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UNDERSTANDING INDIAN BUSINESS

Learning Objective

The main objective of this chapter is to make the learners familiar with the various concepts and practices applicable in Indian business system.

2.1 INTRODUCTION

Business is an important institution in society. Be it for the supply of goods or services, creation of employment opportunities, offer of better quality life, or contribution to the economic growth of a country, the role of business is crucial. So the first question arises in anyone's mind is what really a business is? The following definition is an attempt to provide appropriate answer.

> "A business is nothing more than a person or group of persons properly organized to produce or distribute goods or services. The study of business is the study of activities involved in the production or distribution of goods and services–buying, selling, financing, personnel and the like".

Practically the above said definition is true but in theoretical sense it is incorrect. Before any activities can be considered in the business, there must exist both the goal of profit and the risk of loss. Thus, business can be accurately defined by K. Ashwathappa as "Complex field of commerce and industry in which goods and services are created and distributed in the hope of profit within a framework of laws and regulations".

Understanding the Business: To understand any business the critical step is to explore all the factors related to business and properly judging its impact on the business. There are many factors and forces which have considerable impact on any business. All these forces come under one word called environment. Hence, understanding the business means understanding its environment. Environment refers to all external forces which have a bearing on the functioning of business. "Environment factors or constraints", which Barry M. Richman and Melvyn Lopen", are largely if not totally, external and beyond the control of individuals institutional backing to the results by signing the final act at a meeting in Marrakesh, Morocco in April 1994. The 'Marrakesh Declaration' of 15th April 1994, affirmed that the results of the Uruguay Round Would "Strengthen the world economy and income growth throughout the world". The WTO is the embodiment of the Uruguay Round results and the successor to the General Agreement on Tariffs and Trade.

India is a founder member of both GATT (1947) and its successor organization, the WTO. By virtue of its WTO membership, India automatically avails of most favoured nation and national treatment from all WTO members for its exports and its participation in this increasingly rule-based system which is aimed towards ensuring more stability and predictability in the governance of international trade. WTO-related issues of current importance in India relate mainly to rights and obligations emanating from these agreements. The most important issues are:-

(a) Quantitative restrictions (QRs)
(b) Patents
(c) Geographical indications
(d) Agriculture
(e) Services
(f) Market access
(g) Implementation issues
(h) Trade and investment policy

Quantitative Restrictions (QRs): QRs on imports maintained on Balance of Payments (BOP) grounds were notified to WTO in 1997 for 2714 tariff lines at the eight-digit level. In view of the improvement in our BOP, the Committee on BOP Restriction had asked India for a phase out plan for these QRs. Based on presentations before this Committee and subsequent consultations with our main trading partners, an agreement was reached with those countries, except USA to phase out the QRs over a period of six years beginning 1997. The US preferred a dispute under the WTO's Dispute Settlement Mechanism. Pursuant to the report of the Panel and the Appellate body, India and the USA have agreed to a bilateral settlement for determination of a reasonable period of time up to April 1, 2001, within which India has to implement the rulings and recommendations of the Dispute Settlement Body to remove the existing QRs in a phased manner. As on date, the numbers of tariff lines on which QRs exist have come down to 1429 at the eight-digit level.

Trade Related Intellectual Property Rights (TRIPS): The Agreement sets out the minimum standards of protection to be adopted by the Parties, in respect of (a) Copyrights and related rights; (b) Trademarks; (c) Geographical indications; (d) Industrial designs; (e) Patents; (f) Lay out designs of integrated circuits; and (g) Protection of undisclosed information (trade secrets) arid the enforcement of these. A transition period of five years is available to all developing countries to give effect to the provisions of the TRIPS Agreement. Countries that do not provide product patent in certain areas can delay the provisions of product patents for another five years. However, they have to provide exclusive marketing rights for products which obtain patents after 1.1.1995. As per our obligations under the WTO Agreement, the Patents (Amendments) Act, 1999 was passed in March 1999 to provide for exclusive marketing rights.

Patents: The basic obligation in the area of patents is that inventions in all fields of technology, whether products or processes, shall be patentable if they meet the three tests of being novel, involving an inventive step and being capable of industrial application. In addition to the general security exemption which applies to the entire TRIPS Agreement, exclusion from patentability are permissible for inventions whose commercial exploitation is necessary to protect public order or morality, human, animal, plant life or health; or to avoid serious prejudice to the environment. Diagnostic, therapeutic and surgical methods for the treatment of humans or animals and plants and animals other than microorganism may also be excluded from patentability. The patent term provided for in the TRIPS Agreement is 20 years. A Bill to make these and other changes was introduced in Parliament and has been referred to as Joint Select Committee of the Houses.

In respect of plant varieties, there is an obligation to provide for protection by patents or by an effective sui generis or by any combination thereof. The Agreement does not spell out the elements of a sui generis system and it is left to each Government to determine the elements which could be deemed to be providing effective protection. A decision has been taken to put in place a sui generis system as it is perceived to be in our national interest. A legislation to this effect tabled in the Parliament by the Ministry of Agriculture has been referred to as Joint Parliamentary Committee.

Lay-out Designs of Integrated Circuits: India is a signatory to the international agreement (the Washington Treaty) administered by the WIPO. The main obligations of the Washington Treaty are also incorporated in the TRIPS Agreement with some enhancement and cover the protection of intellectual property in respect of lay-out designs that are original in the sense of being the result of their creator's own intellectual efforts. The obligations include national treatment to foreign right holders and a term of protection of 10 years. A legislation giving protection to lay-out designs was introduced in the Rajya Sabha on 20 December, 1999 by the Department of Electronics.

Copyright and Related Rights: In the area of copyright and related rights, i.e., rights of performers, producers of phonograms and broadcasting organizations, the Agreement requires compliance with the provisions of the Berne Convention. Computer programs are to be protected as literary works. The term of protection for copyrights and rights of performers and producers of phonograms is to be no less than 50 years. In case of broadcasting organizations, however, the term of protection is to be at least 20 years.

India is a signatory to the Berne Convention. The Copyright Act, 1957 as amended in 1994 takes care of our own concerns and meets with the requirements of the TRIPS Agreement except in the case of terms of protection of performers' rights. A Bill to increase this term to 50 years was passed by Parliament in December, 1999.

Trademarks: India's trademarks law, The Trade and Merchandise Marks Act (TMMA), 1958 is in its essential features, in accordance with international law. A Bill to amend the TMMA was introduced in Parliament in 1993 so as to provide for protection to service marks also. The Bill could not be passed and subsequently lapsed. A Bill in this regard, however, was passed by Parliament in December, 1999 which, inter alia, provides for protection to service marks.

Geographic Indications: The Agreement contains a general obligation that parties shall provide the legal means for interested parties to prevent the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin of the good. In India, we do not so far have any specific law on geographical indications. Case law, however, enables legal action for explorations centres, power development projects and the council of scientific and industrial research. Besides, several universities and institutes have been set-up to provide higher education in science, technology and management. As on today there are 4700 intermediate/junior colleges, 144 universities, and 44 deemed universities in the country. Also there are more than 500 science and technological institutions, and 1080 in house research and development laboratories. There is also the Department of Science and Technology, an administrative wing of Government, to coordinate the activities of all research and technical activities in the country.

2.4 ECONOMIC ENVIRONMENT

Economic environment refers to all those economic factors which have a bearing on the functioning of a business unit. Business depends on the economic environment for all the needed inputs. It also depends on the economic environment to sell the finished goods. Naturally, the dependence of business on the economic environment is total and it is not surprising because, as it is rightly said, business is one unit of the total economy.

It is difficult to be precise about the factors which constitute the economic environment of a country. But still there are some factors which have considerable influence. These factors are:-

(a) Growth strategy
(b) Economic system
(c) Economic planning
(d) Industry
(e) Agriculture
(f) Infrastructure
(g) Financial and fiscal sector
(h) Removal of regional imbalances
(i) Price and distribution control
(j) Economic reforms

Out of the above said factors, two are of prime importance:-

1. Economic system
2. Industry

- **Economic System:** The scope of a private business and the extent of government regulation of economic activities depend to a very large extent on the nature of economic system, which is an important part of business environment. Broadly the economic system is divided into three groups.

    (a) Capitalism
    (b) Socialism
    (c) Communism

(a) Capitalism: The system of capitalism stresses the philosophy of individualism believing in private ownership of all agents of production, in private sharing of distribution processes that determine the functions rewards of each participants, and in individual expression of consumer choice through a free marketplace. In its political manifestation, capitalism may fall in a range between extreme individualisms and anarchism (no government) and the acceptance of some state sanctions.

The capitalist system is also known as free enterprise economy and market economy. Two types of capitalism may be distinguished, viz.,

(i) The old, laissez-faire capitalism, where government intervention in the economy is absent or negligible; and

(ii) The modern, regulated or mixed capitalism, where there is a substantial amount of government intervention.

(b) Socialism: Under socialism, the tools of production are to be organized, managed and owned by the government, with the benefits occurring to the public. A strong public sector, agrarian reforms, controls over private wealth and investment and national self-reliance are the other planks of socialism. Socialism does not involve an equal division of existing wealth among the people, but advocates the egalitarian principle. It believes in providing employment to all and emphasizes suitable rewards to the efforts put in by every worker. Also called Fabian socialism, this philosophy is followed in our country and other social democratic countries in the world.

(c) Communism: Communism goes further to abolish all private property and property rights to income. The state would own and direct all instruments of production. Sharing in the distributive process would have no relationship to private property since this right would not exist. Alternatively called marxism, communism was followed in Russia, China and East European Countries.

- **Industry System:** In the mid-1960s, India had a better industrial base and possessed more prerequisites for industrial growth than South Korea, Malaysia, Taiwan, Thailand and Indonesia. Since then, the country has succeeded in creating a virtually autarkic economy where all outputs and factors were subject to rigid price and quantity controls; where investment was strictly rationed; where there were multiple barriers to entry, investment, foreign trade, and competition, and where the objective of the financial system was to supply subsidized development funds irrespective of returns. Consequently, all the countries, mentioned above, have overtaken India and are far ahead in industrial growth.

  The various administrative controls are industrial licensing, industrial policies and asset classification of monopolies, product reservation for small-scale sector, Foreign Exchange Management Act (FEMA), tariffs and quotas, the miniplant fetish, labour market rigidities, development finance and indulge now availability and essentiality. These are explained as follows:

(a) Industrial Policy: Industrial policy is an important document which lays a wide canvas and sets a tone for implementing promotional and regulatory roles of the government. The term "industrial policy" refers to government's policy towards industries—their establishment, functioning, growth and management.

The policy indicates the respective areas of the large, medium and small-scale sector. It also spells out government's policy towards foreign capital, labour, tariff and other related aspect. Naturally, the industrial development of a country is shaped, guided, fostered, regulated and controlled by its industrial policy.

Industrial policy is probably the most important document which indicates the relationship between the government and the business. But, it has no legal sanction and as such its violation cannot be challenged in a court as is possible in the case of Fundamental Rights guaranteed by the constitution.

This policy was announced on 30th April 1956. The resolution of 1956 made the industrial policy. More socialist oriented and widened the scope of public sector. The resolution classified industries into three categories, having regard to the role which the state would play in each of them.

(i) The first category contained industries "the future development of which will be the exclusive responsibility of the state". Industries in this category were listed in Schedule A of the resolution. Schedule A contained 17 industries. These included railways and air transport, arms and ammunitions, and atomic energy, which were to be developed as Central Government monopolies. In the remaining industries in Schedule A, the expansion of the existing privately-owned units, or the possibility of the state securing the cooperation of private enterprise in the establishment of new units where the national interest so required, was not produced. However, it was made clear that "whenever cooperation with private enterprise is necessary, the state will ensure, either through majority participation in the capital or otherwise, that it has the requisite powers to guide the policy and control the operations of the undertaking.

(ii) In the second category were included industries "which will be progressively state-owned and in which the state will, therefore, generally take the initiative in establishing new undertakings, but in which private enterprise will also be expected to supplement the efforts of state. The industries included in the second category were listed in Schedule B of the resolution. It contained 12 industries like machine tools, fibre-alloys and tools, drugs, fertilizers, synthetic rubber, carbonization of coal, chemical pulp, road transport and sea transport and aluminium and other non-ferrous metals not included in Schedule A.

(iii) The rest of industries were thrown open to the private sector but this did not prevent the state from starting any new undertaking. State will facilitate and encourage the development of these industries in the private sector by providing infrastructural facilities.

Ours is one of the few countries in the world where an entrepreneur is required to obtain an industrial licence from the government before venturing into a new business.

A "licence" is a written permission issued by the Central Government to an industrial undertaking stating such details as the location, the article to be manufactured, production capacity and other relevant particulars. It is also subjected to a validity period within which the licensed capacity should be implemented.

The principal objective of the Foreign Exchange Management Act (FEMA) is to prevent the outflow of Indian currency and to see that the foreign exchange legitimately due to India should be received. In detail, the objectives of the Act are as follows:

(i) To regulate certain payments.
(ii) To regulate dealings in foreign exchange and securities.
(iii) To regulate the transactions indirectly affecting foreign exchange.
(iv) To regulate import and export of currency and bullion.
(v) To conserve the foreign exchange resources of the country and to utilize the same in the interests of the economic development of the country.
(vi) To regulate holding of immovable property outside India.

2.7 NATURAL ENVIRONMENT

Equally significant, but sadly ignored, are the factors like climate, minerals, soil, landform, rivers and oceans, coastlines, natural resources, flora and fauna, etc. Which have considerable influence on the functioning of a business? It is the natural environment which decides the resources for any business. Manufacturing, which is one of the aspects of business, depends on physical environment for inputs like raw material, labour of various skills, water, fuel, etc. Trade between two regions of a nation or between two nations is the result of geographic factors. Because of natural factors, certain areas are more suitable for production of certain goods and other areas are in need of such goods. Transportation and communication, the main prop of business, depend to a larger extent on geographic factors. Uneven landforms, desserts, oceans, forest, rivers, etc. are barriers to develop this vital infrastructure. Some businesses like mining of coal and ores, drilling of oil and most important agriculture which depends most on nature. Thus, the impact of natural environment cannot be ignored moreover it should be given top priority for any successful business.

2.8 SUMMARY

India is a country of land and people. It has a huge customer base as well as world's most powerful brains. It is rich in its natural resources and is highly adaptive to changing business environment. In some areas like technology and political stability, it requires some wise steps. With all these virtues India has become a favourite destination of other countries to expand their business. India is expanding domestically as well as globally to compete with other powerful business nations so as to get its desired share of world economic growth.

2.9 SELF-ASSESSMENT QUESTIONS

1. Give a brief account of Indian business environment.
2. Discuss the major implications of Industrial Policy on Indian business.
3. Narrate in brief the various Industrial Policy Resolutions.
4. Write short notes on: (i) Economic environment; and (ii) Natural environment.