

India Japan Business Leaders Forum (IJBLF)

Status update on Industry Issues highlighted at the Forum meeting held on 1st September 2014 at Tokyo

Keidanren
Policy & Action



Confederation of Indian Industry

Issues Faced by Indian Companies Operating in Japan

Issues Partially Resolved

- Lift the ban on 17 food additives which are registered in India, reducing the cost of certification by Japanese agencies and relaxing the maximum residue levels of Ethoxyquin on various products.

[Maximum residue levels of Ethoxyquin Relaxed and received recognition from Indian government.]

Pending Issues

- **Remove non-tariff barriers.**

[Ongoing]

- **Develop mechanisms to streamline testing, inspection, and record-keeping procedures for the export of food, especially seafood, from India to Japan.**

[Ongoing]

- **Mutual Recognition Agreement (MRA) in pharmaceutical sector should be concluded.**

This would enable both the countries to identify the testing procedures and standards used in the other country for their goods.

Generic pharmaceuticals constitute 12 per cent of the total Japanese market. Japan offers

national treatment to Indian generic pharmaceuticals under CEPA, so the substitution potential is high. A Mutual Recognition Agreement (MRA) is needed, enabling both countries to identify the testing procedures and standards used in the other country for their goods. The complex registration process and language barrier in the Japanese market also hamper Indian exports.

[Japan has shortened length of time required for screening and testing for all companies across the world. It is suggested that PMDA (Pharmaceuticals and Medical Device Agency) and DCGI (Drug Control General India) should collaborate more closely on regulatory matters. Workshops on compliance expectations of PMDA would be useful to conduct for the Indian pharmaceutical sector.]

- **Facilitate improvement in movement of natural persons in such areas as relaxation of academic qualifications criteria in issuing visas for computer engineers.**

Indian industry enjoys a vast pool of skilled service providers across a range of sectors including IT, accounting, financial services, infrastructure-related services, legal, retail, telecommunications, tourism and health services. Japan may consider dismantling barriers such as economic needs tests and discipline domestic regulations, especially where qualification requirements and procedures are concerned. Japan too has requested easier access for its professionals in India. In addition, the need for an original invitation letter to process a business visa for Japan should be relaxed for Tier 1 companies.

[This issue needs to be discussed at the IJCEPA Sub-committee on Improvement of the Business Environment and resolved appropriately.]

- **Realize market access in fields such as IT, IT Enabled Services, and professional services.**

India's vibrant software services industry faces challenges while operating in Japan due to lack of outsourcing culture, complex procedures for contract qualifications for overseas companies, and the time taken to close a deal. Japanese companies often do not follow

standard Software Development Life-Cycle (SDLC) and require high level of customization which involves high costs. There is a need to promote facilitative contract procedures which could enable greater participation of Indian companies in the Japanese software market.

[This issue needs to be discussed at the IJCEPA Sub-committee on Improvement of the Business Environment and resolved appropriately.]

- **Introduce mutual recognition agreement on services professionals such as lawyers and accountants when called for by Japanese clients.**

[This issue needs to be discussed at the IJCEPA Sub-committee on Improvement of the Business Environment and resolved appropriately.]

- **The Withholding Tax of 10% on dividend, royalty and technical service fees should be eliminated.**

As per domestic law in Japan, there is no with-holding tax on payments by Japanese companies to non-resident entities towards service fees. However, as per DTA between Japan and India, 10% With-holding Tax applies on fees for technical services when Japan pays India.

As per normal convention, provisions of Treaty or Domestic Law whichever is beneficial is applied. However in case of Japan, the position that the Japanese government has taken is that the DTA treaty over-rides the domestic law. Thus the less beneficial option for the tax payer has been implemented. Hence it is recommended to abide by the domestic law or alter the DTA.

[This issue needs to be discussed at the IJCEPA Sub-committee on Improvement of the Business Environment and resolved appropriately.]

Issues Faced by Japanese Companies Operating in India

Issues which have been resolved

- Raise ceiling of foreign investment in the insurance sector from 26% to 49% as discussed in the Indian government.

[Resolved]

- Relax restrictions on financial and insurance including External Commercial Borrowing (ECB).

[Resolved]

- Relax restrictions on foreign capital investment in Indian banks (4.99 percent under new bank approval guidelines and 26 percent under the revised banking law) to allow the exchange of financial expertise between the two countries.

[The Government of India has brought in a composite cap by removing the sub-limits for FDI and FII, thereby allowing FIIs/FPI/QFIs to invest up to the sector limit of 74% provided there is no change of control and management of the investee company.]

Issues partially resolved

- Reduce the gap that exist between deemed profit and real profit in taxing on deemed profit.

[Partly resolved through introduction of APA]

- Resolve problems in transfer pricing and PE taxation that are deemed unreal from the

business point of view.

[Partly resolved through introduction of APA]

- Allow inspection data on electrical and electronic appliances by method stipulated by International Electrotechnical Commission (IEC).

[Japanese companies are now complying with norms set by the Bureau of Indian Standards (BIS), Government of India]

- Allow one-stop border services at the port of entry that should also suffice for all succeeding inter-state border control. Allow attaching maximum retail price stickers after customs clearance.

[Introduction of post-customs clearance attaching of maximum retail price stickers was announced but implementation is still awaited]

- To nurture internationally competitive industries in India, especially in manufacturing, by setting up rental factories and plug-and-play factories.

[An intent to develop 11 industrial parks for Japanese businesses were shared at the summit meeting in September, 2014, as agreed between METI and Department of Commerce and Industry. It was agreed in October, 2015, to add a new industrial park in the state of Madhya Pradesh at a meeting between MP CM and METI. In addition, the Karnataka Industrial Area Development Board is in talks with JICA to develop a Japanese Park in an area of 1000 acres in Tumkur District of Karnataka. In addition, JICA should talk to and engage more actively with potential public and private players who have established industrial parks to promote Japanese investment in such parks.]

- Request the two governments to further relax legal restrictions relating to infrastructure development.

[Several steps have been taken by the Government of India to encourage infrastructure development in India, and Japanese businesses appreciate commitment of the Indian government.]

- Improve transparency and speed of processing of Infrastructure Projects by Central and State Governments.

[Being done on a case by case basis, and Japanese businesses would greatly appreciate if the Indian government offer further support in this regard.]

- Provide support for minimizing project risks.

[Plug and Play concept has been introduced in terms of infrastructure development. Winners of the contract can start implementing the project immediately without worrying about all the regulatory clearances and other necessary linkages. Japanese businesses appreciate for the effort of Indian government and hope these measures would also apply to problems existing today as well.]

Pending Issues

- Thoroughly inform customs authorities as well as business sector of the two countries on CEPA rules as well as merit of CEPA use.
- Periodical holding of Sub-Committee on Improvement of the Business Environment, established under CEPA framework.
- Start inter-governmental discussions on domestic regulations over qualifications of workers and professionals.

- Further ease issuing multiple business visas including further simplification and rationalization of visa issuing process in the two countries including reduction of documents required, etc.
- Early enactment of bilateral social security agreement.
- Early implementation of GST.
- Realization of smooth land acquisition.
- Resolve discrepancies on taxing businesses as well as taxation systems between the central and state governments.

[This will be resolved once GST comes into place]

- Remove restrictions on foreign financial institutions to open offices in city centers.

[Ministry of Finance, Government of India has pointed out that 82% of all Japanese bank branches have been opened in major cities, but restrictions are not removed yet.]

- Operate intellectual property laws relating to such areas as patent and trademark rights and secure their international conformity.

[Measures have been taken to streamline and strengthen IPR regime in India, but international conformity, especially in the case of compulsory licensing clauses as observed as hindrance to high technology investment, is not yet achieved.]

- Two governments should resolve issues through forums such as the Ministerial-Level Public-Private Policy Dialogue, the DMIC Vice-Ministerial Taskforce, and sector-specific discussions on Japanese companies' projects on DMIC and CBIC.

[A Japan Plus Cell has been set up within the Department of Industrial Policy and

Promotion to resolve these and various other issues faced by Japanese companies, and Japanese businesses appreciates on what Japan Plus has achieved so far.]

- Facilitate public-private partnerships through comprehensive de-risking and government guarantees wherever necessary to mitigate risk on demand side.

[This has been a major policy thrust area of the government. The Kelkar Committee report has just been submitted to the Government. Further changes in PPPs are expected with the implementation of this report. Japanese businesses appreciate effort of the Indian government and hope these efforts would bring about better business environment in India]

- Establish a forum for regular dialogue between the public and private sectors of both countries.

[A Japan Plus Cell has been set up within the Department of Industrial Policy and Promotion for this purpose. Japanese businesses appreciate effort of the Indian government and hope these efforts would bring about better business environment in India.]

- Enable smooth approval procedures for land acquisition, and environmental, and other required permits.

[A Japan Plus Cell has been set up within the Department of Industrial Policy and Promotion to resolve these and various other issues faced by Japanese companies. Japanese businesses appreciate effort of the Indian government and hope these efforts would bring about better business environment in India.]

- Secure ample and stable supply of key fuels such as natural gas and coal at appropriate prices, transfer of fuel price rises to electricity users.

[Allocation of coal blocks to the private sector has been done. The gap between cost of

supply and tariffs has been reduced. Japanese businesses appreciate efforts of Indian government and hope these efforts would bring about better business environment in India]

- Further deregulate electricity generation, transmission, distribution, and sales, and conclusion of medium and long-term contracts for these services.

[In progress. Reforms on retail competition side have been proposed and will be implemented soon. Japanese businesses appreciate efforts of Indian government and hope these efforts would bring about better business environment in India.]

- Boost bilateral government cooperation including the signing of a nuclear power agreement.
- Expand cooperation in Indian Universal ID (UID) system.
- Introduce state-of-the-art technologies in fields of electronic hardware, telecommunications equipment, heavy industries, and rail transport management system.
- Promote technical cooperation and Japanese investment to India as regards to environmental management including agriculture, water treatment, hygiene, and recycling.