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from the ringside

When truth is worthy of reiteration

A surfeit of high-profile visits has kept policy makers somewhat distracted. It is now customary for visiting dignitaries to be accompanied by a contingent of high-profile CEOs exploring enhanced investment and trade prospects. A day before the visit of President Bush, the Investment Commission submitted their recommendations on improving the investment climate and removing major investment impediments. The US-India CEO Forum also presented their 'New Vision for Economic Partnership' and what needs to be done for 'Creating an Enabling Environment'.

Both the Investment Commission and the CEO Forum came up with predictable causes and remedies. These range from ''reducing number of procedures'' and ''making them time-bound and non-discretionary'' to consistency of policies and strengthening institutional skill inculcation. Not that any of these are unimportant, but those which are predicated on a basic change of milieu will elude implementation. There is, no doubt, that significantly enhancing investment flows is a long haul. Improving investment climate is a painstaking process and attention on four-five key policy changes where political consensus is broadly present will enable coherent action and enable closer monitoring.

So what are the key concerns which are common to most reports, including the recent recommendations?

The US-India CEO Forum has identified six priority initiatives, covering promotion of trade and industry, creation of an Infrastructure Development Fund, Technology Access in Agriculture, Bio-Technology, Nano-Technology, partners in Skills Development, setting up an Indo-US Centre for industrial R&D and establishing a Dispute Resolution Mechanism.

These have embedded in them a host of other policy issues from which it would be worthwhile to prioritise a few.

First and foremost, a dispute settlement mechanism enabling quicker resolution of commercial and contractual disputes. They propose the constitution of a 'Special Task Force on Judicial Reforms' comprising the Law Ministry, Supreme Court and CEO Forum members to make recommendations on immediate initiatives. To suggest that Supreme Court judges should interact with CEOs of companies to make recommendations on judicial reform may not either be appropriate or practical. The way forward would be to constitute a judicial reforms commission headed by a former Chief Justice of India with representation from concerned ministries and state governments, including the high court, to make two-part recommendations.

In the first part some interim recommendations on the creation of a dispute resolution mechanism for significant investment proposals, including foreign investment, and expeditious outcome in what is described as legacy cases whose experience has deterred investors. In the second part, to recommend on broader issues of judicial reforms, including large pendencies, interlocutory procedures and mechanism for expeditious disposal.

Incidentally, we know well that the Government is the principal litigant and cause for large pendencies and reducing government-led litigation is an important aspect of the judicial reforms. Besides, the recent judgment of the Supreme Court in the case of Salem Advocates has many practical suggestions to minimise interlocutory delay and unjustified adjournments, and to reduce the number and size of affidavits—to name a few which should be implemented quickly. If it is followed uniformly in the high courts and lower courts, it will make a qualitative difference.

Second, strengthening the regulatory framework. This includes not only early enactment of the Petroleum Regulatory Bill and the pipeline policy but creating regulatory structures in other areas like coal, airlines, real estate, and railways. Depoliticising user charges and tariff fixation and cross-subsidies is necessary to invest confidence in the regulatory framework. The suggestions by the CEO Forum to set up an Indian Institute for Regulation, as an independent think-tank with a strong research base to provide a platform for development of regulatory practices, is welcome.

Actually, the human resource component in our regulatory institute remains weak as does its technical expertise and domain knowledge. The larger issue of revising the emolument structure for key regulatory personnel which can broaden the talent pool outside its excessive dependence on retired bureaucrats deserves serious consideration.

Third, strengthening human resource development. Apart from catering to unmet education needs from primary to advanced research, developing relationship between US and Indian institutes of learning and research and Ph.D. programmes with leading institutes like MIT, Bell Labs, Johns Hopkins, Carnegie Mellon would be greatly beneficial. Upgrading India's Industrial Training Institutes for making curriculum relevant to the evolving needs of Indian and US companies will make the educated employable. The Forum points out that ''India needs to encourage the setting up of new institutes of higher learning and give practical educational institutes a free hand in terms of fees, course structure and affiliations''.

This recommendation does not come a day too early. The Government, however, is moving in the reverse direction of attempting to over-regulate—admission policy, a fees structure which significantly erodes autonomy of existing private institutes. This is hardly a climate which will encourage either private or public-private partnership. Some basic rethink is necessary and the broader issue of education reforms remains on the backburner. There is so far little evidence that the Knowledge Commission has made significant progress to address these complex issues.

Fourth, there are other areas where action lies in the politico-economic domain. While their economic rationale is clear enough, political consensus remains elusive. These inter alia include the liberalisation of FDI in retail; relaxation of insurance industry FDI cap; removing restrictions on expansion/new Indian banks in the US and foreign banks in India; permitting FDI in Indian private banks; flexibility in labour laws specially for SEZs; enforcing the IPR regime through perhaps specialised IPR enforcement route. Quite a few need legislative action but there are many in the administrative domain.

Finally, setting up an Indo-US Center for Industrial R&D in product design and development will certainly benefit manufacturing competitiveness, and accelerated research collaboration between agricultural universities can reposition India's agriculture to meet contemporary challenges. The honest recommendations by the Investment Commission or Joint CEO Forum while not startling are worthwhile in shaping policy direction. Prioritising action on some whose multiplier benefits are significant will optimise outcomes.

Truth is not always interesting but remains worthy of reiteration.

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