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"U.S.-India Trade Relations: Opportunities and Challenges"

Rapaport Group Submission For The Record
House Ways and Means Committee
Subcommittee on Trade

Hearing on March 13, 2013
U.S.-India Trade Relations: Opportunities and Challenges

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March 27, 2013

The U.S. and India Trade In Diamonds, Gems and Jewelry

Introduction

The Rapaport Group appreciates this opportunity to provide comments to the House Ways and Means Committee's Trade Subcommittee regarding U.S. India Trade Relations: Opportunities and Challenges.

I am Martin Rapaport, Chairman of the Rapaport Group a U.S. owned international group of companies providing added value services to the international diamond, gem and jewelry industry. The Group's information services division, established in 1978, provides a broad range of information, research and analysis. It is best known for the benchmark Rapaport Price List which is the primary source of diamond price information and subscribed to by over 15,000 companies in 105 countries. Our trading division includes RapNet® – the world's largest diamond trading network with daily listing of 950,000 diamonds valued at $6.1 billion and 12,100 members in 81 countries. The Rapaport Auction division is the world's largest recycler of diamonds with monthly sales of 50,000 carats of polished diamonds. Our RapLab™ – provides Rapaport and Gemological Institute of America diamond grading services in Israel, India and Belgium. While the Group does not trade diamonds for its own account it physically handles over $2 billion of diamonds annually for grading and trading purposes. The Group employs over 180 people with and offices in New York, Las Vegas, Antwerp, Ramat Gan, Mumbai, Surat, Dubai, Hong Kong and Shanghai.

Rapaport India serves over 3,000 Indian clients and employs seventy five people with offices in Mumbai and Surat. The group also owns 50% of AOJ the largest jewelry magazine in India and a provider of jewelry exhibitions. While Rapaport India promotes the international trade in diamonds through its RapNet – diamond trading network enabling direct transactions between Indian diamond manufacturers and worldwide dealers/retailers, its primary activity over the past decade has been providing the gemological laboratory diamond grading services of the Gemological Institute of America to Indian clients. Since 2003 Rapaport India has exported to the Unites States for grading purposes and then re-imported to India a total of 1,626,926 diamonds valued at over $5.8 billion.

The Rapaport Group is a value based organization. Our mission is the sustainable development and implementation of ethical, fair, efficient, transparent, and competitive markets. All of our services support these goals.

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Background U.S. - India Diamond Trade

Diamonds, gems and jewelry are the largest international commodity traded between the U.S. and India. In 2012 polished diamonds were the number one U.S. import from India ($5,399 million, 13% of total imports) and they were the number two U.S export to India ($2,631 million, 12% of total exports). Diamonds, gems and jewelry combined were the number one import ($7,124 million, 18% of total) and number one export ($2,868 million, 13%). In terms of total trade the category accounted for $9,992 million or 16% (see table 1 below for full details).

U.S. - India Diamond, Gem and Jewelry India Trade Data ($M)					
U.S. Diamond, Gem and Jewelry Exports to India	**2008**	**2009**	**2010**	**2011**	**2012**
(42100) Gem diamonds	1,730	1,472	2,772	3,559	2,631
(41310) Jewelry, etc	245	186	189	227	237
Total U.S. Diamond, Gem and Jewelry Export to India	1,975	1,658	2,960	3,785	2,868
Total U.S. Exports to India	17,682	16,441	19,250	21,501	22,336
Diamonds as % of Total Exports to India	*10%*	*9%*	*14%*	*17%*	*12%*
Diamonds, Gems, Jewelry as % of Total U.S. India Exports	*11%*	*10%*	*15%*	*18%*	*13%*
U.S. Diamond, Gem and Jewelry Imports from India	**2008**	**2009**	**2010**	**2011**	**2012**
(42100) Gem diamonds-uncut or unset	3,880	3,079	5,175	6,260	5,399
(41310) Jewelry (watches, rings, etc.)	1,517	1,320	1,452	1,492	1,505
(42110) Other gem stones-precious, semiprecious, and imita	189	134	203	238	219
Total U.S. Diamond, Gem and Jewelry Imports from India	5,587	4,533	6,829	7,990	7,124
Total US Imports from India	25,704	21,166	29,533	36,153	40,518
Diamonds as % of Total U.S. Imports from India	*15%*	*15%*	*18%*	*17%*	*13%*
Diamonds, Gems, Jewelry as % of Total U.S. India Imports	*22%*	*21%*	*23%*	*22%*	*18%*
U.S.- India Total Diamond, Gem and Jewelry Trade	**2008**	**2009**	**2010**	**2011**	**2012**
(42100) Gem diamonds-uncut or unset	5,610	4,551	7,946	9,818	8,031
(41310) Jewelry (watches, rings, etc.)	1,762	1,506	1,640	1,718	1,742
(42110) Other gem stones-precious, semiprecious, and imita	189	134	203	238	219
Total U.S. Diamond, Gem and Jewelry Trade with India	7,561	6,191	9,789	11,775	9,992
Total U.S. - India Trade in Goods	43,386	37,607	48,783	57,654	62,854
Diamonds as total of U.S. India Trade	*13%*	*12%*	*16%*	*17%*	*13%*
Diamonds, Gems, Jewelry as % of Total U.S. India Trade	*17%*	*16%*	*20%*	*20%*	*16%*
Table 1 - Source U.S. Census, Data in $ Million					

The testimonies provided by the expert witnesses appearing before the subcommittee on March 13, 2013 provided a clear indication of severe problems in the trade relationship between the U.S. and India. There is a clear consensus that something must be done on an urgent basis to improve the situation as India is moving forward with international trade agreements with other countries. Given the size and importance of diamond production and exports to India's economy and our trade with India it is important for us to identify problems and solutions based on principles that are consistently implemented and enforced.

Reading the testimonies of others and based on personal experience, it is clear that we are all complaining about the same thing. When it comes to commerce, the U.S. government and U.S. companies have very little influence on what India does. Import taxes (such as a sudden 2% tax on polished diamonds) are implemented overnight without consultation or explanation. Obtaining withholding tax certificates so that we can pay our U.S. suppliers for services is an unending annual nightmare. It takes three months or more to get approval to pay U.S. suppliers. U.S. companies are subject to arbitrary and absurd demands from officials who are frequently absent. Expensive annual transfer pricing studies are difficult to get proof of corporate residency but are required every year even if nothing has changed with a company. The list of problems and complaints goes on and on. It is obvious our problem is not understanding what the problems are, but rather identifying and implementing the solutions. The key issue before us is – What should we do?

1. Principles. International trade must be based on clearly understood and communicated principles that are consistently applied and enforced. If our trade partners do not know what to expect from us when they mistreat us, then it's our fault. We can't blame India for taking advantage of us if we do not have clear policies and have not communicated the consequences of their actions because we ourselves do know what we are doing. Therefore, our first step must be to establish principles that we are willing to enforce.

   There is consensus that the primary U.S. international trade principle should be maintenance of a level playing field with our trading partners. Furthermore, we want a fair and open international trade that supports efficient, competitive and transparent markets.

   In order to accomplish this goal we must introduce and implement a second over-riding enforcement principle – reciprocity. Wishing for a level playing field without implementing and enforcing reciprocity is irresponsible. If there is no incentive to treat us fairly, why should India or anyone else do so?

2. Reciprocity and the Golden Rule. There are two interpretations of the golden rule. The first is to "treat your neighbor as you would like to be treated" and that works well with the "level playing field" principle. The second interpretation is "he who has the gold rules" and that works well with the "reciprocity" principle.

   In the case of diamonds, gems and jewelry, the U.S. position should be that all import duties by India and the U.S. should be eliminated. If that is not possible, then we should reciprocate by implementing the same level of import taxes on India that they are implementing on us.

   Regarding the informal bureaucratic tactics used by India to restrain our trade, here again reciprocity makes sense. If we are forced to jump through unreasonable hoops to get our withholding certificates or in order to operate our businesses then the same requirements should be put on Indian companies seeking to obtain payment from the U.S. or to operate in the U.S. It is natural and normal for trading partners to understand and accept government policies that are based on reciprocity.

   While I support the idea of legislation that, subject to Presidential and/or Congressional exemption, requires reciprocal trade actions by the U.S. government, I recognize there may be others who fear that such legislation may result in trade wars. Therefore, Congress may wish to temper implementation and enforcement of reciprocity. The key idea is to have such a policy and move towards implementation so that we and our trading partners know the consequences of our actions. We want our trading partners to fully understand and expect the ramifications of their unfair and unacceptable actions. Not having a clear U.S. policy and position regarding unfair trading is unacceptable and irresponsible. We must know and our trading partners must know the consequences of unfair trade and that we are prepared to take action. And that action is: implementation and enforcement of reciprocal trade policies that ensure a level playing field.

3. United States Trade Representative (USTR). We must recognize that the USTR has very little traction with regard to negotiations with the Indian government. Our people talk and yet India does whatever it wants, whenever it wants. We are not even informed of tax increases or changing policies that negatively impact us. Frankly, it's not the USTR's fault. It is outrageous that we send the USTR into battle without any ammunition. Whether we use reciprocity or something else, we must empower our negotiators. We should not be talking with the Indians if we have nothing to give them or take away from them. At this stage we appear weak and are ignored. It's embarrassing.

4. The Private Sector. At times it appears as if the Indian government is more than willing to hurt its economy. It's as if the government and private sector are at war with each other and the government does not care about implementing positive development. To some degree this is an illusion propagated by the government and we should not buy into it. India's private sector has real power and can change the course of government – sometimes with just one phone call. U.S. policy makers should significantly increase their interaction with U.S. firms on the ground in India and work with these firms to establish relationships and contacts with Indian companies that will be interested in protecting and expanding their U.S. business interests.

   In many instances the deadlock reached with government officials and policy makers can be overcome with the assistance of the private sector. From the diamond industry perspective establishing and interacting with an advisory panel consisting of companies operating in India who share a common interest with Indian companies would be very helpful.

   Please note, that the U.S. is the world's most important diamond market in terms of size and consistency of demand. India is the largest diamond manufacturer. When it comes to diamonds, India needs the U.S. more than the U.S. needs India. Furthermore, India is desperate for foreign currency. In the current environment, the diamond trade appears to be low hanging fruit from a negotiation standpoint and could be an ice breaker regarding other commodities. Having said this, we should be careful not to negotiate with India until we are able to provide our negotiators with real leverage.

5. Generalized System of Preferences (GSP). While India is well known for the poverty of many of its citizens we must recognize that it is also the home of many millionaires and billionaires. It is time for the U.S. to support India by recognizing their financial independence and power. It's time for us to treat them as trading equals.

   GSP is harmful to India's development because it diminishes the natural economic forces moving India towards deregulation and the implementation of rational international trade policies. Furthermore, India's consistent denial of a level playing field to U.S. companies is reason enough to deny them GSP status. It is time for us to end this subsidy and consistently apply the concept of a level playing field.

6. Due to time and presentation constraints I have not addressed a number of important issues in this brief comment. These issues include preferential credit facilities to the diamond trade which inflate rough diamond prices and enable Indian companies to dominate select areas of diamond manufacturing; the export of diamonds sourced from OFAC sanctioned entities to the U.S.; the need for U.S. customs to establish procedures that will minimize the importation of these diamonds as well as other diamonds that may be involved in terrorist financing or money laundering. Should the subcommittee be interested in expanding my discussion on these topics I should be pleased to extend my comments at some future date.

Conclusion and Recommendations

7. Congress should take action by creating legislation that establishes, implements, communicates and enforces the principle of a "level playing field" in combination with the principle of "reciprocity." Such legislation may be modified to ensure flexible implementation by the President and/or Congress so as to avoid unintended consequences that may threaten other strategic U.S. interests.

8. The USTR must be supported with real leverage with the ability to apply market power that significantly helps and/or harms the economic position of the counter-party. We should hold off on negotiations until we have established reasonable policies that ensure such market power.

9. The private sector should be encouraged to participate in the strategic development of U.S. trade policy with attention given to firms operating on the ground in India. U.S. companies should be involved in negotiations with their counterparts in India to help influence government policy and decision making.

10. The GSP for India should not be extended.

I thank the subcommittee for providing me this opportunity to communicate my views and hope the information provided is helpful. Additional information about the Rapaport Group is available at www.diamonds.net.

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