

4 February 2011

Mr. R P Singh
Secretary,
DIPP, Ministry of Commerce and Industry
Government of India

Suggestions for Government of India by Japan Chamber of Commerce and Industry in India (JCCII) 2011

Introduction

Japan and India have been developing "Strategic and Global Partnership" further for the deepening of bilateral relations as well as peace and prosperity of Asia and the world. As one of the representatives of Japanese community in India, I am delighted to embrace that the two countries share common values of democracy, strong potentials for economic ties and similar cultural background. We respect India as a long-term partner and friend.

It is an encouraging trend that foreign direct investment from Japan to India and the number of Japanese companies are increasing rapidly. The member of Japan Chamber of Commerce and Industry in India (JCCII) has reached 272 this February. We would like to support such a trend, as it is evident that Japan and India can offer perfect combination and solution with each other in dealing with such issues as sustainable growth, demographic challenges, infrastructure development, technology transfer and job-creation, green economy, and so on.

It is with this recognition that we Japanese companies wish to be part of development of India and seek your guidance and support in order to resolve the issues that we are facing, such as taxation, visa issues, infrastructure, land acquisition, logistics, and finance. While appreciating the progress such as the exemption of Special Additional Duty (SAD), there remain many outstanding issues, and the solution of those issues would be beneficial not only to us but also to the Indian economy as a whole. As the Indian economy continues a high rate of growth, it would be all the more important to alleviate the bottlenecks so that the growth potential can be enlarged aggressively.

Subsequent to the last year's report, JCCII has compiled "Suggestion for Government of India 2011" for your kind consideration. This year we also take in account proposals from Japanese Chamber of Commerce and Industry in Mumbai, Bangalore, Chennai, Hyderabad and Kolkata. We sincerely hope that the Suggestions and the subsequent interactions with the Indian authorities would contribute to the solution of individual issues, and wish that regular discussions between JCCII and DIPP and other relevant authorities of India are institutionalized.

Sincerely yours,

A blue ink signature of Shinya Watanabe is written over a circular stamp. The stamp contains the text 'Japan Chamber of Commerce and Industry in India' and 'JCCII' in the center.

Shinya WATANABE

President

Japan Chamber of Commerce and Industry in India

Japan Chamber of Commerce and Industry in India (JCCII)

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1. Tax System

(1)SAD (Special Additional Tax)(See also annex I)

- The SAD should be exempted for the CBU (Complete Built Unit) automobiles for retail
- The SAD refund application filed by the importers should be processed without further delay. Any additional documents not specified in the Notification must not be required.

(2)Transfer Price Taxation(See also annex II)

- Transfer Price assessment for the Sogo Shosha must be made according to their functions. The Indian subsidiaries of the Japanese Sogo Shosha should be recognized as service providers, not traders.
- The Advance Pricing Agreement (APA) should be introduced at an early stage, and the detailed rules must be disclosed well in advance of the introduction of New Direct Tax Code. The rules and practices of the APA should be established in equitable basis in light of those in other countries.

(3)GST (Goods & Services Tax)

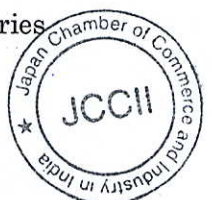
- GST should be introduced at the earliest.
- With the introduction of the Goods & Services Tax (GST), the Surcharge, Education Cess (3%) and Central Sales Tax (CST) should be abolished completely. Further the Work Contract Tax (WCT) and Services Tax must be integrated into the GST.
- Other different tax systems of each state, such as Octroi, should be unified into the GST.

(4)MRP (Maximum Retail Price)(See also annex III)

- The IT/Electronic goods should not be subjected to Retail Sales Price (MRP) based assessment for the imposition of CVD, and abatement ratio needs to be fixed based on the cost incurred by the importers.
- The affixation of the MRP stickers on the products should be allowed after they are imported into India.

(5)DDT (Dividend Distribution Tax)(See also annex IV)

- The present DDT must be abolished and changed to a tax, as seen in many countries internationally, which is imposed on the recipients' side, not payers' side.



2. Visa

As the economic interactions between India and Japan have become more intense, the number of Japanese companies in India is increasing rapidly, and the visa problems are becoming all the more serious. While appreciating the VISA memorandum between Japan and India concluded last October, we request the following measures:

(1) Issuance of Business Visa for short period business trips

- Those Japanese professionals or technicians who are dispatched by Japanese companies in order to help technical works of Indian companies for a short period should be eligible for business visa, even though some expenses are born by the Indian companies.

(2) Relaxation or removal of the condition which requires an at least 2 year domicile in third country for grant of Visa.

- At the Embassy of India in Singapore this "2-year domicile" requirement has been loosened. However, in other ASEAN countries like Thailand, it is still maintained.

(3) Removal of the need for submitting Marriage Certificate and Birth Certificate for X (Entry) Visa holders at the time of renewing of visa.

- This practice started suddenly in the middle of 2010. The Japanese government does not request marriage or birth certificate.

(4) Issuance of Stay Permit by FRRO as same as the period of validity of Employment Visa.

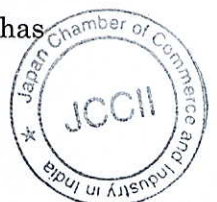
- Of late some FRRO (ex. Gurgaon FRRO) has started issuing stay permits valid for the period as same as Employment Visa valid for more than 1 year. But some (ex. Delhi, Kolkata FRRO) still continues to issue stay permits valid for only 1 year even though the visa is for a three year period.

3. Infrastructure

(1) Early Improvement of Access Roads to Ennore Port(See also annex V)

- Following up the proposal of December 2009 by Japanese Chamber of Commerce & Industry Chennai to Tamil Nadu government, Japan Chamber of Commerce & Industry in India requested support from Government of India in its Suggestions in 2010.

Despite all the efforts by concerned organizations, the conditions of the access roads to Ennore Port have unfortunately been aggravated and no major improvement has



been seen other than temporary work on the surface.

This is not only becoming serious roadblock for operating companies in south region but also hampering business planning of companies with future FDI projects.

We would appreciate timely and effective support by Government of India in expediting the completion of the following road improvement and establishment.

a) widening and improvement of existing roads in Northern Chennai

<i> TPP Road <ii>NCTPS Road <iii> Northern Inner Ring Road

b) establishing outer detouring around city

<i>Outer Ring Road <ii>Northern access road to Ennore Port

(2) Reduction of Ennore Port Charge(See also annex VI)

- Ennore Port is expected to be a strategic gateway for future Industrial Corridor project in south region as well as one of the core ports for Indo-Mekong Economic Corridor project.

- We request the early revision of the port related charges of Ennore Port, which are extremely high comparing to other international ports. They are currently 5.2 times as high as Leam Chabang Port in Thailand, 8.3 times as high as Colombo in Srilanka, 2.3 times as high as Chennai/Mumbai Port.

The reduction of Ennore Port charges up to the similar level to Chennai port will contribute to relieve Chennai port congestion by balancing load (imports and exports amount) between two ports.

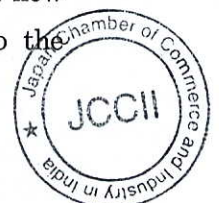
(3) Improvement of Nhava Sheva Port Infrastructure

- The capacity of Nhava Sheva port has already reached its limit. It is necessary to plan and create a alternative or additional capacity to absorb increasing demand of shipping transportation.

- Connectivity from Nhava Sheva port to Inland port (ICD TKD) needs to be improved to live up to capacity for handling in bound volumes. Pendency at port (at worst 20 days in Feb. 2010) has negative impact on the production planning of manufacturing concerns at the most. The capacity of loading to train at Nhava Sheba port, the number of trains from Nhava Sheva to ICD TKD, and the capacity of unloading at ICD TKD should be increased, for avoiding dwelling time of import.

(4) Early Completion of NHAI Bangalore – Chennai Expressway Project

-We appreciate the recent decision made by Government of India to establish new Bangalore – Chennai Expressway. This project will greatly contribute to the



enhancement of competitiveness of industries in south region by enabling us to low cost and high speed logistics of the products.

-We would appreciate quick implementation and completion of the project.

(5) Introduction of the Efficient Operation Controlling System for Railways

- Efficient utilization of railway system is vital to increase the competitiveness of Indian industry in freight quality, speed and cost.
- Introduction of more efficient controlling system for train operations is essential for more frequent industrial usage of the railways.
- We would request Government of India to start a pilot program on the railway system between Bangalore and Chennai.

After confirming the effectiveness of the pilot, scope of this project is expected to cover the connection between south region and west/north region such as Pune and Delhi in line with rapid growth of cross regional logistical needs in the near future.

(6) Introduction of comprehensive port logistic management system

In addition to inland infrastructure development, we would like to ask Government of India to develop sea routes logistics by introducing Hub Port/Small Port concept.

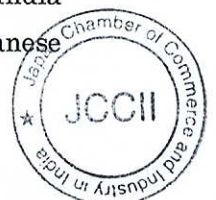
We propose to Government of India to initiate study in Tamil Nadu states port logistic system. By positioning Chennai, Ennore and Tutticorin ports as the Hub Port and establishing efficient cargo handling facilities in surrounding small ports, India could realize optimal logistics management system encompassing sea route logistics and inland logistics. This would remove major logistical bottle necks currently happening at major ports and on key inland roads.

4. Road Permit (See also annex VII)

- Road permit prevents smooth logistics because of complex procedures. It is necessary to systematize or to unify window works, and to clarify and to simplify the documentation. Or it is desirable to abolish Road Permit

5. e-Waste (See also annex VIII)

- Government of India is now considering the introduction of e-Waste regulation. If "gray" or used products were subject to the regulation, it would cause confusion or unreasonable disadvantages to companies without solving the problem of parallel imports and clarifying the scope of user's responsibilities. Government of India should consider that end-users bear the cost for e-Waste just as the Japanese



recycle system.

- For toxic items Government of India is required to adopt EU standard or similar. In case Government of India introduces Indian-specific regulation, it is desirable to take enough introduction periods of discussion and feasibility study.

6. Land acquisition (See also annex IX)

Indian legislation prescribes that it is possible to collect additional payments from the purchasers of land even after the acquisition of land is completed. Government of India should consider how to improve such a rule, as it creates huge obstacles for Japanese companies to make a planning of their business expansion.

In particular the problem in Bawal Industrial Area, for the future development of the area and the encouragement for future investments, we request your consideration about the industrial land issues;

- ✓ Especially the part of interest of the Enhancement should be disclosed with reasonable and satisfied explanation.
- ✓ The Enhancement should be limited the period and increase amount, especially for the industrial or economical zone.
- ✓ And finally the Enhancement clause will be cancelled in future.

7. Social Security Agreement

We request an early conclusion of the social security agreement between India and Japan.

8. Withdrawal of 58 year requirement for the refund of provident fund of Social Security Scheme

Effective 11 September 2010, the new changes was implemented in Provident Fund (PF) Wherein international workers (IWs) can withdraw the PF accumulations on retirement from service in establishment at any time after the attainment of 58 years of age.

Until this change, PF portion which had been contributed was properly refunded to IWs when he/she returns back home country, which is the same situation for Indian IWs who work and contribute social security tax in Japan. However, due to this change, the contribution made will be tied up for long term and may lead to financial hardship on Japanese workers in India. Furthermore Japanese expats usually stays and provide service in India in short term such as 3-5 years, there are still uncertainty about possibility that these expats who already leave India will be able to keep their bank account in India for long term only to receive the PF refund.



9. Logistics Distribution

(1) Custom clearance

- It is necessary to simplify and to increase procedural efficiency of custom clearance.
- Customs officers often show different understanding of Section 117, Custom Act, 1962, as a result importers are faced with unpredictable situations when declaring import duties. In order to ensure proper management of import, the customs authority should instruct the common understanding and implementation of the regulations among the officers.

(2) Improvement of ICD

- It is essential to construct better roads and to undertake adequate repair/maintenance of the existing roads in and around the ICD (Inland Container Depo), as well as to undertake steps to reduce traffic jam in and around the ICD. Such improvements will help the companies to operate efficiently without incurring any time lag in distribution due to the traffic jam and damage to the fragile products such as precision machinery caused by uneven roads. Especially a) Tughlaqabad ICD (Delhi ICD) and b) Patpargang ICD require urgent improvement.

(3) Round the clock working of custom clearance at major airports

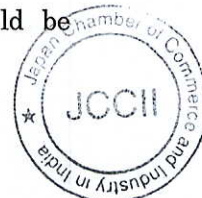
- It is essential to have shift operations at all major airports in Phases with round the clock working of customs clearance to give proper impetus for infrastructural support.

(4) Relaxation of requirement for custom registration of manifest

- Companies are required to register the manifest (invoice) of goods with the custom system in advance before the arrival of the goods. But in case of emergency shipment or if it is handled by Air Mode from nearby Asian countries, this procedure is practically impossible to comply. If the registration could not be done in advance, penalty is called and serious delay occurs. We request to modify the procedure.

(5) Free Trade and Warehousing Zone

- All indirect taxes such as Service Tax, Value Added Tax (VAT) and Central Sales Tax (CST) would be applicable for the user of Free Trade and Warehousing Zone (FTWZ) with respect to the services provided to Domestic Tariff Area (DTA). For instance, except FTWZ Unit and FTWZ developer, the service tax would be

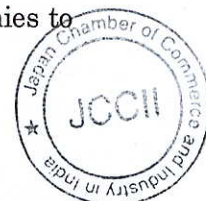


applicable for any user who received any services outside the FTWZ in the DTA. Further, Sales of goods through FTWZ Unit should be treated as import of goods. However, sales tax such as VAT or CST would be applicable on the sales of goods through FTWZ when sold out in DTA. This tax issue prevents the use of FTWZ freely due to which there is a drastic loss of interest among Japanese companies. So we suggest that not only FTWZ Developer and FTWZ Unit who use the said services within the FTWZ but also the FTWZ Unit which provides services and goods to the DTA and the user of FTWZ Unit who provides goods to the DTA should be exempted for the purpose of all indirect tax. Moreover, now when the GST which will be introduced in the year 2012, the same should also be exempted as to encourage the usage and maximum possible business in FTWZ which will also help in acceleration of growth of Indian economy.

10. Financial sector (See also annex X)

We request the following measures:

- (1) To ease the restriction of borrowing from Head Office to stabilize the fund management of the foreign banks and to facilitate their supply of the fund to the domestic market. Currently, foreign banks in India can borrow the money from Head Office up to ten million dollars or 50% of its capital.
- (2) To grant permission to foreign banks to open branch offices in metropolitan area in India in a more liberal and prompt manner.
- (3) [General insurance & Life insurance] To raise the upper limit of foreign direct investment in insurance sector (currently 26% of the equity share) immediately.
- (4) To abolish the motor pool system in general liability insurance for commercial vehicle, or to amend the insurance rate.
- (5) To further relax the regulations related to foreign exchange and capital transfer, and to further simplify and speedup various bank procedures (Especially, the formalities related to foreign currency remittance and trading). To systematize the procedures of FIRC (Foreign Inward Remittance Certificate) issue and to simplify procedures of FIRC reissue.
- (6) To remove regulations related to the foreign bank's operation which restrict the increase in the number of expatriate. Japanese banks need to increase the number of Japanese expatriate flexibly along with the expansion of their business.
- (7) To further relax the regulations related to ECB in order to enable ECB to be used for working capital.
- (8) To allow banks to tie-up with multiple life and/or general insurance companies to sell insurance products.



11. Press Note No.1 (See also annex XI)

We strongly recommend abolishing the regulation known as "Press Note No.1".

Press Note No.1 requiring the foreign investors who have joint venture or technology transfer / trademark agreement in the "same field" prior to 12th January 2005 to obtain prior approval from the Government.

And when the foreign investor applies for the prior approval from the Government, FIPB will request the foreign investor to obtain NOC (Non Objection Certificate) from the existing joint venture partner in the "same field".

12 Withdrawal of the submission of Bill of Entry to DGS&D (Directorate General of Supply & Disposal)

For Tender Enquiry No. WFPLOTSCAN/IT-1/RC-D10N0000/1110/81, DGS&D has been demanding the submission of Bill of Entry from any vendor who wants to be awarded Wide Format (Plotters and Scanners) rate contract with Government of India. In the minutes of Consultative Committee Meeting of DGS&D held on 19th November 2010, it was decided that non compliance or refusal for giving Bill of Entry along with the bid/tender shall not be permitted and those who fail to comply with the same, their offer shall be summarily ignored without any further reference to them after the opening of tender. However, this demand will lead to the disclosure of trade secret of vendors, and therefore is impossible to comply. We request withdrawal of this demand for Wide Format (Plotters and Scanners), and similar demand for all IT hardware products involving Wide Format Printer, Printer, Photocopier, Projector, Fax Machine and others.

