

India, US may use side letters to settle non-tariff barriers

ASIT RANJAN MISHRA

New Delhi, 27 April

India and the United States (US) may resolve contentious non-tariff barriers (NTBs) by signing the so-called “side letters” outside the framework of the proposed bilateral trade agreement (BTA). In recent months, the US has flagged certain provisions of the draft Digital Personal Data Protection (DPDP) Act, data localisation, and quality control orders as some of the non-tariff barriers.

“There may be more side letters signed between India and the US as part of a mutual understanding between the two governments. These will be largely in the context of non-tariff barriers,” said a government official, requesting anonymity.

In the context of a free-trade agreement, side letters are separate documents negotiated alongside the main agreement to address specific concerns, clarify interpretations, or make special arrangements between the parties. They are legally binding but apply only to the countries that sign that particular side letter.

For example, while concluding the Economic Cooperation and Trade Agreement (ECTA), Australia agreed to amend its domestic laws to stop taxing offshore income of Indian IT firms operating in Australia, thus resolving an issue raised by India about the double-taxation avoidance agreement (DTAA) between the two countries. Turn to Page 6 ▶



In the context of an FTA, side letters are separate documents negotiated alongside the main agreement to address specific concerns, clarify interpretations, or make special arrangements between the parties

Glenmark, Cipla plan to step up US manufacturing

ANJALI SINGH & SOHINI DAS

Mumbai, 27 April

Drugmakers Cipla Limited and Glenmark Pharmaceuticals are open to expanding their manufacturing footprint in the US — a move that could help shield them from potential disruptions linked to evolving tariff regime.

The US accounts for around a quarter of total revenue for both Cipla and Glenmark.

Cipla is “actively scaling operations in the US”, a key global market for generics, particularly in respiratory and oncology segments, said a person familiar with the development. The company currently operates four manufacturing facilities in New York (3) and Massachusetts (1), focusing on inhalation products, oral therapy sachets, and the production of tablets and capsules. Cipla believes complex generics and peptide-based drugs are two areas where it can achieve long-term strategic growth. Turn to Page 6 ▶

P3

GLENMARK'S RESEARCH ARM WILL BE SELF-FUNDED SOON, SAYS SALDANHA

USTR report flagged concerns over draft rules of DPDP Act

Although this was not part of the ECTA itself, it was formalised through the exchange of a side letter by the trade ministers of both countries, outlining the mutual understanding.

The US has in recent days raised serious concerns over non-tariff barriers faced by American businesses in India. During his recent visit, US Vice President J D Vance pressed India to remove non-tariff barriers and provide greater market access to American companies.

In its National Trade Estimate report on Foreign Trade Barriers released earlier this month, the United States Trade Representative (USTR) flagged concerns over the draft rules of India's DPDP Act, warning that they could impose "burdensome requirements" on data fiduciaries and mandate the disclosure of personal data to the Indian government.

The report also noted that the draft rules allow the Indian government to restrict cross-border data transfers to specific countries through formal notifications. India's data privacy law may also introduce sector-specific data localisation requirements, it said.

In its submission to the USTR, the Coalition of Services Industries (CSI), whose members include Google, Amazon, and Mastercard, highlighted issues such as local content requirements, the unfair advantage given to Unified Payments Interface (UPI) and Rupay cards, data localisa-

tion, mandatory testing and certification of telecom equipment, differential tax treatment of foreign companies, and Customs duties on information technology products, among others. US companies have also raised concerns over the numerous quality control orders issued by the Indian government.

Sanjay Notani, senior partner at Economic Laws Practice, said both countries need to take a sector-by-sector approach to understanding non-tariff barriers. "Currently, these barriers exist across several sectors, including metals, chemicals, industrial products, capital goods and telecom. We first need to assess the nature of these barriers -- whether they involve local content requirements, licensing, standards or testing -- because there is no one-size-fits-all solution," he said. US Treasury Secretary Scott Bessent said last week that he expected India to strike its first bilateral trade deal to avert President Donald Trump's reciprocal tariffs.

A team of Indian commerce department officials, led by Chief Negotiator and Commerce Secretary-designate Rajesh Agrawal, was in Washington DC last week to negotiate a trade deal with the US. While both sides have committed to concluding the first tranche of the BTA by fall this year, Indian officials have spoken about finalising an "early tranche" by July 8, when the current pause on country-specific reciprocal tariffs will expire.

