86th Annual General Meeting
December 21, 2013, New Delhi

Session on Growth & Governance

Special address by Shri Sachin Pilot, Hon'ble Minister of State (IC) for Corporate Affairs

Hon'ble Justice Vikramajit Sen, Supreme Court of India
Ms. Naina Lal Kidwai, President, FICCI
Mr. Sidharth Birla, President- Elect, FICCI
Mr. T.V.Mohandas Pai, Chairman, Manipal Global Education Services Pvt. Ltd.
Mr. Ramesh Ramanthan, Co-founder, Janaagraha
Ms. Pallavi S. Shroff, Senior Partner, Amarchand Mangaldas & Suresh A Shroff & Co.
Ms. Sonia Singh, Editorial Director, NDTV 24x7

While the nation is taking all possible step to increase growth rate, manage exchange rate fluctuation, contain inflation, fiscal and current account deficit, the key to address these structural imbalances lies in effective governance at all levels. Good governance seems to have become an inevitable phrase in development circles, debates and discussions. It means the ability to differentiate between right and wrong, just and unjust, fair and foul and moral and immoral.

UNDP defines good governance as "...among other things participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. " According to ADB the four key components of good governance are : Accountability, Transparency, Predictability and Participation. The Worldwide Governance Indicator (WGI) Project of the World Bank provides six indicators of governance for 215 economic over the period 1996-2011. These are voice and Accountability; Political Stability/Absence of Violence; Government Effectiveness; Regulatory Quality; Rule of Law and control of Corruption.

While there are different definitions of governance in the public domain one thing is clear, that it includes all the stakeholders; legislature, judiciary, executive, private sector, civil society and the citizens, and that there will be no inclusive growth without good governance. Good governance is important because it provides greater transparency within the system and fosters a path for strong and stable economic development in any country by making the government officials and agencies accountable to the country's citizens. It has a direct impact on the economy as it boosts private market sentiment and attracts capital inflows. The major obstacle in the road towards good governance and transparency is corruption which acts as a barrier to sustainable growth and development and several important bills aimed at checking this menace are on the anvil.

Technology can be used as a tool for transparency and can be effectively used to inform and empower people so that good governance is ensured. Transparent systems would automatically reduce corruption to a large extent. Right to Information Act is one of the important initiatives undertaken in this regard. Apart from this law, several other efforts at improving transparency have been initiated at several levels of the Government. In India, the Government has been actively deploying and adopting technology in order to make governance more effective and efficient. The time taken for clearance, licences and other Government certificates and approvals remain cumbersome but the deployment of technology has improved the quality of some services to a great extent. We have shining examples in various states across India.

The National e-Governance Plan (NeGP) is another successful example. The objective of the NeGP is to make all Government services available to citizens through online access. Though it is work in progress, there are a few success stories including the MCA21 mission mode project (MCA21) which addressed the challenges faced by the Ministry of Corporate Affairs in providing services to corporate entities, e-filing of income tax returns and land record management systems. The success of e-filing of income tax returns can be gauged by the significant year-on-year increase in the number of citizens and users who have adopted the system.

Another landmark legislation aimed to improve transparency and governance is the Companies Act, 2013. The need for streamlining the Companies Act, 1956 was felt from time to time as the corporate sector grew in pace with the changing economic environment, with as many as twenty four amendments taking place since 1956. Equally, a need was felt for a comprehensive revision of the Companies Act, 1956. The objective of this exercise was the desire on the part of the Government to have a simplified compact law that will be able to address the changes taking place in the national and international scenario, enable adoption of internationally accepted best practices as well as provide adequate flexibility for timely evolution of new arrangements in response to the requirements of ever-changing business models.

The Indian economy is now more diverse, complex and dynamic. Many Indian companies have become global and expanded their operations beyond Indian borders with a spate of mergers and acquisitions abroad. Therefore a strong need was felt to help sustain this growth by putting in place a legal framework that would enable the Indian corporate sector to operate in an environment of best international practices in a globally competitive manner, while fostering a positive environment for investment and growth.

The key significance of the new law is the emphasis on governance and accountability and the balance it seeks to achieve in the interests of all stakeholders concerned. Another highlight is the change of discourse from control to self-regulation and it presents a paradigm shift in the way every stakeholder in a corporation must function. This transports India into the big league in corporate democracy and would definitely pave the way for an increase in investment opportunities.

The empowerment of SFIO, streamlining of the enforcement mechanism, provision of class action suits, restriction on trading of shares, delivery through e-governance, shareholder democracy, strengthening the institution of independent directors, rotation of auditors etc. are all aimed at improving corporate governance. However the idea is not to make regulations draconian or overly cumbersome for boards and management of companies to comply with. At the same time, there is a need for transparency in operations. We have allowed board meetings to be done through video conferencing, electronic voting has been allowed for the first time, as are class action suits. We are also doing away with the Company Law Board and setting up the National Company Law Tribunal to mitigate time involved in the resolution of disputes, with special courts for dispute resolution. Therefore, transparency, disclosure, self regulation and self-compliance - all of these will help to create an environment for regulations to be complied with and for investments to take place.

The Act is a crucial piece of legislation to align the Indian corporate laws with global standards, and our attempt has been to enhance corporate governance disclosure standards and regulatory oversight, ensure transparency in financial reporting, enhance shareholders' democracy and control corporate frauds. The new Act seeks to improve transparency and accountability in firms, encourages self regulation and protects minority interests among others. We are sure that the new law will give an impetus to the growth momentum because of the positive steps on corporate governance and regulatory reform. The legislative intent is clear and paves the way for an era of good governance. Results would follow from affirmative action by companies. Companies must build good governance within its organisational DNA than carry out changes from merely a compliance perspective.

The Act of 2013 is contemporary, transformative and innovative. It is contemporary as it is now at par with those elsewhere and brings in many improvements in doing business with ease; transformative as it makes every participant in corporate affairs, be it the board, the professional, the institutional investor, the stakeholder and even the regulator to think, act and perform afresh. I am sure the World Bank is watching this momentous transformation and India would figure next year much higher in the league table for doing business in India.

The Act has become somewhat more relevant now and I say this because the economy is facing uncertain and difficult market conditions. At this critical time, increased investments are needed to bring about an increase in growth. In these circumstances, it is incumbent upon all of us to make investments much more easier and compliances more self-regulated such that there is rule of law and anybody who does willful noncompliance must pay the price for it.

Realizing this need the Government of India had recently constituted a Committee chaired by Shri M. Damodaran, Former Chairman, SEBI. This Committee came out with a Report on Reforming the Regulatory Environment for Doing Business in India so as to improve India's ranking in the Ease of Doing Business. The Government wants to take all possible steps to make India a more welcoming place for investments both from domestic sources and from foreign sources. The Report makes some very important suggestions on Legal Reforms, Regulatory Architecture, Boosting Efficacy of Regulatory Process, Enabling MSMEs, and addressing state level issues and we will make sure that these forward looking suggestions are implemented. We will certainly make an effort to plug the loopholes, to make sure that investment flows and people who want to set up businesses are able to achieve their objectives and do it with very little cost and waste of time.

There are indeed a number of initiatives that have been taken to promote transparency for inclusive governance. While these are all necessary stepping stones for better governance, there is more that can be done. The power of the rapidly growing traditional and social media has transformed how citizens access and share information. The growth in the number of young, educated people in India augurs well for promoting a new set of ideas that might have appeared impossible or inconceivable even a few years ago.

Naturally, there has been a lot of focus on what the Government of India has been doing, and needs to do. However we need to acknowledge that the Government alone cannot address this challenge and legislation in isolation is not a panacea of all that ails us. Stakeholders across the spectrum have an important role to play in ensuring that the benefits of better governance reach all citizens. The full potential of these and other measures of the Government can be realised only with the active engagement of all stakeholders.

While we can have laws and more laws, good governance does not come from law making. It is a culture and has to come from within. The best way to look at this is to adhere to Mahatma Gandhi's principle of being a trustee of the company rather than its owner and endeavour for the common good. If we have felt that we have hit crisis point, we must also know that India has been effective in rising to greater heights when it responds. Let us all strive to create a culture of good governance. It should not remain an academic or development discourse. It should be transformed into a reality.

****