President, the US Trade Representative and the Congress.

Key concerns

Concerns raised by the US include domestic sourcing clause in the National Solar Mission, safe testing and security testing of electronic products, restrictions on FDI in certain sectors such as retail and restrictive market access for agricultural products.

"While we are not under any

compulsion to respond to the US investigations as our policy-making is our sovereign territory, it is important that we prevent spread of misinformation. That is why we will do our bit in correcting the wrong information on our policies that is being spread by various lobbies, including pharmaceutical companies," the official said, adding that India's policies were compliant with World Trade Organisation (WTO) rules.

The Ministries of Finance, Commerce & Industry, Agriculture, Health, New & Renewable Energy and Telecom have submitted their responses to the Foreign Ministry.

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