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Session II: Industrial Licensing and Foreign Investment Policies

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— A certain class of businessmen who are much more interested in their own personal prosperity than in the future of the country.

Mr. Palkhivala concluded by saying that the vitality of our nation is remarkable. The country, he conceded, may not have a powerful economy but it has all the ingredients to build one.

He quoted ambassador J. K. Galbraith who had remarked that while he had seen poverty in many countries of the world he had found a richness in their poverty. He saluted the Indians saying that they did not count their wealth in money alone.

Mr. Palkhivala concluded by saying that it was no exaggeration to compare the Indian economy to a sleeping giant who if awakened could make a powerful impact on global economy.

Session II

**INDUSTRIAL LICENSING AND
FOREIGN INVESTMENT POLICIES**

Mr. Ashok Desai, Senior Advocate of the Supreme Court of India chaired this session. He called for an innovative approach from lawyers as well as economists — an approach that could be to the great advantage of furthering economic development. He said that today the Union of India has within its powers the ability to change a policy throughout the country by making a decision in Delhi.

The next panelist was Mr. P. J. Kurien, Minister of State for Industry. He spoke about the new Industrial Policy. He reminisced that India started from a mixed economy, which was a Nehruvian concept of development and today we had made radical changes in the fiscal policies and industrial policies. He was of the view that India was strong enough to cope with the Industrial or fiscal changes and that was the responsibility of every citizen of this country to see that the new industrial policy announced is successful. He stated that advocates could also help the implementation of this policy.

He was of the opinion that there should be a positive approach in litigations **causing hurdles in development projects** and if a **negative attitude is taken** it will certainly go against it but this should be done without compromising on the fundamental rights of the citizens.

He observed that after delicensing a lot of entrepreneurship was coming forward to file memoranda and start an industry. He also pointed out that now 51 per cent foreign equity investment is automatic in most of the industries and there is automatic clearance of proposal by the Reserve Bank of India within a week or so and that the applications need not be routed through the Industry Ministry unless in cases where there was more than 51% equity.

He also spoke on foreign technology and that for appointing technicians from abroad no clearance is needed. The only condition is that when dividends are taken they should be matched by export obligations but there should be dividend balancing.

He said that the new Industrial Policy had a two pronged approach. Firstly liberalising entrepreneurship making use of the domestic potential whatever potential is available in this country for investment by decontrol licensing. He also pointed out that this approach encouraged both foreign investment and foreign technology.

He further commented that the investment scenario in India was encouraging foreign investment and foreign technology by removing bottlenecks.

Next Mr. Kalyan Bannerji, Chairman and Managing Director, Exim Bank of India spoke on the general agreement on Tariffs and Trade, Gatt and the Uruguay Round. He remarked that the sub-continent was moving towards integration with the global economy and that was the cause of changing climate of investment in India and these changes have a relevance to the Gatt/Uruguay Rounds because the Uruguay Rounds would set rules in the area of trade related investment measures. He observed that both in the Super 301 and in the Uruguay Round, Trims discussion, there was this question about the linking of export performance to foreign direct investment.

This presentation was followed by a discussion among the panelists and participants in which Mr. Ivanovsky, Managing Director of an Indo-German joint venture in India, Prof. Kurien, Mrs. Pramila Nesargi, Mr. Steven Nelson, Mr. Nishit Desai and others participated.

After the discussion the paper by John McDermott, Professor of Law, Loyola Marymount University, California, was presented. This paper dealt with the protection of the American Intellectual Property Rights. It pointed out that intellectual property laws do not always anticipate technological innovations and thus new technologies may be inadequately covered for a substantial period of time.

He also said that the broadest remedy for violations of U.S. Intellectual property rights was provided by Section 301 of the Trade Act of 1974. He also spoke about the 1988 Omnibus Trade Act which included a special amendment to Section 301.