



FOR IMMEDIATE RELEASE

Contact: Sean Neary/Meaghan Smith (Baucus), 202-224-4515

June 14, 2013

Antonia Ferrier/Julia Lawless (Hatch), 202-224-4515

BAUCUS, HATCH FIGHT FOR U.S. BUSINESSES, WORKERS AGAINST INDIA'S UNFAIR TRADE PRACTICES

*Finance Leaders Urge Sec. Kerry to Push Indian Leaders at Upcoming Meetings to Protect U.S.
Innovation, Intellectual Property*

WASHINGTON – Senate Finance Committee Chairman Max Baucus (D-Mont.) and Ranking Member Orrin Hatch (R-Utah) joined together today to call on India to end unfair trade practices that are harmful to U.S. businesses and jobs and urged Secretary of State John Kerry to push Indian leaders on the issue during meetings in India on June 24.

“We have serious concerns about policies adopted by the Government of India that shut out U.S.-made innovative products and transfer U.S. intellectual property to its domestic industry. These policies are directly harming U.S. businesses and threaten the millions of U.S. jobs supported by trade in innovative products,” the senators wrote in a letter. **“India is ignoring evidence from its own recent positive economic experience and is lapsing once again into protectionism. We cannot afford to sit back and watch as India adopts policies that adversely impact U.S. innovative and creative industries, and threaten the greater stability of the international trading system.”**

Senators Baucus and Hatch specifically identified serious problems with India’s treatment and enforcement of intellectual property rights, as well as policies that effectively block U.S.-made information and communications technology.

The full text of the letter is below:

June 13, 2013

The Honorable John F. Kerry
Secretary
United States Department of State
2201 C Street, NW
Washington, D.C. 20520

Dear Secretary Kerry:

We are writing to express our serious concern about policies adopted by the Government of India that shut out U.S.-made innovative products and transfer U.S. intellectual property to its domestic industry. These policies are directly harming U.S. businesses and threaten the millions of U.S. jobs supported by trade in innovative products.

First, India is using its intellectual property law to build up domestic industries at the expense of U.S. innovators. For example, the Indian government recently granted a compulsory license to allow an Indian pharmaceutical company to manufacture a generic copy of a validly-patented product because it was not “worked” – that is, it was not manufactured – in India. And the Indian Supreme Court recently interpreted an “enhanced efficacy” requirement for patentability in a manner that invalidated a patent on an innovative pharmaceutical product that has been upheld in every other country, thereby signaling to domestic manufacturers that they are free to copy innovative products such as pharmaceuticals with fewer side effects, decreased toxicity and improved delivery systems. The misuse of patent law to hand U.S. intellectual property to Indian companies is inconsistent with India’s international obligations. Moreover, India’s actions in the pharmaceutical sector could have far reaching adverse implications for trade in other innovative products and in markets outside of India.

India’s intellectual property problems are not limited to its patent system. Copyright piracy in India is a significant problem and has increased as Internet access has spread and the use of mobile devices has grown. This increase in piracy not only harms American creative industries but also creative industries in India. As noted in the 2013 Special 301 Report, India must adopt legislative changes, including anti-camcording legislation and additional protections against online copyright piracy, signal theft, and circumvention of technological protection measures. India’s piracy problem is exacerbated by India’s imposition of significant discriminatory market access barriers on the motion picture, book publishing, software, information technology, and telecom industries, which limits the availability of legitimate content from the United States. Furthermore, India has an inadequate enforcement regime, including a lack of cooperation with rights holders, a lack of coordination among enforcement officials, an inefficient judicial system, and a failure to impose penalties sufficient to deter infringement.

Second, India has adopted policies in the information and communications technology (ICT), clean technology, and other sectors that block sales of U.S.-made innovative products and coerce U.S. companies to transfer their technology to local industry. The Preferential Market Access program, for example, contains local content requirements for government procurements of ICT products, and proposes the extension of those requirements to private firms as well. The Jawaharlal Nehru National Solar Mission similarly requires that solar project developers source materials from domestic manufacturers in order to receive preferential power rates. India also uses other methods designed to protect domestic production, including restricting imports to force companies to manufacture in India, resulting in U.S. jobs shifting to India.

India is ignoring evidence from its own recent positive economic experience and is lapsing once again into protectionism. We regret that the Indian government is pursuing this short-sighted approach to development, and is creating an economic environment that is hostile to the very inputs and investment that would actually strengthen its infrastructure and security and advance the development of its local high-tech, innovative manufacturing and services base. More fundamentally, we cannot accept the adverse impact of these measures on U.S. innovative companies and the jobs they support. U.S. innovative companies are losing major market opportunities in India, and other countries are watching to see how the United States reacts to India’s actions as they consider the adoption of similar policies.

As part of your upcoming trip to India, we request that you communicate our concern to the Government of India. India is a huge and important player in the global trading system, and we would like to have a collaborative, mutually-beneficial economic relationship. But the United States and India trade and investment relationship is imperiled so long as India refuses to afford adequate protection of U.S. intellectual property and full market access to U.S.-made innovative products. We cannot afford to sit back and watch as India adopts policies that adversely impact U.S. innovative and creative industries, and threaten the greater stability of the international trading system.

Sincerely,

Max Baucus
Chairman

Orrin Hatch
Ranking Member

###