Chapter 2

Indo-US Diplomacy in Trade
This chapter deals with Indo-US diplomacy in trade during the period of our study. It begins with an overview of India’s diplomacy towards trade in general and locating the bilateral trade diplomacy between the two countries in the international context. It then proceeds to study the nature of trade between India and the United States and the issues that dominated the commercial relationship between them. The diplomatic approach of both India and the United States towards the trade issues are dealt with in detail and an attempt has been made to understand the dynamics of this diplomatic relationship with regard to trade.

India and the United States: Reasons for Divergence

After independence India was faced with the enormous task of rebuilding and restructuring the economy that was stunted by the colonial policies. India had to contend with the problem of poverty and development in both the industrial as well as the agricultural sector. On the contrary US was an economic giant during that time and was pushing for economic regime that suited its interests.

India being newly independent, and bitter experience of colonial exploitation fresh in memory embarked in a path of development, which stressed on self-reliance. India adopted a mix of both the capitalist and the socialist economic models for its economy, popularly known as the mixed economy. The United States was a capitalist
economy with a proselytising mission to establish a laisse faire system.

India embarked on a path of non-alignment, of not joining either of the blocs for fear of being controlled by them. It found solidarity with other third world countries with similar problems and espoused its cause. The United States was a super power at the head of the western bloc suspicious of any activities outside its ambit. Despite the bonhomie that existed between the two nations in the initial years of independent India, the above factors resulted in a divergence of interests between the two. This was given effect not only in their bilateral relations but also in the various international fora.

World Trade Scenario: Situating India and the US

The international economy by the end of World War II was characterised by protectionist policies and preferential trade arrangements. As a result, the economies of almost all the countries were affected. This was because of the protectionist policies that led to reduced exports and shrinkage of international trade.

As a consequence the United States and Britain agreed to apply to the international economy the principles of free trade, non-discrimination and stable rates of exchange. Towards this end two new organisations: an International Trading Organisation and the
International Monetary Fund were to be created.\textsuperscript{1} The former was to function as a nodal agency to clear the international trade of physical obstacles like tariffs and quotas. The latter organisation was to take care of the financial aspects pertaining to international trade and its expansion. Despite the intentions of these powers, the objective of International Trade Organisation was never realised. The reason being the failure of the United States to ratify the Havana Charter. Instead the General Agreement on Tariffs and Trade (GATT) came into existence in 1948.\textsuperscript{2}

The purpose of GATT, as envisaged by the United States and other developed countries was to establish a uniform trade regime abolishing the preferential trading arrangements, high tariffs and quotas. The interests of the developing countries were however different. The economies of the developing countries, most of them being newly independent, were in nascent stage of development. They wanted to pursue a policy of protectionism and demanded concessions from the developed countries by way of preferential treatment to their goods. The efforts of the developing countries towards this end met with considerable opposition from the developed countries. There was

\textsuperscript{1} International Bank for Reconstruction and Development was also established as part of the Bretton Woods system. Its main function was to provide funds for development.

\textsuperscript{2} In 1948, Conference on Trade and Employment was held in Havana under the aegis of the United Nations. The Havana Charter envisaged for the establishment of International Trade Organisation, as a specialised agency of the United Nations. It also provided for an interim agreement viz., General Agreement on Tariffs and Trade till the International Trade Organisation was established.
a clear divergence of interests between the developed and the developing nations. The abolition of discriminatory tariffs, quantitative restrictions on import duties and binding of import duties at low rates or nil rates on basis of reciprocity under the GATT was favourable to the developed countries. However, this was not the case with the developing countries. They wanted concession from these restrictions. But, they found it difficult to reform the existing set up from within, as all the members were already bound by certain rules. So they felt the need for an alternative forum that will give priority to their specific interests without any prior conditions. It resulted in the United Nations Conference on Trade and Development (UNCTAD).

The negotiations in the UNCTAD polarised the countries into different groupings: the developing countries grouped themselves along the lines of Group of 77 (G77), the developed countries as Organisation for Economic Cooperation and Development (OECD),

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3 The developed countries argued that when all the countries had agreed to the conditions ad initio it was not possible to relax them without strong reasons. This precipitated the issue.
4 The Conference was first convened in 1962 at Geneva.
5 The Group of 77 refers to a loose coalition of over 100 predominantly developing countries, originally formed by 77 countries at the United Nations Conference on Trade and Development in 1964 to express and further their collective interests regarding the institutional development of the world economic system. This group is mainly concerned with international trade and tariff negotiations. A number of general policies regarding international monetary system, acceleration of transfer of technology, and redistribution of wealth in favour of developing countries had been proposed by this group.
6 The Organisation of Economic Cooperation and Development (OECD) convention was signed in 14 December 1960 and came into force in 30 September 1961. It replaced the earlier regional Organisation of European Economic Cooperation (OEEC). The OECD included as its members mainly free market industrialised countries including the United States. Its aim is to assist member states to develop

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and the Soviet Union and the East as Council for Mutual Economic Assistance (COMECON). The division between the developed and the developing countries were also termed as North-South confrontation. India had always been at the forefront in espousing the cause of the South, while the United States that of the North. In the words of Norman D. Palmer,

In terms of North-South relations the United States may be described as the leading nation of the North and India as the leading nation of the South. In spite of much lip service to cooperation between the North and the South, the actual relations between the countries of the North and those of the South are more conflictive than cooperative. ...India has been a voice of moderation and sanity in the Group of 77 and the non-aligned movement, and in the efforts to place the programs, or demands, of the proponents of the NIEO on the international trade agenda; but it is quite clear that in all of these economic and social policies to promote sustained economic growth with financial stability.

7 COMECON was founded in January 1949 by the countries professing the communist ideology as a counter to the Marshal Plan, which was proposed by the United States; For a detailed discussion about happenings in UNCTAD see L.K. Jha, North-South Debate (Delhi, 1982), p.25.

8 NIEO mean New International Economic Order. It refers to a set of proposals to improve the position of less developed countries by changing their terms of trade with and their arrangements for borrowing from more advanced countries. The demand for this was made first in the extraordinary sessions of UN General Assembly in 1974 and 1975 and urged through the United Nations Conference on Trade and Development (UNCTAD). However, the response of the developed countries was lukewarm.
arenas, and in the whole area of North-South relations, the positions of India and the United States are quite divergent.9

Thus we find that the economic interests of India and the United States were in divergence. The positions of both the countries were a result of the different stages of development and their position in the international economic system. The issues that dominated their discussion at the international arena were reflected in the details of their trade relationship. The bilateral and the multilateral trade relationship between India and the United States cannot be seen in isolation from each other. Instead, the various economic issues at both these levels between the two nations impinge on each other.

**Major Irritants In Indo-US Trade**

*Tarapur Fuel Talks*

One of the major issues that plagued the relationship between India and the United States was the issue of supply of fuel for the Tarapur Atomic Power Plant. Tarapur is a nuclear facility outside of Mumbai, that was built by the American company, International General Electric Company, on a turn-key basis. The basic agreement for this purpose was concluded between India and the United States

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on 3 August 1963. According to the agreement, the United States agreed to supply enriched uranium for the facility for the 30-year period of the agreement. On its part India provided the pledge that it would use only the "special nuclear material" supplied by the United States.

In May 1966, a contract was signed providing for the supply of enriched uranium by the United States to India. The U.S. Atomic Energy Commission agreed to deliver the reactor fuel to the General Electric Company, which was to serve as the lessee on behalf of India. In 1971, an amendment to this contract was made. It provided that, with the mutual consent of the two countries, U.S. domestic laws or policies would apply with respect to "ownership and supply of special nuclear material for use by the seller's domestic distributes.""11

For the first decade after its inking, there was smooth implementation of the agreement by both countries. The Tarapur facility was completed and began to supply atomic power from 1969. Nuclear fuel was regularly shipped by the United States to India on schedule. 24 shipments took place between 1969 and early 1974.12

But serious disagreements and differences of interpretation arose subsequently, mainly concerning the interpretation of the

11 Cited in Palmer, n. 9, p. 222.
12 ibid., p. 224.
commitments rendered by both the nations. Two events brought about a change in the situation leading to serious differences of opinion between the two countries: India's peaceful nuclear explosion in May 1974 and the passage of the Nuclear Non Proliferation Act of 1978 by the United States Congress. These events brought to the fore the different interpretations of the agreement offered by the two nations.

According to the US interpretation, its obligation to supply nuclear fuel comes within the ambit of the Nuclear Non Proliferation Act (NNPA) of 1978, because of the 1971 amendment to the nuclear fuel supply contract. Washington argued that India was obligated to accept the new restrictions on the supply of nuclear fuel to Tarapur contained in the NNPA. But India refused to agree with this interpretation, arguing that the United States could not unilaterally change, by an act of its legislature, a binding international contract.13

Halting the spread of nuclear weapons has been a central U.S. policy objective since the dawn of the nuclear age. This reached a high point during the presidency of Jimmy Carter. But Carter was also at the same time committed to improving U.S. relations with India. Consequently, more than once he overruled the Nuclear Regulatory Commission's recommendation that further shipments of enriched uranium to Tarapur be suspended, by invoking the relevant provisions

13 Raj, n. 11, pp. 252-53.
of the NNPA that empowered him to do so.\textsuperscript{14} The situation did not improve much even after the coming into office of President Ronald Reagan.\textsuperscript{15}

But what made matters even worse, from the view point of India-U.S. relations, is Congressional activism in regard to nuclear non-proliferation. In 1977 the Glenn-Symington Amendment was made to the Foreign Assistance Act, which required that the United States cut off economic assistance to countries that refused to accept international safeguards on their nuclear facilities or were embarked upon nuclear weapons programmes.

It was followed by the enactment of the NNPA in 1978, which extended the reach of U.S. law and ensured that the United States could exercise much stricter control over nuclear commerce. It also provided for a greater congressional role in U.S. export policy, for it required congressional approval for some actions and incorporated provisions for congressional vetoes over decisions taken by the administration. "Under the act, non-nuclear-weapons countries seeking U.S. nuclear cooperation or U.S. exports of nuclear facilities, fuel, or technologies, must accept IAEA safeguards on all their peaceful nuclear facilities – the so-called full-scope or comprehensive

\textsuperscript{14} Palmer, n. 9, p. 218.

\textsuperscript{15} See the broad approach that he outlined to international nuclear non-proliferation in US Department of State, Security and Arms Control: The Search for a more Stable Peace (Washington, 1983), pp. 61-62.
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14 Palmer, n. 9, p. 218.
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safeguards.” But at the same time, the Act also granted authority to the President to suspend the operation of its restrictions if, in his judgement, American national interests were adversely affected in the process of adhering to its provisions.

India especially was an automatic target of the NNPA, which made sure that the U.S. government cannot carry out an international obligation. As Robert Goheen has observed, “The N.N.P.A. ... brought American policy hard up against the Indo-U.S. nuclear cooperative agreement of 1963. It was clearly intended by some on Capitol Hill to do just that.” For, many members of the U.S. Congress held the view that the plutonium used by India in the 1974 test was produced in a reactor furnished by Canada for which the United States supplied the heavy water. This, despite the State Department’s clarification that India could not have “conceivably... used” it for making the nuclear device because it was “used up four years before the Pokharan test.”

The Indian nuclear explosion was stoutly criticised in the United States Congress and there was a call for imposition of restrictions on the supply of nuclear fuel. The NNPA specifically required that the United States not supply nuclear technology and fuel, after a grace period, to any country that refused to accept full-scope safeguards on all its nuclear facilities. As A. G. Noorani pithily observed at that time,

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16 ibid., p. 61.


18 Raj, n.11, p. 253.
the NNPA had "pronounced a sentence of death" on the 1963 accord.

Based on the provisions of the NNPA, the United States asked India to adhere to full-scope safeguards. India regarded this as absolutely non-negotiable and refused to accept. In addition, India maintained that the 1963 Agreement did not provide for such restrictions and that it was entitled to fuel supply, which the United States was withholding. In the words of Prime Minister Morarji Desai, U.S. refusal to licence further shipments of nuclear fuel for Tarapur would amount to a "breach of the agreement of cooperation in 1963 and the contract of 1966."

There were various factors affecting the issue. In the United States, the Congress was against the supply, so was the Nuclear Regulatory Commission. The American public opinion too was against the supply of fuel to India. The United States position was that the 1963 agreement does not allow reprocessing of spent fuel. But Indian officials contended that once the fuel was purchased it is the prerogative of India to what use it puts the spent fuel. This resulted in the United States suspending the supply of fuel for the Plant.

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20 The Times of India, 25 April 1978.
Talks were subsequently initiated on the issue of fuel supply. Three rounds of talks were held in April, July and November 1981. The first round was held on 16 and 17 April 1981 in Washington. The United States and India hosted the talks alternately. H. N. Sethna, Principal Secretary in the Department of Atomic Energy and Eric Gonsalves, Secretary in the Ministry of External Affairs represented India. Assistant Secretary James Malone represented the United States. The talks were aimed at finding an amicable solution to the differences and ‘bring about if necessary, a mutually acceptable termination of the existing arrangements’.22

During Prime Minister Indira Gandhi’s visit to the United States in 1982 a solution was arrived at to overcome the problem of fuel supply. According to the formula worked out France was to supply the fuel within the framework of Indo-US Agreement of 1963 and the Trilateral Agreement of 1971. Following this, an agreement was signed between India and France on 26 November 1983. This arrangement was formally confirmed with the exchange of notes between India and the United States on November 30, 1983.23

In the talks in resolving the issue of fuel supply, the officials had to deal with the intricate problem of United States law prohibiting the reuse of spent fuel. Both the nations in this issue were not willing.

to give up their respective positions. It was resolved only by circumvention in that the United States allowed a third party i.e. France to supply the fuel. Apart from talks held by the experts on the issue, we find the role of the heads of the government of both the countries. In fact, the announcement on the successful resolution of the problem came during Prime Minister Indira Gandhi’s visit to the United States.

*Multi Fibre Agreement*

Another problem of major importance in the bilateral trade relations of the two countries is the Multi Fibre Agreement. The Multi Fibre Agreement (MFA) was signed in 1973. Thereafter it was renewed several times, between countries importing and exporting textiles and clothing. The agreement restricted the export of textiles and clothing from less developed countries and developing countries to the industrialised countries through the quota system. The textile industry was made an exception as it was labour-intensive and used simple technology and protectionist measures were adopted contrary to the principles of GATT.

This agreement is protectionist in nature whereby the United States and other developed countries follow a quota system of imports. The Multi-Fibre Agreement came into effect on January 1974. It covered under its agreement, a wide range of products viz., cotton, wool, man-made fibre textiles and textile products. Since then the
Multi-Fibre Agreement had been renewed thrice. The main aim of these agreements was to restrict the exports from Asian suppliers into the United States of America and European Economic Community (EEC). The Multi-Fibre Arrangement (MFA) progressively became restrictive. In the words of Somnath Chatterjee and Rakesh Mohan,

The MFA...has been designed to protect the textile industries of the US and EEC from competition from the developing countries. ...With MFA II coming into effect from January 1, 1978 there was a tendency towards intensification and proliferation of restrictions...Third renewal of the MFA in 1986 resulted in stringent limits on the export growth for major Asian suppliers who catered to the US and EEC markets.

But in the case of India and other smaller countries the restrictions were not severe. The allotment quotas were liberal and India gained by this, as its textile exports increased and became the major foreign exchange earner. India was one of the few countries that utilized the quota system to the full, especially in the exports to the United States of America. Still India would stand to gain by the removal of the quota system. The removal of the quota system would work to the advantage of the developing countries like India, as it would lead to an increase in their exports.

India argued that the Multi-Fibre Arrangement is a quantitative restriction and the GATT rules are against such restrictions. By imposing quantitative restrictions, the United States along with other

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25 ibid, p. M112.
developed countries, was going against the spirit of GATT. The quantitative restrictions violate Article 1 of the GATT, which is the Most Favoured Nation (MFN) treatment. The Multi-Fibre Arrangement functions against the non-discriminatory provision of the GATT.

...bilateral quotas negotiated on unequal terms under the MFA were a direct contravention of the non-discriminatory provisions of GATT. There are no international rules governing the international allocation of quotas under MFA. In fact, there are no restrictions on trade in textiles among the developing countries as the MFA has been targeted only at imports from developing countries. 26

Thus, the developing countries were urging on the integration of the Multi-Fibre Agreement with the GATT. This effort resulted in the Agreement on Trade and Textiles. By this it was agreed to integrate trade in textiles and clothing into GATT by phasing out the discriminatory and protectionist Multi-Fibre Agreement. This was to be done through in four stages starting on 1 January 1995 and completely integrated on 1 January 2005.27

In the case of India-United States of America trade relationship textiles were of major importance to India. India's major export to the United States of America is the cotton textiles. This was facilitated by liberal allocation of quotas. However, there were a lot of impediments to the textile trade between the two nations.

26 ibid, p. M-113.
Non-Tariff Barriers

Non-Tariff barriers are man made obstructions to international trade other than tariffs. These barriers take the shape of a wide variety of devices such as prohibition and quotas, oppressive and dilatory procedures for the routing and documentation of imports, the requirement of licences or foreign currency allocation.

In the early eighties, apart from the countervailing duties on cotton goods, the leather goods too faced restrictions under the United States Antidumping laws. The United States Plant Quarantine Authority also created problems over the import of niger seeds from India. Niger seeds exported by India were for use as bird feed. It contented that niger seeds contained lot of impurities such as rice husk.28

The early eighties also saw the United States Food and Drug Administration imposed a blanket ban on Indian seafood. The step was taken after it found a few consignments of shrimps and lobster tails packed in an unhygienic manner. The action led to a drastic fall in the export earnings through these items from about fifty crore rupees to half that amount.29

In July 1994, the United States Customs impounded several Indian garments. The controversial directive of the United States

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28 Hindustan Times (New Delhi), 15 December 1983.
29 ibid.
Customs was based on the U.S. Commerce Department claiming that the impounded ghagras and other Indian garments were under quota restrictions. The U.S. Commerce Department argued that free imports outside quotas were given for only traditional crafts. The issue was further complicated by the Consumer-Product Safety Commission. It declared that Indian skirts and garments were dangerous as they easily catch fire. It was widely publicized and videocassettes were circulated showing burning Indian garments. This seemed like a one grand plan against the Indian garments by a concerted action of the United States Customs, Commerce Department and the Consumer Product Safety Commission, though assurances were given by the latter as it was not a concerted plan.

Thus, India finds itself hard put by the attitudes of the United States towards India's export of textiles. The United States in July 1995 again made matters worse by slapping quantitative restrictions on three categories of Indian Woollen garments, viz., men's jacket (code 434), women's jacket (code 435) and ladies blouses and gents shirts (code 440). The quantitative limits imposed were 45,750 dozen units for men’s jackets, 37,487 units for women's jackets and 76,698 dozen units for ladies blouses and men's shirts. The United States

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30 The Hindu (Madras), 14 August 1995. The reason given by the U.S. Customs was that the blocked shipment of ghagras (skirts) were equipped with elastic waist bands and hence did not fall in the freely importable nonquota category of folklore items.

31 ibid., 14 August 1995.

32 The Observer (Bombay), 18 July 1995.
had imposed these restrictions in an effort to protect its woollen industries. The United States argued that the rapid increase in woollen imports from India had been injuring its domestic industry. The small but powerful woollen industry that lobbied for the imposition of these restrictions on imports from India stated that Indian garment imports increased by 400 percent during the previous year alone. However, the textile ministry officials of India vehemently denied it citing trade data.\(^{33}\)

The United States, it is clear, when it comes to protecting its industry does not hesitate to impose restrictions, quantitative or otherwise. This, as explained above, has been best seen in the textile trade between the United States of America and India. India, apart from restrictions imposed by the quota system of the Multi-Fibre Agreement, also had to face other restrictions on grounds like Indian garments do not come under the items agreed to in the bilateral agreement, protection of domestic industries and other bureaucratic hurdles. Though textile trade is the most vibrant in the Indo-US trade, it had to face a lot of hurdles on the side of the United States.

*Generalised System of Preferences*

The Generalised System of Preferences was a concession given to the developing countries by the developed countries. The Generalised System of Preferences offered to six Indian products was

withdrawn in 1982. They were calf and KP lining leathers; buffalo leather in rough, partly finished or unfinished but not fancy; handloom fabrics wholly cotton number 15-34; handloom fabrics wholly cotton number 35-49; and coir floor coverings pile, not hand inserted or knotted. The above imports of the United States were worth 16.36 million dollars in 1981.34

_Countervailing Duties_

An important problem in the bilateral trade with the United States was the imposition of countervailing duties on a number of items. The United States Administration had imposed countervailing duties on Indian goods such as industrial fasteners, public works castings and leather footwears and uppers. The countervailing duties range from 12.8 per cent to 16.8 per cent on public works castings and 18 per cent on industrial fasteners. The reasoning given by the United States Administration for imposition of these duties was that these products were subsidised by the Government of India.35 The subsidies led to the dumping of the above-mentioned goods in the United States market causing injury to the local industries. When the Government of India reduced the cash compensatory support on public works castings in 1981, the United States reduced the countervailing duties in commensuration with the reduction in cash compensation.

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34 Times of India, 13 June 1981.
35 Hindustan Times, 13 December 1983.
The Indian officials are of the view that the countervailing duties were not in accordance with the provisions of the GATT. The Indian response was that the issue would be taken up at the next meeting of GATT in Geneva. Consequently, India made a complaint to the GATT in 1982. The complaint stated that the United States had slapped countervailing duties without the mandatory 'injury test' required under the Tokyo Agreement.

Pranab Mukherjee, Finance Minister of India, during his visit to Washington, took up the matter with the Secretary of Commerce Malcolm Baldrige. He raised India's concern about the restrictions by the United States on industrial fasteners and public works castings. Official level talks were to discuss the issue in detail.\textsuperscript{36}

An American investigation visited India in 1983 was convinced that the cash compensatory scheme for Indian export items was in actuality a refund of taxes. It was clarified that such an action did not amount to subsidies. As a result, the countervailing duty on industrial fasteners was reduced from 18 per cent to 2.2 per cent and that on iron castings from 15 per cent to 1.5 per cent.

Technology Transfer

One of the measures of the Reagan administration that affected India was the tough stand taken in the export of high technology.

\textsuperscript{36} Ministry of External Affairs, n. 23, p. 26.
President Reagan issued an executive order to continue emergency export controls in early 1983. He further introduced a new system of export controls. The Commerce Department and the Pentagon would simultaneously review license applications for certain categories of technology trade with twelve non-communist nations. It included India along with Sweden, Austria, South Africa and Singapore. The reason being illegal reshipments of American technology to the Eastern bloc took place from these countries. Thus export of high technology to India was under severe restrictions. This notwithstanding a memorandum of understanding was signed in 1984. It was considered as a step towards the transfer of high technology. This culminated in an accord in May 1985, signed by Romesh Bhandari, Indian Foreign Secretary and Harry G. Barnes Jr., the US Ambassador to India. This was reached during the visit of Malcolm Balridge, the US Secretary of Commerce to India. The negotiations were conducted for months before the deal was finalized with the Indian assurance that "it would not use the technology to make nuclear weapons or help any other country produce such weapons." The agreement provided for setting up of American technology parks in India to facilitate easy transfer of technology and

40 Facts on File, 31 May 1985, p. 413.
the 'super computers'. The agreement which was hailed by the business and diplomatic circle as a major breakthrough in bilateral relations between the two countries, was the outcome of the talks held between the Mani Shankar Aiyer, Joint Secretary in the Ministry of External Affairs, and Robert Dean, Deputy Director of the Department of Political and Military affairs. However, the talks were not without any glitches. The United States insisted to retain its rights of inspection of certain high technology items to be exported to India. India refused to grant such a right. It said that inspection of its plants where the technology would be installed would only be permitted under the Indian aegis. Review meetings of the Memorandum of Understanding on Technology Transfer procedures were periodically held in January and March 1988 and in January 1989. During these meetings details and modalities in technology transfer arrangements were worked out and a comprehensive system was put in place. A continuous dialogue was on in an effort to 'streamline exchanges and to facilitate easier access of Indian industry to sophisticated technologies and products. In 1988, United States export licenses for controlled items were expected to be worth nearly one billion dollars. The annual review meeting in January 1989 'helped in further streamlining procedures for import of high technology "controlled" equipment from the United States'.

In October 1988, the Cray XMP-14 Super Computer was received by India, which was to be put in use in weather forecasting.\textsuperscript{42} India had requested for another Super Computer, Cray YMP-132 to help research in the Indian Institute of Sciences, Bangalore. Discussions were held in May 1989 regarding the application for Super Computer Cray YMP-132 and other hi-tech equipment subject to special safeguards.

In 1991, the negotiations for the upgradation of the Super computer purchased earlier were concluded. The negotiations for the purchase of second Super Computer progressed in 1991. In 1992, the Cray XMP-14 Super Computer was upgraded to a Cray XMP-216 under a bilateral agreement. The United States had been increasingly worried about proliferation concerns of dual-use high technology.\textsuperscript{43} In the negotiations for the second Super Computer, the United States insisted on 'intrusive and restrictive security and end-use conditions', which was not acceptable to India.

Discussions through 1989 were held on arrangements for the import of certain 'dual-use' technology, which has missile related applications. India's testing of the Agni missile in May 1989 complicated the matter. The United States Congress reacted strongly

\textsuperscript{42} The Security Assurances Agreement that covers the transfer of this very sophisticated technology was signed on 20 October 1987 during Prime Minister Rajiv Gandhi's visit to the US. "White House Press Briefing, October 20, 1987" in American Foreign Policy: Current Documents, 1987 (1988), p. 492.

\textsuperscript{43} Interview with P.K. Kaul, former Ambassador to the United States of America dated 10 April 2003.
and initiated moves to deny transfer of certain missile-related equipment to India.\textsuperscript{44}

In 1991 the annual review meeting of the Indo-US Memorandum of Understanding on transfer of technology was held in Delhi. It covered a whole range of issues and sought to smoothen the flow of high technology trade between the two countries.\textsuperscript{45} The grave concern of the United States on missile and nuclear proliferation was an impediment in the trade in high technology.

Another problem in the high technology transfer was the imposition of a two-year ban on American trade and technology transfers with and to ISRO and Glavkosmos of Russia on 11 May 1992. The supply of cryogenic engines by Glavkosmos to ISRO was considered by the United States as a violation of the Missile Technology Control Regime (MTCR). Further, on 16 July 1992, the United States Department of Commerce by an amendment of Export Administration Regulations notified a list of countries that included India. American companies would not be allowed to export without a licence if it had reason to believe that the product would be used for missile design, development, production and use. The Agni and Prithvi

\textsuperscript{44} Ministry of External Affairs, Government of India, \textit{Annual Report, 1989-90} (1990), p. 41.

projects and the SLV, ASLV, PSLV and GSLV programmes were specifically mentioned in the list.\(^\text{46}\)

India had conveyed to the United States her concern over linking the civilian space programme with the missile programme in the notification. This policy of linking technology transfers to non-proliferation objectives had created a few hurdles in the bilateral ties between the two countries.

In 1993, the United States increasingly linked non-proliferation objectives with transfer of technology. This had been the major reason for the denial of dual-use items and technologies to India.

*Omnibus Trade and Competitiveness Act, 1988*

Mounting trade deficits and debt burden forced the United States of America to pass the United States Omnibus Trade and competitiveness Act of 1988.\(^\text{47}\) This Act is an all comprehensive Act designed to touch upon all aspects of trade augmenting its protectionist measures with stringency in implementation, especially of imports from those countries whose polices it finds are unacceptable to the United States of America.

The idea behind the Omnibus Trade Act of 1988 was that certain countries practice unfair trade and whose biased policies affect

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the commerce of the United States of America adversely. Against such countries the United States of America arms itself through this Act to take retaliatory actions by even imposing 100 per cent tariff on any goods of its choice. The United States' stated reasons to pass this Act are:

(a) decline in American competitiveness in overseas markets;

(b) redistribution of burdens in the trading system;

(c) in its own interest, more aggressive negotiating tactics is of paramount necessity;

(d) a shift in the division of within the United States government regarding the formulation and education of trade policy.

The above-declared objectives are on an inevitable consequence of the trade imbalances and current account disequilibria of the United States of America. The reasons behind these trade anomalies both internal and external. However, what is of concern to us are the external factors, for it is the perception of these external factors which impinges the trade of the United States of America's trading partners. These external factors as perceived by the United States of America

48 ibid., p. 47. See also “Remarks by President Clinton, Long Beach, California 23 August 1988”, Weekly Compilation of Presidential Documents, 29 August 1988, in American Foreign Policy: Current Documents, 1988, (1989), p. 134. To quote President Ronald Reagan, “This bill will continue to help us to continue our efforts to open markets. It’ll help insist on standards of fairplay for our products abroad. It’ll strengthen the ability of U.S. firms to protect their patented, copyrighted, or trademarked goods and ideas from international thievery.”
are 'disparities between macroeconomic policies of large trading
countries, structural defects in world trading systems and inadequate
enforcement of trade agreements, and government distortions and
barriers.49

The United States considers these as unfair trading practices
that discriminate against its trade. These perceived indiscriminate
practices are given the term 'Foreign Trade Practices' and the terms
'commerce' is defined in its broadest sense to include trade in goods,
services and intellectual property rights.

A unique feature of this law is that it requires initiation of
retaliatory action not only when any policy or practice of a
foreign government is inconsistent with an international
agreement but also when the policy or practice is, in the
judgment of the U.S. authorities, "unfair" or "inequitable", even
though it may not be inconsistent with an international
agreement.50

The above feature, which has generated a lot of discomfiture to
the trading partners of the United States of America, is provided by
Section 301, contained in Title III, Sub-title C of the US Omnibus
Trade and Competitiveness Act, 1988 (Public Law 100, 418, 23 August
1988).51

Armed with this draconian Act, the United States Trade
Representative, Ms. Clara Hills announced in May 1989 that India

49 ibid., p. 48.
50 ibid., p. 48.
51 S.K. Verma, "Section 301 and Future of Multilateralism under the GATT", Foreign
along with Brazil and Japan has been named under Super 301. It accused the thus enlisted nations as unfair trading partners and charged them using trading practices that are unjustifiable and place undue burden on the United States commerce. The specific charge that was levied against India was that its regulations conceiving foreign investments are discouraging especially in certain services like banking and insurance.

Simultaneously, a 'Priority Watch list' was also announced, in which India was again listed along with seven other nations - Brazil, Mexico, China, South Korea, Taiwan, Saudi Arabia and Thailand. This was prepared under 'Special 301' provision of the U.S. Omnibus Trade and competitiveness Act, 1988.

These listed countries were liable to be taken action against under 'Section 301' after monitoring for a period of time, during which the concerned countries are called for talks. Failure to resolve the problems leads to punitive action being taken by the United States government. Thus, 'Section 301' is a reciprocity - retaliatory legislation. Under this legislation, the United States Trade Representatives required to identify priority foreign practices, the elimination of which would benefit the United States commerce to a

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53 ibid.
54 S.K. Verma, n. 51, p. 182.
great extent. Mandatory action could be taken against a country on the following grounds:  

(a) the rights of United States under any trade agreement are being deviated; or

(b) an act, policy, or practice of a foreign country violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under any trade agreement or is unjustifiable and burden or restricts the United States commerce.

The main objective behind such measures is to pry open foreign markets for American goods, expand United States exports protest the United States economy against adverse influence of imports and to inculcate competitiveness among the United States companies. To achieve these objectives, apart from resorting to countervailing duties and antidumping duties, it also uses the provisions of 'Super 301', 'Special 301', and 'Section 301' of the 1988 United States Omnibus Trade and Competitiveness Act.

In labelling India as "unfair trading partner" the United States of America has demanded that India,  

(a) open its markets to the United States' goods;

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55 ibid., p. 183.
56 ibid., p. 193.
(b) ease restrictions on foreign investment;

(c) change its patent laws; and

(d) allow foreign companies to enter the insurance and banking business.

Opening of Markets

Trade polices in general, can be classified into two categories. On the one hand it consists of price-orientated measures and on the other hand quantity oriented measures. The price-oriented measures are tariffs, export taxes or subsidies, retention schemes, duty exemptions and import deposits. The quantity-oriented measures include import quotas, import oriented bans, licensing of imports and export quotas or price measures related to export targets. The United States of America has grievances against India in all the above-mentioned categories. But its opposition is most vehement against the quantitative restrictions.

Tariff Restrictions

Tariff rates of India, till recently, has been one of the highest in the world. It was as high as 300 percent till as late as 1991. This came under sharp attack from the United States of America. However, with the beginning of the liberalisation process in 1991 tariff rates have been reduced to a considerable extent. From a high of 300 per cent in 1991, tariff rates have been reduced to ceiling of 50 per cent in 1995-
There has also been a selective lowering of tariffs on some capital goods and semi-manufactured inputs. Further, there has been a consistent reduction in the import-weighted tariff from 87 per cent to 33 per cent in each of the previous five budgets.

Notwithstanding the above measures, the United States of America contends that the tariff rates in India are among the highest in the world. This is all the more true, especially, regarding goods that could be produced domestically. The United States is of the opinion that restriction in areas like agriculture and consumer goods or complete prohibition as in the case of processed food are adverse to the American trading interests.

Moreover, it is argued that the reductions in tariffs are offset by range of additional take and countervailing duties. These levies raise the effective tariff well above the ceiling limit. Some such example, which affected the United States' trade are, 'import duty on soda ash (60 per cent; duty rate of 20 per cent), the telecommunications equipment (80 per cent for built up units, 62 per cent for sub assemblies, 50 per cent for components), chocolate and confectionary products (70 per cent), and appliances (5090 per cent). The phenomenally high effective rates of 290 per cent estimated on distilled spirit imports with an additional duty of 40-50 per cent

pointed out as prohibitive by the United States Trade Representative in the 1996 Report on Trade Barriers.\(^5^9\)

While not denying the fact that progress made in tariff reduction had benefited the United States’ producers, the United States press for further reductions on tariff rates and elimination of countervailing duties, which would benefit a whole range of United States exports. The report of the United States Trade Representative states that the industries that would benefit most from such tariff reductions are fertilizers, wood products, paper and paper board, ferrous waste and scrap, computers, office machinery and spares, motorcycles, BU and CKD vehicles and components, heavy equipment spares medical equipment components, copper waste and scrap, hand tools, soft drinks, cling peaches, vegetable juice and canned soup.\(^6^0\)

In the Uruguay Round India offered a two-tiered binding of tariffs on industrial products. But, it was not considered of much use by the United States, as the majority of these bindings are more than the existing applied rates of duty. Similarly, in the agricultural sector, the tariff bindings in Uruguay Round are higher than the actual existing rates.\(^6^1\)


\(^{60}\) ibid., p. 148

\(^{61}\) ibid., p. 149.
Import Licensing

India's import licensing regime, though liberalised, is named by the United States as one of the prime factors that limits market access to the United States' goods. It is argued that the United States' goods would be much more competitive in a more open trading environment.

The United States finds that the import licensing regime of India has virtually banned the import of consumers goods. The exception being some exports are allowed under the 'Special Import Licenses' (SIL), an import permit traded in the market for 6 per cent premium that involves performance requirements.\(^{62}\) The term 'consumer goods', moreover, has been broadly defined. Thus, it brings under its ambit the products of agricultural or animal origin, denying their exports to India by the United States of America.

The import of theatrical films is another area where the United States finds its interests being affected. The United States argues that there is a pre-censorship 'quality check' which is inimical to its exports. It was referring to the certificate required from the Central Board of Film Certification that the film import confirm to the guidelines laid down by the government. "\(^{63}\)

In the case of CKD vehicle 'Special Import License' (SIL) are required even after signing a Memorandum of Understanding (MOU)

\(^{62}\) Government of India, Ministry of Finance, n. 58, p. 110.
\(^{63}\) United States Trade Representative, n. 59, p.149.
with the Director General of Foreign Trade, which is elaborate in detail regarding 'investment capacity, local content, value of CKD imports and export earning'.

Further, some imports had to be canalised through public sector companies. The main canalised items, are petroleum products, bulk agricultural products, such as grains, and vegetable oils, and some pharmaceutical products.64

Quantitative Restrictions

India’s quantitative restrictions are justified on the basis of balance of payments (BOP) grounds under GATT 1994 Article XVIII: B.65 These restrictions which India has relied on for the past three decades are seen by the United States as significant barriers of free trade. The World Trading Organisation Balance of Payments Committee argues that India’s balance of payments position and external accounts no more justify these quantitative restrictions. The United States would benefit by the opening up of the Indian economy through the reduction of these barriers.

Customs Barrier

India’s customs procedure is accused of being unnecessarily elaborate, frequent mishandling and corrupt. These are considered as

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64 ibid., p. 149.
65 ibid., p. 150.
some of the worst aspects of customs procedure. The United States Trade Representative claims that complaints had been received regarding misclassification and incorrect valuation of goods for purposes of duty assessment.\textsuperscript{66}

\textit{Procurement Practices}

The complaint in this regard is that Indian procurement practices are not 'transparent and discriminate against foreign suppliers. The discrimination against foreign suppliers takes the form of:\textsuperscript{67}

\begin{enumerate}
  \item favouring local suppliers when their prices and quality are acceptable, even though it might not be economical,
  \item Government-owned companies cash performance bonds of foreign companies even when there has been no dispute over performance,
  \item prohibition of defence procurement through agents. The argument against this is that a majority of the United States firms do not have enough business in India to justify the high cost of resident representation.
  \item practice of the government entities to use foreign bids to pressurise the domestic producers to lower their prices. The
\end{enumerate}

\textsuperscript{66} \textit{ibid.}, p. 150
\textsuperscript{67} \textit{ibid.}, p. 157.
domestic producers are allowed to resubmit their tenders when foreign producers have underbid them. This, according to the Untied States Trade Representative, could cost the Untied States contractors hundreds of millions of dollars in lost opportunities for just one large project.

(e) While in the case of requirement of foreign financing government agencies follow multilateral development bank requirements, in other purchases foreign companies are discriminated against. When comparable quality of goods and services are available domestically, the same criterion is not followed.

The above factors pose major barriers in the entry of United States goods and service to India. These are seen by the United States as unfair trade practices and as discrimination against foreign companies by denying them a level playing field, on par with the domestic companies. These according to the estimates of the United States amount to loss of millions of dollars in terms of lost opportunities.

_Big Emerging Markets_

One of the major strategies of the Clinton Administration regarding trade was the policy of identifying ten big emerging markets for United States business. The United States National Export Strategy has been guided by the idea of finding markets for American
goods and in the process came up with the policy of identifying and
cultivating ten most potential markets, India being one among them.
The US export strategy looked beyond the markets of Europe and Japan for the first time. In the words of Jeffrey E. Garten, Under Secretary of Commerce for International Trade,

"...there are new, powerful global forces gathering. They are embodied by the rise of ten big emerging markets - countries like China, India, and Brazil - which are acquiring enough power to change the face of global politics and economies. These up-and-coming countries could provide great opportunities for America - expanding markets for our products, higher returns on our investments, and new friends in building a more peaceful and prosperous world." 68

According to the US commerce department the ten BEMs would account for more than 40 per cent of world imports in the next twenty years surpassing even Japan and Europe. 69

The big emerging markets were selected on a basis of a set of criteria. They are: 70

a. 'They have large populations, large resource bases, large markets, and are power houses in their respective regions.'

b. 'They are bursting onto the world scene, shattering the status quo.'

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70 Ibid., pp. 13-14.
c. 'They are critical participants in the major political, economic, and social dramas taking place on the world scene.'

d. 'They are the world's fastest expanding markets, and responsible for a good deal of the world's explosive growth of trade.'

e. 'They are all trying to open their economies, balance their budgets, and sell off their state companies. All but two have instituted substantial political liberalisation.'

India fits into these criteria well with a huge population and a substantial middle class to boot. In the words of Jeffrey E. Garten,

It has a diversified industrial base, with large-scale production of coal, steel, cement, chemicals, heavy machinery, and textiles. Its highly trained and educated work force has helped make it one of the world's largest exporters of computer software. Unlike many BEMs, India has a sophisticated commercial and legal code. Like the others, it has placed economic progress at the heart of its national policies... Between 1991 and 1995, the government largely abolished a heavy-handed system in which anyone wanting to set up a business needed to struggle through months, if not years, of red tape to get a license; it slashed tariffs from a maximum of 300 per cent to 50 per cent; it ended government monopolies in electric power, telecommunications, and aviation; and it welcomed foreign investment for the first time in fifty years.71

In the words of United States Commerce Secretary William Daley, "From its first days in 1993, the Clinton Administration has made India a priority. As one of our 10 designated Big Emerging

71 Garten, n 68, p. 12.
Markets, India has been at the centre of our National Export Strategy."\(^{72}\)

The Commerce Department developed an overall framework to deal with the BEMs. The principal elements of the framework are,\(^{73}\)

a. development of special bilateral forums to discuss commercial cooperation,

b. establishment of a special US Commercial Centre in each BEM. The work of the centre would be to 'help US exporters in gaining early access to the full array of government export promotion and financial services.'

c. Cabinet and sub-Cabinet officials visit to the BEMs in a bid to foster stronger commercial ties between the US and each of the BEMs.

d. development of a long term strategy toward each BEM and the establishment of an intra-agency team to manage it.

According to Jeffrey E. Garten, Under Secretary of State, Clinton Administration has embraced a new approach to India, an approach that is based on increased interaction. He then goes on to list the exchange of delegations over the last few years. In his words, "When


\(^{73}\) Jeffrey E. Garten, "Rethinking US-Indian Commercial Relations", in \textit{Official Text} (USIS, New Delhi, 1995).
Prime Minister Rao visited the US last year, a new spirit was born. The Clinton administration was hopeful that such an environment would foster mutual interests. "Prominent among those interests are the commercial opportunities that are increasingly at the heart of the Clinton administration's foreign policy."74 The importance given to commerce by the Clinton administration can be understood in the following quote from Garten,

Commercial Engagement is a term and concept championed by the Clinton administration generally, and by Secretary of Commerce Ron Brown in particular. The idea is that in the post-Cold War era, American interests in more trade and more investment with our principal trading partners will be at the centre of our foreign policy as never before in the last half century. Commercial Engagement will lead to more jobs at home and abroad. In our view, in fact, it was a winner for all concerned. Commercial Engagement will improve living conditions and multiply individual choices – as when electrical power generation brings light to countryside, or telecommunications technology bring phones to the homes of half the world that has never made a phone call. And commercial engagement will provide a platform on which to rest the ties among different platforms.75

74 ibid.
75 ibid.
WTO Related Issues

In July 1998, International Monetary Fund recommended that India did not warrant quantitative restrictions on account of balance of payments problem. According to it, India's balance of payments had improved and that it no more required concession on that account. The stand of the United States was also similar to that of the IMF. This was opposed by India. Commerce Minister Ramakrishna Hegde reacted in the Rajya Sabha saying, "The IMF has no business to poke its nose in WTO affairs."76

Diplomatic Relationship

The diplomatic relationship between India and the United States was characterised by regular contact with each both at the level of the decision makers and at the official level. There had been interaction between the official establishment and businessmen too in both the countries. There had been cross border interaction too between the private sector and the official establishment too.

Official Level Talks

The official level talks were held periodically through the Indo-US Joint Commission. It was composed of four Sub Commissions, one of which was Economic and Commercial Sub Commission. The Economic and Commercial Sub Commission met in February 1983.

The meeting was co-chaired by R.N. Malhotra, Secretary in the Department of Economic Affairs and Robert Hormats, Assistant Secretary.\footnote{77 ibid, p.26.}

The same year, the Indo-US Joint Commission met again in New Delhi during Secretary of State Schultz’s visit. It was co-chaired by the Secretary of State George Schultz and the External Affairs Minister P.V. Narasimha Rao. It was the fifth meeting of the Commission and considered the years of 1984 and 1985 as years of ‘special focus’. The officials reaffirmed the faith of both the countries in democracy and cooperation. It felt that the results of the Overseas Private Investment Corporation mission to India were promising. It hoped that there would be more such missions exploring the possibilities of joint business ventures, technical collaborations and export promotion. The Indian side expressed their intention of sending a trade mission to the United States towards the end of 1983. The Sub-Commissions were also asked to lend their support to that effort. Noting the growing trade ties between the two countries they believed that the Economic and Commercial Sub Commission ought to play an instrumental role in facilitating improved commercial relations. The Joint Commission requested the Economic and Commercial Sub Commission to study further avenues to promote economic and commercial relations between the two countries, including exchange of trade missions. It further urged the Sub Commission to stipulate a substantial
expansion of trade between the two countries, examining areas that offered the utmost promise and to identify and overcome impediments on either side. In the words of Secretary of State George Schultz,

We favour early negotiations on a tax treaty, an area where concrete progress is possible in our commercial relations. We should also encourage the Sub Commission to focus on the most promising areas for expanded trade and investment, such as energy, communications, agri-business and electronic sectors where mutually beneficial technology transfer prospects exist. 78

The importance of the Indo-US Joint Commission in the bilateral talks between the two countries could be understood from the uttering of Secretary of State Schultz. He remarked,

...the work of the Joint Commission and its four sub-commissions was an important and highly promising aspect of our bilateral relationship. The activities of the Sub-Commissions in the fields of economics and commerce, science and technology, education and culture, and agriculture enable us to work together despite political differences. 79

The Economic and Commercial Sub Commission met in December 1983 in New Delhi. It worked over two days and was co-chaired by Finance Secretary P.K. Kaul and Under Secretary for Economic Affairs Allen Wallis. The Sub Commission set up two groups, one to deal with economic issues and the other with trade affairs. The group on economic issues discussed in depth the


79 ibid, p. 872.
Overseas Private Investment Corporation, the Exim Bank of America and the USAID programmes in India. The group on trade affairs noted that a number of cases involving countervailing duties were resolved in United States courts. Both the sides expressed the hope that the remaining issues would be resolved to the satisfaction of both the countries. The Sub Commission noted with approval that had been made in resolving several outstanding bilateral issues in the context of the GATT and agreed to continue these efforts in the future.

The issues discussed involved reduced levels of funding of the IDA to India. It also recognised the importance of international direct investment for India especially as a vehicle for transfer of technology. Further, they agreed such a transfer would be beneficial both to the receiver as well as the donor. The Indian side pointed out that the United States was the biggest source of foreign collaborations and expressed hope that they would continue to grow. The United States delegation was appreciative of the Indian government export promotion policies and steps taken to encourage technology transfer, which included no restrictions on repatriation of dividends, royalty and other dues once the investment was approved. An important issue that figured in the discussions was on an agreement on avoidance of double taxation.

The sixth session of the Indo-US Joint Commission was held in Washington on 6 February 1986. The Commission reviewed the progress made in the areas covered by the four Sub Commissions. An
important recommendation made by the Commission after the review was to increase the frequency of meetings on bilateral trade talks. According to the minutes of the sixth Joint Commission,

The cochairmen agreed that trade and investment continue to be promising areas for strengthening bilateral relations. They saw the increase in technology transfer as a substantial opportunity for development of trade and technological collaboration. The joint commission welcomed the work of the Economic and Commercial Sub Commission in increasing the number of trade missions and in encouraging progress on the important issues affecting economic and commercial ties between the two countries...the cochairmen recommended continued negotiation on a convention for the avoidance of double taxation. They also urged the subcommission...to promote understanding of the economic situation in each country so as to facilitate closer cooperation on trade and finance issues.80

A major development in 1988 was the progress achieved in the talks towards a treaty on avoidance of double taxation. An agreement was expected to be arrived at within a year. In September 1989 the agreement on avoidance of double taxation was signed.

Soon after this, there was not much interaction through the Indo-US Joint Commission and was revived during Ron Brown’s visit to India. After that the Indo-US Economic and Commercial Sub Commission and its Working Group on Finance and Investment met in Washington on 11 and 12 December 1996.81


81 ibid, p. 69.
Regular consultations were also held outside the framework of the Indo-US Joint Commission. In October 1981, Indo-US bilateral talks were held in Washington. Various issues, bilateral as well as international were discussed in depth. Prominent among the issues dealt were those that were related to bilateral trade relations. They were followed by bilateral talks 16 November 1982. Foreign Secretary M. Rasgotra and Under Secretary for Political Affairs Lawrence Eagleburger led the Indian and American delegations respectively. In November 1989, the annual consultations were held in the United States. India was represented by Foreign Secretary S.K. Singh, who held discussions with the United States Under Secretary of State for Political Affairs Robert Kimmit. A wide range of issues were discussed including Indo-US economic and trade exchanges and transfer of technology. The talks were continued during Kimmit's visit to India in 19 January 1990, on the invitation of Foreign Secretary S.K. Singh.

This was followed up by another visit by the Foreign Secretary to the United States in January-February 1990. In November 1992, the second round of Indo-US bilateral talks were held in Washington. It was attended by a delegation of the Ministry of External Affairs. The foreign secretary visited Washington for bilateral consultations with his counterpart United States Under Secretary of State for

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83 Ministry of External Affairs, n. 44, p. 41.
Political Affairs from 25 to 27 August 1993. It was the first high-level contact with the Clinton Administration. The discussions underscored the mutual desire to hold ‘substantive and action oriented dialogue’ on all issues of bilateral concern.  

The official level talks helped in keeping both the sides in the constant knowledge about what the other side was thinking about a particular issue. Further the details of the issues were discussed only through these talks, as narrated above. These talks were given a boost and supported by talks at the political level.

Minister of External Affairs for India P.V. Narasimha Rao and the United States Secretary of State Alexander Haig held discussions at the preliminary talks of the Cancun Summit in August 1981. In 1982, Finance Minister Pranab Mukherjee visited the United States. During this visit the Finance Minister held intensive discussions with the United States Treasury Secretary Donald Reagan, the Secretary of Commerce Baldridge and other key state department officials and representatives of United States industry and commerce. During his discussions with the Commerce Secretary Baldridge he pointed out that the United States was India’s major trading partner. He also outlined that the major proportion of India’s industrial collaborations is with the United States. The major issues discussed included the

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86 Ministry of External Affairs, n. 22, p. 27.
87 ibid., p. 26.
countervailing duties imposed on industrial fasteners and public works castings.

The Finance Minister during his talks with the United States Treasury Secretary Donald Reagan discussed the issue of increase in IMF quota.\textsuperscript{88} He is believed to have stressed during the meeting that there should be no differentiation between countries and an objective criteria should be followed regarding the proposal to charge different rates of interest from different members.

In May 1984, Commerce Minister V.P. Singh visited the United States. He held discussions prior to Vice President George Bush’s visit to India, on some contentious trade issues. He told the United States officials about India’s concerns regarding the countervailing duties on Indian goods and the antidumping investigations.\textsuperscript{89}

The United States Secretary of State George Schultz visited India in June-July 1983. He met the Indian Foreign Minister. The discussions were on a number of questions of mutual interest and were exhaustive in nature. During his visit, the United States announced its willingness to supply those spare parts for the Tarapur Atomic Power Station that were not available from other sources.\textsuperscript{90}


\textsuperscript{89} Times of India, 29 May 1984.

November 1984, the Vice President George Bush visited India along
with a delegation comprising 5 Congressmen and 5 Senators.91

In February 1986, the Minister for External Affairs visited the
United States. During the visit he met President Ronald Reagan, Vice
President George Bush, Secretary of State Schultz and Secretary of
Defence Weinberger. He discussed a wide range of issues with them.

In April 1987, Minister of State for External Affairs K. Natwar
Singh visited the United States.92 Minister of External Affairs on his
visit to New York in September 1988, to attend the UN General
Assembly, met President Ronald Reagan and Secretary of State George
Schultz.93

The year 1988 saw several top ranking United States officials
visiting India. In April, Defence Secretary Frank Carlucci visited India.
Gen. Carl E. Vuono came in October. December saw the arrival of
Secretary of Defence Richard L. Armitage and Assistant Secretary of
State Richard W. Murphy.94

In 1989, United States Congressman Stephen Solarz, Chairman
of the Sub-Committee on Asian and Pacific Affairs of the House of

91 "Statement by Vice President Bush, New Delhi, May 15, 1984", Department of
State Bulletin, August 1984, p. 27., in American Foreign Policy: Current
p. 41.
94 Ministry of External Affairs, n 92, p. 42.
Representatives Foreign Relations Committee visited India and met several top ranking Indian officials including Prime Minister Rajiv Gandhi. Representatives Theodore Weiss, Chester Atkins and Tony Hall and Senators Daniel P. Moynihan and Dave Durenberger also made similar visits to New Delhi during the year.95

In 1991, Senators Daniel P. Moynihan and Larry Pressler, Congressmen James Mcdermott and Mike Kopetski, former Senator Charles Percy and the United States Trade Representative Ms. Carla Hills visited India. In 1994, there was a visit by Secretary of Treasury Robert Rubin, as a precursor to Ron Brown's visit. The year also witnessed the visit of Energy Secretary, Hazel O' Leary to India.

US Under Secretary for Political Affairs Peter Tarnoff visited India in April 1995. He held discussions with the External Affairs Minister Pranab Mukherjee. They reviewed bilateral relations, stressed on the importance of bilateral relations in the emerging world order and dealt with aspects of mutual interest.96 The year saw the landmark visit of US Secretary of Commerce Ron Brown at the head of a big trade mission.

In November 1997 the United States Secretary of State Madeleine Albright visited New Delhi. During her visit she held

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95 ibid, p. 42.
extensive discussions with the Prime Minister on important bilateral, regional and international issues.

**Summit Meetings**

The important of the summit meetings is basically to create an atmosphere of confidence in each other and to know each other's perspective. It would also help in drawing the attention of the executive to issues, which had been long drawn out, or lack of prioritisation. Otherwise, there would be hardly any breakthrough in a summit meeting, except when the groundwork had already been made. Such meetings also convey as to the importance of the relationship. In the case of India and the United States there had been regular meeting between the leaders of the two countries. The Indian Prime Minister Indira Gandhi and the United States President Ronald Reagan met on the sidelines of the Cancun Summit on the North-South dialogue. Apart from conveying India's view on the United States decision to supply sophisticated arms to Pakistan, both the leaders exchanged correspondence on issues of mutual interests.97

The Prime Minister Indira Gandhi visited the United States in July-August 1982. During her visit she held talks with President Ronald Reagan. Among the important issues discussed were bilateral

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economic relations.\textsuperscript{98} During the talks an understanding was arrived at regarding the problem of fuel supply for the Tarapur Atomic Power Plant.\textsuperscript{99} The ways and means to strengthen cooperation between the two countries in various fields were also discussed.

The two heads of the governments were provided with the opportunity of another meeting during Prime Minister Indira Gandhi's visit to the United Nations in September 1983. There was an exchange of views on various bilateral and multilateral issues of mutual concern.\textsuperscript{100} The visit also saw the possibility of an exchange of trade delegations.

In June 1985 the Prime Minister Rajiv Gandhi met President Ronald Reagan on his visit to the United States. He held wide-ranging discussions with the President and his Cabinet colleagues. They met again during Prime Minister Rajiv Gandhi's visit to the United States for the 40\textsuperscript{th} Anniversary Celebrations of the United Nations.

In October 1987, Prime Minister Rajiv Gandhi made a working visit to Washington on his way back from the Commonwealth Summit in Vancouver. He held a meeting with President Ronald Reagan on wide ranging issues.\textsuperscript{101} Science and Technology, trade and investment,


\textsuperscript{100} ibid., p. 939.

\textsuperscript{101} Ministry of External Affairs, n. 92, p. 38.
technology transfer, narcotics control, agricultural education, parliamentary exchanges and collaboration in defence related technology were identified as areas for greater mutual interaction. President Ronald Reagan in a statement said,

...we agreed to take steps to substantially expand two-way trade and recognised the need to reduce barriers to free trade; to consult regularly to ensure that US super computer exports to India reflect the rapid pace of scientific advances while at the same time safeguarding US technology...102

The Prime Minister met President George Bush at New York in 1991 during the summit meeting of the UN Security Council. The Prime Minister P.V. Narasimha Rao visited the United States from 14 to 20 May 1994. The Prime Minister met President Bill Clinton and held wide-ranging talks. An agreement was also reached to ‘expand the pace and scope of high level exchanges on the full range of political, economic, commercial, scientific, technological and social issues’.103 The Joint Statement also noted the US President’s praise of the economic reforms. It expressed the hope that the two countries would sign an agreement on renewable energy sources.104

The Prime Minister had a very cordial meeting with the President Bill Clinton in New York in September 1997. The United

103 Ministry of External Affairs, n. 85, ,p.41.
States President showed keen interest in deepening relationship with India.

**Addressing the Businessmen**

An important aspect of the diplomacy pursued by India and the United States as regards trade had been that the establishment right up to the head of the state had accorded importance to the business community. They were regularly addressed to in both the countries and their concerns addressed. Towards this end, Prime Minister Indira Gandhi took the first step on her visit to the United States in 1982 by meeting American and Indian businessmen in New York. The Prime Minister's effort was to address the American businessmen's scepticism of India's investment policies. She tried to convince them on her government's openness for foreign investment and the recent liberalisation towards that end. The diplomacy of addressing the businessmen was a two-pronged strategy. One is to alleviate fears of adverse policies towards foreign investment from the minds of businessmen and to familiarise them on Indian trade policies and environment. The other objective was to woo the non-resident Indians to invest in India.

The response of India towards the reluctance of American businessmen to invest in India on account of bureaucratic processes to which they were not accustomed, was to sell the idea of joint

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ventures with Indian companies. The logic was that their Indian counterparts could look after the bureaucratic dealings and transactions. The idea found some favour with the American businessmen.

The importance of such direct addresses to the businessmen can be gauged from the fact that according to an estimate the meeting would yield a sales revenue of one billion dollars to India over the next four to five year period. A capital investment of two hundred to four hundred million dollars was expected from the non-resident Indians and a further investment of thirty to forty million dollars in equities. The share of the non-resident Indians in the equities was expected to be ten million dollars. Further, the address had galvanised the non-resident Indians into action. A group set up a mutual fund for people wanting to invest in India and pledges of three hundred thousand dollars from parties all over the United States were received immediately and negotiations with banks for the project began immediately.106

Another advantage of such interactions with the businessmen was the feedback that the officials could receive. This would help them to understand the response towards their policies and the necessary measures expected of them. The non-resident Indians made positive suggestions on improving the exports. The impact such high profile

visits and addresses can have on the business front can be understood from the statement of Harry G. Barnes, the United States Ambassador to India. In his address to the Indian businessmen he said that there was a vast scope for doing business with India, especially after the recent visit of the Indian Prime Minister Indira Gandhi to the United States. He said that her visit had increased awareness of India among the United States businessmen.

The effort of Prime Minister Indira Gandhi was followed by that of her Finance Minister Pranab Mukherjee. In his address to the Indo-US Business Council he justified the policies of the Government of India. He said that India was liberalising during a difficult period while other countries were pursuing protectionist policies. He said government regulation of business was necessary as a developing country like India ought to put optimal use of the limited capital available. He further spoke about the efforts made by his government in reviewing its policies to make them production oriented and supportive of investment.107

The policies focussed on large business houses. According to Pranab Mukherjee 'the scope for investment by large business houses had been enlarged in areas involving high technology, large investments and a good potential for investments.' He added that in a hundred per cent export industry, foreign investment even up to

107 Times of India, 12 September 1982.
hundred per cent would be permitted. Further, Indian companies were also permitted to borrow from abroad. The Indian government was flexible about royalties and engineering fees and was largely guided by the understanding reached between foreign and Indian partners. The tax laws provided substantial incentives for new investments and research and development. He exhorted the businessmen that Indian business offered good scope for collaborations.

A major step in this direction was taken by Prime Minister Narasimha Rao, on his visit to the United States in 1994. The priority for him on that visit was to meet the American business community and appraise them of India’s liberalisation of the economy and its search for partnership with American businessmen. As a result he first met them, before meeting the officials to have a better understanding of what the business community needed.

On the part of the United States commercial administration, they had made a number of visits accompanied by trade missions. They concentrated on playing the role of facilitators to establish contact between the business communities of both the nations.

Role of Commercial Organisations

Commercial Organisations played the role of a catalyst in the diplomatic relationship between India and the United States. The diplomacy revolved around them and their needs. The commercial organisations and business associations acted as pressure groups
ands opinion makers by organising conferences and representations through discussions in Joint Business Councils, represented by the business community of both India and the United States. This section would deal in a representative manner the work done by the commercial organisations.

India Chamber of Commerce of America organised a conference on 18 January 1983. The endeavour was to familiarise the American businessmen on India's emerging pragmatic attitude to trade and foreign investments. It discussed key issues such as regulatory initiatives, areas of feasibility for joint ventures and development and outlook in major economic sectors.108

Overseas Private Investment Corporation of the United States sent a delegation to in February-March 1983. The purpose of the delegation was to set up commercial contacts in India. The delegation met several government officials during the course of their visit. They also held meetings with private sector organisations.109

The year also witnessed a seminar organised by the Engineering Export Promotion Council of India in Houston, Texas. The United States Secretary of Commerce Malcolm Baldrige attended the seminar that held in November 1983. The seminar also attracted a large number of commercial organisations. The seminar identified

108 The Hindu, 19 January 1983
109 Ministry of External Affairs, n. 36, p. 25.
opportunities for trade and joint ventures with India and third countries. Senior officials attended the seminar from the Ministry of Commerce and that of Finance and embassy officials signified the importance attached by the Indian government to the effort. Similarly, it was well attended by the United States officials. Assistant Secretary of Commerce, Alfred H. Kingon, J.R. Sharpe, Vice President of the Exim Bank of America and Orville Freeman, Chairman of the Indo-US Business Council, addressed the conference.\textsuperscript{110}

The US-India Business Council and Indo-US Joint Business Council met in a joint session on 7 and 8 December 1992 at the US Chamber of Commerce in Washington. The meeting dealt with issues such as intellectual property rights, technology transfer, trade and environment and financial services.\textsuperscript{111} On 9 and 10 November 1993, the Indo-US Joint Business Council (JBC) held its sixteenth meeting in New Delhi.\textsuperscript{112} The seventeenth meeting of Indo-US Joint Business Council was held in Washington on 6 and 7 October 1994.\textsuperscript{113} The nineteenth meeting of the Indo-US Joint Business Council was held in New Delhi on 6 December 1996.\textsuperscript{114}

\textsuperscript{110} Times of India (New Delhi), 25 November 1983.
\textsuperscript{111} Ministry of External Affairs, n. 84, p.76.
\textsuperscript{112} ibid., p.70.
\textsuperscript{114} ibid., p.69.
A high-powered FICCI delegation visited the United States under a US Aid Project from 21 June to 1 July 1993. In the private sector cooperation, considerable progress was made by the Indo-US Commercial Alliance. It worked well in areas of common interest. The second Joint Board meeting was held in Washington on 16 and 17 October 1996.

A conference was held in Washington on 25 June 1981. Some of India's leading industrialists and representatives of American industries attended the Council meeting. The agenda of the meeting was to find ways to stimulate more technology transfers to India and encourage American firms to do more business with India. The meeting ended with an appeal to the Government of India to be more flexible with joint ventures if it intended to attract more technology transfers. It also made an appeal to the American businessmen that foreign investors are enjoying more successes in Indian ventures. The meeting urged the United States and Indian governments to work out an agreement on double taxation. Such an agreement would protect the foreign investors from being taxed by both the governments for the same venture.

A note was made on the collaborations and agreements between United States and Indian firms. According to the note, in 1980, for

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115 Ministry of External Affairs, n. 85, pp.69-70.
116 ibid., pp.68-69.
117 Times of India, 26 June 1981.
the first time the United States firms had concluded the largest number of technical collaborations with India: 106 collaborations. It also mentioned that the United States firms concluded 19 financial agreements with India in 1980.

The Council also made a study on United States investments in India. It stated that the United States investments in India amounted to 350 million dollars and was next only to United Kingdom. A sample study of 30 United States equity holdings in India revealed the profitability of the investments. The sales had increased at an average annual growth rate of 16 per cent over the five year from 1975 to 1980. The gross profits averaged 15.2 per cent, retained profits 17.8 per cent and dividends 19 per cent.118

One of the major impediments to United States investments in India was the bureaucratic hurdle that the United States companies faced in India. The United States representatives in the meeting said that they found the bureaucratic process cumbersome and as an obstacle in doing business with India.

In 1982, the visiting Finance Minister of India Pranab Mukherjee addressed the Indo-US Business Council in Washington. He explained to the American businessmen the policies of India encouraging investments and collaborations with Indian firms. Similarly in India, the United States Ambassador to India Harry G.

118 Times of India, 26 June 1981.
Barnes addressed the Council and exhorting them to interact with the representatives of the Overseas Private Investment Corporation and make the best use of the business opportunity.119

The Engineering Export Promotion Council has been very active in the promotion of exports of engineering goods to the United States. Even in the early 1980s they were aware of the vast potential in the United States market for Indian engineering goods. In 1981-82, the export of Indian engineering goods to the United States was worth 60 crore rupees. The target for 1984-85 was placed at 150 crore rupees. However, the Council in consideration of the prospects and potential pointed out that it could well be boosted to 275 crore rupees. Nevertheless, it said that to achieve that kind of a boost in exports the existing factors that adversely affect the export had to be tackled.120

The Council had chalked out a programme to achieve its target in exports to the United States. The main strategy of the Council was to send delegations from India with the objective of promoting exports. The plan included delegation from railway rolling stock panel as well one man teams in specific sectors such as fencing materials, industrial iron castings and computer software. Another effort towards facilitating exports was the setting up of a warehouse in the United

119 ibid., 12 September 1982.
120 Economic Times (New Delhi), 14 July 1982.
States for arranging ready delivery of Indian goods. This was to be the job of the Chicago office of the Council.\textsuperscript{121}

The Council organised a two-day conference in Houston, United States to explore ways of collaborating with the United States businessmen for engineering projects in third countries. It was well attended by American business representatives. The Government of India officials, officials from the Exim Bank of India and the Indian embassy attended the conference. The conference was able to generate interest in the field of energy, civil engineering, industrial machinery, software industry and technical consultancy.

In the energy sector, the American businessmen evinced interest in boilers, electric motors, motor pumps, water treatment plants, transmission line tower projects, aluminium cables conductors for projects in the West and Southeast Asia, fired heaters, sledge oil separators, pumps and valves, forgings for oil released equipment, power projects insulation jobs and piping work. In the civil engineering construction sector, construction of cross country pipelines and erection of mechanical equipment in Southeast Asia, road construction in Brunei with supply of equipment from a United States firm, track laying in Alaska, tie-ups for participation in various projects, including air conditioning of hospitals in Saudi Arabia attracted the attention of businessmen.

\textsuperscript{121} Times of India, 25 November 1983.
In the software industry awareness was developed among the United States businessmen about the Indian capability in terms of computer manpower. In the area of technical consultancy, the Americans were interested in Indian collaborations for a hydrogen peroxide project in Southeast Asia and textile mills, marine terminal offshore platforms, pipelines and multi-storey buildings in West Asia.122

T.A.S. Balagopal, the Chairman of the Indian Engineering Export Promotion Council, in his address to a press conference said,

The conference helped in bridging the communications gap about India's project expertise and manufacturing and supply capability to buyers' specifications and mechanical competence in many spheres. It was felt that if the United States sophisticated technology and project management was blended with India's project expertise and technical manpower availability, a more cost effective package could be offered to clients in third countries and it would enhance the chances of winning major multi-disciplinary projects.123

United States Strategy

The strategy adopted by the United States is interesting to study because it was employed in an asymmetric relationship. The United States had adopted an unilateral approach towards India as far as matters of trade were concerned.

The United States mounted direct and indirect pressures on India to open up its economy and market to foreign investors and

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122 ibid.
123 ibid.
multinational companies, unmindful of its consequences for India’s domestic economy, job opportunities, indigenous industries, market for domestic products and social equilibrium. After forcing India to sign a severely damaging WTO agreement in 1994, which committed India to phase out quantitative restrictions (QRs) on many imports, the United States had taken India to WTO Dispute Settlement Body to force a quick removal of QRs without giving any reasonable time for India’s domestic industry to adjust itself to import competition. ...The United States won the case in WTO and made India to sign an agreement with it, in December 1999, to the effect that by April 2001 the QRs of more than 1400 import items would be lifted, placing India’s domestic agricultural and industrial products at considerable disadvantage.124

This was further augmented by the use of the 1988 Trade Act and listing India under Super 301. However, the United States did not look at bilateral trade relations in isolation. One of the reasons for this aggressive stand was to silence India in the Uruguay Round of multilateral trade negotiations, where it was in the forefront of opposition to United States initiated moves. In the words of A.P. Rana, "The US would like to sort out these through negotiations. But it is not averse to applying pressure tactics against India under Super 301 and the American hard line on issues affecting India as a

developing country in the GATT negotiations are two faces of the same coin."\textsuperscript{125}

As discussed above, in the eighties commerce between India and the United States was dominated by a lot of irritants, which had been discussed in detail in this chapter. The policies of both the countries were at variance with each other. While India still had economic diplomacy that had economic self-reliance and import substitution as a goal, the United States pursued an aggressive diplomacy of influencing the policy of India. The United States policy was export driven and it was looking to expand its foreign market even while protecting its own market. Towards this end it used tools such as countervailing duties, non-tariff restrictions like health standards, etc., on Indian goods. This was predominantly the pattern of the economic relationship, especially in the first half of the eighties, when much of diplomatic energy was spent on resolving those issues. However, India was successful in getting quotas and preferential treatment in many items of its exports such as in the Multi Fibre Agreement.

India's diplomacy also focussed on transfer of technology. This was pursued with vigour especially during the period of Rajiv Gandhi. However, the divergence in issues of security and non-proliferation was a big hurdle in achieving this purpose. India was left with the

unenviable task of explaining its position on the issue and convincing the United States establishment in transferring technology, especially in cutting edge technologies such as supercomputers. This was achieved through confidence building measures such as signing of a Memorandum of Understanding. This provided a framework for negotiation and conveying India’s needs, intentions and problems of accepting restrictive conditions. This ended in a successful transfer of Cray XMP-14 supercomputer with the condition of it being used for purposes of weather forecasting. However, India had to contend with restrictions on ‘dual-use’ technology and in the cryogenic engine issue India was not able to secure the technology and had to look for other sources.

The end of the eighties saw United States diplomacy adopting an even more aggressive stand. It was reflected in the 1988 Omnibus Trade Act. Under ‘Super 301’ provision of the Act, India was put in the list of countries pursuing unfair trade practices. However, India reacted strongly to such tactics and refused to negotiate under pressure. In fact India took the matter to the Uruguay Round negotiations criticising United States of pursuing a unilateral approach when the issues were being discussed under the multilateral fora.

India’s liberalisation of its economy in 1991 was more to do with its own economic problems than to do with United States bilateral pressure. The liberalisation brought about a change in direction of
India's economic diplomacy. It was more export-oriented and was based on increasing commercial relations. As a result, India created institutional set-ups for closer interaction between the business communities of both the nations. This matched the commercial diplomacy formulated by Ron Brown, where India comfortably fitted into the policy of 'big emerging markets'. Further, a forum for interaction of business communities of both the countries and also with the official was created – US-India Commercial Alliance.

The protectionist policies of the United States continued in the nineties. Further, with the successful conclusion of the Uruguay Round of trade negotiations, the success of Indian diplomacy in getting quotas and other benefits under the generalised system of preferences was eroded. By the establishment, these were to be abolished and a uniform international trade regime was put in place. However, India was successful in getting extension for implementing those regulations for few more years. This would be dealt with in detail in the chapter on Uruguay Round negotiations.