Chapter 3

Indo-US Diplomacy in Investment
Foreign investment in independent India was regulated by several industrial policy statements. The first industrial policy of India formulated in 1948 stressed on self-reliance. A statement made in April 1949 by Jawaharlal Nehru, the then Prime Minister of India clarified the government policy with regard to foreign investment:

1. India would not make any discrimination between foreign and local undertakings;

2. Foreign exchange position permitting reasonable facilities would be given to foreign investors for remittances of profits and repatriation of capital;

3. In case of nationalisation of any undertaking, fair and equitable compensation would be paid to foreign investors.

This was further emphasised in the subsequent industrial policy resolution of 1956. This was keeping in line with the socialistic pattern of development adopted by the Parliament. It envisaged a major role for the public sector. According to it,

...the state will progressively assume a predominant and direct responsibility for setting up new industrial undertakings and for developing transport facilities. It will also undertake state trading on an increasing scale. ...The adoption of a socialistic pattern of society, as well as the need for planned and rapid development, require that all industries of basic and strategic importance, or in the nature of public utility services, should be in the public sector. Other industries which are essential and require investment on a scale which only the State, in present circumstances, could provide, have also to be in the public sector. The State, has therefore, to assume direct
responsibility for the future development of industries over a wide area.1

The industrial policy resolutions of 1948 and 1956, along with Nehru’s statement on foreign capital, constitute the basis of India’s policy on foreign capital till 1991, when the new industrial policy was announced.

The Indian government recognised foreign capital as an important supplement to domestic savings for the development of the nation and for securing scientific, technical and industrial know-how. Generally, the major ownership and effective control of undertakings were to be in Indian hands even though in a few cases majority control by foreign capital was allowed. The government extended a number of tax concessions favouring foreign enterprises and streamlined licensing procedures to avoid delays in foreign collaborations.

In 1972, the government decided to permit wholly owned subsidiaries of foreign companies, provided they undertook to export 100 per cent of their output. However, in case new ventures failed to meet this criterion, the extent of permissible foreign capital participation would be subject to negotiation. 2

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The Foreign Exchange Regulation Act was amended in 1973, further restricting the entry of foreign direct investment. The restrictions were directed at certain sectors like banking, commerce, finance, plantations, trading and building construction. It also provided for indigenisation of foreign branches through sale or amalgamation and bringing down the foreign equity participation to 40 per cent. The reason for the limitation on foreign equity participation was to prevent foreign investors from taking control of local companies. Higher equity participation was allowed only on a selective basis in areas of high technology and that too if the technology was not available indigenously.

The 1973 policy statement identified high priority industries where investment from large industrial houses and foreign companies would be permitted, albeit only in those industries that were not reserved for production by public sector or small scale industries. In the 1977 general elections the Janata Party came to power after dislodging the Congress, which latter had been in power since independence. In its statement on economic policy, the party laid the following guidelines regarding foreign collaborations:

"The Janata party will not go in for foreign collaboration in areas where adequate Indian skills and capital are available...Whenever the need for foreign collaborations is felt in areas of high priority, emphasis should be on purchasing

3 ibid., p.7.
outright technical know-how, technological skills and machinery. The provisions of FERA must be rigorously enforced in the sector of consumer goods industries. The foreign firms should be asked to carry forward the process of Indianisation. Their production capacities also should be frozen at the existing levels. (emphasis added)\textsuperscript{5}

Despite the change in government, there was continuity in the policy on foreign investments. The industrial policy statement of 1977 listed a number of industries where no foreign collaboration, financial or technical, would be considered. However, it was made clear that there would be no discrimination towards approved foreign investment. "For all approved foreign investment, complete freedom for remittance of profits, royalties, dividends and repatriation of capital (subject to rules and regulations common to all) was provided.\textsuperscript{6} It further stated that fully owned foreign companies would be allowed only in areas that are highly export oriented or which required sophisticated technology.\textsuperscript{7}

The Janata government took two major decisions, which were to have considerable impact on the attitude of foreign investors towards India. Firstly, Coca Cola was asked to wind up its operations in India. When IBM refused to reduce its equity to 40 per cent, it was also shown the door. From our point of view it is significant that both these were American companies. Notwithstanding this, multinationals continued to operate in India in the non-priority sector.

\textsuperscript{6} Government of India, n. 2, p.7.
\textsuperscript{7} ibid., p.7.
In the 1980s, there was a significant change in the licensing policy. There was some relaxation of control as far as investors from oil-exporting countries were concerned. Investors from those countries could invest up to 40 per cent equity in new ventures in certain sectors. Such investments were not linked to transfer of technology. In 1982 concessions regarding investment in Indian industrial units were also extended to non-resident Indians. The Technology Policy Statement in 1983 further liberalised certain licensing procedures in its effort to encourage transfer of technology. This resulted in the exemption of all but 26 industries from licensing in case of non-MRTP and non-FERA companies. Further, the telecommunications sector was opened to private participation. In the electronic sector, a number of items were exempted from MRTP Act and foreign participation was also allowed. Thus, there was continuity in the policy towards foreign investment since independence, the chief feature of which was strict control over foreign equity participation.

The New Industrial Policy of 1991 was a watershed in India's approach towards foreign investment. It was recognised that foreign investment would bring attendant advantages of 'technology transfer, marketing expertise, introduction of modern managerial techniques

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and new possibilities for promotion of exports'. The new policy allowed.

1. Automatic approval by the RBI of up to 51 per cent of equity in 35 specified industries within 15 days, if the foreign equity covers the foreign exchange requirements for new imported capital goods.

2. The Foreign Investment Promotion Board would clear foreign investment beyond 51 per cent on a case-by-case basis in priority industries.

3. Automatic permission for payment of royalty up to 5 per cent in respect of export oriented units (EOU) and up to 8 per cent for foreign technology.

4. Foreign equity proposals need not necessarily be accompanied by foreign technology agreements.

Further, the restrictions imposed by the Foreign Exchange Regulation Act and the Monopolies and Restrictive Trade Practices Act were liberalised to a large extent. As a result, companies under FERA regulations were brought on an equal footing with Indian companies. The removal of certain sections of the above Acts abolished scrutiny of foreign companies and other restrictions.

9 ibid., p.11.
10 Government of India, n.8, p. 4.
The result of the above liberalisation measures is discernible in the extent of foreign investment made in India. During 1991-98, the government approved total foreign investment to the tune of Rs. 1,73,510 crores, whereas in the preceding decade of 1981-90 the total foreign investment amounted to Rs. 1,270 crores. In this context, where there is an evident shift in India's attitude toward foreign capital and an increase in flow of foreign investment to India, economic diplomacy gained significant importance. The United States was the largest investor in India as evident from the following data:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount (Rs. In Millions)</th>
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<tbody>
<tr>
<td>1991</td>
<td>858.5</td>
</tr>
<tr>
<td>1992</td>
<td>12315</td>
</tr>
<tr>
<td>1993</td>
<td>34618.5</td>
</tr>
<tr>
<td>1994</td>
<td>34880.9</td>
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<tr>
<td>1995</td>
<td>35642.4</td>
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This chapter would attempt to capture the nature of the United States' investments in India and the dynamics of diplomatic interactions between the two countries in this context. Taking into account the importance of the liberalisation process initiated in 1991,

the study would look at the diplomatic interactions in the pre-
liberalisation and the post-liberalisation periods.

**Pre-liberalisation Era**

In the beginning of the eighties, the impact of the second oil
crisis could be felt in India's balance of payments. The balance of
payments problem was further confounded by the debt crisis. This
forced India to take a re-look at its policy on foreign investment. As a
result, there was a gradual move towards deregulation of industrial
policy and opening up of the industries sector to foreign investment.
This was a change from the policies pursued earlier. The United States
was one of the countries that had faced many problems due to the
strict policy adopted by the government of India towards foreign
investment earlier. According to Norman Palmer,

> Like economic assistance, American private investment in India has been a highly controversial part of the Indo-American economic relationship; but unlike economic assistance, it has never been a very significant part of that relationship, except in a symbolic sense. American and Indian views of private foreign investment are obviously far apart. Indians generally seem to be suspicious of such investment and of the transnational corporations that are its chief purveyors. Foreign investment is regarded as the central instrument of economic and financial imperialism.\(^{12}\)

When Indira Gandhi came to power in 1980, she made a move
towards economic liberalisation. One of the first tasks that India had
to do in order to attract foreign investments was to restore investor

confidence. Towards this end she herself took the first step. During a visit to the United States, she exhorted US companies to invest in India. In her speech she said, "We want foreign investment. We want it to bring such technology as we can absorb and adapt to our conditions, which will augment our exports, improve our balance of payments and strengthen our self-reliance..."\(^{13}\)

During the course of her visit, she reached out to the business community in the United States. She met businessmen and in speech addressed their concerns by stating that her government was open to foreign investments and that economic policies were liberalised recently.\(^{14}\) Though the results were not very encouraging, there was an increase in foreign investments. The United States was the major investor. By 1987, India had signed 212 joint venture agreements with US firms.\(^{15}\)

In 1985, in his statement before a Sub-committee of the House of Foreign Affairs committee, Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs Peck said,

> The trend toward further economic liberalisation in India could open up broad new vistas for scientific, technical, and industrial collaboration with the United States. We are already India's most important trading partner, as well as its largest


\(^{14}\) Economic Times, 13 August 1982.

source of new investments and technical licensing agreements from abroad.\textsuperscript{16}

The transcript of the White House Press briefing revealed the importance attached to foreign investments in India. It read,

There will be much discussion of our own economic and scientific relationships. ...we are already India's largest trading partner and we're the source of the largest number of new business collaborations between India and any foreign country. And, therefore, the role of the government, we feel, is encouraging the process that is well underway.\textsuperscript{17}

In 1986, the Indo-US Joint Commission met in Washington. It was co-chaired by George P. Schultz, the United States Secretary of State, and Bali Ram Bhagat, the Indian Minister of External Affairs. In the meeting, they agreed that trade and investment were 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 Subcommission in increasing the number of trade missions and in encouraging progress on the important issues affecting economic and commercial ties between the two countries. To further enhance collaboration between Indian and American firms, the co-chairman recommended continued negotiation on a convention for avoidance of double taxation.\textsuperscript{18}

In September 1989, the agreement on double taxation was

\begin{itemize}
\item \textsuperscript{16} "India is an Essential Partner" (Prepared Statement by the Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs Before a Subcommittee of the House Foreign Affairs Committee.), in American Foreign Policy: Current Documents, 1985 (Washington, 1986), p.625.
\item \textsuperscript{17} "Visit of Indian Prime Minister Indira Gandhi" (Transcript of a White House Press Briefing, 11 June 1985), US Foreign Policy Documents 1985, p.628.
\end{itemize}
signed. The treaty had been under negotiation for over three decades.\textsuperscript{19}

But the United States was not satisfied with the liberalisation measures and wanted India to go even further. It adopted unilateral measures to force improvement in India's investment climate. Towards this end, Washington used the Omnibus Trade Act of 1988. It clubbed India, along with Brazil and Japan, under the Super 301 provision of the Omnibus Trade Act for unfair trade practices, which latter the United States considered unacceptable.\textsuperscript{20} US objective was to ease restrictions on foreign investment and gain access for its companies to the Indian insurance and banking sectors.

Investment barriers could broadly take shape in the form of two main obstacles viz., equity restrictions and trade restrictions. Equity restrictions affect investments directly, while trade restrictions are indirect in their impact.

Some major factors that impede foreign investments are: infrastructure bottlenecks, difficulties in sourcing raw materials, local capital participation requirements and labour legislation,

underdeveloped port facilities, cumbersome customs procedures and exchange controls. 21

The Foreign Exchange Regulations Act was considered as complicated and burdensome initially by most investors. It was later amended in an effort to increase foreign investment. While automatic approval is granted by the Reserve Bank of India for equity investment of up to 51 per cent in 35 industries, government approval is still necessary for majority foreign participation in the passenger car sector. The Foreign Investment Promotion Board considers proposals for foreign equity participation exceeding 51 per cent and projects considered to be 'politically sensitive'. However, the Foreign Investment Promotion Board still reserved the right to deny requests for increased equity stakes.22

As already stated, the local content laws were considered an obstacle to foreign investments. However, they were abolished to the advantage of foreign firms. Still, foreign equity must cover foreign exchange requirements for imported capital equipment.

Despite reforms towards attracting more foreign investments the United States found several discrepancies in the policy of the Indian government. Apart from the limitations on foreign ownership, there

were differential rates of corporate taxation. These taxes were about 10 per cent higher for foreign companies than for Indian companies. Further, incentives were given only to such firms, which were willing to negotiate export performance and value-added guarantees. Firms, which were 100 per cent export-oriented and those located in export processing zones only were allowed to raise foreign currency loans freely from banks, international financial institutions and foreign collaborators. \(^{23}\)

Lack of a proper policy perspective kept the investors in darkness on many an issue. One such was the remittance of funds from liquidation of assets. A lack of policy on business closure confounded this issue in a mine of complexities, leading to lot of strain on the foreign investors \(^{24}\)

Another grievance was that, though the investment in equity was exempted from wealth tax, the capital gains tax discouraged the sale of shares. Instead, it encouraged speculative purchases. Moreover, acquisitions, mergers and take-overs of existing firms were permitted only if negotiated with the existing management and approved by the shareholders.

\(^{23}\) Vijaya Katti, n.21, pp.85-86.
\(^{24}\) ibid., p.86.
Last, but not the least, an important and an inevitable burden was the bureaucracy. There were number of complaints regarding red-tapism and high handedness. In the worlds of Vijaya Katti,

...the apparent lack of an attitudinal change from the old culture of controls and regulations manifested particularly at the lower bureaucratic levels as well as in the states, are the major impediments which place India behind similar investment seekers like Indonesia Malaysia, China and Thailand.\(^{25}\)

Coupled with this was the lack of transparency in the investment approval process. This problem was particularly severe in investments that did not fall under the purview of the Reserve Bank of India’s Automatic Approval Guidelines. All these added to the anxieties of the investors and led to unnecessary delays in the implementation of projects.

In spite of the claims of Government of India that procedures for attracting foreign investments have been streamlined to an extent that the whole process can be completed in 11 months. Senior Officials in Ontario’s Ministry of Industry state that in only one out of 18 cases surveyed at random has the deadline of 11 months been met. In other cases, discussions have been going on with the various wings of the Government of India for the last three years.\(^{26}\)

India’s diplomacy in attracting foreign investment involved the change of investment policy by deregulating the licensing procedures and allowing foreign investment in certain high technology areas. However, foreign investments did not flow in as expected. This was because of the differences in perception between India and the United

\(^{25}\) ibid., p.85.

\(^{26}\) ibid., p.86
States regarding changes in policy to attract foreign investments. While India thought that such changes would be an incentive for United States' investors, the latter were not confident enough. They were still haunted by the bitter experience of the withdrawal of IBM and Coca Cola from India due to government regulations. Further, they were not sure of the measures taken by India towards facilitating foreign investment.

Moreover, India's economic diplomacy was not shaped purely by economic considerations. There were other factors as well. One of these was the image of Prime Minister Indira Gandhi, who nationalised banks and other industries during her previous tenure as Prime Minister. To change this image and also to express India's need for foreign investment, during her visit to the United States she made an open appeal for foreign investments. Further, she also dealt with the United States private sector directly. This was explained earlier in the chapter.

The period of Rajiv Gandhi witnessed a further move in this direction. There was a little more opening up of the Indian economy. The emphasis was on the procurement of high technology from the United States. But the approach of the United States was differed little from the previous position. They felt that there was lot of scope for expansion. In the words of B.K. Srivatsava,

The process that had begun with Indira Gandhi's second term in office was further expanded after Rajiv Gandhi became the Prime Minister. The US however insisted that there were
barriers in India which restricted the expansion of American trade with India and deterred further investments. Undoubtedly, the two countries differed on rules and procedures; tariffs; quantitative restrictions on imports, export commitment for firms seeking foreign investments, inadequate provision for the protection of intellectual property rights, Indian patent laws, etc. These differences have been in existence over a long period. They were discussed between the officials of the two governments.27

The major areas of contention as far as investment was concerned were, ceiling on equity participation, export commitment requirements, and the phased manufacturing programme. The US was particularly interested in opening up the insurance sector in India.28

Post-liberalisation Period

In 1991, India was faced with a severe balance of payments crisis. The foreign exchange reserve was alarmingly low, scarcely sufficient for a week's expenses. So much so, India had to resort to the short-term measure of mortgaging bullion for foreign exchange. The problem was further confounded by the collapse of the Soviet Union with which India enjoyed a beneficial independent economic relationship. With Russia, the biggest of the newly republics, and successor to the former Soviet Union, itself mired in financial crisis, India had to look for other avenues for foreign capital. In order to come out of the crisis India took the unprecedented step of liberalising

the economy in an effort to attract foreign investments; a step that was also a precondition for the financial bail out package sanctioned by the international lending agencies.

These policy changes gave a fillip to foreign investments. It resulted in an increase in foreign investments. From $90 million in 1990, foreign investments increased to $10 billion in 1995. The major portion of these investments came from the United States. IBM, Motorola, Coca Cola, PepsiCo, Morgan Stanley, Merrill Lynch, AT&T, Raytheon, Kellogg, Procter & Gamble, Ford, and Mobil were some of the US companies that undertook to invest in India.

The nineties were characterised by exchanges of delegations to promote cooperation among the business community of the two countries. There was much in common in the policies of both the countries. While the United States wanted more investment opportunities for its companies in India, India was seeking foreign investment for its growth. India made efforts towards this by liberalising the procedures regarding foreign investment. To quote from Country Commercial Guide For India,

The industrial policy announced in July 1991 is vastly simpler, more liberal and more transparent than its predecessor, and actively promotes foreign investment as indispensable to India's international competitiveness...A number of recent policy changes have reduced the discriminatory bias against foreign firms. The government has amended exchange control regulations previously applicable to companies with significant foreign participation. The ban against using foreign brand names/trademarks has been lifted...reduced the corporate tax for companies...The long term capital gains tax was
lowered...The Income Tax Act exempts export earnings from corporate income tax for both Indian and foreign firms.  

At the official level, talks were held periodically so that the differences could be obliterated over a period of time. In the last quarter of 1991, the Commerce Minister of India, P. Chidambaram visited the United States and met Trade Representative Carla Hills. During his visit, he made India's intentions clear by giving approval for the Joint-Venture projects of IBM and Tata, Ford and Maruti, and General Motors and Hindustan Motors.

Shortly afterwards, Carla Hills visited India. During her visit, she met the Prime Minister P.V. Narasimha Rao, the Finance Minister Manmohan Singh and the Commerce Minister P. Chidambaram, among others. It was agreed to, at the official level discussions, that the dialogue between India and the United States on issues such as intellectual property rights should continue to arrive at a mutually satisfactory solution.

It is clear from the two visits that both India and the United States had made their intentions clear. The United States expressed its insistence on arriving at a solution on issues of importance to it. However, instead of pressurizing, it has dealt diplomatically saying that India's interests are to be safeguarded. India also conveyed its

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interest in U.S. investors by giving approval to some joint ventures. These were positive signals from both sides to arrive at a consensus.

Even before Bill Clinton entered the Oval Office as the first post-Cold War US President in January 1993, a report on *India and America After the Cold War*, co-authored by Carnegie Endowment Senior Associates, Selig Harrison and Geoffrey Kemp, and signed by 34 members of the study group was released. It urged the US government to give increased priority to India as the world's largest democracy and as "a potential partner" in efforts to resolve global disputes. Releasing the report, former US Ambassador to India, Robert Goheen said that US policy makers should approach India with the understanding that it is the strongest military and economic power in South Asia and that it's power is likely to grow."^{30}\)

A study by the Asia Society Study Mission, *South Asia and the United States After the Cold War*, subsequently recommended to the US government that economic relations should be the focal point of US engagement in South Asia because "successful economic reform and deregulation in South Asia will offer extensive commercial opportunities for the United States, especially in India."^{31}\)

Indian entry into the international economic playground caught the imagination of the American Commerce, Treasury and Energy

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^{31} ibid.p.133.
Departments, as well as American corporations and business houses. But neither the Carnegie Report nor the Asia Society report had any positive impact on the State Department officials' thinking, at least during the first year of the Clinton administration.

While Washington was apparently busy with more pressing strategic and foreign policy issues, Assistant Secretary of State for South Asian Affairs Robin Raphel had ruined chances of improvement in Indo-US relations with comments on the status of Jammu and Kashmir that was grating to Indian ears. In 1993, issues such as threat to impose sanctions under Super and Special 301 of the US Trade Act against India, unpalatable remarks on Kashmir by the administration officials as well as President Clinton himself, and an undue delay in sending an ambassador to New Delhi created bad blood between India and the United States.

Although the creation of a new South Asian Bureau in the State Department provided an indication that the Clinton administration would give increased attention to South Asia, the priorities set by the State Department at that time did not appear very encouraging for Indo-US relations. During her confirmation hearing in the Senate Foreign Relations Committee on July 19, 1993, Robin Raphel made a prepared statement, which did not give much attention to the prospects of improvement in Indo-US economic ties. On the other hand, she highlighted that
South Asia -- home to one-quarter of mankind -- faces challenges as ancient as ending poverty, as new as pollution and deforestation, and as tragic as the spread of AIDS and the challenge of terrorism. Moreover, in several places in the region, armed conflict and insurgency continue to take an unacceptable human and economic toll. The proliferation of nuclear weapons and their means of delivery threaten massive destruction in the region."

She did mention the existence of opportunities "to foster new partnerships between the United States and the countries of South Asia on issues ranging from controlling the spread of destabilizing weapons to protecting the natural environment to strengthening trade and economic relationships" , but there was little in her statement that would have pleased Indian industrial houses, traders or even the Indian Commerce and Finance Ministries.32

An overall assessment of Robin Raphel's statement and remarks on South Asian affairs, especially those on India, did not appear healthy in terms of Indo-US relations. Nonetheless, there was a piecemeal improvement in her subsequent perceptions of India, which was perhaps the result of the Indian economic reforms that had begun to draw attention around the world.

About two months after her confirmation as the Assistant Secretary of State, Raphel stated in her address at the close of the Asia Foundation's two-day Conference on South Asia in Washington that

American commercial presence in the subcontinent is growing rapidly as trade barriers fall. Projected new US investment in India this year is $200 million, one quarter of the total since independence. Half of the new foreign investment approved by the Government of India in the first six months of this year is American.\textsuperscript{33}

By early 1994, the State Department's judgement on prospects for enhanced level economic interaction between the two countries was considerably optimistic. In her first appearance at the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs after her confirmation, Robin Raphel stated on 5 February 1994:

The US economic relationship with India expanded rapidly in 1993. There was more investment by American companies in India last year than in all the years since independence. Major US corporations recently launched an India Interest Group. This group includes AT&T, Coca Cola, Enron, Ford, General Electric, IBM, International Equity Partners, Morgan Stanley, Raytheon and Unisys. I am certain trade and investment will grow at an increasing pace. This is fuelled by continuing Indian economic reforms and increased willingness by US business to pursue commercial opportunities there. Twenty per cent of all Indian exports come to the United States, and the US is the largest source of foreign investment and commercial technology for India. The Commerce Department has designated India as one of the ten big emerging markets in the world-to receive special attention as we formulate our worldwide export strategy."\textsuperscript{34}

Four days later, while speaking to the Asia Society in Washington, she repeated these remarks and emphasised that the "US-India economic relationship took a spectacular leap last year."\textsuperscript{35}

\textsuperscript{33} \textit{Times of India}, 19 July 1997.
Robin Raphel's observations on Indian economic reforms and growing Indo-American trade and investment relations came in the midst of the political row between the two countries which was caused, among other things, by Raphel's own statement on the Kashmir issue.

The following month, Robin Raphel and her boss, Deputy Secretary of State Strobe Talbot, visited India on a damage-limitation mission to remove misunderstandings and augment political relations between the two countries to facilitate further trade and investment relations. Raphel asserted in New Delhi that the United States supports "a strong stable prosperous India" and emphasised the growing commercial and business ties and the long-standing agreements on scientific and technological collaboration between the two countries.

A couple of weeks before Raphel's trip to New Delhi, USAID had signed an agreement with two Indian urban development finance agencies to make available $25 million to strengthen India's debt market and provide the growing urban population with basic amenities. A day before Talbot's visit to India, it was made known that President Clinton had sent to the Congress his report on narcotics trade which appreciated New Delhi's cooperation in drugs and narcotics control.
It appeared as if the Clinton administration’s efforts to focus on economic ties with India were back on rail. A little before the Indian Prime Minister’s visit to the US, the House Foreign Affairs Committee Chairman Lee Hamilton stressed the need for better ties with India in a speech to the Asia Society on April 29, 1994. Hamilton said:

For decades South Asia has been a forgotten stepchild of American foreign policy. Yet the US should care about India. Why? First, India is simply too important to ignore. It has the fifth largest economy, the fourth largest army, the largest scientific and technical community, and the second largest number of software professionals. Fortunately, there are forces drawing our two nations together. Foremost are exciting economic developments in India. After four decades of socialism, India began in 1991 a far reaching program of economic reform and deregulation. India’s middle class already rivals the total population of the United States, and is growing. The sheer size of this pool of potential customers starved for consumer goods is a powerful magnet for US business. US business has seized this opportunity. The Commerce Department recently named India one of the world’s Big Emerging Markets. US companies with business interests are also active. They recently formed the India Interest Group, an informal network aimed at improving bilateral commercial ties. Some of America’s largest corporations, including Coca Cola, Citibank, AT&T, American Express, IBM, Ford and Xerox, are members.

While enumerating the positive developments, Hamilton, of course, did not fail to highlight the American concerns. He continued:

Yet the Indian economic revolution needs to be pushed forward. Indian industries find it nearly impossible to fire surplus workers. Privatisation has lagged and the state props up money-losing companies. A maze of regulation stifles initiative. Intellectual property rights are not yet safeguarded. We have serious concerns about Indian companies infringing patents of US firms, especially in the pharmaceutical industry.

36 Cited in Span, May 1994, p. 34.
37 Ibid., p.39.
India's best effort to project its position and its interests were from the Prime Minister, P.V. Narasimha Rao himself on his visit to the United States in May 1994.\textsuperscript{38} He was accompanied by a delegation comprising Finance Minister Manmohan Singh, Minister of State for External Affairs Salman Khurshid, Minister of State in the Prime Minister's Office Bhuyanesh Chaturvedi, Foreign Secretary K. Srinivasan and Finance Secretary Montek Singh Ahluwalia. His main agenda during the visit was meeting the Chief Executive Officers and businessmen. He sought to convey India's desire to enhance Indo-US economic co-operation. He made an effort to convey to them the opportunities that India provided and gave them a hearing as well.

On top of his agenda were the issues where the two countries had not yet worked that closely, viz., trade, investment and transfer of technology. In an address to the joint meeting of the United States Congress, Rao said:

\begin{quote}
Perhaps the most impressive aspect of India's ambitious economic reform programme is the smoothness with which the transition from a close, protected economy to an open, export-oriented economy has occurred.... India's vast domestic market, huge educated, semi-skilled work force, sound financial institutions, and time-tested and democratic system offer tremendous investment opportunities for forward-thinking companies.\textsuperscript{39}
\end{quote}

Later, while speaking to the Indian and ethnic press in Washington, he said that his visit


\textsuperscript{39} Cited from Span, May 1994.
had a very important economic content. Following our economic liberalization, the US has become our largest trading partner and the largest foreign investor in India. Our economic and commercial ties are now poised for substantial growth in the months and years to come.\textsuperscript{40}

Rao's economic diplomacy in Washington, in fact, brought considerable premium, particularly in attracting US business and bureaucratic attention to the economic opportunities offered by India. In a prepared speech to the World Conference on "The US Relationship with India" on September 8, 1994 Assistant Secretary of State, Robin Raphel said:

The opening up of India's economy has created yet another avenue of collaboration between our two countries. India's growing middle class and dynamic new entrepreneurs are making their mark. They are propelling India into the high-technology, information-based world of the 21st century. Bangalore has become as the "Silicon Valley" of India and India's software exports are growing at a rate of 40-50 per cent a year. Indian business cards increasingly include an Internet address, as entrepreneurs take advantage of the global information superhighway. Both the United States and India intend to be in the forefront of this 21st century world. Our trade and commercial ties will expand even faster in the years ahead. Facilitating the expansion remains a top priority of this Administration.\textsuperscript{41}

In his speech at the United Nations on September 29, 1994, Secretary of State Warren Christopher said among other things said that,

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\textsuperscript{40} "Remarks by Frank G. Wisner" Confederation of Indian Industry, (New Delhi, 8 August 1994.).
\textsuperscript{41} US & India: Forging a New Balance (Indo-US Joint Business Council, New Delhi.).
\end{flushleft}
India's economic reform plan has cleared the way for unprecedented trade and investment between our two countries, a matter that's certainly been noted by more and more of our business community. Our investment in India has increased more in the last year than in the preceding four decades of Indian independence.42

President Clinton himself wrote a letter to Prime Minister Rao the same month indicating his desire to work for enhancing Indo-American economic interactions.

He created a favourable impression with the corporate world and understood their needs before discussing with the officials at Washington. The result was that for the first time American companies took great interest in India. This in fact worked favourably towards India. The United States was to some extent forced to maintain a good relationship with India as it offered, in spite of the adverse policies, a goldmine of an opportunity to United States companies.

The visit fructified with the US executives and ‘rich Indo-Americans’ offering to make huge investments in India. "Both American companies and the NRIs appreciated the economic liberalisation policy and said it has transformed India into a prospective market for greater inflow of funds."43 Investments were especially forthcoming in areas of highway construction and communications. The visit also resulted in Houston executives’

42 Speech by Robin Raphel, Assistant Secretary of State at American Centre, (New Delhi, March 25, 1994).
interest in investing in India. "New projects outlined in the meeting included setting up a commercial bank, mining and exploitation of bauxite in Andhra Pradesh and Orissa, and a computer company." According to a press release of the Greater Houston Partnership, it had sponsored a plan for 'creating mutual funds, venture capital funds and other debt and equity instruments to raise capital for India in the next decade'. It further stated that a contribution of approximately $100 billion in the next five years would be made by US private industry for the Indian market.

Earlier Prime Minister Rao had attended the World Economic Forum in Davos, Switzerland. He used the opportunity of a Special Session on India to enunciate his government's policy on economic reforms. Answering questions raised by investors, he dispelled their doubts and sought to create confidence in them about the irreversibility of economic liberalisation.

The United States Energy Secretary Hazel O'Leary visited India between 8 and 15 July 1994. She was at the head of a Presidential mission compromising officials and representatives of the United States companies in the energy sector. The visit bore fruition in the form of four joint statements and eleven cooperative projects between

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44 ibid., p. FE/2000 A/1.
45 ibid., p. FE/2005 A/1.
private companies of the two countries. The United States energy firms accompanying her had signed business deals worth $3 million.\textsuperscript{47}

Following the visit of US Energy Secretary Hazel O'Leary, the Minister of Power N.K.P. Salve visited the US. His visit between 12 to 19 November 1994 resulted in the signing of several agreements. In keeping with the tempo of diplomatic interactions in the energy sector, Minister of State for Non-Conventional Energy Sources S. Krishna Kumar landed in the US on 17 December 1994. The visit, which lasted till 22 December, saw the signing of a number of Memoranda of Understanding for cooperation between the Indian and US institutions and firms.\textsuperscript{48} The deal included, six relationships established for renewable energy development across a broad range of technologies, three agreements to promote solar energy expansion, four for wind power generation, three for biomass conversion, two for electric vehicle development and four for mini hydro power production. According to a spokesman, "...the joint ventures are expected to have direct positive impacts on the U.S. and Indian economies, increasing trade between the two countries, thus increasing job creation and economic expansion."\textsuperscript{49}

To add further impetus to the cooperation in the non-conventional renewable energy sector, Secretary of Energy, Hazel O'
Leary visited India again in February 1995. The business deals signed during her visit include Bhilangana Hydroelectric Power Projects, Renewables Commercialisation Centre, Small Hydroelectric Power Development, Delhi Community Development Project, Electricity Transmission Technologies Evaluation, Photovoltaics Demonstration Project, Electro technologies for Industrial Applications, Biomass-fuelled Congregation Projects, Wind Energy Development Project, etc.\textsuperscript{50}

**Commercial Diplomacy of Ron Brown**

Jeffrey E. Garten, the United States Under Secretary of International Trade visited India from 13 to 19 November 1994. His primary objective was to lay the groundwork for the impending visit of United States Commerce Secretary Ron Brown in January 1995.

A major turning point in the Indo-U.S. trade negotiations is the visit of the United States Secretary of Commerce, Ronald Brown to India. In mid-January 1995, Brown led a high-powered presidential trade and development mission on a seven-day visit, which was the largest U.S. trade and investment mission to India to date. Agreements were initialled on more than $7 billion in power generation, transportation, petrochemicals, financial services, telecommunications, and health care projects.\textsuperscript{51} He was able to create

\textsuperscript{50} USIS, Backgrounder, February 1995.
\textsuperscript{51} *The Hindu*, 17 January, 1995, (Chennai.).
a friendly atmosphere for trade talks. His was an attempt to foster Indo-US trade keeping in mind the enormous potential it offered for both the nations. During his visit eleven agreements were signed. Six of those business collaborations were in power, four in telecommunications and one in insurance sector amounting to $1.4 billion investment in India.

New grounds were broken in Indo-U.S. economic relations during this Brown visit. US corporations signed contracts with Indian partners to launch what Brown described as the start of a new Indo-US economic partnership. The agreements were hailed as the "first giant step" towards greater cooperation in the future. Brown said the US administration would launch an "even more vigorous" programme to promote commercial relations, and described his own week-long mission as a platform for rapid growth in business ties. "There is absolutely no doubt in my mind that this new partnership has been too long in coming... By working together we can create a prosperous and productive relationship that will bring mutual benefits."52

The projects were signed following the declaration of a US-India "Commercial Alliance" by Brown and the Indian commerce minister Pranab Mukherjee. The agreement for "commercial alliance" was to bring both the governments closer as well as help representatives of the corporate sector develop business to business links in specific

52 Economic Times, 17 January 1995, (New Delhi)
areas such as telecommunications, power generation, transportation, food processing and financial services, involving them in the negotiating process. The agreement was signed after an hour-long discussion at the delegation level and later the formation of the "commercial alliance" was announced at a joint meeting hosted by the leading chambers of commerce and industry (FICCI, ASSOCHAM, CII).

The Board of the Alliance was to consist of ten members on each side nominated by the two governments. The Commerce Minister of India and United States Secretary of Commerce met regularly with the Board to review its progress.53 According to Ronald Brown, "...the alliance meant the creation of an institutional frame work to enhance trade and investment flows between the two countries...The alliance will allow private industry to drive policy making to make business and commerce work."

Brown further added, "We now have a vehicle to build our business relationship". He also told American and Indian businessmen that the two countries were embarking on a "new and extraordinarily productive partnership." The Alliance was to bring together the two governments and private sector representatives and focus on capital-intensive areas. The governments were to act as a catalyst for the growth of commercial relations which Brown said will

53 It was such a success that India asked for its renewal in 1997, the period till which it was to function.
depend on the "creativity, aggression and discipline" of the private sector.54

Brown set a timetable of three months for businesses to finalise "work plans" to spur the initiative on, but said it could take up to two years for them to show real results. The US Commerce Secretary described the alliance as a "concrete example of the US commitment to solidify" growing commercial ties with India. "We are creating a framework by which our private sectors can benefit from the enormous commercial opportunities for solid investment and business, spurred by the recent reform efforts of the Indian government," Brown said.

The US commerce secretary in his address to the joint meeting of the Chambers said the United States valued business cooperation with India, which had been identified by the US administration as one of the top ten emerging markets. He said the Clinton administration and the Department of Commerce were determined to give India more attention. Brown also met the Prime minister P. V. Narasimha Rao and the Finance Minister Manmohan Singh, in his mission to bring about greater economic interaction between the two nations.

During the visit, Indian and U.S. firms signed several agreements in the telecom and power sectors. India and the US signed deals worth $1 billion in the power sector. Brown said much of the

groundwork for the agreements to fructify had been done by the earlier visit of the U.S. Energy Secretary, Ms Hazel O Leary in July 1994.

The agreements signed in the power sector included a $400 million power purchase agreement for the 300 mw coal fired power plant at Jojobera in Jamshedpur in Bihar between Tata’s and Mission Energy Corporation, one of the world’s leading power sector developers. The agreements included a $ 1.1 billion offshore oil and gas production contract for Enron Corporation. AES Transpower received a financial guarantee from the Indian government clearing the way for a $ 633 million power plant in eastern India. Enserch Development Corporation was expected to sign a memorandum of understanding on a $ 450 million project for a 300 MW combined-cycle power plant in the southern Indian state of Kerala. 55

The telecom sector witnessed the signing of a series of agreements worth more than one billion dollars between the Department of Telecommunications (DoT) and Indian private sector companies on the one hand, and US telecom giants on the other. Seven agreements and letters of intent were signed in the presence of the communications minister, Sukh Ram and Ronald Brown. Sukh Ram assured the US investors a level playing field with the proposed setting up of an autonomous telecom regulatory authority. He said

I can assure all potential investors that we are committed to providing a level playing field to all operators. While our judicial system is strong enough by itself to ensure justice, an independent regulatory authority will also be shortly constituted with the explicit purpose of ensuring a level playing field to all concerned in this sphere of telecommunications.56

The communication minister also assured transparency in the selection of operators. The DoT exchanged a letter of intent for a $100 million pilot project with US West (India) Ltd. (India's first privately-operated telephone network) and signed two technical cooperation agreements with the Hughes Network Systems Inc. and Qualcomm Inc. for the supply of sophisticated telecommunications equipment and training of DoT engineers to commission and operate the networks. Under the pilot project, an Indian registered company, a joint venture between BPL and US West international, would be given a license for setting up of secondary switching area (SSA) for basic telephone services in Erode, Salem, Coimbatore and Dharmapuri in Tamil Nadu.

The terms and conditions of the license would be finalised after detailed discussions with the representatives of the joint venture company. Under the agreement between the DoT and the Hughes, the US company will supply 200 very small aperture terminals (VSAT) and hub equipment costing $5 million. Qualcomm will supply to the DoT, Code Division Multiple Axis (CDMA) and Wireless in Local Loop (WLL) technology for repose field trials at Calcutta, Delhi and Madurai. Qualcomm also signed a joint venture agreement with Modi Enterprises

to bid for the basic telephone services for which the tender documents were being made available. The US telecom giant, Motorola, signed three letters of intent with Indian companies to set up cellular telephone networks for the metro cities of Calcutta, Bombay and Delhi.57

The United States has been lobbying for India to open up its huge nationalised insurance sector, the annual premium earnings of which are estimated at more than $3 billion. Trade Union opposition has blocked moves towards privatisation of the insurance business under radical economic reforms begun by the Narasimha Rao government in 1991. Global insurance giant American International Group joined India's Tata group to set up a company to underwrite "all lines" of insurance and offer other financial services once the lucrative insurance market was unlocked. Brown used his speech to US and Indian businessmen to urge New Delhi to open up the lucrative but still protected insurance sector which he felt was "terribly important" for India to widen market access.58

The Brown mission, which included the chief executives of 26 large US corporations, visited the southern city of Bangalore, India's technology centre, and Mumbai, its financial hub.59 Brown's visit, the first to India by a US commerce secretary in 10 years, was seen as

57 Economic Times, n. 52.
58 ibid.
59 National Herald, n.55.
confirmation that the focus of Indo-US relations has shifted from strategic to commercial concerns following the burial of Cold War frictions.

Prime Minister Atal Behari Vajpayee met a US business delegation on 21 July 1998. The business delegation was from American Business Council. Jim Reinsch, Vice-Chairman of Bechtel India Ltd, was the leader of the delegation. The Prime Minister told the delegation that his government was committed to the liberalisation of the economy and that economic reforms had thrown open completely new vistas for both foreign and domestic investors.60

In September 1998, the Indian Minister for Energy P.R. Kumaramanglam led an Indian delegation to the World Energy Congress held in Houston, US. It provided an opportunity to meet various people from the business sector in the US. Gopinath Munde, the Deputy Chief Minister of Maharashtra was successful in signing a Memorandum of Understanding with two major American Energy Multinationals, viz., Enron Corp and Universal Electricals. The deal was for the upgradation and modernisation of gas-based Uran and Nasik and Bhuvsal Karodi thermal power plants. While Enron would fill the gap due to shortfall of liquefied petroleum gas from Bombay High to Uran project, Universal Electricals would be involved in the expansion and upgradation of the Nasik and Bhuvsal Karodi thermal

Together both projects would generate an investment of nearly $180 million. Further, an agreement had been arrived at with Karnegimilian Computer University to set up a Computer Software and Technology University in Pune.62

In December 1998, New York Life International, a major insurance company launched a $100 million fund to invest in Indian infrastructure projects, and envisaged entering into a joint venture agreement with an insurance company.63

**Investment Incentive Agreement**

The Investment Incentive Agreement was signed between India and the United States in November 1997. The notes were exchanged between Yashwant Sinha, Finance Minister, Government of India and Robert Rubin, Secretary, US Department of Treasury in April 1998 giving effect to that agreement. It replaced the earlier notes exchanged in 1957, 1959 and 1966. It was the result of the pursuance by both countries of boosting the US investments in India. US Treasury Secretary Robert Rubin visited India in April 1995 and the issue of an investment incentive agreement figured prominently in the agenda along with other investment issues. During his visit, he held discussions with Finance Minister Manmohan Singh. The talks

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62 Ibid., p. FEW/0558 WA/2.
centred on investment protection guarantee treaty. The agreement was signed during the visit of Secretary of State Madeleine Albright in November 1997. P. Chidambaram signed the agreement on behalf of India.

The main purpose of the agreement was to protect US investments in India. The Agreement provides for investment support for the investors from the United States by the Overseas Private Investment Corporation (OPIC). It incorporates the principle of reciprocity. According to the agreement

For any investment support extended by Export Credit Guarantee Corporation of India, or any other designated agency of Government of India for Indian investments in USA, provisions equivalent to those contained in the Agreement shall apply to Indian investments upon completion of constitutional or other legal processes of either Government and upon exchange of notes made at the initiative of either Government.

This was expected to improve further the conditions for investment in India. By this investment support or risk coverage was made available to those investing in India in the form of debt or equity investment, investment guarantee, insurance or reinsurance. It also included insurance against risks ‘relating to inability to convert other currencies into US dollar, loss of investment due to expropriation, losses due to war, revolution, insurrection or civil strife etc.’ To avail

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64 Summary of World Broadcasts, Part III, April 1995, p.FE/2284 A/1.
67 ibid.
of this support, approval for investments had to be obtained from the concerned Indian agencies, such as Ministry of Finance, Foreign Investment Promotion Board, Reserve Bank of India, etc.

One of the major provisions brought in from the point of diplomacy in the agreement was the provision of a dispute settlement mechanism. In case of problems arising regarding interpretation of the agreement or liability claims on the grounds of measures taken by the Government of India, these could be resolved through a dispute settlement mechanism. It also has a provision for recourse to international arbitration. This is because of the desire by both countries to avoid a standoff and diplomatic impasse due to misunderstandings in one minor area of interaction. It was a major step towards mutual cooperation and understanding from the time of diplomatic impasse over the Tarapur fuel issue, which threatened to collapse the entire gamut of diplomatic relationship.

Impact on Institutional Framework

Diplomacy regarding trade and investment was conducted by the Ministries of Commerce, Finance, Industries and other relevant Ministries depending on the issues involved. Diplomats as such had very little, if not no, role in the conduct of economic diplomacy. Diplomats from the Ministry of External Affairs were only concerned with economic diplomacy at the macro level and limited themselves to

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68 ibid.
activities in the United Nations, United Nations Economic Social and Cultural Organisation and United Nations Conference on Trade and Development.\textsuperscript{69} As far as matters of commerce and investment were concerned they were left to Ministries of Finance and Commerce.

A major change brought about by the increased diplomatic interaction regarding trade and investment in general and between India and the United States in particular was in the institutional framework. The Foreign Investment Promotion Board was formed to promote and regulate foreign investments in India. This was also a diplomatic move, apart from efficient functioning, in sending the right signals to the investors.

The institution of Foreign Investment Promotion Board is both a step in promoting investment by offering a single window clearance in foreign investments and also a mechanism for coordination between the various agencies involved viz., Ministry of Commerce, Ministry of Finance and Company Affairs, Ministry of Industries and the Ministry of External Affairs.\textsuperscript{70} The Board was composed of the Secretaries from the above Ministries. It functioned under the chairmanship of the Principal Secretary to the Prime Minister of India. This ensured that there was coordination between the political authority and the specialised institution expediting the decision making process.

\textsuperscript{69} J.N. Dixit, \textit{Across Borders: Fifty Years of India's Foreign Policy} (New Delhi, 1998), p.305.
\textsuperscript{70} www.dipp.nic.net, accessed on 15 February 2003.
Yet another change brought about in the conduct of diplomacy was in the incorporation of an economic aspect to the Ministry of External Affairs. The liberalisation and the increasing intensity of commercial diplomacy led to the expansion of economic division of the Ministry and its involvement, as in the Foreign Investment Promotion Board.\footnote{Dixit, n. 69, p.309.}

An important aspect of diplomacy in investment was the involvement of the private sector. The main objective of diplomacy in investment was to promote investment and towards this end it had to deal with the private sector and address their concerns. India and the United States created and institutional forum for the interaction of the business community of both the countries. That was the U.S.-India Commercial Alliance. The Alliance provided for the discussion of the problems by the private sector and the government officials would sit with them at least once a year to address the issues raised by them. This provided for an active interaction between the government and the private sector, aiding the achievement of diplomatic objectives.

Thus, we find that diplomacy had an impact in the reorganisation of institutional framework, which in turn affected the way diplomacy was conducted.
US Investments in India: Enron Experience

A brief study of the Dabhol project of the Enron, a multinational form the US is undertaken. The purpose to do so is to underline the fact that diplomacy is affected by domestic political and social factors as well. The most controversial of United States investments in India was the Dabhol Power Project undertaken by Enron. In July 1992, Enron power Development Corporation, (ENRON, USA) and the Maharashtra State Electricity Board (MSEB) signed a Memorandum of Understanding for Enron to set up a 2550 MW power Station to build, own and operate basis, at Dabhol, about 150 miles South of Mumbai in the state of Maharashtra. This proposal was subsequently scaled down to 2015 MW Enron's 10-year liquefied natural gas power plant development project with an investment of $3 billion was the largest development project and the single largest direct foreign investment in India's history.\(^\text{72}\)

For this purpose, Enron formed a joint venture with U.S. companies General Electric and Bechtel and created an Indian subsidiary, Dabhol Power Corporation (DPC) was to build the power plant.\(^\text{73}\) Enron was to develop and operate the Dabhol plant, Bechtel was to design and construct it, with General Electric supplying the


\(^{73}\) Enron owned 65 percent of the shares in the newly created Dabhol Power Corporation.
equipment. The project was to be based on natural gas, imported from Qatar in the form of Liquefied Natural Gas (LNG).

The project was envisaged in two stages. The first stage of development was to be the construction of 690 MW, and the following an expansion to about 2015 MW. The first stage, running initially on distillate fuel oil, was scheduled to be commissioned in the first quarter of 1996. The second stage was to be operationalised by 1998. It was supposed to supply energy-hungry India with more than 2,000 MW of electricity, about one-fifth the new energy needed by India each year. The deal was much appreciated by some international observers and the media. Enron’s Chairman and CEO Kenneth Lay said “As an integrated gas and power project, the facilities will contribute significantly to the development and expansion of both the natural gas and power sector in India.”

It was thought that India’s deal with Enron to build the power plant would offer big advantages to both sides. Even while enabling India to meet its energy needs, the project was expected to expand India’s trade relations with the United States. Enron was also expected to benefit considerably with its entry into the Indian market, which offered vast growth potential and would in turn position Enron

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75 Energy Daily, 9 December 1993.
well in the global market.\textsuperscript{76} Other than this, the U.S. government also had positive opinion about the project. From its perspective, the access gained by U.S. companies gaining access to business in India, the world's largest democracy, was to be welcomed. In fact, the Enron deal was the regarded to be the jewel of United States' economic engagement with India. The Clinton administration saw the Dabhol project as a success for its Trade Advocacy Center, established in 1992 to lobby on behalf of U.S. companies abroad.

Even while many observers hailed the project and its promised benefits, there were also economists who doubted its feasibility. A World Bank report in April, 1993 questioned the project's economic viability on many accounts. It identified serious discrepancies in the proposal of Enron like the high cost of importing and using liquefied natural gas relative to other domestic sources of fuels. Because of those findings, the World Bank refused to provide funds for the project.\textsuperscript{77} (see Appendix)

There were also other concerns and doubts expressed by many people early in the life of the project. Some of the critics charged that the project had not been open to competitive bids and that the deal was too costly. Others expressed concern over the terms of India's

\textsuperscript{76} Business Week, 3 December 2001.
agreement to underwrite the project.78 There were also Indian citizens who were upset at Enron's highhanded behaviour. Hence, the project had both supporters and critics right from its conception.

The deal struck between India and the Enron involved continuous interaction between the two entities. Enron lobbied to change the existing tariff system in India, which had been designed to discourage energy imports, to secure supplies of liquefied natural gas for the project at favourable costs. Enron succeeded in these efforts and the duties in India on imports of liquefied natural gas were reduced from 105 percent to 15 percent.79 This shows the readiness of the Indian government to cooperate and meet the requirements of the investing foreign companies, which was in accordance with its policies to attract more investments from foreign players in the priority sectors like energy.

However, it should not be construed that there was no dissenting opinions in the government or that there was uniformity in the opinions of policy makers. On the contrary there was a predominant disposition towards encouraging the foreign investors. For instance, in 1993, Prime Minister Narasimha Rao overruled objections from his own Finance Minister to give state guarantees for

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78 India was forced to take on even greater risk as the World Bank had declined to provide loans for the completion of the project.

79 Following this change in the import duties on the part of the Government of India, Enron brokered a deal with Qatar to provide the Dabhol plant 2.5 million tons of liquefied natural gas per year for 25 years, starting in 1997.
both foreign and domestic investors in energy projects. The guarantees could be counted by lending institutions as additional state debt.\textsuperscript{80}

Despite the encouraging approach adopted by the Indian government, necessitated by its policy to attract foreign investments, the Enron project ran into trouble from the very beginning. It would be appropriate to note here that the Dabhol power project was seen as a test case by the foreign investors and the Indian government, which had only recently opened up its economy. The expectations were high on both sides and this was combined with the cautious attitude, as each section was trying to gauge the other. With the Indian government onboard and the local population relegated to the background, the Dabhol project moved onto a fast track. Construction was set to begin in early 1994. By March 1994, the momentum was lost as financial questions re-emerged. The financial problems earlier identified by the World Bank in the project proposal soon came to the fore.

There was continuous wrangling over the price issue characterised by mutual suspicion. Endless disputes over prices and terms of the deal cast apprehensions about the feasibility in the future. The Financial Times reported: "Price is becoming a sticky

\textsuperscript{80} Independent Power Report, 12 March .93, in EBSCO Social Science Dialog (American Information Resource Centre, Chennai, 1995).
issue. Indian officials see the price as very high compared to domestic gas and imported and indigenous alternative fuels.\textsuperscript{81}

In July 1994, the U.S. government extended a helping hand. The Overseas Private Investment Corporation (OPIC), an independent agency established by the US government to promote American business interests overseas, provided loan insurance and granted a $100 million loan guarantee to support the Dabhol project. The national government of India, the state government of Maharashtra and Enron also went to work on rescuing the project. For the first time ever, the Indian government agreed to underwrite the liabilities of a private company.\textsuperscript{82} The guarantees firmed up the financing, but other problems emerged. Critics charged that the power plant threatened the local environment and didn't adhere to government environmental standards.

One concern was the safety of importing and storing liquefied natural gas, which is cleaner burning than coal or oil, but can emit volatile vapours that can ignite and explode. Other critics said Dabhol could harm local farms and fisheries. Protesters took to the streets to support demands for changes in the plant's design and more broadly to oppose the Indian government's economic liberalization policies. Social activists, lawyers, villagers and farmers banded together in

\textsuperscript{81} The International Herald Tribune (Paris) 18 March 1994.
\textsuperscript{82} Independent Power Report, n. 80. 23, September 1994.
groups opposed to the Enron project. There was also strong criticism on cost terms. The impact that the devaluation of India’s rupee would have on the electricity from the Dabhol plant was analysed. It was argued that devaluation would mean that Dabhol’s energy prices would soar to between two and five times the average price in the area.

Equally significant to the battle over Dabhol was the interest of two conservative Hindu nationalist parties. The Bharatiya Janata Party (BJP) and the Shiv Sena accused the ruling Congress Party of selling out the people of Maharashtra. Local BJP leader Gopinath Munde threatened to “throw Enron into the sea.” By mid-1995, after local elections, the state government of Maharashtra was in the hands of a BJP and Shiv Sena coalition. Under new political direction, the state electricity board was bringing the dispute to a head. A three-line letter to Dabhol Power Co. called for a cessation of construction because the cost for building the plant and generating the electricity was too high.

Opposition to the project spread throughout India in early 1995. On April 27, 1995, The Times of India ran an editorial by columnist Praful Bidwai calling the project “irredeemably flawed.” Bidwai accused Enron of reaping “unearned, windfall super-profits” and

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83 Multinational Monitor, Nov. 1997, in EBSCO Social Science Dialog (American Information Resource Centre, Chennai)

concluded that “India’s stature will be enhanced, not lowered, if it tells the world that it is no pushover, no banana republic ready to accept an outrageous deal.” The name Enron soon was synonymous with waste and abuse across India.

As opposition to Dabhol mounted, Enron turned to the Clinton administration for help in pressing the Indian government. US officials from Energy Secretary Hazel O’Leary to Treasury Secretary Robert Rubin threw their weight behind the project. "Failure to honour the agreements between the project partners and the various Indian governments will jeopardise not only the Dabhol Project but also the other private power projects being proposed for international financing," the U.S. Energy Department said on June 5, 1995. To wriggle Enron and its subsidiary Dhabol power company from these difficulties, the US Export and Import Bank (EXIM) and overseas private investment corporation (OPIC), also of USA, gave a loan agreement of US$298 million and US$100 million respectively.

Throughout the turmoil, Enron management worked through official US channels in the Clinton administration but also relied on a network of former Bush administration officials to help it navigate the murky political seas. Within weeks of leaving their Bush administration posts in early 1993, former Secretary of State James Baker and former Secretary of Commerce Robert Mosbacher signed on as Enron consultants. Baker wrote up his analysis of the Indian political climate for Enron chief Kenneth Lay.

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Dabhol came to dominate US-India business relations. "Dabhol was the biggest power plant in the world," said Michael Clark, executive director of the U.S.-India Business Council. "It became the emblem of all foreign investments. It was a barometer of India's attitude toward foreign investment. You couldn't say 'India' without saying 'Dabhol.' "Thomas "Mack" McLarty, a Clinton counsellor who was part of the team pushing for resolution of the Dabhol problem, said the project was important to Clinton's administration. "Our administration was committed to U.S. investment, and India was the world's largest democracy," McLarty said.

The project's defenders inside India also counterattacked. They dismissed anti-Dabhol protests as political posturing, seeking to exploit public worries about the economic liberalization policies of Prime Minister Narasimha Rao and the Congress Party. "Ever since the BJP replaced the Congress Party early this year in Maharashtra, the BJP has done what it can to discredit the Congress Party before next year's (national) election," wrote Indian political observer Marilyn Raschka. "These are mere opening samples of the BJP-sponsored attacks. As elections get closer, the attacks will get worse."

Also trying to undercut the opposition, Enron renegotiated parts of the deal. On 8 January 1996, Enron and the state government of Maharashtra reached a new agreement that would shift some of the construction costs and lower the electricity tariffs. Enron said work
would resume within three months. While the new terms suited the state government, other critics felt betrayed. They said the new deal was worse than the original because it allowed for the construction of a larger power plant and still failed to address the underlying cost concerns.

Growing opposition to the Congress Party's policies touched off seismic changes in the world of Indian politics. In May 1996, the BJP picked up seats in national elections and toppled the Congress Party's ruling coalition. The Congress Party had ruled India for almost the entire 50 years since the nation gained independence from Great Britain in 1947.

Even by early 1997, Enron officials thought the project was back on track. Rebecca Mark, chairman and CEO of Enron International, told Business Week that Enron succeeded in winning over the new government of Maharashtra. "I think what worked was that we never stopped talking," Mark said. "Our contract allowed us to arbitrate through legal international means, so we did, through Indian and international courts. Everyone realized a solution was necessary. Once the project got started, there was a layer of people [in

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government] who supported it. Our faith was in these decision-makers."86

Enron's optimism, however, failed to take into account a budding social movement in Maharashtra. With political and legal recourses exhausted, protesters took to the streets and were met with force. Several non-governmental organizations were formed to oppose the Dabhol project, including the Guhagar Taluka Enron Vaa Salagna Prakalp Virodhi Sangharsh Samiti (Guhagar District Peoples' Forum for Opposing Enron and Other Related Protects) and the Enron Virodhi Sangharsh Samiti (Organisation to Oppose Enron). These groups were made up of thousands of affected villagers, farmers, social and environmental activists and lawyers.

Non-violent protesters were arrested on the pretense that they might commit acts of violence. In May 1997, in the town of Mahad near the DPC's project, police served Medha Patkar and other protest leaders from the National Alliance for Peoples' Movements a prohibitory notice. According to Human Rights Watch, the police "then surveilled, arrested, beat, and detained the activists -- on the eve of her departing for Raigad and Ratnagiri districts with plans to lead a series of protests against the DPC project and other industrial projects."

86 BusinessWeek, 24 February 1997
Amnesty International joined Human Rights Watch in condemning the use of force against the protesters. In a 1997 report, Amnesty took the unusual step of accusing the companies involved in the project of colluding with local police to stop the protests. Amnesty International also reported that the police used excessive force to beat and arrest peaceful protesters.\(^87\)

Two months after the May 1997 incident, the National Human Rights Commission of India found the tactics of local police forces to be "unjustified" and criticised Maharashtra Chief Minister Manohar Joshi for giving orders to target the activists. At the time of the arrests, Joshi was embarking on a five-nation tour of Asia to attract foreign investment and promote the business interests of Maharashtra. The law-and-order tactics may have been meant as a statement to potential investors.\(^88\) All this put a doubt about the future of the project and there was widespread feeling that the current impasse could not be overcome.

In this situation, the US warned that the Enron debacle would dampen flow of foreign investments into India and asked New Delhi to find a prompt resolution to the issue. "While it is not my intention to make specific suggestions for resolving this dispute, I do want to underscore that it will be hard for foreign investors to look seriously at


India until this dispute is resolved in a satisfactory way." "I encourage the Central government and the Indian business community to do everything they can to bring about a prompt resolution," Alan Larson, the US Undersecretary of State for Economic, Business and Agricultural Affairs, said at the US-India Business Council meet. "Frankly speaking, the investment dispute between the Dabhol Power Company and the Maharashtra State Electricity Board is now casting a cloud over India's investment climate," he said.

Summarising two days of intensive discussions and debates, the council said, "The dispute over the Dabhol power project erodes the credibility of the Indian government, deters all other kinds of investment, may soften India's credit rating." "This issue needs to be resolved, and it needs to be resolved quickly," Frank Wisner, chairman of the council and a former Ambassador to India, said. In the review of overall economic conditions, the 400 business and government leaders attending the council's annual meeting, also expressed serious concern about several aspects of India's business climate.

In June 2001, with the project about 90 per cent complete, development was again put on hold amid new disagreements over the price of energy. Work has not resumed. In the weeks before Enron's Chapter 11 bankruptcy filing in November, negotiations were underway to sell Enron's stake in the project. The stake's estimated
value was between $500 million and $1 billion. Enron and its US partners, Bechtel and GE, have filed claims with OPIC to collect $200 million in compensation for losses suffered in the Dabhol project. Dabhol power project, which was expected to deliver much-needed electricity to an energy-thirsty country by 1997, has produced no energy and is facing an uncertain future.

Enron's Dabhol project is a case of multiple factors, predominantly local in nature, affecting the fruits of economic diplomacy of the country. The project was undoubtedly the result of successful diplomatic efforts undertaken by India along with its opening up of the economy. The government had a priority to attract foreign capital and the deal with Enron was a realization of this goal. But, despite the encouraging attitude of the government, the project ran into difficulties culminating in the withdrawal of Enron from the project. The reasons for this cannot be seen as failure of Indian economic diplomacy as varied factors of different magnitude began to affect the project. The basic flaw, as identified by the World Bank, has to be located in the technical aspects of the project itself. The feasibility of the project was in doubt right from the beginning.

In addition to this the approach of the DPC was flawed. Enron was more comfortable in influencing the politicians rather than assuage the feelings and address their apprehensions. In fact Enron

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89 Reuters, 10 December 2001.
brushed aside local questions and concerns. The law required Enron to solicit public comments in the two months after agreement was reached on the land and water acquisitions. Instead of seriously addressing concerns raised by local residents, Enron sent out "a form letter stating that the villagers' inquiries would be looked into and that there would be no negative impacts on the area," Human Rights Watch reported. At the end of the two months, Enron told the local government that the company had complied with the public-comment law and had received no objections. In reality, Enron had "received 34 complaints and queries," Human Rights Watch said.91

The attitude of the local population was also not supportive of the DPC. In India, the Houston-based energy-trading company was viewed as a heavy-handed U.S. corporation, expert at manipulating local politicians and callous in overriding the interests of everyday citizens. For many, Enron epitomised the downside of the modern global economic system where powerful corporations from the West often bully their way into development projects that fail to live up to shiny promises. In the end, Enron found that even its enormous political clout could not override the rules of economics and the resistance from everyday citizens of India.

Conclusion

The post-liberalisation period witnessed a new thaw in the diplomatic relationship between India and the United States. This was mainly because of the similarity of interests between the two countries. While India liberalised its investment policies, in need of foreign capital to solve the ills that was afflicting its economy, the United States companies was in search of a viable market and venue to get greater returns for their investments. The needs of the United States business community and India matched. This shaped the diplomatic relationship between India and the United States. Economic issues dominated diplomacy in this period. The mutual interest of both the countries gave an accommodating character to this relationship.

While the previous decade saw a standoff between the two countries on almost all the major issues, be it economy or security related. It was characterised by the politics of confrontation. A testimony to this in the field of trade and investments was the use of Super 301 and Special 301 of the United States Omnibus Trade Act of 1988. However, the post liberalisation period was dominated by so much of commercial interaction that this goodwill rubbed on other areas as well. An example towards this was the initiation of a strategic dialogue between the two countries to understand each other’s perception. Further, it was not that issues of contention between the two countries had disappeared. They in fact increased with India
developing an advanced missile programme and India refusing to accede to the Non Proliferation Treaty and Comprehensive Test Ban Treaty. Though they created an atmosphere of tension, it did not affect the economic relationship.

The primacy given to commercial diplomacy, amidst various other issues of contention reflects a pragmatic approach by the United States. However, it also had a lot to do with the pressure applied by the business community for a closer relationship with India. As far as India was concerned, the practical necessity brought commerce to the top of diplomatic priorities. This was reflected in the changes it brought about to the commercial set up.

Another aspect that emerged in the commercial diplomacy is that it was not the exclusive preserve of diplomats. In fact, the interactions reveal that most of them took place among the officials of commerce and industries ministries. It required coordination among several agencies. Similar is the case with the United States.

The chapter had dealt with the diplomatic efforts by India and the United States regarding investment. Though in the eighties there were differences and the United States found investment barriers in India's policy, the situation changed with the liberalisation efforts of India in 1991. Further, there was common objective in the approach of both the United States and India. This was well reflected in the increasing number commercial exchanges between India and the
United States and Ron Brown's commercial diplomacy. The success of the diplomatic efforts is seen in the number of collaborations and United States foreign investment in India. The situation is best captured in Secretary of Energy, Hazel O'Leary's statement, "India is a little easier (to do business in)...Fast forward in India is much more apparent..."92

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