

**USINDIA** Business Council

# **THE WAY FORWARD**

USIBC's 2011–2012  
Business Advocacy Agenda



## USINDIA Business Council

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# FOREWORD & INTRODUCTION

## FOREWORD

The objectives and deliverables outlined in this document are the guideposts and milestones for a journey already begun—a journey that for some U.S.-India Business Council (USIBC) members began decades back. For many, though, it started only at the dawn of India's economic opening, just 20 years ago.

The purpose of this document is to identify measures that will propel continued economic successes—with benefits accruing to the citizens of both our countries. With your continued support, USIBC's efforts toward this worthy goal will set a shining example and, in the words of John F. Kennedy, "This glow can truly light the world."

## INTRODUCTION

### **USIBC'S 2011–2012 BUSINESS ADVOCACY AGENDA** *A Road Map for Deeper U.S.-India Commercial Engagement*

Following President Obama's historic November 2010 visit to India, the U.S.-India Business Council convened its membership and the leadership of its 12 Executive Committees to take the temperature of the U.S.-India business climate, to measure progress and business advocacy gains, and to chart the way forward in the commercial sphere.

Two outcomes were achieved: The important working groups of Heavy Manufacturing and Transport Infrastructure were consolidated, forming a new Executive Committee focused on infrastructure. More important, USIBC's members generated an Advocacy Agenda for the year ahead. This agenda will be calibrated as the political seasons in the United States and India shape priorities and as unforeseen internal and external events sharpen our focus.

# EXECUTIVE COMMITTEES

## AEROSPACE & DEFENSE

Big ticket sales of U.S. high technology defense equipment to India have made significant strides, despite major disappointment over India's choice not to select a U.S. platform for its Medium Multi-Role Combat Aircraft (MMRCA) procurement. U.S. defense companies Lockheed Martin and Boeing, among others, have achieved new milestones in defense sales to India. This includes sales of the C-130J and P-8i Naval Reconnaissance aircraft, valued at more than \$4 billion, augmented by India's recent announcement to buy Boeing C-17 transport aircraft, valued at \$4.1 billion. Combined U.S. defense sales exceeding \$8 billion is noteworthy, considering that for the entire previous decade U.S. defense sales to India totaled less than \$500 million. Boeing's VVIP jets, G.E. Engines for India's Light Combat Aircraft, and Textron's high technology sales have added to this success, as India plans on spending an additional \$45 billion in defense procurement over the next five years. A related "win" in 2010 was India's agreement on sensitive language concerning end-user verification. These achievements are attributable to consistent advocacy by USIBC's Aerospace & Defense Executive Committee, the success of which was the result of close USIBC coordination with the U.S. government, the government of India, and with industry on both sides.

USIBC will continue to advocate for the efficient transfer of technology from the United States to India, leveraging the breakthrough export controls reform announced during President Obama's visit to India. While increased foreign direct investment (lifting FDI caps to 74%) in India's defense sector remains a priority, USIBC will press for policy alignments supporting greater commerce in dual-use and high technology products.

The overarching objective is for U.S.-India defense trade to become the foundation for strategic partnership—based on mutual respect, trust, and collaboration. This deepened partnership will affect the way technology flows between the two countries for generations to come. The U.S.-India Strategic Partnership will be central to making the world a safer, more secure place.

### LEADERSHIP

Committee Chair: **Raytheon**, Pete Martinez

Committee Vice Chair: **Textron**, USN Adm. (Ret) Kevin Cosgriff

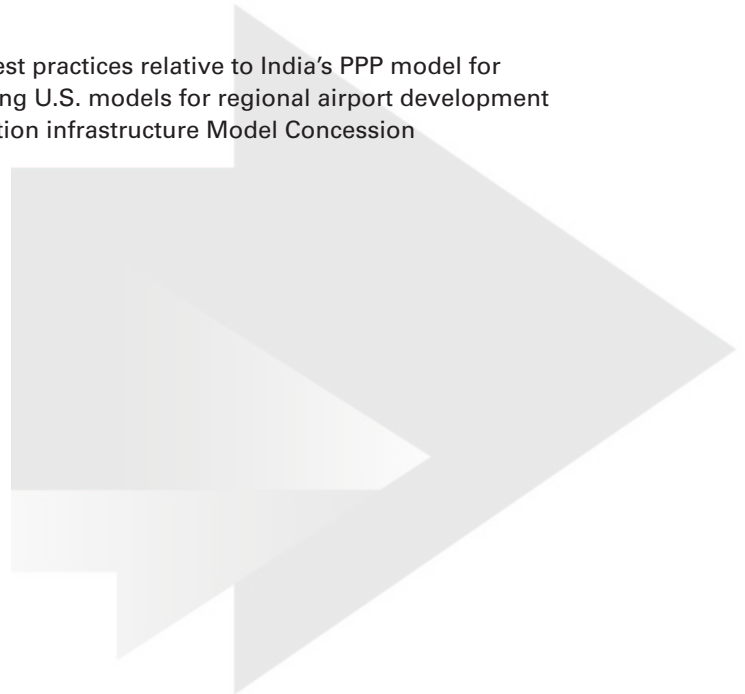
Executive Defense Steering Group (EDSG): **Raytheon, Textron, General Electric, Honeywell, Lockheed Martin, The Boeing Company, and United Technologies Corporation (UTC)**

Civil Aviation Working Group Chair: **Pratt & Whitney (UTC)**, Susan M. Walsh

### ADVOCACY PRIORITIES

- > Maintain momentum for "highest level" U.S. government **advocacy for India to procure U.S. platforms/offerings** for key programs.
- > Press India to **revise upward the 26% cap on foreign direct investment** in the defense sector, which limits technology investment. Lifting this cap will spur greater investment, increase co-production, and facilitate joint manufacturing and offset partnerships with Indian industry.

- > Support a greater match-up between India's procurement procedures and the U.S. sales process (FMS/DCS).
  - Advocate for greater agility by/for U.S. foreign military sales to mesh more synergistically with the government of India's Ministry of Defense procurement procedures (DPP).
  - Help the U.S. government better appreciate the government of India's expectations regarding ToT/DoD Tech Release Policies (OSD Policy, DTSA, and AT&L) and vice versa.
  - Continue education exchanges/awareness-building exercises between the Indian services and American counterparts, which illuminate the benefits of FMS, including an appreciation for the concept of life cycle costs.
- > Continue to urge India to **sign long-pending "enabler agreements,"** i.e., Communications and Interoperability Security Memorandum of Agreement (CISMOA) and the Basic Exchange and Cooperation Agreement for Geo-spatial Cooperation (AGC). Such agreements are required to facilitate more technology sharing and an increased flow of information and expertise.
- > Deepen defense cooperation and dual-use technology exchanges by advocating to the U.S. government for treatment of India **as a favored nation** when the United States considers release of certain categories of advanced technology or information necessary for defense cooperation.
- > Encourage India to promulgate **greater transparency and predictability in its offset policy** as well as clarify its expectations for the transfer of technology. Continue to push the envelope on widening the aperture of Indian government-approved defense offset projects.
- > Press both governments to continue **service-to-service engagement**, including army-to-army programs, as well as deepened relations between Indian services and PACOM (I-SFG).
- > For civil aviation, participate in implementing the recently executed U.S.-India Bilateral Aviation Safety Agreement (BASA).
- > Advocate for the application of international best practices relative to India's PPP model for metro airport development. This includes sharing U.S. models for regional airport development and providing guidance on existing transportation infrastructure Model Concession Agreements (MCAs).



New policies related to security have caused enormous disruptions in the Information and Communications Technology (ICT) sector, which could jeopardize billions of dollars worth of sales for USIBC member companies. USIBC has initiated a robust work program with its members, both governments, and other stakeholders to reverse policies that threaten cooperation while advancing activities that serve to evolve new and innovative solutions to address India's security challenges.

In the coming months, the Digital Economy Executive Committee will work with the government of India's leadership to formulate recommendations relative to India's security concerns suitable for near-term implementation while providing a foundation for a more permanent set of solutions. USIBC's Digital Economy Executive Committee will engage the Indian government on its plan to introduce privacy legislation, submit suggestions to help India develop an e-Waste regime that enables ICT-related growth while strengthening environmental protections across the country, and work with both governments and member companies to create a more transparent high-tech regulatory and tax environment. This effort will include greater movement of high technology professionals between our countries.

### LEADERSHIP

Committee Chair: **Oracle**, Joseph Alhadef

Chair for the Movement of Skilled Professionals Working Group: **Cognizant**, Robert Hoffman

### ADVOCACY PRIORITIES

- > Continue to work with the U.S. government, the Telecommunications Industry Association (TIA), and key stakeholders to press the government of India to scrap the TSP-Vendor Agreement and related license amendments. Ensure that final security-related policies regarding **telecommunications infrastructure security and lawful intercept** meet India's national security and law enforcement needs while protecting the continued growth and innovation of the ICT sector.
- > Continue broad engagement with the government of India to ensure that future regulations implementing the **IT Act and 2008 Amendments** are transparent and conform to international norms and best practices. Key deliverables on the IT Act are as follows:
  - Provide comments on the draft regulations implementing the remaining IT Act Amendments, specifically 43A (Data Protection), 70A (Protection of Critical Information Infrastructure), 70B (Agency to handle Cyber Security), 79 (Liabilities of Service Providers), and 84A (Encryption).
  - Promote the adoption of international best practices in implementing Section 84A by not capping encryption strength or imposing key escrow deposit or plain text translation requirements.
  - Ensure that implementation regulations include specific due process provisions and mechanisms for companies cooperating with the government of India. These due process mechanisms must be transparent and ensure protection of proprietary and confidential information.

- > Provide input to and help shape future **privacy legislation** being developed by India's Department of Personnel Training relative to the UID project.
- > Continue to engage the U.S. government and government of India to address mistreatment of ICT company executives by local customs inspectors. Push for broader **customs reform** in India to ensure fair and equitable treatment.
- > Press for policies to create a more **predictable and transparent tax environment** in India, such as aligning transfer pricing and permanent establishment principles with international best practices, establishing an advance pricing mechanism, reducing customs duties and excise on IT hardware and software, implementing a Service Tax rationalization, and negotiating a Binding Arbitration MOU to resolve bilateral tax issues.
- > Continue to push for the free and fair **movement of skilled professionals** between the United States and India. This two-way street aspect of the relationship is ever-more important to emphasize as India becomes the United States' primary knowledge partner as companies go global.
- > Ensure that the implementation of India's **e-Waste (Management and Handling) Rules** creates a positive business environment while strengthening **environmental protection**.
- > Urge both governments to launch a working group, under the auspices of the ICT Dialogue, to address the regulatory and policy implications of **Cloud Computing**, with the goal of creating a positive and enabling environment for its development. Press for the Telecom Regulatory Authority (TRAI) to amend or clarify Press Note 3 and the related Department of Telecommunications licensing conditions to provide for a more narrow definition that would permit Indian telecommunications companies to enter into commercial agreements with U.S. ICT firms that store and process data outside of India.



Even as the Indian economy has recovered over the past year, the twin challenges of India's growing energy deficit and the return of higher oil prices have compelled the government of India to seek greater private investment in India's energy sector. The large requirements for energy in India have spurred interest by a range of American companies, including coal exporters, American solar power manufacturers and developers, equipment vendors, and financiers. The conclusion of a Bilateral Reprocessing Agreement between the United States and India, a hike in retail fuel prices, and the implementation of the Jawaharlal Nehru National Solar Mission underscore the government of India's desire for increased American participation across India's vast energy sector.

USIBC's Energy, Environment, & Enterprise Executive Committee will continue to push for full implementation of the U.S.-India Civil Nuclear Agreement, which requires India to ratify the CSC and adjust its domestic law to conform to International Atomic Energy Agency norms that limit liability in the unlikely event of a nuclear accident. EEE will also work to maximize U.S. participation in India's burgeoning solar energy sector. Further, given that a majority of India's energy consumption comes from coal and hydrocarbons, USIBC will place greater emphasis on attracting American conventional energy companies to India's energy sector by showcasing key projects and opportunities in fossil fuels and conventional power generation. This effort will attempt to drive India toward American technology implementation, unleashing U.S. expertise in the vital energy sector.

In the near term, EEE will leverage key platforms like the High-Technology Cooperation Group (HTCG) and the U.S.-India Strategic Dialogue to advocate for important policy and regulatory changes. USIBC will partner with key industry and government stakeholders to successfully feature American products and technology, amplifying American expertise in innovative project recourse financing and in new technologies that are well suited for India's energy sector.

### LEADERSHIP

Committee Chair: **General Electric**, Tim Richards

Solar Power Task Force Co-Chair: **Astonfield**, Aparna Doshi

Solar Power Task Force Co-Chair: **Suniva**, Bryan Ashley

### ADVOCACY PRIORITIES

- > Advocate for India's ratification of the **Convention on Supplementary Compensation (CSC)** to create a domestic liability regime that is consistent with international law and global best practices.
- > Weigh-in strongly on opposing **Local Content Requirements** in solar cells and panels that will hinder participation by American companies in India's Jawaharlal Nehru National Solar Mission and negatively impact India's ability to reach its target of 20,000 MW of solar power by 2022.
- > Interface with major banking institutions in the United States and India to familiarize lenders with the risk mitigation tools that will enable nonrecourse financing for solar projects and other new energy technologies suited for India's energy sector.

- > Support reform in the downstream energy sector by advocating for **open access of gas** pipelines and **market-based pricing** for retail gasoline, natural gas, and diesel fuel.
- > Promote India's procurement of U.S. technology, equipment, commodities, parts, and services for upstream, midstream, and downstream energy and power generation.
- > Encourage a commercially meaningful approach to India's growing urban water management challenges with a goal of providing the tools and technology necessary for India's cities to access **clean water**.
- > Following the adage that success breeds success, deconstruct and trumpet various energy and environment projects in India with proven implementation and financing strategies so that these specialized case studies serve as exemplars that promote replication and the scaling-up of such project models/financings.



In the wake of global financial recovery, the world looks to India as a guiding economic leader, including prominent roles in forums such as the G20 and Financial Stability Board. Now, more than ever, it has become increasingly important for India to implement clear financial policies that are nationality neutral and promote deep investment, transparency, and market integrity. Concerns of overheating, market volatility, and consumer protection that have prevented financial market liberalization and full capital convertibility should inform—but not prohibit—deeper internalization of capital markets. For India to achieve its critical infrastructure, economic, and social development goals, it must have access to the broadest and highest quality range of financial services.

USIBC's Financial Services Executive Committee will engage in a variety of issues, from debt market development and banking regulation to offerings of financial products, electronic payment systems, private equity, and venture capital. The committee will continue to support the development of India's capital markets and work to strengthen U.S. companies' involvement in India's massive financial inclusion efforts. Of course, all this will be done with an emphasis on advocating the importance of a level playing field for global participants in India's financial markets.

The landscape of India's financial services sector is rapidly evolving, and tremendous business opportunity exists for mobilizing capital and expertise toward India's continued economic growth. USIBC member companies stand ready to commit long-term investment and expertise toward this goal.

### LEADERSHIP

Committee Chair: **Bank of New York Mellon**, Michael Finck

Subcommittees:

- Banking Working Group
- Electronic Payments Working Group
- Securities/Financial Products Working Group
- Infrastructure Finance Working Group

### ADVOCACY PRIORITIES

- > Encourage the **creation of a level playing** field for global participants in India's financial markets by promoting clear, nationality-neutral regulations in banking and across all asset classes. This must also include streamlining the foreign investor registration process and fostering international standards for financial reporting and information.
- > Support government of India initiatives to **modernize India's capital markets for infrastructure development**, including development of long-term rupee-denominated debt, corporate debt, external commercial borrowing, and risk-management trading mechanisms.
- > Work with counterparts in India to strengthen the U.S. private sector's thoughtful participation in India's massive **financial inclusion** efforts, expanding financial literacy and access to a broad range of financial services for India's underserved population, including a fair and high-quality national payments system. Allowing more U.S. bank branches in India will provide impetus to this inclusive growth mantra.

- > Ensure that India remains on the cutting edge as an attractive investment destination by having a **fair, consistent, and predictable tax environment**. The committee will continue to advocate for legislation and implementation that provides **certainty in India's international tax treaties and investment structures**, especially in the execution of the proposed Direct Tax Code.



Food price inflation over the last year has nearly doubled the cost of essential commodities, hampering India's economic growth and threatening the food security of millions. The need for greater farm productivity, strengthened and efficient supply chains, value-added food processing, and the development of more direct linkages between producers and consumers have become priorities for Indian policymakers.

USIBC's Food & Agriculture Executive Committee members will continue to advocate for the removal of market access barriers that impede India's ability to establish an integrated farm-to-market supply chain. Opening India's multibrand retail sector to foreign direct investment is the highest priority, as this intervention will spur investment into India's agricultural infrastructure, including cold chain storage facilities, warehousing, logistics, and distribution. The committee is focusing on elevating outreach to a broader list of policymaking stakeholders and various political constituencies.

The Food & Agriculture Executive Committee is made up of companies representing the entire cross-section of the farm-to-market supply chain. As such, an overarching objective of the committee is to foster a business-led Evergreen Revolution in India. Collective know-how and technologies will be leveraged to support productive farming, greater efficiency in supply chains, value-added food processing, expanded consumer choice, and better water-use management—leading to a safe and affordable supply of food for all Indians.

### LEADERSHIP

Committee Chair: **Cargill**, Devry Boughner

### ADVOCACY PRIORITIES

- > The committee will promote the **opening of India's multibrand retail sector** to support greater linkages between farmers and markets, thus eliminating intermediaries in the supply chain while bringing technology and know-how to improve supply chains. Such reforms will ensure that productivity and efficiency are enhanced, leakages are stemmed, and distribution networks are improved.
- > A level playing field is crucial for facilitating bilateral trade and investment. USIBC seeks the **reduction of tariff and nontariff barriers for agricultural goods** such as fruits and vegetables, poultry, dairy, and horticulture products, in addition to processing and restaurant equipment and farming implements. Permanently reducing market access barriers for these goods, particularly those not produced in India, will ease food price inflation and can mitigate a food shortfall in the Indian market in the event of a weak monsoon or poor harvest.
- > India's food safety, measurement, regulatory, and additive standards, such as those outlined in the Food Safety and Standards Act, 2006, should be **harmonized with globally adopted CODEX Alimentarius standards**. Indian-specific regulations that are replaced with globally accepted norms will help food exporters reach new markets while ensuring a safe food supply for Indian consumers. Shifting regulations from a punitive approach to self-regulation and audit by food producers and marketers will create an environment welcoming new investments and technologies, further supporting the cause of food security.

- > India's rapidly growing population requires increased farm productivity. Advocating for a science-based regulatory environment will incentivize biotech companies to explore investment opportunities to meet these demands. **Encouraging passage of the Seed Bill** will ensure that steps are taken to address India's increasingly urgent need to bolster food production.
- > Advocating for **sustainable water usage practices** in areas such as irrigation, bottling, and waste water treatment will help preserve India's food security and natural resources.



India's infrastructure sector has recently witnessed important milestones regarding project execution and development, such as the completion of the Delhi Airport, the inauguration of the Bandra-Worli Sealink in Mumbai, and key decisions on the development of the Hyderabad metro. Members of USIBC's Infrastructure Executive Committee played a critical role in many of these projects, from providing security architecture to delivering EPC expertise. Yet, despite the government of India allocating more funds for infrastructure development, U.S. company participation has been choppy, and inefficiencies continue to plague the sector, creating a drag on the country's overall economic growth.

The scope of India's infrastructure requirements and the opportunity that exists in the sector are almost limitless. Going forward, private sector participation and foreign direct investment will be essential for India to meet its infrastructure targets. To bolster U.S. company participation in this sector, USIBC plans to highlight the comparative advantages of American companies and engage government officials at all levels (central, state, and local) in order to streamline the tendering process, review and provide targeted critiques of the public-private concession agreements that guide industry participation, and continue to press for greater transparency in the tendering and award process of company selection.

Key bilateral forums provide USIBC with a unique platform to accomplish these goals, which will result in more U.S. companies becoming involved in India's infrastructure build-out.

### LEADERSHIP

Committee Chair: **Dow Chemical Company**, Lisa Schroeter

### ADVOCACY PRIORITIES

- > Work closely with the CEO Forum and Ex-Im Bank to implement the Infrastructure Fund identified during President Obama's visit to India. Continue to press for a streamlining of the project **clearance** process for major infrastructure projects, especially relative to land acquisition and rehabilitation of displaced persons. Review concession agreements and recommend improvement in the tendering process to foster speed, efficiency, and transparency in contractor selection and project execution.
- > Continue to advocate for **remanufacturing**—a concept that is good for customers, good for the environment, and good for business.
- > Continue to foster the development of a long-term debt market in India, one with enough depth to be able to finance capital-intensive infrastructure projects. Press for establishing a bond market in India, as well as seeing India raise the **FDI cap in insurance from 26% to 49%**. Push for **private sector involvement in India's pensions industry** to unlock and channel these savings toward infrastructure development.
- > Monitor the Indian Postal Act to ensure that no provisions are recommended that would restrict USIBC transport logistics firms or courier companies. Press for the **establishment of an independent regulator for India's postal and courier delivery** sector to foster the development and growth of this industry.
- > Support a strong **National Manufacturing Policy** in India that creates a stable business climate and encourages U.S. heavy manufacturing in India.

- > Petition for **lower tariffs** in a range of key components and products, including in the automobile sector, which will deepen collaboration between American companies and their Indian counterparts. High tariffs affecting heavy equipment and machinery, gas turbines, and chemical imports need to be lowered.
- > Promote **India as a world-class hub for manufacturing** by organizing events and forums that feature India's comparative advantage in such areas as operational efficiency and logistics, intellectual property protections, import duties, R&D resources, and the small and medium enterprises (SME) sector. USIBC will reach out to SMEs across America and India to foster greater collaboration in manufacturing.



In order for India to finance its infrastructure build-out that is so vital to the nation's prosperity, the country must form a deep and long-term debt market. A critical foundation of such a debt market is capital investment by insurance and pension companies. Working toward this goal, USIBC will continue to press for the passage of the Insurance (Laws) Amendment Bill by engaging Parliament, the Ministry of Finance, industry partners, and other stakeholders (including Opposition Party leaders), urging them to raise the FDI cap in insurance from 26% to 49%. Although Indian companies have benefited from financing by foreign companies, the current 26% FDI restriction has limited the amount of long-term capital available for these joint ventures. Raising the FDI cap to 49% will provide new avenues for Indian companies to raise financing, help strengthen firms that are starved of capital, help create a viable long-term debt market for infrastructure development, and facilitate faster growth of the insurance sector and provide access to insurance for millions of uninsured people.

### LEADERSHIP

Committee Chair: **New York Life**, Richard Rossow

### ADVOCACY PRIORITIES

- > Continue to press for passage of the **Insurance (Laws) Amendment Bill**.
- > Increase direct **engagement with the IRDA** to help influence and shape regulatory rulemaking to ensure the continued health and vibrancy of the insurance sector.
- > Push for the **extension of the service tax exemption** to insurance agents and the **tax loss carry forward period**. Work to **level the tax rates** for unit-linked insurance products and similar products.
- > Continue to support the passage of the **Pensions Bill**.
- > Lobby the Reserve Bank of India (RBI) to **increase the current FDI cap on mortgage guarantees**.
- > Work with the RBI to address existing policies that inhibit foreign direct investment through the **repeal of Circular 20**.
- > Press the IRDA to **liberalize the "wordings" of its policies**. Current restrictions have led to a commoditized product sector where the only differentiation is on price, and to a much lesser degree, on service. This is causing considerable operating difficulty, particularly for foreign entrants (even under the 26% JV cap limitation) to demonstrate the value of broader all-risk wordings and bring more world-class best practice options to industrial property offerings.
- > Reverse recent moves to restrict, or even stop completely, access to **offshore reinsurance capital markets**.

## LEGAL & PROFESSIONAL SERVICES

USIBC has been closely monitoring the recent case filed in the Chennai courts that accuses several U.S. (and U.K.) law firms of engaging in the unlicensed practice of law in India. Such actions constrain FDI into India, while hampering outbound investment to the United States.

USIBC has taken the lead in convening the named respondents in this case and hosting a series of conference calls to plan strategy. It has since submitted official representations to both governments concerning this far-reaching case.

The Legal & Professional Services Executive Committee will continue to advocate for the opening of the legal services market in India. To achieve this, USIBC will promote genuine collaboration between U.S. and Indian firms and advocate for domestic legal reforms in India.

Legal and professional services are the lynchpins of the growing U.S.-India commercial relationship. Unfettered access to the best legal, accounting, and economic minds that these two great nations possess is the engine that will support large, increasingly complex, multinational transactions to go smoothly, while buttressing investor confidence. USIBC has therefore intensified its focus on this important aspect of the bilateral business relationship.

### LEADERSHIP

Committee Chair: **Covington & Burling**, Ralph Voltmer Jr.

Legal Services Steering Committee:

**Baker & McKenzie**, Gene Theroux  
**Chadbourne & Parke**, Tom Butler  
**Crowell & Moring**, Shikhil Suri  
**Discovery Services**, Ashish Prasad  
**DLA Piper**, William Cook  
**Tatva Legal**, Shishir Sharma

### ADVOCACY PRIORITIES

- > Continue to advocate for the entry and establishment of U.S. law firms in India.
- > Promote alternative dispute resolution, capacity building, and the effective enforcement of contractual obligations.
- > Enable genuine collaboration between law firms in the United States and India to encourage greater trade and investment.
- > Work closely with the Competition Commission of India to build a strong anti-trust regime that conforms with international best practices and facilitates a positive business environment.
- > Monitor the Chennai case closely to ensure that it does not negatively impact U.S.-India trade.

The USIBC Life Sciences Executive Committee has actively advocated for building a stronger regulatory framework for pharmaceuticals and medical devices in India by engaging with government and the private sector to voice key industry concerns. The committee has been instrumental in building a better understanding of the changing regulatory landscape, while advocating for a voice in the creation of new guidelines and regulations for biologics.

A renewed focus will be placed on the U.S.-India High Technology Cooperation Group (HTCG) process or its derivatives to ensure that these forums become more outcome oriented, setting specific benchmarks for the two governments. Benchmarks for this bilateral process will be set by industry from the outset, with progress being reported to the U.S. Commerce Secretary and the Indian Commerce Minister throughout the year.

The Life Sciences Executive Committee will continue to interact with Indian policymakers and thought leaders on the state level promoting health insurance, advancing life sciences, educating the community on the importance of IP, highlighting tech transfer, and reinforcing the message that human safety trumps cost.

India's pharmaceutical industry is poised for spectacular growth if a proper policy environment in India can be established and maintained. Indian companies are proving their credentials, thus establishing a global presence. Cooperation between the U.S. and Indian life sciences industries requires the development of a policy environment that will support business opportunities in both countries.

### LEADERSHIP

Committee Chair: **Biogen Idec**, Adam Gluck

Committee Vice Chair: **Merck**, Heather Clark

### ADVOCACY PRIORITIES

- > **Prevent the enactment of protectionist measures**, such as backsliding on FDI caps in pharmaceuticals, and remain vigilant in resisting compulsory licensing, ensuring that measures designed to allow government flexibility in emergency situations are not misused.
- > **Enhance regulatory harmonization:** Exchanges need to be nurtured with Indian regulatory officials regarding the regulatory pathway for biologic drugs, both innovator and biosimilar, in the United States, Europe, and elsewhere. India should ensure that biosimilars meet global standards of safety and efficacy. Innovative and biosimilar biological products manufactured in India are more likely to be accepted in the international market if the country adopts a robust regulatory framework for these products that conforms to the standards developed by the WHO, the European Union, and other regulators that have studied these products.
- > Advocate for the government of India to adopt **a more nuanced definition and interpretation of Section 3(d) of India's Patents Act such that member companies can achieve IP protections for incremental innovation**. As presently interpreted, enormous uncertainty is arising for biopharmaceutical innovators and investors due to the ambiguous efficacy criteria.

- > Continue to underscore the importance of **regulatory data protection** to the biopharmaceutical industry and seek champions in Indian industry to help deliver this message.
- > Advocate for the **linkage of granted patents to marketing approval**. In India, marketing authorization for pharmaceuticals is not tied to patent rights. Therefore, an infringer can obtain marketing authorization from the government for an on-patent drug, forcing the patent holder to seek redress in India's overburdened court system. USIBC will advocate for India's need to tie marketing approval for pharmaceuticals to patent ownership.
- > **Promote a welcoming regulatory environment for medical devices**. In India, medical devices are regulated according to current pharmaceutical requirements and under the jurisdiction of the Drug Controller General India (or the DCGI). This scenario has resulted in regulatory queries that are not relevant to medical device products and longer review times, leading to delays in the introduction of innovative technology to the market. Regulations need to evolve in a manner that enables industry to flourish and provide patients with the latest in medical technologies.
- > Work with **clinical research organizations** to identify issues facing that industry, including the protection of clinical trial and test data, and establish a regulatory environment that encourages research.



One of the great success stories between the United States and India has been the growing collaboration between our two entertainment industries—Hollywood meets Bollywood. To ensure that these industries are able to collaborate, grow, and thrive, both countries must address key challenges, including counterfeiting and lack of content protection, India's burdensome tax regime, and regulations and other barriers to co-production.

USIBC's Media & Entertainment Executive Committee is working with both governments and other partners to address these obstacles in an effective way and promote efforts to encourage joint production and collaboration between both film industries.

### LEADERSHIP

Committee Chair: **Time Warner**

### ADVOCACY PRIORITIES

- > Ensure that the new **10% Service Tax** on imported media and entertainment products is eliminated under implementation of a new GST.
- > Coordinate with the U.S. government, FICCI, CII, and MPA to push for more concrete legislation, including anti-camcorder legislation in the forthcoming Cinemagraphic Act, to stem the piracy that ravages this industry. Push for sight-blocking legislation to address pirate websites and support the MPA-led **Alliance Against Copyright Theft**.
- > Continue broad engagement with the government of India to ensure that future regulations implementing the **IT Act** and 2008 amendments are transparent and conform to international norms and best practices.
- > Promote efforts to encourage **joint production and collaboration** between the U.S. and Indian film industries. Identify barriers to co-production and filming in both countries and develop an advocacy agenda with MPA, FICCI, CII, and the Indian Producers' Guild to press for meaningful policies by both governments to reduce these barriers.
- > Lobby the **Telecoms Regulatory Authority (TRAI)** to extend the comment period for all draft rules, regulations, and discussion papers. Push the TRAI to offer a consultation paper on Internet piracy as promised during ICT interactions.
- > Request the TRAI to provide specific criteria pointing to when **price controls** might be lifted in accordance with repeated statements claiming that such controls are temporary and will be eased when there is competition in the market. In addition, lobby the TRAI to **amend the "must provide" requirements to allow exclusivity** and better reflect the reality of today's dynamic market environment.
- > Press the TRAI, the Ministry of Information and Broadcasting (MIB), and the Finance Minister to lower or **eliminate the tariff on set top boxes**.
- > Continue to advocate for the relaxation of current **FDI restrictions in DTH satellite TV and cable distribution**.

- > Ensure that the U.S. government, specifically the FCC and the USTR, comprehensively addresses concerns and misperceptions by Indian broadcasters regarding the U.S. broadcasting market during the **U.S.-India ICT Dialogue**.
- > Work with the U.S. and Indian governments to help guide and develop the **national IP policy** to ensure that it creates a world-class regime that protects IP, fosters innovation, and creates a level playing field for member companies.
- > Team with both governments and Indian production companies to help spread the **worldwide standard for digital projection** as laid down by the Digital Cinema Initiative (DCI).
- > Collaborate with the Society of Motion Picture & Television Engineers and the Science and Technology Council of the Academy of Motion Picture Arts and Sciences to educate government and industry on the importance of protecting Indian film and provide the needed investment to ensure that these films can be protected for posterity via **motion picture archiving**.



The market value of real estate under construction in India has increased from \$69 billion in 2006 to more than \$105 billion in June 2010, 8% of India's nominal GDP. Although impressive, this growth is meager compared to its potential. By 2030, in order for India to meet its massive urban infrastructure demands, 700–900 million square meters of new commercial and residential property must be built annually—a new Chicago each year. Foreign capital and expertise are essential to satisfy this demand. Property prices continue to rise, and the investment opportunity is tremendous. Nevertheless, obstacles remain. Liberalization and reforms are necessary to accommodate the housing needs of a rapidly urbanizing population and the facility demands of globalizing Indian business.

The primary focus of USIBC's Real Estate Executive Committee will be to advocate for FDI ownership of existing real estate. Eliminating this constraint will provide needed capital to companies desiring to improve existing assets, enable liquidity and exit options to investors, and lower costs of development and occupancy through a mature resale market with international players.

Real estate investment is an integral component to corporate growth strategy across all sectors and critical to India's economic development goals. Concerns of overheating must give way to clear-minded reforms that encourage rational valuation practices, greater flexibility for banks and lenders, and robust markets for new capital market instruments in real estate.

### LEADERSHIP

Committee Co-Chair: **Hines**, Yash Gupta

Committee Co-Chair: **Hines**, Dan MacEachron

### ADVOCACY PRIORITIES

- > Advocate for **direct foreign ownership and acquisition of existing real estate** assets and the removal of the three-year lock-in period on property FDI.
- > Promote SEBI and RBI efforts to **develop listed real estate investment trusts and real estate mutual funds industry** in India, as well as the secondary market for these products and other capital market instruments in real estate. The goal is to contribute to the Indian economy vis-à-vis improved valuation standards, a lower cost of capital, and greater transparency in real estate ownership.
- > Advocate for **rationalization of stamp duties** to global norms (1%–2%) on registered land transactions.
- > Encourage the **digitization of land records**, enabling implementation of title insurance.

The rise in food prices and inflation are presenting unprecedented challenges to countries worldwide, especially in India. One remedy to this inflation scourge is to extract greater efficiency and productivity from India's farm-to-market supply chain. The government of India has explored the option of opening foreign direct investment in multibrand retail to bring to the farm-to-market supply chain greater efficiencies.

USIBC's RetailTrade Executive Committee will continue to press for allowing FDI in the multibrand retail sector to a near-term limit of 51%. This opening has the potential to transform weak supply chains that currently lead to significant agricultural wastage, inefficiencies, and low returns to farmers. The committee will also energize its newly launched subcommittee on consumer products, which will seek to leverage the combined resources of the retail supply chain to advance policies that can benefit producers and consumers alike.

Above all else, committee members are focused on facilitating the success of organized retail in India—in the multibrand, single-brand, direct selling, and franchise sectors.

### LEADERSHIP

Committee Chair: **Walmart**, Sarah Thorn

Subcommittee on Consumer Products Chair: **Compass Marketing**, Chip DiPaula

### ADVOCACY PRIORITIES

- > The committee will advocate for policies that attract investment into India's farm-to-market supply chain infrastructure and **encourage foreign direct investment in multibrand retail**. Such investments will increase consumer choice, lower prices, tame inflation, and introduce technologies that will boost India's cold-chain storage capacity and farm production techniques.
- > As global brands increase their participation in the Indian marketplace, **developing business linkages and coalitions of support on issues of concern to consumer products companies** will help advance the needs of the entire industry, thus supporting the Indian consumer market as a whole.
- > USIBC will continue to advocate for direct selling as one of India's most promising opportunities in retail. **Securing clarification on regulations concerning direct selling** will incentivize new players to enter the market and lay the groundwork for job creation and expansion.
- > Though these retail sectors already have regulations in place enabling foreign participation, many American companies are unaware of the **opportunities that exist for single-brand and franchise routes of entry** into the Indian market. Road shows and continued educational outreach by USIBC highlighting these routes of entry will help increase two-way trade and bolster overall retail sector growth.

# USIBC FLAGSHIP INITIATIVES

## COALITION FOR HEALTHY INDIA (CHI)

Innovation is essential for any prospering economy. USIBC's Coalition for Healthy India demonstrates how innovation and discovery, and the underlying protection and reward of intellectual property, ensure access to the latest and best treatments and cures for Indian patients and consumers. By showcasing U.S. and Indian private sector collaboration resulting in innovation, CHI reveals how a regulatory and law-based environment that protects and rewards intellectual property can deliver the best health care solutions to patients in India and around the globe. USIBC's CHI will serve as a platform to highlight how India can and will assume its rightful place as a world-class leader in innovation and public health.

### LEADERSHIP

**Novartis**, Vas Narasimhan  
**Discovery Services**, Ashish Prasad

### OBJECTIVES

- > Highlight real-time benefits of innovation and discovery in the health care space.
- > Raise health care awareness and standards in India.
- > Feature the discovery and development of new treatments and cures.
- > Illuminate pathways to better access to health care at affordable costs.
- > Engender a culture among the corporate sector of corporate social responsibility.

### RELATED PROJECTS

- > Rotary International has a major presence in India. USIBC will engage with Rotary Clubs across India to establish a platform of outreach for health-related projects, benefitting stakeholders in both countries.
- > Of all the hospital beds in India, as many as 70% are occupied by people who have ingested non-potable water. Each day across India as many as 800 infants succumb to diarrheal diseases associated with ingesting unclean water. USIBC will raise awareness about the need for clean water and sanitation. Working with the government of India and the U.S. government, USIBC will develop programs involving member companies to help address water/sanitation issues and raise awareness about hygiene and sanitation.

India can produce the global workforce of tomorrow for generations to come if it musters the will to improve India's educational system on all fronts: K–12, technical and vocational, and higher education.

USIBC's Education Initiative recognizes the imperative to leverage India's great demographic dividend. More than 220 million students between the ages of 6 and 18 require better access to K–12 education, vocational education and training, and to institutes of higher learning. Working with academia, industry, and NGOs to strengthen institutional linkages will be a high priority for USIBC.

USIBC's Education Initiative is an important forum for member companies, including universities and education service providers, that seek the opportunity to create closer ties between the United States and India across all aspects of the education system.

In the K–12 space, USIBC is involved in two projects:

(1) USIBC will perform an inventory of private and charter educational foundations in and around Bangalore to determine if and how these institutions can better leverage resources collectively so that common progress can be achieved, benefitting students, teachers, and schools. Linkages, exchange programs, and cross-pollination in training will be explored as part of this undertaking. Foundations will be able to see how best practices are benefitting other schools, teachers, and students, resulting in an awareness-raising enterprise, so that these same standards may be implemented at their own facilities.

(2) Recognizing that private and charter schools serve as competitive models to India's public school system, USIBC will publish case studies featuring a dozen private and charter schools in India—urban and rural, residential and day school—to illuminate obstacles encountered by the founders, and to identify barriers preventing implementation. The results of the study will serve as important markers for policymakers and will identify barriers that are preventing more private sector models from emerging in India.

On vocational education, USIBC member companies are actively engaged in building out scalable models to train and provide a technically skilled workforce that will build India's future. USIBC's Education Initiative will turn to member companies to collect and compile successful examples of vocational training exercises now being implemented by these companies throughout India. These examples will establish useful road maps for new entrants into the vocational and technical education space and prevent companies from adopting failed or partially successful models.

In higher education, USIBC will work to expand its relationships with more educational institutions and companies in both the United States and India. India is attempting to implement 30,000 new colleges and 1,500 universities by the end of the decade. USIBC promises to play a key role in facilitating greater access and deepening linkages between providers of higher education in the United States and counterparts in India.

### OBJECTIVES

- > Press for the passage of India's **Foreign Education Bill**. USIBC will serve as the main focal point for advocacy with the Indian government to ensure that the final bill creates a regulatory framework enabling the entry of foreign universities and colleges into India.

- > Prepare a study to **examine the regulatory environments in key countries around the world** where foreign higher education institutions have ventured and succeeded. These findings will then serve as a basis to develop key recommendations on steps the government of India should take to calibrate its educational legislation to create a welcoming environment.
- > Collaborate with the U.S. State Department to participate in and develop deliverables for the upcoming **India-U.S. Higher Education Summit** and actively follow up with summit participants.
- > Publish a **compilation of case studies highlighting member companies'** current programs that are advancing vocational and technical training in India.
- > Initiate a survey by USIBC in the Bangalore area, **connecting K-12 educational institutions and foundations with one another**, so that resources can be leveraged, exchanges encouraged, and teacher training and best practices amplified.
- > USIBC will prepare a primer on the establishment of private schools in India, a literal how-to booklet featuring 12 case studies on the challenges encountered by companies and well-meaning patrons seeking to establish schools in India. The barriers highlighted in this primer will become USIBC's advocacy platform for pressing the government of India to make policy changes necessary to enable greater access for private educational institutions to become established in India's K-12 sector.



Recognizing the complex nature of the U.S.-India commercial relationship, USIBC's Trade & Investment Initiative seeks to address cross-sectoral barriers to trade and investment in a comprehensive and balanced manner. Measures taken will address broad issues of significance to USIBC's member companies that will not only advance member-company interests but will align the commercial activities of both economies.

USIBC will leverage its membership in the Private Sector Advisory Group (PSAG) to the U.S.-India Trade Policy Forum, hosted by the U.S. Trade Representative and India's Ministry of Commerce & Industry, to advance the policy objectives listed below.

### OBJECTIVES

- > **Bilateral Investment Treaty (BIT).** An investment treaty between India and the United States would provide protection to U.S. and Indian investors alike from arbitrary, discriminatory, or confiscatory government measures, enforceable by recourse to independent international arbitration. Such a treaty could help facilitate two-way investment in infrastructure and other areas where investment is welcome and would provide protections to Indian and American companies as they expand investments overseas. USIBC will work with member companies to generate momentum toward completion of negotiations, counteract critics of the BIT program, and provide input into the negotiation process, including addressing environmental and labor concerns.
- > **Economic Partnership Arrangement.** Encourage economic growth in both societies by forming a Working Group to study the benefits of a U.S.-India arrangement that promotes greater commerce and freer trade across as many sectors as possible.
- > ***Investing in America, The Indian Story.*** Rapid growth of Indian investment into the American economy is not well understood or properly appreciated by the broad public, the media and policymakers. USIBC seeks to raise awareness of the positive effects of Indian company investment in the United States by showcasing the quantitative and qualitative aspects of inward investments from India that benefit our communities, generate employment, and enhance the broader economy.







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