

Suggestions for the Government of India by JCCII 2015

1. TAX SYSTEM

1-1	Provisions for “roll back” should be improved to avoid double taxation and Provision for “firewall” should be introduced to the current Advance Pricing Agreement Scheme. Procedures of negotiation of APA should be done in a timely manner.
1-2	Indian subsidiaries of “Sogo Shosha” should be recognized as Service Providers and, not Traders as continuously characterized in the Transfer Pricing (TP) assessments.
1-3	Any AMP (Advertisement, Marketing and Promotion) activities arranged by multinational companies in India normally aim the promotion of product manufactured by those companies, not for the promotion of brand awareness directly. Therefore, the AMP expenses whatever spent by those companies must be recognized as their expense in terms of transfer pricing taxation.
1-4	The Indian Tax Department should avoid unreasonable Permanent Establishment (PE) requisition and PE taxation against the parent company and the overseas group companies.
1-5	Minimum Alternative Tax(MAT) Exemption Rights in the Special Economic Zone (SEZ) should be restored following the disadvantageous retroactive revision to the law.
1-6	Refund of Special Additional Duty (SAD) should be executed promptly. SAD should be abolished at the earliest.
1-7	Basic Custom Duty on Inverter component parts should be eliminated and treated as same as finished products of Inverter.
1-8	Exemption of Dividend Distribution Tax for dividend paid to foreign shareholders and adoption of Withholding tax system
1-9	Exempt importation of production equipment which is unprocurable in India from paying tax of CVD, Special Additional Duty and CESS/Sec CESS.

2. BANKING SECTOR

2-1	Condition of External Commercial Borrowing (ECB) should be relaxed (financing working capital less than 7 years should be allowed and the process of automatic route should be relaxed, etc.). ECB availed by a subsidiary in India from its parent company in abroad can be on-lent to the sub-subsidiary in India.
2-2	Foreign banks should be allowed to open branch offices in the metropolitan area more liberally and promptly.
2-3	The regulations related to Priority Sector Lending (PSL) for foreign banks should be abolished or at least more relaxed. Lending to infrastructure project should be designated as one of the priority sectors and should be allowed for deduction when computing PSL target ratio.

2-4	Japanese banks should be allowed to borrow foreign currency from the head office, and/or branches abroad with no limitation in case such borrowing is utilized for infrastructure development.
2-5	In order to facilitate the introduction of Global Standard Credit Support Annex (“Global CSA”), regulations on cross-border transfer of securities for collateral posting must be eased. Or, if such deregulation is not possible in the near future, then settlement and clearing of Indian Securities has to evolve for Indian National Debt to be used as eligible collateral for Local Credit Support Annex (“Local CSA”).

3. LOGISTICS AND DISTRIBUTION

3-1	The technical term in Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) list should be clarified, because the criteria used are unclear.
3-2	The process of issuance of Special Valuation Branch (SVB) Order should be streamlined and appropriate time frame for application disposal should be prescribed. In order to address this issue, SVB is requested to assign officers with the full time charge for faster disposal of SVB applications.

4. STEEL PRODUCTS

4-1	Exemptions of mandatory certification for specific steel products should be considered which has no impact of damaging Indian consumer’s interest. Work load of obtaining IS certification should be reduced. Clear notification should be made to customs authority regarding the information of mandatory certification, and nodal point for consultation should be designated.
4-2	Steel products which are not manufactured in India or do not have any substitute should be excluded at the time of safe guard (SG) or anti-dumping (AD) case.

5. JAPANESE LAWYERS

5-1	Japanese lawyers should be admitted to conduct activities in India: to provide legal services regarding Japanese laws, etc.. Opportunities should be created for the Japan Federation of Bar Association to explain to the Bar Council of India (BCI).
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6. INTELLECTUAL PROPERTY RIGHTS

6-1	Accelerated examination system for patent applications should be introduced. A statutory law that prevents activities such as dead copies of the forms of other’s products as unfair competition should be established.
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6-2	<p>The scope of the Foreign Filing License (FFL) should be relaxed</p> <p>Submission of information and undertaking regarding foreign applications should be abolished.</p> <p>The submission of the statement regarding the working of the patented invention should be abolished or relaxed.</p>
6-3	<p>Patent application should be published within the statutory period as set out in the Patent Act, 1970.</p> <p>Intellectual Property information disclosed from Controller General of Patents Designs and Trademarks should be accurate enough for search.</p> <p>Procedures of opposition to registration of trademark should be done in a timely manner.</p>
6-4	<p>In order to effectively enhance the controls over the flooding of the counterfeit products in the Indian market, it is proposed to introduce a change in the judicial process dealing with counterfeit issues in order to speed up the judicial process against the seller or the manufacturer of the counterfeit products.</p> <p>Or else, deter the flooding of the counterfeit products in the market by implementing a system wherein the Government through some administrative/quasi-judicial bodies, exposes these issues, establish stringent punishments for the corresponding illegal acts in a very short time, and diversify the routes to expose these issues.</p>

7. PROCEDURE

7-1	<p>Indian Union Government & State Government should promote advance of Japanese Small & Medium industries into Indian Market.</p>
7-2	<p>Companies Act, 2013 (“New Company Act”) requested all companies that one of directors should stay in India for more than 182 days <u>in previous calendar year</u>. We would like to suggest to modify this rule to “at least one of director should stay in India for more than 182 days <u>during his/her term in office</u>”.</p>
7-3	<p>The item/products under the BIS Regulations, in connection with quality certification of products and matters, is not clear. Need clarity on what all items/products come under the purview of this regulation and also the content should be clearer.</p>

8. INFRASTRUCTURE

8-0	<p>Essential infrastructure such as logistics/electricity/industrial park, in particular, in Chennai, Bangalore, Kolkata and Haryana should be completed or resolved at the earliest.</p> <p>In order to expedite the development of such infrastructure, Central Government should strengthen relations with State Governments.</p>
8-1	<p>Development of the Ring Roads toward implementation of Chennai Bangalore Industrial Corridor (CBIC) should be of high priority and completed at the earliest.</p>

8-2	Constructions of the Roads and Bridges in Chennai City should be completed at the earliest. <i>Note: It is highly appreciated that said roads and bridges construction is steadily progressed. At the same time, we have a concern that the completion will not be achieved by the original schedule. We request to the completion of said construction on schedule.</i>
8-3	Connectivity in and around Bangalore should be improved and construction of the Roads therein should be completed at the earliest.
8-4	Operation in Chennai port should be assessed by the experts and countermeasures should be implemented.
8-5	Car parking yard in Kamarajar port (Ex. Ennore Port) should be expanded. The facilities for the Over Dimension Cargo at Ennore Port should be installed. Counter-swelling measure should be studied and implemented.
8-6	Road construction of NH8 (especially, Gurgaon - Manesar - Bawal - Neemrana) shall be further promoted at the earliest.
8-7	An arterial direct road between Haryana and UP state by-passing Delhi should be constructed at the earliest. The improvement of the section between Sohna and Jewar of Delhi Eastern Peripheral Expressway in particular should be considered as a matter of priority.
8-8	Short and medium term measures may be adopted to solve decreasing "Draft" problem at Haldia Dock Complex (HDC).
8-9	Improvement of NH6 for a stretch of 300 km from Bahargora in Jharkhand to Sambalpur in Odisha should be taken up at the earliest.
8-10	(1) Requirement of immediate repairing and reconstruction. (National Highway Authority of India) (2) Request to remove bottlenecks (Ministry of Road Transport & Highways)

9. FOLLOW-UP ITEM

9-1	The proposed construction of power plant such as the Ultra Mega Power Projects should be implemented in a timely manner and facilitated. Efficiency in the operation of the State Electricity Board or State Electricity Corporation should be improved.
9-2	Industrial parks should contain various features/functions comparable to international practices.
9-3	Goods and Services Tax (GST) should be introduced at the earliest.