

**Opening Statement of the Honorable Fred Upton**  
**Subcommittee on Commerce, Manufacturing, and Trade**  
**Hearing on “A Tangle of Trade Barriers: How India’s Industrial Policy is Hurting U.S.**  
**Companies”**  
**June 27, 2013**

*(As Prepared for Delivery)*

This is a timely hearing on a topic of great importance to both U.S. companies and the public at large. We have a strong and growing trade relationship with India, as well as an important strategic alliance on the world stage. A key U.S. advantage in our trade with India is our strength in innovation and the resulting intellectual property – from high-tech, to green-tech, to medical technology. India is an important investment partner for a number of U.S. companies in these fields, but unfortunately, these companies like Pfizer in southwest Michigan are facing a serious threat to their intellectual property, thus jeopardizing the trade relationship we have with India in those industries.

India has not been a battleground in the effort to protect intellectual property in recent years, but with recent developments, that soon may change. While the use of compulsory licenses is permitted under international trade agreements, their use should be reserved for serious situations such as an epidemic, making critically needed drugs available en masse in relatively short periods of time. India issued its first compulsory license last year and is considering issuing three more under the guise of making expensive cancer drugs available for the “urgent needs of public health” and for failure to manufacture the pharmaceuticals in India.

Both reasons suffer fatal flaws: the domestic manufacturing requirement is a clear violation of India’s WTO national treatment obligations, and Indian companies are selling their generic versions at a cost that remains out of reach for most of India’s population. Instead, only a few privileged citizens can afford these generic versions of patent-protected, U.S.-researched and developed pharmaceuticals, delivering all of the profit but none of the R&D pain to India’s generic pharmaceutical manufacturers. I say “pain” because it is an expensive, lengthy, and arduous process to develop a drug and see it through the FDA’s rigorous approval process. The cost of developing most drugs exceeds \$1 billion today and with the reality that only 1-in-10,000 compounds are ever approved by the FDA, the odds are not favorable. Without the short-lived monopoly promised by a patent, there is little chance for private companies to recoup their investment, which means there is little incentive to engage in life-saving research.

The danger in India’s recent practices isn’t limited to pharmaceuticals. India now faces a WTO dispute in the green-tech field regarding mandatory domestic content requirements for solar cells and solar modules. U.S. companies in the high-tech industry see what happened to the solar industry and what’s happening in the pharmaceutical industry and rationally fear it could happen to them. IP-intensive industries contribute over \$5 trillion to our economy and support a total of 40 million American jobs. These incursions on their intellectual property rights hurt their bottom line and thus their ability to contribute to our economy and job market – something we cannot take for granted, especially in this fragile economic time.

I’m deeply disturbed by the turn of events in India’s intellectual property system. I am interested in what our witnesses have to say about the impact of these practices on U.S. companies, their employees, their R&D efforts, and the outlook for our trade relationship with this strategic ally.

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