

Issues and Requests Relating to Foreign Trade and Investment - India

	Category	No	Issue	Issue Details	Requests	References
1	Restrictions on Entry of Foreign Capitals	(1)	<u>Discriminatory Share Transfer Pricing: Domestic vs. Foreign</u>	- On share transfer, where non-resident investor transfers shares to resident investor, the share price must be less than the price worked out by any internationally accepted pricing methodology on arm's length basis (evaluated price, in the case of unlisted companies). Conversely, where resident investor transfers shares to non-resident investor, the share price must be more than the evaluated price.	- It is requested that GOI takes step to allow determination of the share transfer pricing by mutual consultation between the parties.	- <u>Foreign Exchange Management Act</u> - <u>Reserve Bank Of India Notification of 15 July 2014, Foreign Direct Investment (FDI) in India - Issue/Transfer of Shares or Convertible Debentures - Revised pricing guidelines.</u>
		(2)	Restricted Foreign Capital Participation into the Retail Business Sector	<p>Up to 100% foreign capital contribution was made possible in 2012 for retail business, distributing single brand products, however, with a caveat of restricted procurement (whereby 30% of purchase must be procured domestically from small-scale enterprises). Furthermore, foreign capital contribution of up to 51% was also made possible in 2012 for general retail business such as super markets and convenience stores, however, with a caveat of: minimum investment amount of USD100 million, minimum 50% of investment amount invested within 3-years into the back-end infrastructure (logistics, warehouse, manufacture, etc.), 30% of procurement made from small-scale enterprises, targeting cities with the minimum population of 1 million. Thus, foreign capital investment into retail sector has hardly made any progress. Especially, Japanese affiliated enterprises drag their feet in entry, blocking the project progress with the local business partners.</p> <p><b>(Actions)</b></p> <p>- On 24 November 2011, The Cabinet of India approved new foreign direct investment (FDI) policy in the retail sales sector, liberalising FDI in the single brand and multiple brand retail sales sectors. Especially, the new FDI has raised the cap on the foreign capital contribution to the equity shares from the current 51% to 100% in the single brand retail sales sectors, while up to 51% capital contribution is granted as regards multiple brand retail sales sector under the new FDI policy. Heated discussions have taken place to this date between the parties over the issue concerning liberalisation of FDI in the retail sales sectors, delaying the liberalisation. However, on 14 September 2012, the Cabinet once again affirmatively decided upon the liberalisation of FDI in the retail sales sectors.</p> <p>On 20 September, the Department of Industrial Policy &amp; Promotion (DIPP) of Ministry of Commerce and Industry announced through official gazette, regulation providing the practical procedures, which was enforced on the same day. However, certain conditions must be satisfied on FDI in multiple brand retail sales sector, including the following, requiring approval of state government or the Union Territory, before opening the retail stores:</p>	- It is requested that Government of India (GOI): -- deregulates various terms and conditions on the left column, and -- removes the restrictions as soon as possible.	- FDA Policy Notification of DIPP

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			<p>(1) The minimum capital amount: USD 100-million,</p> <p>(2) 50% of the invested amount must be deployed for infrastructure overhaul within 3-years of the initial investment,</p> <p>(3) 30% of the procurement must be sourced from the Indian domestic small enterprises (with invested capital of USD 100 million on less),</p> <p>(4) Retail stores must be located in the urban area with population of 1 million or more, and</p> <p>(5) Agricultural/fishery products sold by the retail stores must not bear any fixed brand names. As regards single brand retail sales sector, certain conditions must be satisfied, such as, where foreign capital contribution ratio exceeds 51%, at least 30% of the sales amount must be procured locally in India.</p> <p>- In the Election Manifest 2014 of the Bharatiya Janata Party (BJP), the governing party since lower house election in May 2014, expressly re-prohibits foreign direct investment (FDI) in multi-brand retailing business for protection of the domestic small to medium retailers. On 8 September Minister of Commerce and Industry under Modi Administration reconfirmed its policy to prohibit FDI investment in multi-brand retailing business.</p> <p>- <u>"Indian BUDGET 2016-2017" incorporates provisions: "100% FDI to be allowed through FIPB route in marketing of food products produced and processed in India."</u></p> <p>- <u>On 29 March 2016, Indian Ministry of Commerce and Industry allowed 100% FDI for marketplace based model of E-Commerce, under automatic route, without inventory ownership of business to consumer (B2C) Electronic Commerce (E-Commerce (EC)). (Press Note No 3(2016 Series)).</u></p>		
	(3)	<u>Director's Residence Requirement</u>	<p>- <u>Whether listed or unlisted, "Every company shall have a Board of Directors (BOD) consisting of individuals as directors and shall have at least one director who has stayed in India for a total period of not less than one hundred and eighty-two days in the previous calendar year."</u></p> <p>- <u>Should MFS appoint a Japanese Director on BOD, including the need for prior despatch of a succeeding director, it frustrates member firm's personnel arrangements.</u></p> <p>- <u>Upon selection/appointment of a new director, in addition to acquisition of Director Identification Number (DIN), and Digital Signature Certificate (DSC), GOI rigorously demands residential permit/certificate of registration. However for the new director, who initially stays at a hotel, it is impossible to complete the requisite documents, such as receipt for the electric bill, etc. It takes much time to complete preparation of the requisite documents. Thus, FRO/FRRO refuses acceptance of the application, attaching certificate of registration/ residential permit, which is (are) GOI's official document(s).</u></p> <p><b>(Actions)</b></p> <p>- <u>The Article 149 (3) of the new Companies Act provides: "Every company shall have at least one director who has stayed in India for a total period of not less than one hundred and eighty-two days in the previous calendar year."</u></p>	<p>- <u>It is requested that GOI deregulates the restrictions.</u></p> <p>- <u>It is requested that GOI accepts the application attaching residential permit/certificate of registration.</u></p>	<u>The Companies Act</u>

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	(4)	<u>Restricted Minimum Number of Shareholders under the New Companies Act, Notifications</u>	- Under the new companies act, and notifications, the provisions remain to exist, requiring at least two (2) shareholders in a private company, forcing MFS into unnecessary expenses and work-time, in the case MFS is a fully owned subsidiary of a member firm. As of today, an MFS is established by only one share held by the parent company, which in substance is meaningless. Legislative revision is desirable.	- It is requested that GOI approves establishment of a company with minimum one (1) shareholder.	- The Companies Act, & Notifications
4 Restrictions on Withdrawal Of Operations	(1)	Complex and Delayed Procedures in Closure of Representative Office of Expatriates	- The procedures are too complex and time consuming for closure of local representative office established to conduct feasibility study for local entry after establishment of the local corporation.  (Actions) - While it is legally possible to close business or to liquidate operation, the procedures involving the court's intervention abound with problems and would not proceed smoothly. In general, the retreat by closure of the local corporation necessitates court liquidation or self-liquidation. In each case, it is necessary to complete the requisite procedures at the local high court of competent jurisdiction, at the expense of much time and cost. However, closure of representative office or branch office is comparatively less difficult than that of the locally incorporated legal entity. A simple submission suffices to the AD category-I bank of certain set of requisite documents designated by RBI.	- It is requested that GOI streamlines the procedural requirements and cuts down the time required for completing the requisite procedures.	
8 Investment Recipient Organization	(1)	Varying Investment Incentives by State	- The contents of the available incentives for new investment vary by each state.  (Actions) - On 25 January 2014, DIPP announced application to Japan of general preferential measures for investment to encourage Japan's investment into electronic system design and manufacturing sector (ESDM) in the electronic manufacturing cluster.	- It is requested that GOI: -- harmonises the contents of the available incentives which vary by state, and -- ensures the merits of new incentives becoming available hereafter extend also to enterprises already having invested in India.	
9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty	- Tariffs on clocks and watches are 10% on finished products and 5% on watch movements, and 10% on clock movements, while by enforcement of the Japan-India EPA ratified in 2011, tariffs on clocks and watches originating from Japan are on schedule for removal in 10-years. On the other hand, on top of the basic tariff, GOI continues to levy substantive high tariff rates of countervailing duty (12%), education CESS (3%), and SAD (special additional duty) (4%), amounting substantively to the high tariff Rates, all told.	- It is requested that GOI reduces and repeals the tariffs on clocks and watches, and their respective movements.	Customs Act

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			<p>- <u>GOI levies high import duty on multi-function projectors, while zero import duty applies to single-function projectors</u></p> <p>- <u>High import tariff rates.</u></p> <p><b>(Actions)</b></p> <p>- While India ratified with ASEAN the FTA Framework Agreement in October 2003, agreeing on the early harvest provisions and the scheduled tariff reduction in steps, further talks are proceeding with difficulty over the exclusionary list, rules of origin, etc.</p> <p>- On 20 December 2007, Framework Agreement on Comprehensive Economic Cooperation Between the Republic of India and ASEAN (CECA) was amended to include 539 items (HS 8-digit level) to the list subject to liberalisation.</p> <p>- On 28 August 2008, India-ASEAN FTA was concluded (due for implementation from January 2009).</p> <p>- On 7 August 2008, India-ROK Comprehensive Economic Partnership Agreement (India-ROK EPA) was signed, due for enforcement from January 2010. Pursuant to CEPA, India will repeal import tariff for the tariff items representing 25% of the total tariff items on import from ROK.</p> <p>- On 19 June 2009, GOI promulgated Notification Nos.69/2009, and 70/2009, that would reduce import tariffs in stages, pursuant to Comprehensive Economic Partnership Agreement (EPA) with Singapore.</p> <p>- On 6 July 2009, Pranab Mukherjee, Minister of Finance, India submitted the Federal Budget for 2009-2010 to Lok Sabha, House of the People. The Federal Budget makes no change in the total structure of the tariff rates, with the maximum tariff rate on industrial products retained at 10%, while the central tariff rates of 5% and 7.5% are maintained without change. The sectors where major changes are made on the tariff rates include: machinery, software, medical equipment and consumer products (electronic information products).</p> <p>- On 13 August 2009, GOI signed the ASEAN-India Trade in Goods (TIG) Agreement, which forms a part of ASEAN/India Comprehensive Economic Partnership Agreement (ASEAN-India EPA). TIG is due for enforcement from January 2010.</p> <p>- On 26 February 2010, Finance Minister Pranab Mukherjee released the draft Federal Budget 2010/11 (Draft Budget) at House of the People (Lok Sabha). The Draft Budget extends the export incentive measures, while proposing establishment of Financial Stability and Development Council consigned with the duty to monitor economy and to secure financial stability. It also raises the base rate of the excise duty from 8% to 10% (with certain exceptions). There is no change in the maximum tariff rate. Moreover, it proposes incentive measures that affect a wide range of business activities, including agriculture, environment, medication, and infrastructure. The maximum tariff rate for the majority of products remains at 10%.</p> <p>Concessionary Tariff Rate is 5% for establishment or expansion of the following, while service tax is exempted:</p> <p>-- Frozen storage, chill room, freezer (including the pre-freezer for preservation, storage or transport of apiculture, horticulture, dairy, poultry, aquatic organism, marine product, and other related products),</p> <p>-- Processing equipment for the foregoing products.</p> <p>Environment:</p>	<p>- It is requested that GOJ:</p> <p>-- <u>takes step to confirm and makes available, the latest information toward expansion of ITA;</u></p> <p>-- <u>provides continually the latest movement concerning the products.</u></p> <p>- It is requested that GOJ and GOI <u>ratify FTA to reduce the tariff rates.</u></p>	

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				<p>GOI applies 5% Concessionary Tariff Rate on machinery, equipment, fixtures, appliance, etc. which are required for initial assembly of solar power generation facilities, while GOI exempts the central excise duty subject to satisfying certain conditions. GOI exempts the basic tariff and special additional duty of customs on geothermal pumps. GOI exempts central excise duty on certain capital goods required for manufacturing rotor blade for wind power plant.</p> <p>Central excise duty for LED light is reduced from 8% to 4%.</p> <p>GOI amends the excise duty rate to 4% on manufacture of electric car (in order to exempt excise duty payable on imported capital goods and the constituent parts. Furthermore, GOI exempts the basic tax and special additional duty of customs payable on materially important constituent parts or partially assembled goods, subject to certain conditions, while it imposes 4% countervailing tariff. The foregoing incentive measures and exemptions are valid up to 31 March 2013.</p> <p>GOI applies 4% excise duty on soleckshaw, developed by Council of Scientific and Industrial Research (CSIR), replacing the conventional rickshaw that solely relies upon human power.</p> <p>GOI exempts basic tariff upon import on compostable (degradable) polymer for fermentation.</p> <p>Infrastructure:</p> <p>GOI applies 5% basic tariff rate on monorail developed under the City Transport Project by affording it "the project import status". On the other hand, GOI accepts payment of import duty after depreciation on certain used machineries deployed for road construction, while it exempts the basic tariff and countervailing tariff on parts for chargers and hands free headphones, in order to encourage manufacture of accessory parts for mobile (cellular) phones. GOI has exempted the basic tariff and special additional duty of customs on all parts, components, accessories, and auxiliary parts for the parts and components thereof, parts and components for manufacture of mobile pone charger, and parts and components for manufacturing hands free headphones subject to certain conditions.</p> <p>Medication:</p> <p>GOI imposes 5% basic tariff and 4% countervailing tariff while exempting special additional duty of customs on all medication equipment. As to parts and accessories used for medication equipment, it imposes 5% basic tariff, while exempting countervailing tariff.</p> <p>GOI continues to exempt basic tariff and countervailing tariff on certain medication equipment (support equipment, rehabilitation equipment, etc.). GOI exempts import tariffs on input materials used for manufacture of implant materials for orthopaedic surgeons, subject to certain conditions.</p> <p>Others:</p> <p>GOI exempts basic tariff on certain input materials and raw materials used for manufacture of sporting goods.</p> <p>GOI reduces basic tariff rate from 10% to 5% on magnetron which is the major component for manufacture of microwave ovens.</p> <p>- Japan-India Comprehensive Economic Partnership Agreement was signed on 16 February 2011 and enforced from 1 August 2011.</p> <p>- Union Budget 2011-2012 of India has withdrawn the exemption to import from basic customs duty of aircraft (8802.20.00, 8802.30.00, 8802.40.00) by non-scheduled operators whether for passenger services or chartered services. This withdrawal has been enforced since 1 March.</p> <p>- On 1 December 2010, Ministry of Finance promulgated Notification No. 135/ 2010 - Customs, providing for the tariff incentive measures under certain conditions for import of specified goods from Indonesia, Singapore, Thai, Brunei, Vietnam, Malaysia and Myanmar pursuant to India-ASEAN Trade in goods Agreement, (enforced from 1 January 2011).</p>		

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			<p>- <u>Union budget 2016 incorporates GOI's policy on enhancement of the domestic industrial competitive edge by import tariff rate reduction on IT hardware, capital goods, defence related products, textile products, oil, chemical goods, paper/paper products, aircraft and spare-parts for ships and vessels.</u></p> <p><b>(Improvement)</b></p> <p>- Special additional duty ("SAD") that had been imposed since 1998 was repealed in January 2005.</p> <p>- On 28 February 2007, GOI announced the 2007 Federal Budget reducing the maximum basic customs duty rate to 10% from the current 12.5% on the majority of non-agricultural products. However, the duty rates for new motor vehicles and motorcycles and used vehicles remain the same at 100% and 60%, respectively.</p> <p>- On 14 September 2007, GOI announced that it would provide an opportunity for concerned parties to seek refund of 4% special additional duty (CVD VAT) under Auricle 3(5) of 1975 Customs Act upon resale of imported goods. (Notification of Central Board of Excise and Customs, Ministry of Finance).</p> <p>- In April 2008, GOI extended until end of May 2009 its measures to: (1) further lower the import tariff reduction rate (normally at about 10% which was reduced to 5% was further lowered to 3%; and (2) deduct certain amounts corresponding to certain percentage of exports from the import tariffs for imported raw materials.</p> <p>- In the 2008 Annual Budget, the basic tariff rates were reduced to certain capital goods, parts and raw materials for which the reduced tariff rates of 5-7% are applied, while the maximum tariff rate of 10% was retained.</p> <p>- While the maximum tariff rate remains unchanged at 10% in the 2009 Budget, the tariff rate on LCD panel has been reduced from 10% to 5%.</p> <p>- On 19 February 2009, GOI released Notification No. 14/2009-Customs listing the items on which import tariffs are exempted under the high-tech export promotion scheme.</p> <p>- GOI has reduced the basic tariff rate of watch movement down to 5%.</p> <p>- In February 2011, Japan-Indian EPA was signed and the Agreement has been enforced since 1 August 2011.</p> <p>- While household electric appliances such as laundry machines, refrigerators, and air-conditioners are excluded from the tariff repeal, tariffs will be reduced in stages in 10-years on certain air-conditioners and television receivers</p> <p>It is the same with clocks, lithium ion batteries, DVD players, and video cameras.</p> <p>The Staged Tariff Reductions are as follows: (Base rate is 10%)</p> <p>2011-----2012-----2013-----2014-----2015-----2016-----2017-----2018-----2019-----2020-----2021</p> <p>9.1%-----8.2%-----7.3%-----6.4%-----5.5%-----4.5%-----3.6%-----2.7%-----1.8%-----0.9%-----Free</p> <p>Moreover, tariffs will be repealed over the span of 10-years on copiers and printers as per the following schedules:</p> <p>(Base rate is 7.5%)</p> <p>2011-----2012-----2013-----2014-----2015-----2016-----2017-----2018-----2019-----2020-----2021</p> <p>6.8%-----6.1%-----5.5%-----4.8%-----4.1%-----3.4%-----2.7%-----2.0%-----1.4%-----0.7%-----Free</p> <p>Tariff will be repealed in five-years on steel products (hot-rolled, cold-rolled, alloys, zinc plated steel plate) as the following schedules:</p> <p>(Base rate is 5%)</p> <p>2011-----2012-----2013-----2014-----2015-----2016-----2017-----2018-----2019-----2020-----2021</p> <p>4.5%-----4.1%-----3.6%-----3.2%-----2.7%-----2.3%-----1.8%-----1.4%-----0.9%-----0.5%-----Free</p>		

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			<ul style="list-style-type: none"> <li>- According to the Union Budget of India promulgated on 28 February 2011, the maximum rate of basic duty remains at 10%, provided, however, that basic duty rates pegged at three steps, 2.0%, 2.5% and 3.0% have been lumped together into a single step of 2.5%, which has been enforced since 1 March 2011.</li> <li>- The Union Budget 2011-2012 India sets forth duty exemption measures by industry. In the electronic industries basic duty is exempted from (1) reinforced glass and silver paste for manufacturing solar battery and solar batter module, (2) glass tube cartridge fuse, ceramic tube fuse, glass tube (2-4mm diametre, with blade shaped fuse) for manufacturing PPTC resettable fuse, (3) para-nitro-benzin alcohol for manufacturing aluminium electrolytic capacitor, (4) insulated polyester tape for manufacturing degaussing coil and other coil parts, and (5) aluminium and copper coated aluminium wire with more than 99.9% purity and less than 3 minimum in diametre for fabricating deflection yoke for colour picture tube, etc. which are imported for use as input materials for manufacturing specified products. Enforced from 1 March.</li> <li>- In February 2011, Japan-India EPA was signed. The Agreement encompasses trade in goods, rules of origin, trade in service, movement of natural person, investment, IPR, cooperation, overhaul of business environment and TBT-SPS areas. In trade in goods, Indian side will repeal customs duty in 10 years from the effective date of the agreement on about 90% (about 97% as to Japan's side) in amounts of import from Japan, major liberalised items on the Indian side include car parts such and engine parts, video camera, DVD player, electronic products such as lithium ion batteries, tractors, bulldozers, industrial machineries such as industrial robots, whose Basic Duty (in the range of 7.5%-10%) will be reduced in stages in 10-years from the effective date of the agreement, provided, however, that major items such as finished cars are excluded from the scope of the basic duty removal. As to goods imported into Japan, state trade items such as rice, wheat, and meat, and veneer, aquatic products under import quota are excluded from the duty exemption. It is reported that the bilateral trade between India and South Korea has jumped by 40% in one year after the effective date of India-South Korea Comprehensive Economic Partnership Agreement India-ROK EPA, which is ahead of Japan-India EPA in certain areas in terms of duty rates.</li> <li>- On 27 April 2012, Ministry of Finance of India (MOF) promulgated Circular No.28/2012, concerning application of the concessionary tariff rates upon goods imported from Japan under "the Comprehensive Economic Partnership Agreement between Japan and the Republic of India (Japan-India EPA)". The HS numbers of the subject goods classified under Chapters 72, 73, 84, 85, 87, 90 and 91 of amended concessionary tariff list in Annex I of No.28/2012 may be accessed at: ( <a href="http://www.jmcti.org/trade/bull/trade/alert/arti/2012_05/AnnexI_India-JapanCEPA_Select_HS_Chapters.pdf">http://www.jmcti.org/trade/bull/trade/alert/arti/2012_05/AnnexI_India-JapanCEPA_Select_HS_Chapters.pdf</a>)</li> <li>- On 8 June 2012, Second Protocol to amend The Framework Agreement for Establishing Free Trade Area between India and Thailand (The second protocol FAFTA) entered into force. The Second Protocol expands the scope of the early harvest subject goods under TIFTA to 82-items, such as tropical fruits, home electric appliances, auto-vehicle parts, etc. including the newly added 2-door type home freezer/refrigerator (HS8418.10).</li> <li>- <u>Since 1 January 2016, Ministry of Finance, India, has implemented reduction of concessionary tariff Rates on specified products (under HS87, i.e., diesel engine, semi-diesel engine and gearbox/parts thereof) pursuant to Japan/India Comprehensive Economic Partnership Agreement (CEPA).</u></li> </ul>		

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	(2)	<b>Stringent/ Complex Basis for Certificate of Origin under FTA Origin Rules</b>	<p>- <u>The Basis of determining country of origin under Japan/India FTA (CEPA) requires satisfaction of both criteria, namely, change in tariff heading and added value requirements, which are more rigorous than other FTA's. Because of this, MFS is neither able to satisfy the origin qualifications nor to benefit from the preferential tariff rates.</u></p> <p>- <u>It takes much work-time to satisfy both "Regional Value Content (RVC) and Change in Tariff Classification (CTC)" requirements relative to filing application for origin certificate under Japan-India CEPA.</u></p> <p><b>(Actions)</b></p> <p>- On 15 May 2014, Ministry of Commerce &amp; Industry, Department of Commerce, and Directorate General of Foreign Trade, by Public Notice No. 59 announced the Latest List by the issuing authority of Preferential/Non-Preferential Certificate of Origin. Export Inspection Council (EIC) is mandated to issue certificate of origin under ASEAN/India FTA (AIFTA), India/Thailand early harvest scheme (EHS) India-Japan Comprehensive Economic Partnership Agreement (India-Japan EPA)</p> <p>-- Ministry of Commerce &amp; Industry, Department of Commerce, Directorate General of Foreign Trade, Public Notice No. 59 (<a href="http://dgft.gov.in/Exim/2000/PN/PN13/pn5913.htm">http://dgft.gov.in/Exim/2000/PN/PN13/pn5913.htm</a>)</p>	<p>- <u>It is requested that GOI/GOJ deregulates the country of origin requirement so that satisfaction of either requirement, change in tariff heading or added value will suffice for application of preferential tariff rates.</u></p> <p>- <u>It is requested that GOI deregulates the judgement basis for certificate of origin qualification so that either RVC or CTC suffices the requirements for origin determination, after the fashion of Japan/each EPA member state, Japan/Australia EPA, etc.</u></p>	- Japan/India Comprehensive Economic Partnership Agreement
	(3)	The Requirement to fill in the Full Price Details	<b>In regard shipment to India of a free sample machine parts (for verification purposes) with a nominal value duly stated on the invoice, the Indian customs requires production of additional official letter that gives the full cost details (such as assembly cost and parts cost). It gives heavier burdens upon the member firm for consigning the local development in India of the machineries and equipment.</b>	- It is requested that GOI accepts import of the sample equipment at nominal value exported from Japan.	
	(4)	Import Duty Levied on Products Temporarily Imported for Sales Meetings	<p>- <u>GOI levies high import duty on goods imported for demonstration, sales promotion for a short-term (less than 6-months). Only partial refund of import duty is available after completion of demonstration or sales promotion.</u></p> <p><u>If the demonstration unit is not new, a separate declaration is necessary, stating expressly the goods are for the purposes of sales demonstration.</u></p>	<p>- <u>It is requested that GOI grants minimum import duty or duty exemption for equipment that is brought into India for demo within a specific period.</u></p> <p>- <u>It is requested that GOI simplifies the import procedures of used machineries for sales promotion.</u></p>	- Union Budget



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	(5)	Complex Procedures for Tariff Refund	- <u>Import duties on export products are refundable, subject to production of the vast amount of particulars (the purchase record of over 1000 pages), required for each introduction of new models. It necessitates a vast amount of clerical workload.</u>	- <u>It is requested that GOI makes productive, the preferential treatment on Export Business.</u>	
	(6)	Nebulous Restrictions on Import of Used Machineries and Equipment	- <u>Our member firm wishes to confirm the details of import restrictions on used machineries and its future (or verification on the legal side for business possibility on used machineries).</u>	- <u>It is requested that GOI provides the confirmed latest information.</u>	
	(7)	<u>Complex, Much Delayed Issuance/ Renewal of SVB Licence.</u>	- <u>Member Firm's Subsidiary (MFS) incurs much work time for both acquisition and renewal of SVB (Special Valuation Branch) Licence (SVBL), the issuance base is not clear, apparently left to the arbitrary judgement of the competent authority.</u> <u>As a result, MFS's performance suffers negative impact from the prolonged refund of the bond (equal to 1% of the import amount) deposited upon import.</u> - <u>SVBL renewal in every three years takes time. The applicant's submission of the requisite renewal documents, accompanying bond deposit of 1% on CIF price, does not trigger an immediate action. They are left on the shelf for 1 to 2-years, impacting heavily upon cash flow of the applicant.</u>	- <u>It is requested that GOI takes step to:</u> <u>-- clarify the basis for the SVBL issuance, and shortens its requisite acquisition time, and</u> <u>-- minimise the room for an official's arbitrary judgement.</u> - <u>It is requested that SVB authority expedites the SVBL renewal procedures.</u>	
	(8)	Complexity and Difficulty in Declaring and Marking Maximum Retail Price upon Import Customs Clearance	- <u>MRP (maximum retail price) marking requirement. It requires the workload of labeling MRP on the package in the originating location of the products.</u> - <u>Compulsory requirement for declaration and marking of MRP at customs clearance is complex and difficult. Its marking work is quite burdensome at factory, etc.</u> <u>Moreover, the need to synchronise prices at production time and at customs clearance means additional burden.</u> - <u>GOI requires both MRP labeling and food labeling also on import(s) of samples for the specific purposes of market research and/or analysis. GOI compels shipping back to the originating country all the imports without the requisite labelings.</u>	- <u>It is requested that GOI repeals the MRP marking system.</u>  - <u>It is requested that GOI exempts the legal labeling requirements on the sample products imported for the specific purposes, excluding marketing.</u>	- <u>Weights and Measures Act</u> - <u>Related to Customs Tariff Act</u>

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			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Since February 2010, after introduction of measures for deduction of SAD (4%) on goods, which are imported into India in packaged condition as finished products, the Customs Authority has tightened its control on import of finished products. Due especially to the Customs Authority's stringent measures to monitor imported cargoes, increasing numbers of imported cargoes without proper labeling are held at Customs. (2011 Report on Compliance by Major Trading Partners with Trade Agreements -WTO, FTA/EPAs, BITs-)</li> <li>- Notification No.44 of Ministry of Commerce and Industry dated 24 November 2000 compels labeling of maximum retail price, importer's name, etc. on each individual package of imported goods.</li> </ul>		
	(9)	Complex and Delayed Customs Clearance Procedures	<ul style="list-style-type: none"> <li>- <u>It takes quite a long time to complete import customs clearance, 20-days in average.</u></li> <li>- <u>The venue for the customs clearance has been moved from container yard (CY) to ICD (Inland Container Depot)/CFS (container freight station). As a result, shippers incur drayage all the time.</u></li> <li>- <u>After establishment of the new administration, the customs clearance takes a longer lead-time, from the previous two weeks to maximum 1.5 months, now.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 14 March 2013 GOI promulgated Public Notice No.55 (RE-2013/2009-2014) "Introduction of Online Export Obligation Discharge Certificate (EODC) / Redemption for Advance Authorization (AA) and Duty Free Import Authorization (DFIA)" (due for enforcement from 1 June 2014).</li> <li>- On 23 October 2015, Ministry of Finance promulgated, for enforcement from 1 January 2016, Circular No. 26/ 2015-"customs of digital signature for submission of documents", which compels the use of digital signature on the customs clearance documents.</li> <li>- On February 17 2016, India ratified the WTO Trade Facilitation Agreement (TFA).</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- In the EXIM for the FY 1999, as many as 894 items were liberalized, while 414 items were shifted to the category requiring the special import license. As a result, import licenses are required on the 667 items.</li> <li>- On 11 April 2000, the QR's on imported goods were repealed on the 714 items.</li> <li>- On 12 March 2001, Minister Maran released the new EXIM for 2001 FY (April 2001-March 2002), repealing the quantitative restrictions ("QR's") on 715 items of consumable goods (textiles - 342 items, alcoholic drinks - 147 items, others - 226 items). Concurrently with the repeal of the QR's, the special import licensing system ("SIL"), that authorised import of the specified products commensurate with the export performance, was also repealed. However, certain items from the 715 items have been shifted to another tariff classification, which authorises imports only to the national industries. In this sense, India has not yet achieved the total liberalization.</li> <li>- On 31 March 2001, GOI repealed the QR's on durable consumer goods (including automotive vehicles).</li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI streamlines the customs clearance procedures.</u></li> <li>- <u>It is requested that GOI:</u> <ul style="list-style-type: none"> <li>-- <u>clearly identifies the requisite lead-time for completing customs clearance, and</u></li> <li>-- <u>completes the customs clearance by the regular stable procedures.</u></li> </ul> </li> </ul>	

Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- On August 31 2001, DGFT published Notification No.7, which authorised a free import of certain items, if they are classified as being in SKD/CKD conditions, pursuant to the ongoing EXIM.</li> <li>- On 1 April 2002, GOI repealed the QR's imposed on the 50 items for the national security reasons.</li> <li>- By the amended EXIM published on 31 March 2003, GOI repealed import QR's on the 69 items (including without limitation, certain photographic products, products for motion pictures, video CD, DVD, laser disk, agricultural products, and medication goods)</li> <li>- On 20 August 2010, Central Board of Excise &amp; Customs, Ministry of Finance (CBEC) promulgated Circular No. 29/2010-Customs applicable to status holders under the Accredited Clients Programme (ACP) such as export houses/trading houses that meet certain conditions. Export house status is granted to enterprises who exported more than 2 billion Rs (in FOB prices) in the previous financial year and in the last 3 years, while trading house status is granted to enterprises who exported more than 5 trillion Rs (in FOB prices) in the previous financial year and in the last 3 years.</li> </ul> <p>ACP is a measure to guarantee smooth customs clearance to importers who have shown their competency and intention to observe the Customs Act. Importers registered as accredited clients are classified in a category different from general importers and a smooth customs clearance is guaranteed to them.</p> <p>Practically, customs clearance will be made based upon the importer's self-declaration prepared and filed by the accredited clients themselves, while physical inspection is exempted on the import cargoes.</p> <p>Export houses and trading houses in export business were excluded from the application of ACP when it was introduced on 24 November 2005.</p> <ul style="list-style-type: none"> <li>- On 29 July 2011, CBEC promulgated Circular No. 33/2011-Customs on "Making E-payment of Customs duty mandatory, regarding payment of certain import customs duty".</li> </ul> <p>This Circular will compel E-payment to importers paying more than Rs100,000, with the express purpose of saving the transaction cost and expedite the customs clearance. Moreover, E-payment is the only means available for payment of customs duty to the customs accredited clients under the Customs Accredited Client Program, regardless of the amount of payment.</p>		
	(10)	<u>Ambiguous Judgement Basis of Goods subject to Import Restrictions</u>	<ul style="list-style-type: none"> <li>- While hot dip galvanized steel is subject to import control under Bureau of Indian Standard (BIS), from time to time, Indian customs suspends customs clearance for a steel of substantially different type (precisely, specially developed highly corrosion-resistant steel sheets coated with zinc, magnesium, aluminum, silicon), deeming it as hot dip galvanized steel.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI determines the applicability of BIS strictly in accordance with the exact specifications of the imported products incorporating special materials (which are incapable of local production in India), instead of substituting incorrectly the BIS specifications.</li> </ul>	<ul style="list-style-type: none"> <li>- Steel and Steel Products (Quality Control) Order, 2008.</li> </ul>
	(11)	<u>Excessively Rigorous Cargo Inspection</u>	<ul style="list-style-type: none"> <li>- Air cargoes are subjected to customs inspection at the ratio exceeding 80%. It prolongs the lead time for cargo delivery and frequently damages the cargo.</li> </ul>		

Category	No	Issue	Issue Details	Requests	References
	(12)	<u>Disheveled Handling of Customs Unpacking for Inspection</u>	- <u>A member firm's machine met with a customs inspection. The inspector roughly hammered down and unpacked the wooden case with the machine inside, without restoring the vacuum packing and the wooden case back to the original state after inspection. In transit to the customer's factory, rainwater seeped inside the wooden case, badly damaging the machine, so that upon arrival, it was unusable, badly covered with rust and corrosion.</u>	- <u>It is requested that Customs Inspector:</u> -- <u>carefully open the wooden case to the minimum extent needed for inspection, and thereafter,</u> -- <u>restore the opened area adequately back to the original condition.</u>	
	(13)	Abuse of Antidumping Measures	<ul style="list-style-type: none"> <li>- On 5 December 2002, GOI made the final affirmative determination to impose antidumping duty on cold-rolled stainless steel sheet (of more than 600 minimum width) from EU, Japan, the U.S., and Canada.</li> <li>- On 25 November 2005, GOI imposed the antidumping duty as mentioned above (of \$305 and \$445.69 per ton, as a result of the mid-term review).</li> <li>- In December 2006, GOI decided to continue the antidumping measures.</li> <li>- In November 2008, GOI instituted antidumping investigation on cold-rolled stainless steel plate (600 mm in width or more) against EU, Japan, U.S., PRC, South Korea, South Africa, Taiwan and Thailand.</li> <li>- In November 2008, GOI initiated Antidumping Investigation on hot rolled steel plate from Japan, PRC, Indonesia, Iran, Kazakhstan, Malaysia, Philippines, Rumania, Russia, South Africa, Saudi Arabia, South Korea, Thailand, Turkey and Ukraine.</li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- On 11 June 2009, Directorate General Of Safeguards (DGS) of GOI notified WTO of its recommended invocation of the provisional safeguard measures on imported hot rolled steel coil/sheet/band (HS7208), acrylic fibre, coated paper, and paperboard. The date and the period of the invocation of the measure remain undecided. Moreover, on 11 June 2009, it notified WTO of its recommended invocation of the provisional safeguard measures on imported crankshaft for commercial vehicle (truck).</li> <li>- 2011 ROCMTP points out in regard to GOI's antidumping investigation that:               <ol style="list-style-type: none"> <li>(1) Judgement basis is obscure for calculating injury margin under the lesser duty rule,</li> <li>(2) the data for the 15-items requiring the authority's consideration under Article 3.4 of the WTO Antidumping Agreement are not exhaustively listed in the final decision for injury determination.</li> <li>(3) The antidumping investigation period varies from case to case, and</li> <li>(4) as regards Antidumping Agreement Article 12.2, there are cases where it is unclear if adequate notice is given to interested parties on preliminary decision, final decision and repeal of antidumping duty imposition.</li> </ol> </li> </ul> <p>(2011 Report on Compliance by Major Trading Partners with Trade Agreements -WTO, FTA/EPAs, BITs-)(ROCMTP)</p>		

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			<p>- WTO Panel released its Report DS436 in regard to the U.S. imposition of countervailing duties on certain hot rolled carbon steel flat products that the U.S. imported from India. WTO's finding is bifurcated. While the report partially supports the GOI's contentions, it has rejected the GOI's contentions over the major systematic issues, relative to the U.S. countervailing duty.</p> <p>(Note) On 12 April 2012, GOI requested set up of WTO Panel for consultation, alleging the inconsistency with each provision of the WTO SCM Agreement (Agreement concerning Subsidies and Countervailing Measures).</p> <p>-- WTO Panel Report: (<a href="http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds436_e.htm">http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds436_e.htm</a>)</p> <p>- On 11 April 2016, directorate general of anti-dumping &amp; allied duties, ministry of commerce and industries of India initiated antidumping investigation on alloy and non-alloy steel hot rolled flat roll products, originating in or exported from China PR, Japan, Russia, Korea, Brazil and Indonesia.</p> <p><b>(Improvement)</b></p> <p>- On 5 December 2002, final affirmative decision for imposition of antidumping duty on cold-rolled stainless steel sheet (600mm wide and above) from EU, Japan, USA and Canada.</p> <p>On 25 November 2005, antidumping duty mentioned above has been imposed (U.S.\$305 and U.S.\$ 445.69 after mid-term review).</p> <p>In December 2006, antidumping measures were repealed.</p> <p>In November 2008, new antidumping investigation was instituted on cold-rolled stainless steel sheet (600mm wide and above) from Japan, PRC, Indonesia, Iran, Kazakhstan, Malaysia, the Philippines, Romania, Russia, South Africa, Saudi Arabia, South Korea, Thailand, Turkey, and Ukraine.</p> <p>On 24 November 2009 (Improvement) GOI excluded Japan from the final affirmative determination due to the minimal volume of import from Japan and absence of resulting injury therefrom, while imposing antidumping duties in the range of U.S.\$ 12.74-2,254.69/MT on imports from the other 14-countries.</p> <p>In November 2008, GOI initiated antidumping investigation on hot-rolled steel plate from Japan, PRC, Indonesia, Iran, Kazakhstan, Malaysia, the Philippines, Romania, Russia, South Africa, Saudi Arabia, South Korea, Thailand, Turkey, and Ukraine.</p> <p>In August 2009, GOI discontinued the investigation upon request of the petitioner.</p> <p>On 24 November 2009, GOI excluded Japan alone on the ground of small quantity involved and no resultant damage. Antidumping duty levy in the range of USD12.74-2,254.69/MT was decided on the remaining 14-countries.</p>		
	(14)	Safeguard Measures	<p>- On 9 April 2009, GOI instituted official safeguard investigation on hot-rolled steel plate (up to 20mm in thickness and 2000 mm in width, included in HS7208).</p> <p><b>(Actions)</b></p> <p>- On 8 December 2009, the Board recommended the Central Government not to impose the safeguard duty (on the ground that the petitioner did not constitute "the domestic industry" and injury determination could not be made for the petitioner's failure to submit the relevant information requisite to make injury determination.)- On 22 April 2013, GOI initiated safeguard measures investigation on seamless steel pipe.</p> <p>- On 7 December 2015, directorate general (safeguard) initiated the safeguard investigation on alloy/non-alloy hot rolled steel plate.</p> <p>- On 15 March 2016, directorate general (safeguard) made final affirmative finding on the safeguard investigation on non-alloy hot rolled steel plate and alloy wire-net coil (600 minimum or more in width).</p>	<p>- GOI discontinued investigation, excluding Japanese steel products from the subject goods of investigation.</p>	

Category	No	Issue	Issue Details	Requests	References
	(15)	Export Embargo	<ul style="list-style-type: none"> <li>- On 7th October, Karnataka State Government embargoed export of iron ore, on the ground of preventing illegal mining. It has given substantial impact on the marine surface trade of iron ore, and has triggered the spiraling market prices.</li> <li>- In September 2012, Goa State Government, Central Government and Supreme Court executed production/export embargo on iron ore. It heavily impact ocean-marine trade of iron ore, and is a factor to push up market prices radically.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI repeals the export embargo on iron ore.</li> <li>- It is requested that GOI lifts the production/export embargo.</li> </ul>	
	(16)	Export Tax Levy	<ul style="list-style-type: none"> <li>- On 28 February 2007, Ministry of Finance (MOF) announced (and enforced from 1 March 2007) the across-the-board tax levy of 300 Rs per ton on export of iron ore, in order to secure tax revenue and to preserve the Indian domestic iron ore resources. (The tax levy was enforced from 1 March.)</li> <li>- During May 2007-December 2009, GOI changed its tax system for five-times as follows:  -----Lump Ore-----Fine ore  3rd May 2007-----No change-----50 Rs/ton (Down)  13 June 2008-----15% on FOB (Up)  31 October 2008-----No change-----200 Rs/ton (Down)  7 December 2008-----5% on FOB (Down)-----removal (Down)  24 December 2009-----10% on FOB (Up)-----5% on FOB (Up)  29 April 2010-----15% on FOB (Up)-----5% on FOB (No change)  28 February 2011-----20% on FOB (Up)-----20% on FOB (Up)  30 December 2011-----30% on FOB (Up)-----30% on FOB (Up)  Export tax imposed on iron ore is a heavy burden to iron ore suppliers, while a portion of the tax burden is passed on to the users of iron ore such as Japan in the form of increased FOB prices.</li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In July 2008, Ministry of Steel (MOS) requested suppression of export on rolled coil, etc. that serve as base material for steel plates at a meeting with the heads of steel manufacturers. At the same time, maximum 10% reduction in price was agreed on certain products. Underlying reason for this agreement is about 50% increase last year in the domestic steel prices in India.</li> <li>- On 7 December 2008, the Central Government notified that the impositions on iron ore would be deducted from the total duty amount imposed upon export from India. (Notification No. 129/2008)</li> <li>- Union Budget 2011-2012 raises export duty on Lump Ore and Fine Ore (15% and 5% respectively) to 30% across the board, while removing completely export duty for iron pellets.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI repeals the levy of export tax on iron ore.</li> </ul>	

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				- Second Schedule of Customs Tariff Act 1975, (Act No 51 of 1975), is rewritten along with addition of new tariff items to Harmonised System of Nomenclature. Newly added item includes non-fat rice bran cake on which 10% export duty is levied (enforced from 1 March 2011). Export duties on Lump Ore and Fine Ore (15% and 5% respectively) have been raised to 20% across the board, while export duty for iron pellets has been removed completely.		
		(17)	Complex Products Registration Procedures	- <u>Products registration procedures are complex.</u>	- <u>It is requested that GOI repeals the renewal requirement for product registration, as it is done in Japan: Once registered, no subsequent renewal is necessary.</u>	
		(18)	Delayed Export Procedures	- <u>It takes a long time to complete the formalities on export from India: For example, 3-6 months for free shipment, 2-3 weeks for shipment at cost.</u>	- <u>It is requested that GOI cuts down the period of time necessary to complete the export formalities.</u>	
11	Restriction on Profits Remittance Abroad	(1)	Restrictions on Remittance Abroad	<p>- <u>Control on foreign exchange remittance is excessively severe. A huge amount of materials and documents must be signed and submitted to the authority after going through complicated procedures.</u></p> <p>- <u>RBI strictly controls the scope of expense items that can be remitted abroad. While a Japanese enterprise desires to remit to Japanese enterprise (a sales company) in settlement of foreign exchange gains/losses, RBI does not allow such remittance, because the allowable expense items for remittance abroad do not include such expenses.</u></p> <p><b>(Actions)</b></p> <p>- On payment of import, approvals of both RBI and MCI are required if the usance terms exceed 6 months under the External Commercial Borrowing ("ECB"). Advance payment for import is also subject to approval and must satisfy the two conditions that the remittance is made to the supplier direct, and bank guarantee is obtained if the advance amount exceeds 100,000 U.S. dollars.</p> <p>- RBI's approval is required for remittance exceeding the following ceilings:</p> <ul style="list-style-type: none"> <li>--Payment for consulting service received from abroad: 1 million U.S. dollars per project;</li> <li>--Payment for trademark licensing or franchising fees: 2% on the export amount or 1% on the domestic sales;</li> <li>--Payment for pre-joint venture expenses: 100 thousand U.S. dollars.</li> </ul> <p>- Prior approval of Reserve Bank of India (RBI) must be obtained to remit to Japan the balance of the local assets after liquidating the local subsidiaries, etc. in India.</p> <p>- As a condition under Rule 5 of the Foreign Exchange Management (Current Account Transactions) Rules, 2000 (FEMR), RBI's prior approval is required to draw foreign exchange for remittances for purchase of trademark or franchise in India. (Item 16 of Schedule III to FEMR).</p> <p>- GOI, under the real demand principle, strictly controls Foreign Exchange Transactions between resident and non-resident. No offshore market exists in India. Only domestic banks are authorised to intervene in non-resident's Rupee transactions, provided, however, that FRB authorisation upon the domestic bank's transactions with a non-resident is strictly restricted to spot trading based upon real demand.</p>	<p>- <u>It is requested that GOI simplifies the procedures at the time of external remittance.</u></p> <p>- <u>It is requested that GOI expands the scope of applicable items for external remittance.</u></p>	RBI Regulations

Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- Press Note No. 8 of December 2009 repeals the advance approval requirement on payments of royalty, technical transfer fees, and trademark licence fees, provided, however, that GOI levies withholding taxes of 10% (on locally incorporated enterprises with PAN (Permanent Account Number) and 20% (on enterprises without PAN). In addition, service tax 5.3% and R&amp;D tax 5% become payable and are accordingly deducted from the remittance amount.</li> <li>- On 14 August 2013, Central Bank of India reduced the cap for the amount of individual's external remittance down to INR75,000 from INR200,000 per annum.</li> <li>- <u>The tax reform under the national budget 2015 amended the punitive provisions so that 10% preferential withholding tax (under the tax treaty) applies in receipt of consideration for Foreign Funded Enterprises (FFE) provision of technical assistance (with PAN), and 20%, if without PAN.</u></li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- Foreign exchanges in the event of immigration and remittance of gift, donation, personal travel, etc. are all liberalized, provided however that, the caps continue to apply even today. Items not included in the list may be remitted abroad if such remittance corresponds to the transaction in the current account, and by the applicant's presenting to an authorised money exchanger, namely, a bank, an appropriate set of documents, certifying that the remittance is not for payment of the current account, and that all taxes and dues payable have been completely paid.</li> <li>- Remittance is not restricted for payment of the principal of debt and of imported input goods.</li> <li>- Under the FEMA provisions, any person is authorised to sell and buy freely foreign currencies, excepting the transactions restricted by the Central Government. For the purpose of restrictions, the transaction on the current account is classified into the following 3 categories:               <ol style="list-style-type: none"> <li>1) The first category relates to the totally restricted items such as remittance of the winning number of a lottery, revenue on a horse race, exporter's commission on the share equity investment into a JV or a wholly owned subsidiary ("WOS");</li> <li>2) The second category includes the specified items, which may be remitted only upon the GOI's approval. The major items added to a few items relating to remittance in the public sector enterprises relate to a multi-modal carrier's remittance to its overseas' agent, remittance of container detention charge exceeding the rate authorised by the competent authority, and payment of royalties under the technical cooperation agreement in excess of the statutory rates of 5% on domestic sales and 8% on export sales or the lump-sum payment in excess of 2 million in US dollars; and</li> <li>3) The third category relates to those which are probably most employed in effect, namely, remittance requiring the discharge of foreign exchange as well as the RBI's prior approval; or foreign exchange in excess of the specified amount. A considerable liberalisation is in progress in this category of payment as well. The following are some of the items on which the specified minimum are raised: up to US\$25,000 the limit amount of foreign currency which a traveler is authorised to accompany; up to US\$1 million on the payable amount for consulting service procured abroad, up to US\$100,000 on the discharge of foreign currency for employment or immigration abroad; and up to US\$100,000 on the amount of remittance for pre-incorporation expenses incurred by the Indian enterprise. Moreover, remittance is also liberalised for use of trademarks in India and for franchising in India, provided however that, the RBI's prior approval must be obtained for remittance of trademark licence fee or for franchising. Remittance of royalty/lump-sum under a technical collaboration agreement, if within the statutory limits, can be made without the RBI's prior approval, even when the agreement is not registered with RBI.</li> </ol> </li> </ul>		



Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- A foreign bank, in so far as it observes the Banking Regulation Act of 1949 is authorised to remit profits and surpluses to its headquarters. Furthermore a bank may issue credit cards without the RBI approval. A bank may offer an unlimited foreign currency-rupee swap with the express purpose of hedging the risks for the foreign exchange fluctuation on the depositor's debt in foreign currencies.</li> <li>- RBI has transferred most of its power concerning foreign exchange to the authorised money exchangers.</li> <li>- An Indian enterprise is authorised to employ foreign nationals and pay their earned wages in foreign currency. Up to 75% of the earned wages received in India may be remitted abroad.</li> <li>- The withdrawal of capital after payment of capital gain tax is authorised. Remittance in return of dividend is authorised. Dividend is not taxed on its recipient. Thus, under the current taxation system, the withholding tax on the remittance of dividend is not levied and collected, provided however that, the enterprise distributing dividend is obligated to pay the dividend distribution tax of 13.07%. More than 60 days' delay is not authorised on remittance of dividends and lease payments. The only document required for remittance, if any, is the income tax permit to confirm completion of payment for all taxes and dues payable in India prior to the remittance abroad.</li> <li>- Foreign institutional investors ("FII's") are authorised to convert transfer from the rupee account to the foreign currency account and vice versa. Furthermore, FII's are entitled to remit abroad capital, capital gain, dividend, interest revenue, and remuneration gained on sales of rights, free of all taxes and without requiring approvals.</li> <li>- In February 2006, amended Japan-Indian Tax Treaty was concluded. The withholding tax rate is reduced to 10% on dividends on investment, interests, licensing and technical fees.</li> <li>- By MOF Notification of 10 July 2006, Foreign Exchange Management (Current Account Transactions) Rules, 2000 was amended, deleting "Schedule III, Item number 16 and the entry relating thereto". With this Notification, authorized dealer category (AD) banks are able to let individuals to draw foreign exchange for remittances for purchase of trademark or franchise in India without prior RBI approval.</li> <li>- RBI Circular 14 of 28 November 2006 has repealed the requirement on Authorized Dealer, Category-I banks to obtain RBI's prior approval to draw foreign exchange for remittances for purchase of trademark or franchise in India.</li> <li>- On 30 April 2007, RBI issued Circular No. 46 Foreign Exchange Management Act (FEMA), 1999 - Current Account Transactions - Remittance for consultancy services - Liberalisation. Amendment under Circular No.46 has increased the limit of the sum of remittance to US\$10,000,000 per project by Indian companies executing infrastructure projects to home country for any consultancy service procured from outside India. The same Circular defines the infrastructure development project subject to this Circular as: (i) power, (ii) telecommunication, (iii) railways, (iv) road including bridges, (v) sea port and airport, (vi) industrial parks, and (vii) urban infrastructure (water supply, sanitation and sewage projects). Accordingly, AD Category - I banks may allow remittances on behalf of Indian companies in such cases up to US\$10 million per project, after verifying the bonafide of the transaction. In all other cases, the existing limit of US\$1 million per project for any consultancy service procured from outside India will continue. Amendment under Circular 47 authorises remittance of the sum of money, which is higher of the amount less than 5% of the total investment amount, or US\$100,000 per project after approval by the statutory auditor. Under amended regulations, Authorized Dealer, Category-I banks are entitled to authorise Indian enterprises to remit foreign currency abroad in repayment of expenses incurred prior to incorporation of enterprises within the new limit through approval of the statutory auditor. This Circular amends Regulation 5 of Regulations for Normal Transactions that require RBI's prior approval to draw foreign currency (i) to pay the sum of money in excess of US\$1 million per project for consultancy service provided from abroad and (ii) to draw foreign currency exceeding US\$100,000 in repayment of tax paid prior to incorporation.</li> </ul>		

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				<p>- Since 2007, GOJ has sought that GOI repeals or deregulates restriction in royalty payments on several occasions for negotiation of Japan-India EPA on issues covering investment and service rates. Furthermore, in February 2009, The Japanese Association of Commerce and Industry in India requested the repeal of the Technical Collaboration Guideline on the trademark licence. As a result, in December 2009, GOI repealed the cap on lump sum fee and royalty percentage, permitting payments for royalty, lump sum fee for transfer of technology and payments for use of trademark/brand name based upon the foreign technical transfer agreement and trademark licence agreement on the automatic route i.e. without any approval of GOI. (Press Note No. 8, 2009 series).</p> <p>- On 16 December 2009, Department of Industrial Policy &amp; Promotion (MCI) published Press Note No. 8, 2009 series titled "Liberalization of Foreign Technology Agreement Policy" (made effective on the same date). The Press Note dispensed with the GOI's approval and removed the cap on the amounts for payments of royalty, lump sum fee for transfer of technology and payments for use of trademark/brand name, provided, however, that, "all such payments will be subject to Foreign Exchange Management (Current Account Transactions) Rules, 2000 as amended from time to time." It further provides: "A suitable post-reporting system for technology transfer/ collaborations and use of trade mark/ brand name will be notified by the Government separately." Moreover, a post notice is a mandatory requirement for technical transfer and licence for use of trademark.</p>		
		(2)	Complex Procedures for External Monetary Receipt	- <u>RBI controls remittance from abroad, for example, by requiring complex procedures such as submission of individual contracts.</u>	- <u>It is requested that RBI streamlines the procedures.</u>	
12	Exchange Controls	(1)	Restrictions in Foreign Exchange Transactions within a Single Group of Companies	- <u>Our member firm desires to establish at some future time an institution that consolidates foreign exchange transactions among the group companies in India. However, RBI allows foreign exchange transactions only with banks, disallowing such transactions within a single group of companies.</u>	- <u>It is requested that GOI further deregulates foreign exchange restrictions.</u>	- RBI Regulations
		(2)	Complex Exchange Transactions Based on Real Demand Principle	<p>- <u>RBI compels the principle of actual demands, requiring a heavy burden of preparation and submission of related evidential documents.</u></p> <p><b>(Actions)</b></p> <p>- GOI stringently controls foreign exchange transactions between residents and non-resident under the real demand principle. Only domestic banks are authorised to intervene in non-resident's rupee transactions, provided, however, that FRB authorisation upon the domestic bank's transactions with a non-resident is strictly restricted only to spot trading sale in rupees based upon real demand. Banks execute confirmation of the evidence of real demand prior to transactions.</p>	- <u>It is requested that GOI further deregulates foreign exchange restrictions.</u>	- RBI Regulations
		(3)	Restricted Holding of Foreign Currency	- <u>Due to the restricted foreign currency holding, a Member Firm's Subsidiary (MFS) is compelled to convert foreign currency received from customers within 1-month of the receipt of remittance. Fund procurement from overseas is subject to conversion into rupee, devoid of merit from the interest gain, because of the hedge against foreign exchange fluctuations.</u>	- <u>It is requested that GOI materialises Interest bearing foreign currency ownership.</u>	- Foreign Exchange Act

Category	No	Issue	Issue Details	Requests	References
			<u>Due to deregulation, holding foreign currency in a bank account has been made possible in exchange for evidence that shows the payment plan in foreign currency, provided, however, that such bank deposit is not interest bearing.</u>		
	(4)	Settlement of Account in Rupee is difficult	<p>- <b>In the growing Indian market, import to India is rapidly growing up from Japan and other manufacturing footholds in Asian countries. However, RBI permits only U.S. \$ as settlement currency which is susceptible of exchange risks. While a Japanese enterprise desires to settle the account in rupees to minimise the foreign exchange risk to its sales subsidiary in India, it is difficult to settle the cost of imports in rupee.</b></p> <p><b>(Improvement)</b></p> <p>- Since 25 June 2012, repayment by external commercial borrowing (ECB) has become available against the domestic borrowing in Rupee to fund the equipment by manufacturing and infrastructure related enterprises, provided, however, that among other things, such enterprises must show the continuous foreign currency revenue in the 3-consecutive-accounting-years, and the amount of repayment is allowed only up to 50% of the annual average export amount in the past 3-consecutive-accounting-years.</p> <p>- It is under the strictly rigid real demand principle that non-residents' export/import transactions are made possible.</p>	<p><b>It is requested that RBI:</b></p> <p>-- deregulates or repeals the foreign exchange control, and</p> <p>-- approves payment in rupees for international settlement.</p>	RBI Regulations
	(5)	Inefficiency of Domestic Settlement in Rupee	- <u>Payment by cheque is the main stream of the domestic settlement of account in rupee, which takes a long time before the settlement is completed in the vast India.</u>	- <u>Early proliferation of electronic payment is eagerly awaited.</u>	
	(6)	Restricted Settlement in Foreign Currency for the Domestic Transactions	- <u>Indian Rupee is the only authorised means of payment in settlement of account in the domestic transactions. Indian Rupee, not being hard currency, heavily cripples foreign funded enterprises' freedom in advancing transactions on dealer's terms from the perspective of the exchange risks.</u>	- <u>It is requested that GOI enables settlement in foreign currency in the Indian domestic transactions as well.</u>	Foreign Exchange Regulation Act
	(7)	<b>Difficulties in Pass on the Increased Import Price to the Costs of Materials, Parts and Components due to Weaker Rupee</b>	- <u>Due to depreciation of Rupee, the costs of import materials and parts have sharply gone up. Such increased cost cannot be passed on to the price of the final products and materially affects the MFS operation.</u>		
	(8)	<u>Radical Fluctuations in Exchange</u>	- <u>As it stands, Member Firm's Subsidiary (MFS) benefits from exchange gain on a direct export transaction in yen. Nevertheless, negotiation for passing the raise to the price is difficult. In a transaction between related parties, the prevailing Yen depreciation enables MFS to offer special</u>	- <u>It is requested that GOI will use its best efforts to maintain stability in foreign exchange, by holding the fluctuation band within the swing of.</u>	

	Category	No	Issue	Issue Details	Requests	References
				<u>prices to its customers. However, MFS runs on a thin margin, so that if the exchange rate swings toward appreciation of Yen, it will instantly show operational loss: such is the severity of the fluctuation band.</u>	<u>a few percents in a 6-months period.</u>	
13	Finance	(1)	Restricted Interest On Intra-Group-Company Loan	<p><u>Our member firm contemplates organising, in future, a group financing among its subsidiaries incorporated in India (MFSs). However, it is highly likely that "deemed dividend tax" accrues on the capital loan amount or on its interest.</u></p> <p><u>- Inter-group cross-border both borrowing and depositing are not possible by regulation, frustrating the effective inter-group intra-company cash management.</u></p>	<p><u>- It is requested that Reserve Bank of India (RBI) and Competent Taxation Authority together make necessary adjustment to make it clear that such intra-group financing is non-taxable.</u></p> <p><u>- It is requested that RBI deregulates the restrictions.</u></p>	<p><u>- RBI Regulations</u></p> <p><u>- Republic Bank of India</u></p> <p><u>- Tax Law</u></p>
		(2)	Regulated External Commercial Borrowing (ECB)	<p><u>- RBI rigorously controls fund procurement from overseas (on borrowing/financing/capital increase, etc.). Moreover, RBI severely restricts the fund usage (for operational fund or for equipment fund, each with the respective different terms of financing); the restricted borrowing periods (minimum 7-years for borrowing the operational fund from overseas); the restricted repayment methods (disallowed repayment from the borrowed fund); and restricted capital reduction (the court's approval is necessary for the sake of protecting creditors).</u></p> <p><u>- A member firm, anxious to respond to the desire for increasing operational fund of its distribution subsidiary in India (from its headquarters or its related operation outside India) is unable to do so, because, the purpose of such fund deployment is restricted to capital investment, especially in infrastructure.</u></p> <p><u>=&gt; In September 2013, deregulation took place. It allows application of such fund as operational fund. However, in substance, it is practically unfeasible due to the stringent attached conditions. (Main Attached Conditions):</u></p> <p><u>-- average loan period is 7-years, while repayment before the due date is disallowed.</u></p> <p><u>-- lender's direct capital contribution into borrower exceeds 25%.</u></p>	<p><u>- It is requested that RBI removes the restrictions on intended purposes, term and repayment/capital reduction by propelling deregulation.</u></p> <p><u>- It is requested that GOI further deregulates or repeals restrictions on fund procurement from overseas.</u></p>	<p><u>- RBI Regulations</u></p> <p><u>- Policy Guidelines on ECB (External Commercial Borrowing)</u></p>

Category	No	Issue	Issue Details	Requests	References
			<p>- <u>Deregulation was decided in FY 2013 to deregulate conditionally ECB loan. However, the attached conditions are extremely stringent so that further deregulation is desirable:</u></p> <p>(1) <u>7-year freeze on repayment of Original Principal (OP).</u></p> <p>(2) <u>The scope of fund application is restricted to parent-subsidiary loan.</u></p>	<p>- <u>It is requested that RBI further deregulates the ECB terms to maximize the effective fund deployment:</u></p> <p>(1) <u>reduction of the 7-year freeze on repayment to 1-year freeze, etc., and</u></p> <p>(2) <u>broadening the scope of ECB to the 3rd generation local companies.</u></p>	
			<p><b>(Actions)</b></p> <p>- <u>In India, all External Commercial Borrowings (ECBs) are subject to the Commercial Borrowing Control, regardless of the borrowing size, large or small. The Guidelines RBI issues in each year provides the full details of ECB in regard to the Fund Usage, the Borrowing Term, Interest Rates, etc.</u></p> <p>- <i>ECB Policy provides that ECB includes borrowings from an overseas' parent by its local subsidiary and installments for cost of imports three years after shipment.</i></p> <p>- <i>External commercial borrowings (ECB) is divided into two categories, automatic route (for which no prior approval of RBI is required) and approval route (for which RBI's prior approval is required). Automatic route is conditioned upon: the amount and the period of the loan (up to US\$20 million 3-5 years, over US\$20 million less than 500 million, over five years in average); the purpose of the fund utility (investment into agricultural field, purchase of state-owned shares in state-owned enterprises in the process of privatization, direct investment overseas); interests; and expenses.</i></p> <p>- <i>Under the Review of ECB Policy of August 2007, RBI prohibits bringing into India of the proceeds from ECB for more than US\$20 million. By external borrowing policy: liberalisation of 29 May 2008, this cap was raised to US\$50 million (or US\$100 million in case of investment into infrastructure).</i></p> <p>- <i>In August 2007, in order to suppress rapid appreciation of rupees and inflation, RBI set the limit of US\$20 million on ECB for permissible domestic end-uses subject to RBI's prior approval, while requiring borrowers raising more than USD 20 million under ECB to park overseas the ECB fund, which must be expended in foreign currency.</i></p> <p>- <i>On 3 January 2008, RBI and Bank of Japan (BOJ) signed a bilateral swap arrangement (BSA) with a view to overcome short-term liquidity problems. BSA enables both countries to swap their currencies - the Japanese yen or the Indian rupee - against the US dollar up to US\$3 billion.</i></p> <p>- <i>On 9 December 2009, Reserve Bank of India (RBI) released Notification, reviewing its External Commercial Borrowings (ECB) Policy. By this Notification, RBI reinstated the all-in-cost ceilings under the approval route for the ECBs, and discontinued the facility for buyback of the foreign currency convertible bonds (FCCBs) (with effect from 1 January 2010). RBI also extended ECB until 31 December 2009 for corporations, engaged in the development of integrated township. RBI further permitted eligible borrowers in the telecommunication sector to avail of ECB under the automatic route.</i></p> <p>- <i>While GOI has gradually deregulated restrictions on external commercial borrowing (ECB), the tight control persists on foreign currency restrictions.</i></p>		

	Category	No	Issue	Issue Details	Requests	References														
				<p><b>(Improvement)</b></p> <p>- On 4 December 2006, RBI issued A.P. (DIR Series) Circular No.17, liberalising regulation on the use of external commercial borrowings (ECB) by Indian corporations. Under the existing regulation, corporations can avail ECB up to US\$20 million minimum average maturity period of 3 years and up to US\$500 million during a financial year with the minimum average maturity period of 5 years, both under automatic route. Pursuant to Circular No.17 that has modified the Regulation, corporations can avail ECB of an additional amount of US\$250 million with average maturity of more than 10 years under the automatic approval route, over and above the existing limit of US\$500 million under the automatic route during a financial year. Other ECB criteria such as end-use, all-in-cost ceiling, recognised lender, etc. need to be complied with. Circular No.17 authorises AD category - I banks, without requiring RBI's advance approval, prepayment of ECB up to US\$300 million, as against the existing limit of US\$200 million Bank, subject to compliance with the minimum average maturity period as applicable to the loan.</p> <p>- On 30 April 2007, RBI issued Circular No.44 to amend its annual policy on external commercial borrowings (ECB). By this amendment, the existing limit for prepayment of ECB has been increased from US\$300 million to US\$400 million. Accordingly, AD Category - I banks may allow prepayment of ECB up to US\$400 million without RBI's prior approval.</p> <p>- On 29 May 2008, RBI deregulated ECB, under the climate of the depreciating rupees, by raising the cap on the loan amount from US\$30 million to US\$50 million in principle (and up to US\$100 million for investment into infrastructure), while raising the cap on the interest rate also with the view to stimulate the domestic investment, to maintain the high growth rate, and to promote the infrastructure improvements.</p> <p>- On 22 September 2008, Reserve Bank of India (RBI) promulgated (and enforced on the same date) Circular No. 16, raising the existing limit of USD 100 million to USD 500 million per financial year for the borrowers in the infrastructure sector for Rupee expenditure as regards External Commercial Borrowings (ECB). ECBs in excess of USD 100 million for Rupee expenditure should have a minimum average maturity period of 7 years. The all-in-cost ceilings for ECBs as modified by Circular No. 16 are as follows:</p> <table><tr><th rowspan="2">Average Maturity Period</th><th colspan="2">All-in-Cost ceiling over 6 Months LIBOR(Note)</th></tr><tr><th>Existing</th><th>Revised</th></tr><tr><td>Three years and up to five years</td><td>200 basis points</td><td>200 basis points</td></tr><tr><td>More than five years and up to seven years</td><td>350 basis points</td><td>350 basis points</td></tr><tr><td>More than seven years</td><td>350 basis points</td><td>450 basis points</td></tr></table> <p>(Note) for the respective currency of borrowing or applicable benchmark</p> <p>- On 1 July 2013, Reserve Bank of India (RBI, India's Central Bank) promulgated Notification RBI/2013-14/12, which approves external commercial borrowing (ECB) via the GOI Approval Route.</p> <p>- On 30 March 2016, RBI released External Commercial Borrowings (ECB) - revised framework, cutting down the minimum average maturity period from 10 years to 5 years. (RBI/2015-16/349, A.P. (DIR Series) Circular No.56)</p>	Average Maturity Period	All-in-Cost ceiling over 6 Months LIBOR(Note)		Existing	Revised	Three years and up to five years	200 basis points	200 basis points	More than five years and up to seven years	350 basis points	350 basis points	More than seven years	350 basis points	450 basis points		
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	Existing	Revised																		
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More than five years and up to seven years	350 basis points	350 basis points																		
More than seven years	350 basis points	450 basis points																		
14	Taxation Systems	(1)	High Rates of Indirect Taxes	<p>- <b>Value Added Tax (VAT) 12.5%-20% (varies by state)</b></p> <p>- <b>Central State Tax (CST) 2%, servicet Tax 12%</b></p> <p>- <b>Primary education CESS 3%, import tariff, etc.</b></p> <p>- <b>Tax rates are high and their implementation is complex.</b></p>	<p>- It is requested that GOI streamlines the taxation system and reduces the tax rates.</p>	<p>- Central Excise Act, 1944</p>														

Category	No	Issue	Issue Details	Requests	References
			<p>- <u>GOI levies countervailing duty (CVD) and special additional duty (SAD) in addition to the basic duty of customs. While CVD may be set off against excise duty, it impacts heavily on cash flow.</u></p> <p><b>(Actions)</b></p> <p>- In July 2004, Education CESS was introduced and imposed on duty. Excise duty and education CESS continue. Customs duties have been reduced. In FY 2003, the custom duty cap was reduced to 23% (with certain exceptions), while the peak rate for the customs duties was reduced from 15% to 12.5%.</p> <p>- Concerning excise duty ("ED"), ED of 12.0% is imposed again on computers, 5% up on tobacco, up from 1,800Rs/MT to 2,500Rs/MT on products covered by Oil Industries Development Act.</p> <p>- General tax rate for service tax was raised from 10% to 12%. Effective service tax rate inclusive of education CESS is 12.24% in total.</p> <p>- On 28 February 2007, GOI released "2007/08 Federal Budget", raising educational CESS to 3% or increase by 1%, reducing central sales tax ("CST") to 3% or reduction by 1%, and reducing fuel tax to 6% or reduction by 2%.</p> <p>- On 26 February 2010, Finance Minister Pranab Mukherjee released the draft Federal Budget 2010/11 (Draft Budget) at House of the People (Lok Sabha). The maximum tariff rate for the majority of products remains at 10%. The basic tariff rate on crude oil is 5%, 7.5% on diesel and petrol, and 10% on other petrochemical product. Excise duty for diesel and petrol is raised to 1 Rs per litre, while the basic excise duty rate is raised to 10% with certain exceptions. (In last year, it was reduced to 8% on non-petrochemical products.). The basic excise tax rate for specified items is maintained at the lower rate of 4%. Excise tax rate for large vehicles, multi-purpose vehicles and sports-type multi-purpose vehicles is raised by 2 points from 20% to 22%. Service tax remains at 10%.The following are the details of indirect taxes in the agricultural sector:Concessionary tariff rate is 5% for establishment or expansion of the following, while service tax is exempted:</p> <p>-- Frozen storage, chill room, freezer (including the pre-freezer for preservation, storage or transport of apiculture, horticulture, dairy, poultry, aquatic organism, marine product, and other related products),</p> <p>-- Processing equipment for the foregoing products.</p> <p>Import duty of customs is exempted on freezing equipment, used for manufacturing freezing van/truck. Also exemption of excise duty applicable to certain equipment used for preservation, storage or transport of agricultural products also applies to apiculture, horticulture, dairy, poultry, aquatic organism, and marine product.The basic duty rate is reduced to 5% on certain agricultural machineries (such as rice planting machine, laser earth grader, cotton picker, harvester with binding facility, straw/feedstuff bundler, sugarcane harvester, trucks used for manufacture of harvesting and thrashing machine in truck configuration). Excise duty is exempted in full on trailers and semi-trailers for agricultural use and application.GOI has extended until 31 March 2011 the exemption period for concessionary tariff and countervailing tariff on certain machineries used in the plantation, while re-introducing the exemption of excise duty on certain machineries.GOI exempts central excise duty imposed on the initial installment of capital goods (machineries and equipment) in the profitable year for small-scale manufacturers, while permitting quarterly payments of central excise duty imposed on purchase of capital goods, in lieu of monthly payments.</p>	<p>- <u>It is requested that GOI repeals additional duties (CVD, SAD) as soon as possible.</u></p>	

Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- Union Budget 2011-2012 has introduced new excise duty rates or changed the excise duty rates, (which have been enforced from 1 March 2011):               <ul style="list-style-type: none"> <li>(1) imposition of 1% duty (Without preferential measures under CENVAT Credit) on the 130-designated items, which was previously exempted,</li> <li>(2) duty raise from 4% to 5% on special products such as processed foods, intermediate textile products, medication drugs, medical equipment, etc.</li> <li>(3) imposition of 5% duty on certain computer parts, brand jewellerys, and precious metal products,</li> <li>(4) compulsory (previously optional) imposition of 10% duty on "brand" pret-a-porter,</li> <li>(5) change of duty imposition basis for Portland cement from the previous ad valorem to 10% on certain kinds, and more than 10% ad valorem for others.</li> </ul> </li> <li>- By Union Budget of India 2012, the standard excise duty rate is raised from 10% to 12%, while preferential tax rate is raised by 1%. In addition, from 1 April, service tax has been raised from the current 10% to 12%. Along with the raise in excise duty rate, countervailing duty rate collected with the customs duty upon import of goods will also increase. On the other hand, Education CESS of 3%, which has been imposed on the countervailing duty, is exempted.</li> <li>- Excise Duty on SUV (supports utility vehicle or sports type multi-purpose car) has been raised by 3% to 30% by the 2013 Tax Reform, released by Union Budget 2013.</li> <li>- <u>By revision of union budget of 2015 wealth tax was abolished.</u></li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- The three tax rates under the special excise duty ("SED") at 8%, 16% and 24% have been amalgamated into a single rate. Thus, the ad valorem rate of excise tax is now 32% (16% of SED + 16% of CENVAT) and the indirect tax is simplified into just two categories, namely, CENVAT and CENVAT + SED, provided however that, CENVAT of 5% applies to machine sewing thread, LPG, kerosene, and diesel engines of up to 10 HP.</li> <li>- In March 2002 MOF totally exempted the 27.6% excise duty on naphtha destined to the electric power generation station ("EPG"), provided however that only the EPGs already completing the conversion to LNG or having such conversion plan are eligible for the excise duty exemption.</li> <li>- The SED is reduced in the 2003 FY budget from 16% to 8% on air conditioner, passenger car, multi-utility vehicle, tyre, polyester fabrics, and soft drinks.</li> <li>- In the 2008 Budget, the base rate of SED of 16% is reduced to 14%:               <ul style="list-style-type: none"> <li>-- small cars, motorcycles, buses: 16%=&gt;14%;</li> <li>-- hybrid cars: 24%=&gt;14%;</li> <li>-- electric cars: 8%=&gt;0%</li> </ul> </li> <li>- In December 2008, commodity tax was raised to 10%.</li> <li>- In February 2009, commodity tax was reduced to 8%.</li> <li>- In the Federal Budget, submitted to the Lower House 1 by Finance Minister, on 6 July 2009, the Central VAT 2 (namely, commodity tax) maintains the centre tax rate of 8%, while the reduction rate of 4% is raised to 8% (excluding certain products, such as foods, medication products, paper, medication equipment, and certain textile machine.) The major sectors affected by the amendment include petroleum products, electronic information equipment, software, car, and medication products/machineries.</li> </ul>		



Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- Union Budget 2011-2012 has exempted imposition of Central Excise Duty on the followings (enforced from 1 March 2011):               <ol style="list-style-type: none"> <li>(1) goods required for start up of (super) Large Electric Power Generation Projects (LEPGP),</li> <li>(2) goods required for expansion of large power generation projects (where ash disposal system and coal transport system are classified separately as integral part of LEPGP),</li> <li>(3) freezer for cold chain infrastructure, air-conditioner panel, and conveyor belt system, and</li> <li>(4) unexposed colour film for movie (400 feet and 1000 feet).</li> </ol> </li> <li>- On 25 June 2014, Central Board of Excise and Customs (CBEC) extended the excise tax concessionary rates on certain machineries and equipment, auto-vehicles, etc. (from 30 June 2014 until 31 December 2014).</li> </ul>		
	(2)	Complex Taxation System	<ul style="list-style-type: none"> <li>- Indian taxation system is complex at all events. It varies by state, <u>encompassing a vast variety of kinds and types. While many taxes are refundable or may be offset against other taxes, nevertheless, it involves complicated procedures.</u></li> <li>- <u>Local sales tax (=VAT) makes difficult both warehouse integration and stock reduction.</u></li> <li>- <u>Road permit procedures are complex and difficult.</u></li> <li>- The scope of taxable items varies by state on VAT and service tax. Corruption prevails among government employees in Taxation Bureaus.</li> <li>- <b>Indian indirect taxes are complex and diversified in levy method and varieties of taxes, forcing enterprises into much difficulty to take proper actions in response. While the central government is empowered to collect central taxes (customs duty, excise duty, central sales tax, service tax, etc.), state governments collect state taxes (state VAT, stamp duty, state entry tax, Octroi, etc.). Deliberation and preparation are now underway to consolidate all indirect taxes into a single goods and services tax.</b></li> <li>- <u>Tax calculation is needed for each depot to pay the state tax (as tax is levied upon each inter-depot product movement).</u></li> <li>- <u>There are factors such as interstate tax levies that push up the operational cost, while there are cases, where a tax paid cannot be collected from the customers.</u></li> <li>- <u>Interstate tax, levied upon each crossing of the state border.</u></li> <li>- <u>MFS (a member firm's subsidiary) must keep on its payroll two experts on indirect taxes, to sort out the complex scheme of central and state taxes. It takes much work-time to prepare the tax formalities.</u></li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI unifies the <u>taxation system into a simpler form as soon as possible.</u></li> <li>- It is requested that GOI introduces the GST system as soon as possible (so that it is implemented from the fiscal year 2016.)</li> <li>- It is requested that GOI introduces <u>Central Sales Tax (CST).</u></li> <li>- It is requested that GOI introduces a <u>rule that allows a simple setoff between receipt and payment.</u></li> <li>- It is requested that GOI takes step <u>to improve the waning competitive strength.</u></li> <li>- It is requested that GOI takes step <u>to expedite implementation of The goods and services tax law.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Union Budget</li> <li>- Indian Income Tax Act</li> <li>-- Income Tax Act, 1961</li> <li>-- Income Tax Rules, 1962</li> <li>- The Central Sales Tax Act, etc.</li> </ul>

	Category	No	Issue	Issue Details	Requests	References
				<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- According to the Examination Report of WTO TPRB completed in June 2002, the complexity in the taxation structure in India is gradually lessened for consolidation into the standard rate of 16%, and finally transferred to the single VAT. The Report points out: "However, these attempts have met with limited success, especially with respect to conversion of State taxes to VAT."</li> <li>- According to the 2003 FY budget, VAT will be introduced from 1 April 2003 while the state sales tax will be repealed. With the introduction of VAT, the central sales tax ("CST"), being the inter-state sales tax, is reduced from 4% to 2% from the 2003 FY and will be finally repealed in stages.</li> <li>- It is the policy of GOI to harmonise all sales taxes such as SED, service tax and VAT to a single general service tax by April 2010.</li> <li>- Indian Minister of Finance proposed in the 2009-2010 Budget the abolishment of fringe benefit tax (FBT) and commodity transaction tax (CTT).</li> <li>- On 25 January 2010, GOI released its implementing plan to solicit public opinions for the first discussion paper (FDP) on goods &amp; service tax (GST) prepared by the Empowered Committee of State Finance Ministers (ECSFM). GOI also solicits public opinions on the Revenue Bureau's recommendation included in the FDP. ECSFM is now working on the progressive schedule toward introduction of GST. Introduction of GST will repeal and replace cascaded taxation system (cumulative tax imposition in multiple layers), since it enables a single comprehensive collection of taxes on goods and services, while improving the existing value added tax (VAT) system. GST is due for enforcement from 1 April 2011.</li> <li>- On 19 February 2010, GOI promulgated (amended) rules "Notification No. 04/2010-Central Excise (N.T.)" ("The New Rule" enforced from 1 April 2010). The New Rule amends the provisions of the Central Excise Rules, 2002 (Old Rules) that sets forth the payment method of excise duty and the method of filing the tax report.</li> <li>- On 26 February 2010, Finance Minister Pranab Mukherjee submitted the 2010/11 Union Budget (UB) in Lok Sabha. The UB extends the preferential treatment on export in certain sectors, and proposes installment of Financial Stability and Development Council, consigned with the responsibility to monitor economy and to secure financial stability. The UB raises the basic tax rate of excise duty from 8% to 10% (with certain exceptions). The maximum rate of duty for customs remains unchanged. It also proposes a number of preferential treatments that affect agriculture, environment, medication and infrastructure sectors. It also incorporates Direct Tax Code (DTC) for enforcement from 1 April 2011. Enforcement of goods &amp; service tax (GST) is also targeted for enforcement from 1 April 2011. (Work is now in progress with the view to perfect its mechanism.)</li> <li>- Effective total customs duty payable upon import is raised from the current 26.85% to 28.85% when the basic duty is 10%, and the tax rates for service tax and excise duty is raised from 10% to 12%, while education CESS is exempted.</li> <li>- In July 2014, in Ministry of Finance Speech on 2014 Budget, the Modi Administration disclosed its policy to overhaul the legislation toward the GST introduction that requires amendment of the Indian Constitution that allows each state the right of tax collection. Some states, however, raise their voices opposing the GST introduction while the two-third or more of "PRO" voting is necessary for the constitutional amendment. In light of the "twisted" houses of the Diet controlled by opposing parties, some take the view that the GST introduction within 2016 is difficult.</li> </ul> <p><b>(Improvement)</b></p> <ul style="list-style-type: none"> <li>- On 1 July 2012, as regards service tax, the full shift to the Negative List Scheme for the 17-service categories is completed.</li> </ul>		

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	(3)	Meaningless Obligations upon Non-Resident to File Tax Return	- Indian Tax liability results from transfer of shares in Japan of the shares in an Indian company (direct transfer). Indian tax liability also results from transfer of shares in Japan of the company holding shares in an Indian company (indirect transfer).	- It is requested that GOJ and GOI insert a provision in Japan/India Tax Treaty so that tax levy on transfer profit is payable only in Japan from transfer of shares between Japanese companies. (The Tax Treaty between India and Singapore already includes this provision.)	- Japan/India Tax Treaty - The Income Tax Act (India)
	(4)	Refund of the Full Amount of TDS on Sales Disallowed under Singapore/ India Tax Treaty	- <u>Withholding tax of 10-20% over the sales amount is payable when providing services for design or employment from Singapore to India. While withholding tax is refundable under the Tax Treaty between Singapore and India, it is refunded only in part, impacting profitability of operation in Singapore.</u>		- Singapore/India Tax Treaty
	(5)	Nebulous Treatment of PE for Employees on Long-term Business Trip	- <b>Treatment is nebulous for employees on a long-term business trip to India in the context of PE. Uncertainty in the 183-days rule, both in concept and counting method, whether the supervision and instructions given in execution of obligations as parent company may expose our member firm to the PE risk. All these uncertainties frustrate enterprises' operation with subsidiaries incorporated in India.</b> <b>(Actions)</b> - In May 2014, The Delhi high court handed down the decision on Centrica India (CI) case, holding, "CI is Permanent Establishment (PE) under the PE provisions of the U.K.-India tax treaty." <u>The court decided that this staff worked for Centrica practically (not CI) because his salary had been paid by Centrica since sent to CI which has no right of dismissal. Therefor this case was applied to the provision of PE on tax treatment between UK and India.</u> - In "Morgan Stanley India (MSAS) v. department of international taxation", Indian supreme court ruled: "The outsourcing of services such as back-office operations to a captive service provider for a short-term stay will not per se create a Permanent Establishment (PE) of the parent (MSAS) in India." Despite the affirmative PE ruling, it did not result in any tax levy. However, in the case of Morgan Stanley & Co. U.S. (MSCo), pursuant to the court ruling that MSCo's despatch of its employee to MSAS meant his/her inclusion in the MSAS payroll, and the resulting generation of adequate income in India meant attachment to PE of No additional income, hence no tax was levied.	- It is requested that GOI clarifies the application method of 183-days rule concerning employees on a long-term business trip to India (the calculation method for the days of stay in India).	- Transfer Price Taxation System (Corporate Income Tax Act)
	(6)	<u>Excessive Examination of TPTS</u>	- <u>In the context of the transfer price examination by and among related companies, a member firm's main business operation is materially burdened with the GOI's request for provision of a vast amount of cost data and information, requiring a huge amount of work-time, materially disrupting the member firm's main business. There is a risk of additional</u>	- <u>The CIF supply contract involving the member firm, MFS acts only as a trading firm, adding the minimum margin on the CIF price under high sea sale procedures to an Indian</u>	- Transfer Price Taxation System - Customs Act, 1962

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	(6)	<u>Excessive Examination of TPTS</u>	<u>tax levy, depending upon the examiners' judgements in concern, with a possibility of court proceedings in the end. Moreover, as a part of this issue, 1% security bond is payable in a CIF supply contract between member firm and MFS (which is refundable upon completion of the project under the undefined procedural details).</u>	<u>Importer (I-Imp), MFS's customer, at a price determined by international competitive bidding. It is requested that GOI excludes this kind of inter-company transactions from the scope of its TPTS investigations.</u> <u>- It is requested that GOI resolves the variances in views among Ministries and agencies and by and among individual government investigators.</u>	
	(7)	Unjustified Correction and Additional Tax Imposition on Trade Firm Activities under the Transfer Price Taxation System	<p><u>- In the course of carrying out the Transfer Pricing Investigation (TPI) on the locally incorporated subsidiary of each trade firm, GOI has imposed huge amounts of additional tax on each firm based on the arbitrary contention that the commission earned on the triangular trade, which is the main business of the investigated firm, should not be less than the profit rate gained in the normal sales and purchase transactions. The outcome of TPI materially blocks Trade Firms entry into and business expansion in India. While trade firms are bogged down in seeking the solution of the problems, they incur huge cost on account of consultants' fees, etc.</u></p> <p><b>(Actions)</b></p> <p><u>- In October 2014, Delhi Income Tax Appellate Tribunal (ITAT) handed down its decision upholding the complaint concerning the tax levy, lodged by a subsidiary in India of a member firm (MFS), a Japanese general trading company (or "sogo-shosha" in Japanese). GOI levied income tax on MFS, by equating the functions of MFS to traders engaged in purchase and sales of goods, and concluding MFS must be gaining high profits. ITAT handed down its decision in recognition of the business model of a Japanese "sogo-shosha" that earns commission in consideration for its functions for: provision of services such as matchmaking between venders and purchasers, finance, distribution, logistics, etc., quashing the additional assessment of GOI (deputy commissioner of income tax circle 6(1), New Delhi).</u></p>	<p><u>- It is requested that GOI:</u></p> <p><u>-- corrects their grasp and understanding of the business activities in detail and in full perspective, and</u></p> <p><u>-- assures full transparency and rationality in carrying out their TPI.</u></p>	<p>- Section 92C/92CA</p> <p>- Income Tax Act, 1961</p> <p>- Income Tax Act Section 92-94</p>
	(8)	Nebulous, Arbitrary Implementation of Transfer Price Taxation System (TPTS)	<p><u>- GOI's investigation requires vast amount of person-hours, while its decision is least convincing. (GOI assumes the position of totally denying the vast amount of the fund outflow from Japan to India in the context of TPTS.)</u></p> <p><b>(Actions)</b></p> <p><u>- GOI has not yet introduced "advance pricing agreement (APA)". Therefore, it is not possible to predict the tax amount under transfer pricing taxation system. In addition, none of the petitions filed under "mutual agreement procedure (MAP)" between the Taxation Authorities of Japan and India has reached agreement to this date. MAP is aimed at securing predictability under Transfer Pricing Taxation System and avoiding the risk of double taxation. (Reference: National Tax Agency "The Status of Advance Confirmation requiring Mutual Consultation for 2009") ( <a href="http://www.nta.go.jp/kohyo/press/press/2010/sogo_kyogi/pdf/01.pdf">http://www.nta.go.jp/kohyo/press/press/2010/sogo_kyogi/pdf/01.pdf</a>)</u></p>	<p><u>- It is requested that GOI upgrades (to the international level) the quality of the investigation officers.</u></p>	<p>- Income Tax Act, Section 144C</p>

Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- 2012 Union Budget Amendment of Taxation System includes introduction of the followings related to transfer price taxation system:               <ol style="list-style-type: none"> <li>(1) Extension of warranty, business reorganisation, organisational restructuring, rights and obligations generated by ordinary business assumption, intangible assets such as marketing assets, human assets, etc. arising from normal course of business as external related party transactions are subject to and within the scope of transfer price taxation system,</li> <li>(2) The new introduction of the definition of specified domestic transactions, being transactions subject to transfer price taxation system,</li> <li>(3) The difference of plus or minus 3% is expressly stated on transaction prices between with the independent enterprises and transactions with overseas' related enterprises, and</li> <li>(4) Introduction of advance pricing agreement (APA) system.</li> </ol> </li> <li>- Introduction of general anti-avoidance rules (GAAR) that empower the Taxation Authority to disapprove "impermissible avoidance arrangement" due for enforcement from April 2012 was postponed to April 2013, and further extended to April 2015.</li> </ul>		
	(9)	<u>Unjustified Determination of PE and PE Tax Levy</u>	<ul style="list-style-type: none"> <li>- <u>Out of the blue, Indian taxation authority determined that member firm's local subsidiary (MFS) is a permanent establishment of member firm, alleging that MFS does not assume any risks but functions merely as an intermediary of the Member Firm.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI:</u> <ul style="list-style-type: none"> <li>-- <u>refrains from determining member firm in Japan, etc. as Permanent Establishment (PE), and levying PE tax on member firm.</u></li> <li>-- <u>discontinues futile litigation, etc. on the similar grounds, or refrains from invocation of non-fruits bearing additional tax levy, and</u></li> <li>-- <u>makes it clear by revision of tax law, or issuance of notification that external payment of consideration for offshore purchase transactions is neither subject to withholding tax levy nor to tax collection, on the ground of violating the duty for withholding tax collection.</u></li> </ul> </li> </ul>	
	(10)	Special Taxation System on Dividends	<ul style="list-style-type: none"> <li>- <u>The high rate (of more than 16%) on dividend tax makes it difficult to circulate funds among the cross border group companies.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- GOI levies DDT (dividend distribution tax) upon the Indian subsidiary that pays dividends to its overseas parent.</li> <li>- In the context of the 2012 Union Budget Amendment of the Taxation System, where an Indian subsidiary enterprise pays dividends to its overseas parent enterprise from the dividend received from its Indian sub-subsidiary enterprise, dividend distribution tax (DDT) is levied only upon the dividend paid by Indian sub-subsidiary to Indian subsidiary, while no dividend distribution tax (DDT) liability arises upon payment of dividend from Indian subsidiary to its overseas' parent enterprise.</li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI takes step to repeal the dividend tax or review the tax rate.</u></li> </ul>	<ul style="list-style-type: none"> <li>- Income Tax Act</li> <li>- Royal Bank of India</li> </ul>

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			<ul style="list-style-type: none"> <li>- Effective 1 April 2013, dividend distribution tax imposed on enterprises paying dividends has been raised to the effective tax rate of 16.995% (15 % + surcharge 10% + education CESS 3%).</li> <li>- Beginning June 2013, GOI has tightened its tax levy by introduction of the new (buy back) Levy, against the conduct of buying back own shares with the express purpose of avoiding dividend distribution tax. The effective tax rate is 22.66% (base tax rate 20% + surcharge 10% + education CESS 3%).</li> </ul>		
	(11)	<u>Disallowed Offset of VAT and Sales Tax</u>	- <u>Offset is prohibited between VAT (in-state-commerce 12.5%) and sales tax (interstate commerce 2%)</u>	- <u>It is requested that GOI expedites early introduction of the goods and sales tax.</u>	
	(12)	<u>Judgment Base of the CVD Excise Tax Base is nebulous</u>	<ul style="list-style-type: none"> <li>- <u>CVD excise, corresponds to excise duty imposed on the domestic products, is imposed upon import of goods. CIF price forms the basis of taxable price in some cases, however, in other cases, maximum retail price (MRP) replaces CIF price. Moreover, what forms the basis of such distinction is ambiguous.</u></li> <li>- <u>The authority determines the abatement rate to fix the taxable price based on MRP. However, the process to determine the abatement rate is nebulous.</u></li> <li>- <u>Moreover, importers must attach MRP self-sticking label on the parcel (package) of each product upon import. Its requirement means additional person-hours and increased cost of production.</u></li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI:</u></li> <li>- <u>-- repeals the MRP system and MRP self-sticker labeling requirement, and</u></li> <li>- <u>-- unifies the use of CIF price as the calculation base of the taxable price for CVD Excise Tax.</u></li> </ul>	
	(13)	<u>Inequality in Tax Levy between Commodity Transaction and Service</u>	- <u>There have been cases where GOI levies both excise tax (12.36%) and VAT, individually. On the other hand, for services rendered, GOI levies only service tax (12.36%) without VAT levy. It makes inequality in tax levy, where service is provided.</u>	- <u>It forces extremely heavy burden upon manufacturers.</u>	
	(14)	<u>Delayed Introduction of GST</u>	<ul style="list-style-type: none"> <li>- <u>Indian indirect tax regime is extremely complex: state VAT, excise tax, service tax, central sales tax (CST) levied on inter-state transactions. Modi administration, inaugurated in May last year, in its policy statement publicly committed introduction of GST. The fulfillment of this commitment during this year is eagerly awaited.</u></li> </ul>	- <u>It is requested that GOI introduces GST as soon as possible.</u>	- <u>GST Bill</u>
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- <u>In December 2015, at the closure of the winter session of Indian parliament, the constitution bill (GST Bill) did not get through, due to the frequent interruptions of the deliberation by the oppositions that hindered the Modi administration's targeted introduction of the GST bill from April 2016. In the subsequent budgetary diet closed on 13 May, 2016, no further development took place, as the GST bill got postponed. While the administration targets the passing of the bill at the monsoon parliament in July, and even if the GST bill gets through, it is subject to further approval by more than 15-states congresses out of the 29 in total.</u></li> </ul>		

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	(15)	<u>Withholding Tax on Royalties and Fees for Technical Service</u>	<p>- <u>"Withholding tax levy on royalties and fees for technical service" under the GOJ/GOI Japan/India tax treaty is an economic factor that impedes consignment of offshore business development in India.</u></p> <p>(Actions)</p> <p>- <u>Union budget, released by the end of February 2016, proposes introduction, from 1 April 2017, of "patent box tax regime" that applies 10% tax rate on gross basis (surcharge and education CESS).</u></p>	- <u>It is requested that GOI and GOJ amends the tax treaty as soon as possible.</u>	- <u>Japan/India Tax Treaty</u>
	(16)	<u>Permanent Account Number (PAN) Acquisition Requirement under Japan-India Tax Treaty</u>	<p>- <u>Acquisition of PAN is pre-requisite to enjoy the benefit of the lower withholding tax rate of 10% (if without PAN, 20%) under the Japan-India tax treaty. However, even a Japanese enterprise has to obtain PAN, so that application of the lower tax rate in their tax return is impossible, in many cases.</u></p> <p>(Actions)</p> <p>- <u>In Indian budget 2016, it was revealed that the amendment, under consideration, would exclude application of the higher 20% rate of withholding tax to non-residents without holding PAN, subject to satisfaction of certain conditions.</u></p>	<p>- <u>It is requested that GOJ/GOI take steps to:</u></p> <p>-- <u>deregulate the terms and conditions for applying the withholding tax provisions, and</u></p> <p>-- <u>repeals the PAN acquisition requirement.</u></p>	- <u>Japan-India Tax Treaties</u>
	(17)	<u>Irrational Entry Tax Levy</u>	- <u>With the purpose of protecting the in-state industries, entry tax of 5-15% has been levied on goods purchased from vendors outside the State. This tax, harmonised into the appreciably high 14% rate, materially impacts upon the purchase of raw materials.</u>	- <u>It is requested that GOI takes step to repeal the entry tax, which by itself deters the growth of industries.</u>	
	(18)	<u>Deemed Tax Levied on Equipment under CIF Offshore Purchase Contract</u>	- <u>On equipment that member firm's subsidiary (MFS) purchased under CIF contract, etc., MFS did not file tax return, it being an offshore transaction. Tax Authority, from time to time deems such offshore transactions also taxable, at times, demands payment of penalty and/or interest arrears. Such GOI's action serves as barriers for foreign enterprises' entry into India.</u>	- <u>It is requested that GOI makes tax assessment fairly, in a transparent manner.</u>	
	(19)	<u>Tax levied on Low Interest Loan to Employees</u>	- <u>On the internal loan under the welfare programme to MFS's employees, GOI demands raise in the loan interest rate as much as that of commercial banks. When the rate is still lower than that of commercial banks, tax is levied on the differences between them. It has drained the MFS's reserve fund set aside to cope with the emergency hospitalized operations, etc. for its employees. In the end, MFS had to de facto abandon the internal loan for welfare purposes for its employees.</u>	- <u>It is requested that GOI appreciates the necessity of the welfare fund for MFS's employees and takes measures in response to such needs.</u>	

	Category	No	Issue	Issue Details	Requests	References
15	Price Controls	(1)	Establishment of Minimum Import Prices	- On 11 December 1998, GOI introduced, as a temporary measure, the minimum price system on imports, under the EXIM (in every five years, currently from April 1997 to March 2002) to put a break on import of cheap steel products. Subsequently, the domestic re-roller users demanded the authority to repeal the measure. Accordingly, the minimum price was readjusted downward, and finally in January 2000, the minimum price system was repealed. However, the domestic steel manufacturers filed suit at the Calcutta High Court. In practice, import of low priced steel continues, with a general understanding that the minimum price system has no effect, pending the outcome of the court proceeding.	- It is requested that GOI repeals the minimum price system.	- Steel and Steel Products (Quality Control) Order
		(2)	Entry Barriers into Power Distribution Sectors by Government Subsidy	- <u>Electric Power Bill by Power Distribution Company is kept at low level by the Government Subsidy. It is a disadvantage on price to a third party, wishing to enter into the power distribution business.</u>	- <u>Gradual deregulation of entry restrictions is requested to encourage entry into power distribution business as a part of overhauls in infrastructure.</u>	- The Electricity Act 2003
16	Employment	(1)	<b>Overly Labour Protective Labour Legislation</b>	<p>- Overly labour protective legislation for workers with many service years, etc. frustrates employers' free hands in flexibly structuring the workforce regime.</p> <p>- Generally the notion of labour protection prevails. Restructuring workforce requires approvals and permits of the competent authorities. FFEs are confronted with a difficulty to invest on human resources with a perspective of future expansion of their businesses in India.</p> <p><b>(Actions)</b></p> <p>- For dismissal of workers (namely, employees in non-managerial or supervisory position), employers are required to observe a number of legal requirements of all forms. Workers are protected from an indiscriminate dismissal by employers. Before proceeding with the dismissal of workers, employers are required to execute departmental disciplinary measures. Moreover, various reconciliation and arbitration institutions for industrial disputes are available under the State auspices, such as Reconciliator, Labour Court, and Court of Industrial Relationship. In general, industrial disputes are bound to take many years between employers and Workers, with the parties taking layer by layer the procedures made available to them, before the disputes reach the Supreme Court's decision. Of course, it is always possible to settle the case at any time.</p> <p>- On 1 March 2001, Finance Minister Jaswant Singh, in his speech on the 2001 FY budget at the Parliament, proposed to deregulate enterprises requiring the governmental approval for reduction in workers and closure of operation limited only to those enterprises with 1,000 or more workers. Minister Singh also proposed to repeal Labour Act, draft amendment, 1947 and Sick Industrial Companies (Special Provisions) Act, 1985 to enable outsourcing in the non-core department. (Each labour union opposed to this in chorus.)</p>	<p>- It is requested that GOI reviews the relevant legislation.</p> <p>- It is requested that GOI restructures itself so that labour issues are resolved at the collective bargaining between employers and Unions (or employee's representatives).</p>	- Industrial Disputes Act 1947



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			<p>- <u>In 2014, Rajasthan State raised the basic number of employees requiring prior governmental approval from 100 to 300 persons. Since then, Madhya Pradesh, Uttar Pradesh, and increasing number of other states have been following suit.</u></p> <p><b>(Improvement)</b></p> <p>- The amended Labour Law Rajasthan State in August 2014 has raised the number of employees from 100 to 300 for an enterprise that must obtain the prior State Government approval for dismissal of its employees.</p>		
	(2)	Differing Labour Standard by Each State	<p>- <u>While in general terms Labour Standards and Rules vary by state, there are scarcely few tools available to grasp the contents. It makes labour management difficult.</u></p>	<p>- It is requested that GOI publishes a <u>book on industrial relationship in India or discloses the requisite information on its website.</u></p>	
	(3)	Complex, Delayed Visa Acquisition / Renewal Procedures	<p>- <u>It takes too long and too much work to get the Employment Visa (both upon new assignment and renewal).</u></p> <p>- <u>Upon filing application for business visa, work visa, etc., the authority requires numerous documents, so that advance preparation is prerequisite.</u></p> <p><b>(Actions)</b></p> <p>- On 20 August 2009, MCI promulgated Notification setting forth the standard for visa issuance to aliens, demanding expulsion of aliens working in India under B-visa. It also compels aliens re-entering India to obtain E-visa (Employment Visa) at the Embassy/Consulate General of the alien's mother country. The scope of persons eligible for Employment Visa has been narrowed down to highly skilled engineers, experts, senior manager, or executive officer.</p> <p>- In April 2010, GOI issued New Guidelines for Visa Issuance, setting forth among others, "The Foreign Worker that is being sponsored for an Employment Visa earns an annual salary exceeding USD 25,000", "Employment Visa may be granted up to two years in general and up to three years for those in IT software or IT enabled Service business."</p>	<p>- It is requested that GOI:</p> <p>-- <u>streamlines the visa application procedures as to Japanese applicant by cutting down and simplifying the application procedures, or extending the validity term for the Employment Visa, and</u></p> <p>-- <u>deregulates the Regulations allowing free entry without visas as to Japanese applicants, to ensure more active India/Japan interchange.</u></p> <p>- <u>In light of the fact that both India and Japan are signatories to EPA, it is requested that GOI deregulates the requirements for the Visa issuance.</u></p>	

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			<p>- On 1 March 2016, ministry of tourism initiated implementation of "Tourist Visa on Arrival (TVOA) scheme" that grants single entry visa (within the visa validity period) to tourists from Japan, etc. "whose sole objective of visiting India is recreation, sightseeing, casual visit to meet friends or relatives, short duration medical treatment or casual business visit (participation in conference) etc. and no other purpose/activity. While this scheme is executed at each international airport, at Indira Gandhi international airport, Japanese speaking Indian staff on permanent duty attends at the TVOA counter, assisting the application protocol, with blank application form available at the counter. By filling in the details and with the picture taken on the spot, and payment of fees, the applicant obtains the Visa on the spot. (Improvement)</p> <p>- The renewal time for Employment Visa (Work Permit) that used to take 6-8 months has been reduced to 4-6 months. Also, a single temporary permit (allowing just one trip that required frequent trips to Immigration Office) has been replaced by a multiple-entry-visa.</p> <p>- Since September 2014, the applicant's own appearance has been no longer required for registration and/or renewal of Stay Permit at Alien Registration Office so that applicant's agent or attorney may file such applications.</p> <p>- Since 10 June 2016, Indian embassy has started issuing long term visa to Japanese national, valid for 10-years maximum, provided, however, that the continual stay period per visit to India may not exceed 180-continuous-days maximum.</p>		
	(4)	<b>Delayed Enforcement of Japan-India Social Security Agreement (JISSA)</b>	<p>- While both GOI and GOJ agreed and signed JISSA, it has not yet reached the enforcement. Our member Firm faces increased cost from (1) double payment for subscription to social insurance and no-refund (2) until the insured reaches 58-years in age. Thus the competitive power of Japanese company in operation is inferior to that of Korea which has already enforced the social security agreement between India.</p> <p>- GOI compels foreigners to pay social insurance premium. While the insured can receive payments beginning 58-years in age, the onus of its management and the method of its receipt are both difficult for MFS, the employer.</p> <p>- While JISSA was signed and its ratification completed in December 2013, the deliberation still continues on its implementing regulation so that employers' double payment of pension fund continues. Employers' contribution to the provident funds of 12% cannot be slighted for its impact upon the company's profit and loss.</p> <p>- As it stands, Provident Funds (PFs) employers contribute during an expatriate's stay in India do not get refunded, pending the expatriate's reaching 58-years in age. In November 2011, JISSA was signed between GOJ and GOI, and parliamentary approval was completed in December 2013 as to Japan, (while no parliamentary approval is required as to India). Pending completion of the formalities by exchange of official documents, etc., JISSA comes into force. However, signing the official documents remains pending. After enforcement of JISSA, it is expected that expatriates with less than 5-years stay will get their PFs contributions refunded at the time of return to the home country.</p>	<p>It is requested that GOJ and GOI get the social security agreement enforced as soon as possible.</p> <p>It is requested that GOI takes steps to get the JISSA enforced as soon as possible.</p> <p>It is requested that GOI and GOJ expedite enforcement of JISSA as soon as possible.</p> <p>It is requested that GOI and GOJ expedite getting JISSA enforced as soon as possible.</p>	<p>G.S.R 148 and G.S.R 149 Dated September 2010</p> <p>Provident Fund Act</p> <p>The Employees' Provident Funds (Amendment) Scheme 2010 (EPF) and the Employees' Pension (Amendment) Scheme 2010 (EPS)</p>

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			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Government-to-Government talk has begun since July 2011 on Japan-India Social Security Agreement.</li> <li>- On 28 May 2012, GOJ and GOI have reached substantive agreement for signing the Japan-India Social Security Agreement.</li> <li>- On 16 November 2012, the Social Security Agreement between Japan and Republic of India was signed.</li> </ul>		
	(5)	Nebulous Refund of Social Security Premium (Pension Fund)	Foreign expatriates to India have been paying 25% of their income to GOI as reserve for retirement annuity (provident fund). However, it remains nebulous if the social security premium (pension fund) gets repaid upon expatriates' return to Japan, after the JISSA is ratified and enforced.	It is requested that GOI clarifies this question as soon as possible.	
	(6)	<u>Irrational, Complex Permit Requirement on Each Exit at Immigration</u>	<ul style="list-style-type: none"> <li>- <u>Foreigners with resident permit in Jharkhand state must obtain, on each exit, exit permit from the police station having jurisdiction over the residence permit.</u></li> <li>- <u>Applicants are unable to cope upon occurrence of events that requires immediate return to the home country.</u></li> <li>- <u>MFS has lodged request to repeal this requirement, Jharkhand being the only state that mandates the exit permit.</u></li> </ul>	<u>It is requested that GOI takes step to repeal this Jharkhand state rule.</u>	
	(7)	<u>Lack of Thoroughness in Synchronisation of the Validity Period between FRRO and Visa</u>	<ul style="list-style-type: none"> <li>- <u>Due to the differences in the validity periods between FRRO (Foreigner Regional Registration Office Stay Permit) and Visa, the requisite FRRO procedures for the expatriates were vexatiously complex.</u></li> <li>- <u>In September 2014, at the Japan-India summit conference, it was formally decided to synchronise the validity periods between FRRO and Visa.</u></li> <li>- <u>Further request was made to GOI for the thorough synchronisation of the validity period between FRRO and visa, by Suggestions for the government of India by JCCII (December 2014).</u></li> </ul>	<u>It is requested that GOI ensures a thorough achievement of the Indian government decision of September 2014.</u>	
17 Implementation of Intellectual Property Rights ("IPRs")	(1)	Irrational/ Nebulous Information Provision Requirement for filing Foreign Patent Application	<ul style="list-style-type: none"> <li>- <u>It is incumbent upon the applicant to submit available information concerning foreign patent applications, if so required by the Director-General of the authority during the period from the filing date of Indian patent application and to the grant of the patent.</u></li> <li>- <u>"Office Action" cites USPTO, EPO, and JPO as such foreign examples.</u></li> <li>- <u>However, the examiners at Patent Office are able to access such information for all of these 3-Patent Offices' readily by using the Dossier Access System. It seems that this requirement unduly burdens the applicant.</u></li> </ul>	<u>It is requested that Indian Patent Office will obviate the need for applicant's submission of information by activating the Trilateral (USPTO, EPO, and JPO) Dossier Access System.</u>	<ul style="list-style-type: none"> <li>- The Patents Act, Section 8, etc.</li> <li>- The Patents Act "Section 8(2) Information and undertaking regarding foreign applications"</li> </ul>

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			<p>- <u>The countries where provision of information is required are not identified, leaving applicants unable to respond adequately to this requirement.</u></p> <p><u>The going Model Letter in the "Office Action" reads: "Details regarding the search and/or examination report including claims of the application allowed, as referred to in Rule 12 (3) of the Patent Rule, 2003, in respect of same or substantially the same invention filed in all the major Patent Office's such as USPTO, EPO and JPO etc., along with appropriate translation where applicable, should be submitted within a period of six months from the date of receipt of this communication as provided under section 8 (2) of the Indian Patents Act.</u></p> <p><u>" This Model Letter fails to show the clear identity of "all the major patent office's".</u></p> <p>- <u>Multi-National Enterprises (MNEs) bear the extremely heavy burden of having to cope with the need to protect IPRs in numerous countries, as certain countries continue to compel disclosure of the examination information such as the fact of foreign application and the result of examination, even today, when digitisation of patent examination information has made a fair progress for public disclosure.</u></p> <p><u>Due to the lack of clarity in the obligation imposed by each country, the risk of unintentional violation remains as a matter of concern into the future.</u></p>	<p>- <u>It is requested that Indian Patent Office identifies the countries about which provision of information is required, should it continue the requirement for provision of information.</u></p> <p>- <u>It is requested that in light of advanced digitisation of patent examination information GOI:</u>  <u>-- deregulates or repeals the disclosure obligation for foreign patent application or</u>  <u>-- clarifies the details of such obligation.</u></p>	<p>- The Patents Act "Section 64 Revocation of patents"</p>
	(2)	Unique Requirement for Submission of Statement regarding the Working of the Patented Invention on Commercial Scale in India	<p>- <u>Indian Patent Office (IPO) requires periodical filing of a Working Statement (W/S) regarding the commercial working of the invention in India (Form 27). This requirement, not found in any other countries, is quite burdensome, as it necessitates a special work in its preparation, requiring substantial cost and person-hours.</u></p> <p>- <u>In India it is incumbent upon patentees to furnish information to controller concerning the domestic use of the patented invention. This information must be provided on all Indian patents the extent to which the patented invention has been commercially worked in India during 1 January to 31 March in each year. (Indian Patent Act, Article 146).</u></p>	<p>- <u>It is requested that GOI repeals the requirement for submission of the periodical statement as the workload is quite substantial and burdensome to the patentees. It is neither clear how W/S is actively used by the IPO, nor is it identified the necessity for the current operation.</u></p> <p>- <u>It is requested that GOI takes step to repeal the reporting requirement on the extent to which the patented invention has been commercially worked in India.</u></p>	<p>- The Patents Act, Section 146(2) "146. Power of Controller to call for information from patentees"</p> <p>- The Patent Rules 131(1)(2) "Form and manner in which statements required under section 146(2) to be furnished."</p> <p>- The Patents Act, Section 122(1)(b). "Refusal or failure to supply information."</p>

Category	No	Issue	Issue Details	Requests	References
			<p><b>(Actions)</b></p> <p>- It is Patentee's responsibility to prepare and file statements at the end of each annual fiscal term as to the extent to which the patented invention has been commercially worked in quantity and amount, in India and abroad, separately, as may be specified in the notice. (The Patents Act, Article 146 (1)).</p> <p>In addition, the Controller General of Patents, Designs &amp; Trade Marks (CGPDTM) is empowered to publicly disclose the received information in the specified manner.</p>		
	(3)	Ambiguous Legislative Provisions on Obligations for Home Country Application	<p>- <u>In emerging countries where growing needs for local development prevail, numerous countries continue to retain the legislative provisions on "obligation to file applications in the first country (OFAFC)", however, without a clear-cut definition. It makes it difficult to protect IPRs effectively. Today when the R&amp;D activities encompassing multiple countries are indispensable, the risk of infringement in plural countries is a matter of concern.</u></p>	<p>- It is requested that GOI:</p> <p>-- <u>deregulates or repeals OFAFC or provides its clear-cut legislative provisions, or</u></p> <p>-- <u>promotes deregulation for application of OFAFC requirements upon cross border R&amp;D activity by agreements among plural countries, etc.</u></p>	The Patents Act, Section 39, etc.
	(4)	Concern over the System Design on Introduction Of Utility Model System	<p>- <u>It is said that introduction of industrial design system (IDS) is now positively under discussion, one of the reasons for this move being the backlog in the patent examination. Simplified examination under industrial design system is a matter of great concern, as it gives vent to advent of unstable rights, resulting in abuse of rights as well.</u></p>	<p>- Should GOI introduce IDS in fact, it is requested that GOI:</p> <p>-- <u>compels submission of technical evaluation statement,</u></p> <p>-- <u>clearly identifies the object of protection under industrial design right (for example, restricting the right to form of a good, etc.).</u></p>	
	(5)	Delayed Clampdown on Counterfeits	<p>- <u>After the clampdown and seizure of counterfeits, the police must submit to the Court the Charge Sheet.</u></p> <p><u>However, there are plural cases in which criminal prosecution has not begun after the lapse of more than 2-years from the counterfeits' seizure. It not only delays the solution of the case, but also makes it difficult for witness's court appearance. Moreover, timely procurement by negotiation between the parties of the source information becomes difficult.</u></p> <p><b>(Actions)</b></p> <p>- <u>While criminal prosecution may be sought with the chief of police on counterfeits, it is also possible to obtain search and seizure warrant from lower court. Criminal proceedings take a long-time: 4-5 years in some cases, before the Lower Court decision is handed down, it is said.</u></p>	<p>- It is requested that Controller General of Patents, Designs, and Trade Marks (CGPDTM) takes step to establish the deadline for submission of charge sheet, such as within 1-year of police clampdown.</p>	

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	(6)	Inadequate IPRs' Protection in the Pharmaceutical Drug Sector	<p>- <u>Patent is not granted on numerous pharmaceutical drugs. Even if the patent is issued, non-infringement judgement results from patent litigation. As it stands, hardly any patent protection can be hoped for.</u></p> <p>- <u>Counterfeit pharmaceutical drugs more often than not inflicts material health damage to patients, besides infringing upon IPRs (patent right, trademark right). Therefore, it is important to clamp down upon and keep the counterfeits out of reach of the patients. Counterfeits manufactured in PRC, India, etc. do not remain in the respective domestic markets. They widely infiltrate into the rest of the countries.</u></p>	<p>- <u>It is requested that GOI:</u>  <u>-- issues patents pursuant to agreement on TRIPS without regard to the field of technology or the place of production, domestic or import, and</u>  <u>-- ensures rationality and transparency in establishment of compulsory licence.</u></p> <p>- <u>It is requested that GOI tightens clampdown upon manufacture/sales and export of counterfeit pharmaceutical drugs.</u></p>	- Patent Act, Article 3, and 84.
	(7)	Delayed/ Stagnant Examination on Trademark Case	- <u>In "opposition to grant of a mark case", while trademarks act (in Article 21(2)) provides "... the applicant shall send to the registrar ... a counter statement of the grounds ... If he does not do so he shall be deemed to have abandoned his application, there are plural cases in which issuance of certificate of trademark registration remains pending for more than 5-years.</u>	- <u>It is requested that GOI takes step to expedite examination and at once proceed with the stalled cases.</u>	- Trade Marks Act Article 21(2)
	(8)	Insufficient, nebulous Institutional Operation at IPI	<p>- <u>Manoeuvrability in the search function for trademarks is poor at Intellectual Property India(IPI)/IPDL (Intellectual Property Digital Library).</u></p> <p>- <u>No work sharing of examination takes place in the 4-IPIs (Delhi, Kolkata, Mumbai, and Chennai).</u></p>	<p>- <u>It is requested that IPI takes step to:</u>  <u>-- increase search items (enabling narrower scope of search by validity, expiration, and patentee).</u>  <u>-- enrich status information (with notation of the latest renewal date).</u></p> <p>- <u>While it appears measures are being under way for movement, interchange, and exchange of personnel among the 4-IPIs, for the sake of harmonising the examination basis and the examination speed of patent applications, it is requested that IPI takes step to:</u>  <u>-- effect work-sharing among the</u></p>	

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				<p>- According to the local lawyer, submission of deed of conveyance or other instrument that shows the ownership is necessary from the inventor to the employer in all patent applications filed in India in pursuance to the IPI and board of appeal guidelines.</p>	<p><u>4-IPI's, and</u>  <u>-- standardise the speed of examination.</u>          - It is requested that IPI takes step to deregulate or obviate, by written legislation, the need for submission of deed of conveyance or other instruments, or else deregulate the legislative provisions with simplified descriptions so that a local lawyer's preparation of a written document with his/her signature suffices.</p>	
19	Industrial Standards, Approval of Safety Standards	(1)	Indian Own Standard is made a compulsory requirement	<p>- On 12 September 2008, Ministry of Steel (MOS) has made IS (Indian standard) on 6-items of steel products, as compulsory standard, mandating its acquisition and marking prior to import and domestic distribution.</p> <p>- On 12 February 2009, MOS postponed by one year compulsory acquisition of IS on 8-items of steel products (including half finished products, thick steel plate, zinc plated steel plate, tin plate, electromagnetic steel plate, etc., a reduction from the 11-items, originally scheduled.)</p> <p>- On 12 February 2010, out of the above-mentioned 8-items, MOS enforced compulsory acquisition of IS only on zinc plated steel plate (Specification No.277), while excluding the balance of the 7-items.</p> <p>- On 20 July 2011, MOS notified WTO its enforcement of its requirement for compulsory acquisition of IS on the 9-Standards, among others whose enforcement had been postponed till then.</p> <p>- On 10 September 2012, MOS classified the 9-Items (second order 2012) of steel products by specifications (thickness, width, etc.) as of 12 March 2012 as being subject to compulsory quality control standard (CQCS). The enforcement date is from 12 September 2012 as scheduled, excepting a few Indian standards and specifications, whose implementation date is postponed to 31 March 2013 (as published on 17 October on additional amendment regulation).</p> <p>- On 28 March 2013, MOS promulgated amended regulation, announcing postponement of enforcement until 1 October of 2013.</p> <p>- On 7 August 2013, MOS promulgated notification, excluding for 2-years application of CQCS on the 9-Items (Second Order 2012), which are used</p>	<p>- It is requested that GOI repeals the measures, if not, clarifies/streamlines the procedure (including the exclusionary measures).</p>	Steel and Steel Products (Quality Control) Order

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			<p>for a project (such as infrastructure) exceeding 10 billion Rupees.</p> <p>- On 1 October 2013, MOS promulgated amended rules, enforcing some of the IS's subject to Second Order 2012, while postponing enforcement on some until 1 April 2014, and announcing discontinuation of introduction for one IS (IS2831).</p> <p><b>(Actions)</b></p> <p>- During 2008-2009, Japan, EU, and South Korea expressed their concern for GOI's introduction of list of steel products under mandatory BIS certification.</p> <p><b>(Improvement)</b></p> <p>- On 12 February 2009, GOI reduced from 11-items to 8-items the list of steel products under mandatory BIS certification and deferred its implementation by 1-year. Steel products subject to BIS certification include semi-finished products, thick plate, galvanised steel sheet, tin plate, electromagnetic steel plate, etc. On 12 February 2010, GOI made acquisition of BIS certification a mandatory requirement only on galvanised steel plate, while excluding the remaining 7-items from the scope of the mandatory requirement.</p>		
	(2)	Non-execution of Industrial Standards, Specifications	- <u>Industrial standards and specifications are generally not enforced in India.</u>	- <u>Proper execution is required.</u>	
	(3)	Grace Period is too Short for Enforcement of Safety Standard from Date of Promulgation	- While minimum 1-year start-up time is allowable in other countries from <u>promulgating date of safety standards to implementation</u> , GOI has <u>granted only half-a-year (from 3 October 2012 to 3 April 2013) this time, inclusive of import, storage and distribution. Half-year start-up time is too short.</u>	- It is requested that GOI ensure <u>minimum 1-year from date of promulgation to implementation.</u>	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012
	(4)	Non-Acceptance of the CB Scheme Issued by Overseas Institutions	<p>- <u>GOI would not recognise CB report issued by overseas institutions. Moreover, it accepts CB report issued within 3-months only.</u></p> <p>- <u>The safety standard enforced from 3rd April 2013 somehow did not reach Japanese enterprises. Why GOI is in such a hurry to start implementation with such a severely demanding time limit against the opposition voiced also by the local Indian industries. Moreover, GOI intends to conduct new tests, instead of accepting CB Report. Why GOI refuses to accept CB report?</u></p>	<p>- <u>It is requested that GOI:</u></p> <p>-- <u>recognises the CB scheme issued by the overseas institution, and</u></p> <p>-- <u>rescinds 3-months cap in acceptance of CB Report.</u></p> <p>- <u>It is requested that GOI accepts CB report the same as other countries.</u></p>	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012



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			- GOI recognises only domestic test laboratories in India. Moreover, GOI does not accept CB report. Due to the congestions from the GOI's refusal of CB report, it takes several months to get the test report issued. Test report contains numerous erroneous entries, which heavily burdens applicants for confirmation work. It takes several weeks for the applicant to get the registration completed, due to the BIS scrutiny on the test report followed by demand for corrections, abrupt suspension amid the registration process, it takes a few weeks for completing the registration	- It is requested that GOI: --expands the test laboratories to include overseas laboratory, --accepts the CB report, and --expedites BIS registration work =>As it stands, it takes one month for adding new factory, two-week for adding product models.	
	(5)	Unreasonably Only Applicant is qualified for filing Application for the Safety Standard Approval	- Safety standard application starts from 3 April 2013. By right, the applicant has been either manufacturer or importer. However, unlike other countries order provides that the applicant must be manufacturer (factory). In the event production is assigned to another factory, it is not possible to file application as the assignee refuses to file application on behalf of our member firm.	- It is requested that GOI amends the order so that it allows manufacturer or importer to file application.	Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012
	(6)	Complexities of the Compulsion of the Prior Marking Requirement for Registered Electronics and Information Technology Goods	- On 7 September 2012, Ministry of Communications and Information Technology promulgated Order, introducing rules for 15-items of household electric products, electronic/information and telecommunications equipment. It has been enforced since 3 January 2013, after two postponements. It provides for compatibility to Indian safety standard, marking of compliance, and model registration. However, due to the following problems, it remains impossible for the concerned parties to take substantive actions: -- While implementation begins in half a year after the publication date in Gazette of India, its publication date is unclear. -- Half a year for implementation from publication date of Gazette is insufficient to take proper action. -- Manufacturers/Importers are unable to take the requisite actions on goods already in distribution after the enforcement date. -- No grace period is provided when the standard renewal takes place to allow making the products compatible with the new standard and providing the new marking. -- The Indian standard is not compatible with the latest international standard. -- The validity of the Test Report (for not more than 90-days from the issuing date) is too short. -- Precise detailed procedures are unknown. -- Test Laboratory is restricted to BIS authorised test laboratories in	- It is requested that GOI: -- publicly announces the publication date in the Gazette (that specifies the enforcement date), -- provides the grace period of 1-year,-- applies the requirement only on products manufactured/imported after the enforcement date, -- provides 2-year grace period for each renewal of Standard, -- accepts the latest IEC standard in addition to Indian Standard, -- removes the expiry requirement of the Test Report, -- recognises CB certificate under IECEE, and -- provides the precise procedures of the system. -- simplifies the BIS registration work.	- Gazette of the India, Extraordinary, Part 11, Section 3, Sub-section (ii) of dated 7.9.2012 Order of Ministry of Communications and Information Technology - Gazette of the India dated Novemver 13 with Notification - Guidelines for Implementation of Amendment 1 to IS 13252(Part1):2010 - The Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012.

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			<p><u>India.</u></p> <p>-- <u>The shortage of human resources at the competent authority for the BIS approval has caused the substantial delay in issuance of the registration certificate.</u></p> <p>- <u>GOI compels advance registration and marking on the 15-items of home electric appliances and electronic equipment under the domestic safety standard in India. It is quite burdensome to manage the marking on the products, while the procedures are extremely complex. It is a matter of great concern that delays in the examination of registration procedures could cause hiatus of product supplies to the distribution for a certain period.</u></p> <p>- <u>Ministry of Communications and Information Technology Product Registration Scheme (Safety Regulation)</u></p> <p><u>In September 2012, Ministry of Communications and Information Technology promulgated "Electronics and Information Technology Goods (requirement for compulsory registration) Order 2012", on 15-items of Home Appliance and Electronic Information Communication Equipment. After two postponements, enforcement date began from 3rd January 2014. The requirements include Confirmation Test based on Indian Safety Standard, Model Registration, Specification Compatibility, and Marking of Registration Number. However, the following problems confront the concerned parties, while cost of product samples, Testing Cost, and the lead-time to the registration date burden the applicants:</u></p> <p>-- <u>Despite GOI's own membership in IECEE-CB Scheme, GOI does not accept CB Certificate.</u></p> <p>-- <u>Accredited Laboratories are restricted to those domiciled in India.</u></p> <p>-- <u>The Registration Work at the authority lags behind by a large margin.</u></p> <p>-- <u>Due to the Registration Number Marking Requirement, the Marking of Registration Number is only possible after the registration completion.</u></p> <p>- <u>[Status]</u></p> <p><u>(1) On 7 September 2012, ministry of communications and information technology (MCIT) promulgated order, introducing rules for 15-items of household electric products, electronic/information and telecommunications equipment (battery, AC adapter, LED luminary, lamps, etc.). After two postponements, it has been enforced since 3 January 2014. It specifies compatibility to Indian safety standard, marking of compliance, and model registration.</u></p>	<p>- <u>It is requested that GOI simplifies the registration documents and the registration procedures.</u></p> <p>- <u>It is requested that GOI takes step to:</u></p> <p>-- <u>accept Customs Brokers Certificate under the IECEE Scheme</u></p> <p>-- <u>simplify the Registration Procedures, and</u></p> <p>-- <u>repeal the Marking of Registration Number.</u></p> <p>- <u>It is requested that MCIT:--</u></p> <p><u>recognises CB certificate under IECEE.</u></p> <p>-- <u>simplifies the work for BIS registration.</u></p> <p>-- <u>defers implementation date (13 May 2015) on additional items, implement date (31 May 2015)</u></p>	

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			<p><u>(2) On 13 November 2014, MCIT promulgated "notice on addition of 15-items within the scope of the subject goods".</u></p> <p><u>(3) On 3 December 2014, Bureau of Indian Standards (BIS) renewed the applicable specifications on information equipment (IS 13252) and promulgated notice, instructing to have new as well as registered models of the subject goods additionally tested by BIS accredited laboratories, and before 31 March 2015, submit memorandum addressed to BIS.</u></p> <p><u>[Issues]</u></p> <p><u>-- BIS restrict laboratories only to BIS accredited laboratories, rejecting certification by international certification body</u></p> <p><u>-- Laboratories on batteries and LED luminaries/lamps are not accredited.</u></p> <p><u>-- The increased volume of workload, necessitated by addition of items and renewal of BIS standard, is far beyond the capacity to cope with both BIS accredited laboratories and BIS registration examination to meet the implementation deadline.</u></p> <p><u>-- Products, such as laptop PC, require marking on main unit, AC adaptor, and battery, plus 3-labels on the package.</u></p>	<p><u>-- accepts labeling only on the package box as regards battery and AC adaptor packed together with the main unit</u></p> <p><u>-- excludes registration number from the items subject to the marking requirement.</u></p>	
			<p><b>(Actions)</b></p> <p><u>- On 10 February 2016, pursuant to the "Electronics and Information Technology Goods (EIT Goods) (requirements for compulsory registration, amendment order, 2012)", ministry of communications and information technology (department of electronics and information technology) promulgated ORDER concerning amendment of EIT goods (requirements for compulsory registration) amendment order, 2013, making partial amendments on manufacture, storage, sales and distribution of EIT goods.</u></p> <p><u>The previous self-compatibility declaration (by Indian standard number and BIS registration number) is replaced by "standard mark" (BIS standard Indian industrial standard) certification logo mark.</u></p> <p><u>This "EIT goods (requirements for compulsory registration) amendment order, 2016" is enforced on the date of promulgation with a transition period up-to 30 June, 2016, and will be fully enforced by 1 July, 2016.</u></p>		
	(7)	Disclosure on the Web of the Registered Products, preceding the Products Release	<p><u>- Simultaneously with the product registration, the model name is disclosed on the web. Disclosure of the new product name preceding the new product release announcement means a fatal blow to the sales strategy.</u></p>	<p><u>- It is requested that GOI will keep the registration information confidential for a certain period if requested by the enterprise in concern, as they do in some other countries.</u></p>	<p>- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012- Amendment Order, 2013</p>

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	(8)	Double Control and Disunity by 2-Different Certification Authorities	- <u>Two certification authorities in the names of Bureau of Indian Standards (BIS) and Department of Electronics &amp; Information Technology (DeitY) implement the certification control, promulgating notices, etc. on and off intermittently, showing up on the internet all of a sudden in the respective home pages, some of them escaping the attention of enterprises in concern. Policies and views differ between BIS and DeitY, causing confusions in the industries in concern. (For example, please refer to "irrational marking requirement" showing up in later pages.)</u>	- It is requested that: -- <u>DeitY that issued "Electronics and Information Technology Goods (requirements for compulsory registration) Order, 2012" integrates all future notices.</u> -- <u>Should it become necessary for both BIS and DeitY to promulgate notifications, BIS and DeitY will integrate the opinions before releasing notifications.</u> -- <u>BIS or DeitY discontinues intermittent release of notices.</u> -- <u>BIS or DeitY ensures to give an ample grace period.</u>	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012
	(9)	Inadequate Test and Registration Schemes	- <u>Bureau of Indian Standards (BIS) requires applicants' scrutiny and correction on the test report. Moreover, due to the sudden interruption of registration work, etc., it takes a few months for completing the registration.</u>	- <u>It is requested that BIS expedites the registration work.</u>	- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012 - Amendment Order, 2013
	(10)	Ecomark Scheme and Issues in its Implementation	- The eco-mark scheme embodies the following problems over its scheme and enforcement: -- design problems (the year mark on the label is too small), -- onus is upon manufacturers to collect or retrieve old labels, -- the scheme is premised on self-declaration (devoid of credibility), -- no standard is available for inverter air-conditioners, and -- the standard for window air-conditioner is less stringent by one rank than split air-conditioners. It is confusing to consumers.	- <b>It is requested that GOI:</b> -- <b>improves the eco-mark labeling scheme.</b> -- <b>defines in precise details a fair accredited laboratories, test methods, global proofreading methods, while ensuring precise systematic refinement by and among institutions such as national accreditation for testing and Calibration laboratories (NABL) bureau of energy efficiency (BEE).</b> -- <b>avoids abrupt revision or postponement hereafter by</b>	

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				<p><b>carefully providing an ample transition period for information disclosure.</b></p> <p><b>-- works toward harmonisation, the as the case of inverter air-conditioned.</b></p>	
	(11)	Irrational Marking Requirement	<p>- In early December 2013, BIS abruptly promulgated labeling requirement: <u>"self Declaration - conforming to IS.....", on product as well as on its packaging below or above the brand name" regardless of the product dimensions. It heavily burdens MFS.</u></p> <p><u>To begin with, the original requirement under "The BIS Rules, 1987" read: "Every registered user shall display the words 'Self declaration --conforming to IS.....' on the article or packaging as the case may be, in a manner so as to be easily visible."</u></p> <p><u>In addition, FAQ issued by DeitY adds: "Registration number, besides self declaration" while it also provides: "It is also okay to display the words on packaging at an appropriate location, in a manner readily visible".</u></p> <p><u>Notwithstanding this DeitY's FAQ, a separate requirement abruptly promulgated by BIS has upset and driven the industries into confusion.</u></p>	<p>- It is requested that BIS:</p> <p><u>-- employs the Compliance Mark, in lieu of Self Declaration clause and IS number, and</u></p> <p><u>-- repeals description of the precise marking location.</u></p>	<p>- LABELLING REQUIREMENT</p> <p>- The Bureau of Indian Standards Rules, 1987</p> <p>- FAQ on "Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012"</p>
	(12)	Irrational Addition of Subject Goods	<p>- On 7 November 2014, DeitY announced addition of AC adapter and battery charger to the goods subject to order.</p> <p><u>The order compels separate testing, marking and labeling for AC adapter, battery charger, etc. on the products already being subject to order. This is a substantial additional cost to enterprises.</u></p> <p><u>In the first place, despite electric products with AC adapter etc. such as printer has already been tested and registered both of them simultaneously, it is irrational to register its power unit separately.</u></p> <p>- Notification of 7 November 2014, it was announced to include secondary battery in the subject goods of the order, despite the absence of any accredited laboratories for secondary battery, it demands responsive action completed by 13 August 2015.</p> <p><u>As of now on 26 January 2015, only one laboratory has been accredited. It suggests much difficulty down the road by the rush of test applications to meet the deadline for the compulsory enforcement.</u></p>	<p>- It is requested that GOC takes step to:</p> <p><u>-- repeal the requirement for additional registration of AC adapter, and battery charger, or</u></p> <p><u>-- confines the registration requirement to AC adapter/battery charger only, while repealing the registration requirement on the main unit.</u></p> <p>- It is requested that GOI:</p> <p><u>-- holds implementation of the order pending thorough preparation of the domestic infrastructure, and</u></p> <p><u>-- postpones the implementation.</u></p>	<p>- Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012</p> <p>- Notification dated 7th November 2014</p>

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	(13)	<u>Abrupt Amendment of the Labeling Requirements</u>	- In March 2014, out of the blue, the labeling order was abruptly promulgated, stating among others, "effective 1 July 2014, all the manufacturers in addition to displaying the prescribed statement by way of screen printing, embossing or engraving on the products are also permitted to display the prescribed statement by way of metallic labels that are permanently affixed inside a separate label slot provided on the product below or above the brand name, or at a prominent place on the product." The above statement shall be screen printed/embossed/engraved on the product and printed on the product and printed on the packaging material (BIS/DGO/(368)/2014), effective from 1 July 2014" and "It shall be legible, indelible and non-removable. (BIS/DGO/(405)/2014)." This requirement drove the industry into chaos. Thanks to the lobbying by concerned parties, by BIS notification of 31 July 2014, use of polyester label, etc. has become permissible. However, the requirement for providing a separate label slot on the product remains. This provision needed only for products destined to India is extraordinarily costly, heavy and burdensome. The marking in an "indelible, not readily removable manner" has been the internationally, and generally accepted practice.	- It is requested that GOI: -- provides opportunity for prior exchange of in-depth dialogues with the industry, and -- repeals the provisions laying down the precise marking institutions. (in particular the provision: "permanently affixed inside a separate label slot").	- <u>Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2012</u> - <u>LABELLING REQUIREMENT (BIS/DGO/(368)/2014) (BIS/DGO/(405)/2014)</u>
20 Monopoly	(1)	Monopoly in Cargo-Handling Business at Airports	Airports Authority of India (AAI) de facto monopolises the air cargo handling business at Indian Airports. No price negotiation is possible because there is no competitor. => Outsourcing airport warehouse operation has made a fair progress, however, not to the extent, whereby individual enterprises may freely negotiate the tariff rate. (It is the same with other countries.)  - It is different for the importers to negotiate charges (to cut down the tariff) as cargo handling is exclusively monopolised by a single firm (AAI: Airport Authority of India).  (Actions) - The Indian judiciary system remains incapable and its overhaul lags behind. The establishment of the Competition Commission of India is a typical example. While the Competition Act was promulgated in 2002 it was only in 2009 that the Competition Commission conceived in the Act was at long last established.	- It is requested that GOI liberalises air cargo forwarder business at all Indian airports, domestic and international, to enable price competition and diversify the air transportation routes connecting all local and international airports with maximum efficiency.	- The Competition Act, 2002
21 Restrictions on Land Ownership	(1)	Unestablished Scheme for Landownership Management	- The history of the landownership transfer has not been maintained so that plural sales and purchase agreements exist for a single property.	- It is requested that GOI structures the administrative system for ownership of land and buildings.	- Administration as Maintained at the Registration Office

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				<p>- <u>Building registration in the strict sense does not exist so that ownership alone passes from one party to another without identifying the building.</u></p> <p>- Due to the non-existence of Cadaster, a public register showing the details of ownership and value of land, GOI tends to yield to the contention of the landowner. A shrine owner, adjoining the MFS factory land property, asserts its ownership, assaulting MFS's employees with a grub hoe in hand. A Japanese affiliated firm next door has abandoned its ownership for the Shrine plot.</p> <p><b>(Actions)</b></p> <p>- On 27 September 2013, "The Land Acquisition Act, 1894" was amended and replaced by "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013", which has clarified the acquisition procedures the compensation provisions. While the New Act has dispensed with requirement for the land lease right holder's agreement in regard to the genuine governmental project, 70% or 80% of the lease holder's agreement, whichever the case may be, is required for development by PPP (Public Private Partnership) or by private sectors, respectively. It could likely prolong the time required for land acquisition.</p> <p>- Because more than 90% of the land area in India is for agricultural purposes, its conversion procedures must be completed for industrial use or project deployment. However, because of the remaining in force of old laws on acquisition, etc., frequently litigation arises. While Land Acquisition Act has been enacted, due to the absence of the implementing regulations at the state level, etc., the Act has not yet been enforced.</p> <p>- It is difficult to ascertain the land titles, the documents of which are written in accordance with the local rules. Therefore, it is necessary to seek the checkup by local State experts. Moreover, due to the ramifications with laches, in practical terms, the research in practical terms extend to 30-years or so, retroactively.</p>	It is requested that GOI overhauls the Cadaster.	
		(2)	Substantial Hike in Land Acquisition Cost	<p>- <u>In 2013, amended land acquisition act passed the parliament, setting forth the land acquisition process, establishing the dispute settlement organisation, instituting compensation accompanying the land acquisition, etc. However, de facto acquisition cost has gone up sharply by putting into the statutory form the governmental support for the livelihood of the concerned party, etc. After the act's implementation, the land acquisition has become extremely difficult.</u></p>	<p>- It is requested that GOC takes step to amend the amended land acquisition act (Modi administration is aware of the problem, and further amendment is under deliberation.)</p>	<p>- <u>Land Acquisition Act, 1894</u>  <u>The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013</u></p>
22	Environmental Pollution and Waste Disposal	(1)	Inadequate Environmental Registrations and Execution of Wastes Disposal	<p>- <u>In India, implementation on environment control and waste disposal is insufficient.</u></p> <p><b>(Actions)</b></p> <p>- "First Edition Guideline", being implementing details for "The E-waste (Management and Handling) Rules 2011" enforced since 1 May 2012, and serving as Guideline for the domestic sales licence, giving e-waste practice rules, met with strong protest from industries and associations, as it compels upon manufacturers and importers of the specified communication equipment and electric home appliances excessive burdens, such as installment of waste collection centre, attachment of symbol marks, upon products, etc. and restrictions on use of hazardous substance. As a result, Central Pollution Control Board (CPCB) released "The Final Guideline", alleviating or deleting obligations, such as compulsory installment of waste collection centre.</p>		- NIL

Category	No	Issue	Issue Details	Requests	References
	(2)	Nebulous, Delayed Acquisition Procedures for the Environmental Clearance	<p><u>Upon factory construction in India, grant of prior environmental clearance (EC) is the prerequisite condition for issuance of building licence, etc. and other licences and approvals, despite the fact that EC by right is a separate legal system with no link to factory construction. Pending acquisition of EC, all applications are suspended for licences and approvals in regard to the factory construction.</u></p> <p><u>In July 2011, after replacement of the Minister of Ministry of Environment &amp; Forests (MEF), the regulatory authority, there was a delay for more than 5-months in issuance of licences on more than 100 projects, including an application filed by one of our member firms. It resulted in the total rescheduling, materially affecting the member firm's project.</u></p> <p><u>MEF Notification S.O.1533 under "Article 8. grant or rejection of prior environmental clearance (EC) in paragraph (iii)" provides: "In the event that the decision of the regulatory authority is not communicated to the applicant [within 45-days], the applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned." However, in anticipation of the forthcoming long-term relationship with MEF endowed with the most powerful practical authority, presiding agencies would not advance the procedures, effectively voiding the "deemed EC" provision.</u></p>	<p><u>It is requested that MEF</u></p> <p><u>-- abridges the lead-time for initiation of the construction work, by allowing separate application procedures for licence and approvals individually.</u></p> <p><u>-- advances steadfastly the routine procedures for licences and approvals under EC unaffected by the replacement, etc. of the Minister, and</u></p> <p><u>-- makes the "deemed EC provision of the Notification" effective so that the projects may advance, regardless of any delays in the EC procedures.</u></p>	Ministry of Environment & Forests Notification S.O.1533, Article 8 (iii)
	(3)	Aggravated Atmospheric Pollution	<p>- Atmospheric pollution gets worse year after year. The news has not reached Japan hidden by the reported conditions about PRC. The pollution in India is even worse than it is in PRC.</p> <p>- PM2.5 at the level worse than PRC overshadows the whole Indian area.</p>	<p>- It is requested that GOI introduces controls on car emission, car ownership, etc.</p> <p>- It is requested that GOI takes step <u>to improve environmental pollution and ameliorate the traffic congestions.</u></p>	
	(4)	<u>Delayed Issuance of Energy Saving Labeling Act</u>	<p>- <u>This rule due for enforcement on 1 January 2015 has not been formally promulgated so that concerned parties are unable to take responsive action although its preparation has been made ready. (The work cannot be started for sticking label on the products, etc.)</u></p>	<p>- <u>It is requested that GOI takes step to promulgated legislative promulgation in accordance with the prescribed schedule, and to make public announcement accordingly.</u></p>	



	Category	No	Issue	Issue Details	Requests	References
23	Inefficient Administrative Procedures, Regimes and Practices	(1)	Complex and Cumbersome Administrative Procedures	<p>Generally administrative procedures are complex, vertically compartmentalised with the remotest idea of improving its service to the public. In the international perspective, it appears that Indian government's position against the public is stronger than that of any other governments.</p> <p><b>The following are some of the problems concerning rules, regulations, and procedures in India:</b></p> <ul style="list-style-type: none"> <li>-- Unidentified windows (where to file applications, etc. are unknown),</li> <li>-- Decision making processes are complex and too numerous,</li> <li>-- Depending upon business scale, competent authority moves from central government to state or vice versa. Furthermore, matters under the state jurisdiction can be consigned to the central government or the authority shifts between the central and state authorities,</li> <li>-- It is time consuming to obtain approvals,</li> <li>-- Schedule changes are frequent for monthly approval meetings, which can be cancelled due to the absence of senior executive members, disrupting the predetermined schedules.</li> <li>-- Consultancy service is necessary to complete all these procedures.</li> </ul> <p>[Applicable rules and matters requiring application]</p> <ul style="list-style-type: none"> <li>-- Environmental application</li> <li>-- Environment no objection certificate (NOC)(consent to operate) from ministry of environment and forests</li> <li>-- Application for building construction</li> <li>-- Building approval (building to land ratio, waste disposal system, etc) and confirmation of technical safety based on the national standard</li> <li>-- Fire defence, application for use of hazardous goods, and on-site inspection</li> <li>-- Filing of application for factory operation permits.</li> <li>-- Labour agreement, etc. that provides for the company's rule for registration.</li> </ul> <p>The procedures are so complex for obtaining the approval of tax exemption (Advance Authorization) from ministry of commerce and industry/directorate general of foreign trade (DGFT), it has taken more than a year. MFS cannot wait until obtaining the approval, so that it has no other choice but paying the tax.</p>	<p>It is requested that GOI:</p> <ul style="list-style-type: none"> <li>-- further clarifies and simplifies for the procedures concerning Licences and Approvals. And</li> <li>-- cuts down the time required for the issuance of Licences and Approvals.</li> </ul> <p>It is requested that DGFT cuts down the procedures (at most within 2-months).</p>	<p><u>Para 4.7 Hand Book of Procedure (HBP) of Indian Foreign Trade Policy (FTP)</u></p>

Category	No	Issue	Issue Details	Requests	References
			<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- The Indian Constitution distributes the state matters into 3-jurisdictions, federal, state, and joint federal/state, under federal list, state list and competing list, to which the applicable rules vary by each list. Regarding the infrastructure issues, federal list deals with diplomatic issues, railways, expressways, shipping, etc. state list, land deals, water, road, bridge, etc. while competing list deals with the issues concerned with property transfer, labour, fringe benefits for labour, electric power, etc. with varying rules and regulations. It is important to run the business, bearing all of these factors in mind.</li> </ul>		
	(2)	Complex, Delayed Permit to Establishes and Operate Factory	<ul style="list-style-type: none"> <li>- <u>Legislation on factory operating licence requires substantive negotiation in minute details on all matters. (It has taken a lot of time with the competent authority to discuss about the minute details on unrealistic issues, such as the regulation on the shower room, the seating capacity of employees' canteen, etc.)</u></li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI improves <u>the scheme and process of business licence.</u></li> </ul>	<ul style="list-style-type: none"> <li>- BA (Application for Building Confirmation)</li> <li>- CTO (Acquisition of Operational Licence)</li> </ul>
	(3)	Disunity of Documents for Submission	<ul style="list-style-type: none"> <li>- Depending upon the government employee in charge, the details of the requisite documents vary in each submission so that preparation of new sets of documents or amendments become necessary, doubling or tripling the workload.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI identifies expressly in writing the requisite documents.</li> </ul>	
	(4)	Complexity of the "Signature" Culture	<ul style="list-style-type: none"> <li>- GOI requires signature on each page of all documents of hundreds of pages upon filing application for licences and approvals. So long as the signature is on the documents, it seems no check is made about the authenticity of the signature on the documents.</li> <li>- While GOI has introduced accepting in some cases electronic filing of application documents, GOI requires printout of all pages, which must be stamped and signed on each page by the applicant. It increases unnecessary waste all around.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI streamlines the signature requirement.</li> <li>- It is requested that GOI accepts the electronic filing of application as full and complete submission of the requisite application documents.</li> </ul>	
	(5)	Shortage of Coordination by and among Ministries and Agencies	<ul style="list-style-type: none"> <li>- Due to the bureaucratic sectionalism, the same set of documents must be submitted to all relevant ministries and agencies. It takes a lot of workload.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that ministries and agencies share information to each other.</li> </ul>	
	(6)	Nebulous Decision of the Stamp Duty Amount	<ul style="list-style-type: none"> <li>- The local judge decides the stamp duty amount without showing any clear classification basis upon purchase of the land property. While the purchaser is unhappy about the huge amount of the stamp duty, it has no alternative but pay the amount willy-nilly.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI takes steps to show expressly the classification basis of stamp duty into legislation.</li> </ul>	<ul style="list-style-type: none"> <li>- Stamp Duty under Lease Deed.</li> </ul>
	(7)	Reporting Requirement to BIS on the Domestic Cargo Movement	<ul style="list-style-type: none"> <li>- Under the BIS (Bureau of Indian Standards) scheme, BIS requires reporting of all interstate cargo movements.</li> </ul>		

	Category	No	Issue	Issue Details	Requests	References
		(8)	<u>Delayed Application Procedures for Residential Permit</u>	- The receipt of residential permit delayed by large margin at Gujarat state due to absence or lunch break of foreigners regional registration officer (FRRO). (A delay of two weeks prevented the applicant from making overseas business trip, inconveniencing the business.)	- It is requested that GOI takes step to set up the standard procedures from application to grant of residential permit, and timely issues residential permit.	
		(9)	<u>Delayed Application / Approval Procedures under Pharmaceutical Affairs Act</u>	- It takes much time and cost for acquisition of import licence on import products from abroad.	- It is requested that GOI enables mutual two-way authentication: 510K of the U.S./EU CE marking or Japanese pharmaceutical affairs law.	- Pharmaceutical Affairs Law
24	Indigested Legislation, Abrupt Changes	(1)	Inadequate Delisting Rules	- A firm established in India its subsidiary, which is listed due to the prevailing circumstances upon entry. It is difficult to delist such enterprise. In the event of delisting, the seller must be ready for risking the share prices to soar, since in India, public shareholders determine the selling prices. Such practices are not found in any other countries. In effect, it is costly to maintain the listed status, obstructing flexible and prompt actions for business reorganisation and effective management of group enterprises. The delisting rules remain unchanged by the 2009 amendment of the delisting guidelines. On the other hand, the means are not streamlined in India to force out the public shareholders for reasonable consideration. (There is no readily available means, to say the least.) Thus, even after delisting, there remain many public shareholders to the detriment of optimising the efficiency in corporate governance.	- It is requested that GOI: -- amends the delisting rules to make them more flexible (in the manner comparable to TOB rules in leading countries), and -- streamlines the Act in the way that facilitates conversion of MFS into a fully owned subsidiary.	- Securities and Exchange Board of India (Delisting Of Equity Shares) Regulations, 2009
		(2)	Opacity in Implementation of Laws and Taxation System	- Legislative and taxation systems are quite complex, varying by each region, In addition, judgement in implementation varies by persons in charge.	- It is requested that GOI takes steps to overhaul legislation and taxation systems and to ensure transparency in their implementation.	
		(3)	<b>Nebulous Preparation of the System Accompanying Introduction of New Companies Act</b>	- New companies act, which would not get passed over many years of deliberations, suddenly was carried at the diet. There is no denying that discussions have not yet been exhausted at the competent ministries and agencies and at the working level alike, clarification in detail is hoped for by decree, etc. that follow hereafter. However, there has been no announcement of the substantive schedule, frustrating the formulation of the new business plan that reflects the consequent amendments of legislative provisions under the new companies act.	- It is requested that GOI clarifies, to the maximum extent possible, the precise details of the kind of decrees to be promulgated and the time-line for their preparation and implementation.	- Companies Act - Companies Bill, 2013 - Companies Act 2013 - <u>New Companies Act 1957</u>

Category	No	Issue	Issue Details	Requests	References
			<p>- The new companies Act enforced since 2014 had to allow grace period of 6- to 12-months due to insufficient preparation.  <u>Substantive example: modified depreciation cost</u>  <u>Shrinkage in the depreciation period by 2 to 4-years has compelled abridgement of the depreciation period. That resulted in increasing the depreciation cost and made it difficult to secure the budgeted profit.</u></p> <p>- The new companies act promulgated by the Notice of 26 March 2014 was enforced on 1 April 2014. The extreme brevity of the period between the date of promulgation and enforcement has forced all concerned into a <u>great consternation to make the requisite preparation.</u></p> <p><b>(Actions)</b></p> <p>- In August 2013, the New Company Act (NCA) passed the Diet, without, however, resulting enforcement.</p> <p>- On 26 March 2014, NCA's enforcement was abruptly promulgated. Since 1 April 2014, numerous provisions of the NCA have been implemented.</p>	<p>- It is requested that GOI takes step <u>to ensure promulgation of new laws after a careful scrutiny into the sufficient preparation period and the implementation methods.</u></p> <p>- It is requested that GOI takes step <u>to ensure provision of time, adequately sufficient to make the needed preparation before the implementation.</u></p>	
	(4)	<u>Uniformity of the Fiscal Term under the New Companies Act</u>	- The New Companies Act (NCA) enforced in April 2014 sets forth the <u>principle of the fiscal term to begin in April and end in March of the following year. In the case of a member firm, NCA applies from the fiscal year 2016, while all its subsidiaries abroad adopt the calendar year from January to December in their respective financial statements. It frustrates the member firm's preparation of the consolidated financial statement.</u>	- It is requested that GOI accepts the <u>Fiscal Term of January through December as before, in response to the request of each affected company.</u>	
	(5)	<u>Indefinite Accreditation Criteria for CSR Activity under the New Companies Act</u>	- The new companies act amended and enforced since year 2014 compels <u>CSR activity upon enterprises, without, however, a clear-cut definition of the accreditation standard. It is time consuming to ascertain what it is.</u>	- It is requested that GOI establishes <u>the clear criteria and guidelines.</u>	- The Companies Act
	(6)	<u>Incompatible Labour Act and Judicial Decisions</u>	- Due to the <u>premature labour act enforcement, MFS is struggling to respond it.. Employers acting exactly as written in labour act meet with judicial decision that totally ignores what's written in the law. For example, while the law expressly prohibits the district court from handing down decisions crossing the borders of more than 2-states excluding special location, district court ordered to move objects across the state border. The high court decided in support of the decision in district court.</u>	- It is requested that GOI takes step <u>to overhaul the labour act in line with the prevailing circumstances.</u>	- Labour Act

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		(7)	<u>Lack of Information on Eligible Preferential Measures</u>	- <u>Information on the following is hardly available regarding Indian policies:</u> (1) <u>MPA policy (preferential market access) requires all goods procured by GOI or related institutions to be manufactured in India. It is assumed that MPA policy applies to printers.</u> (2) <u>FPS policy (focus product scheme) provides preferential measures on goods listed in FPS policy. Whether printers are covered under this policy remains unconfirmed.</u>	- <u>It is requested that GOI elucidate the details of PMA / FPS policies.</u>	
		(8)	<u>PPP Scheme Unfair to Enterprises</u>	- <u>The PPP project scheme precludes reasonable possibility for private sectors' earning profits. It is devoid of the basic principle of PPP for sharing risk and cost between public and private sectors. For example, in railway transportation, GOI's compulsion of unfair ridership calculation and private sectors absorption of additional cost resulting from delays in the GOI's land expropriation. Upon change to Modi administration, it was announced to kickoff public-private partnership projects (the 3P India) toward improvement of the scheme.</u> (Note) <u>3P India: Organisation to survey issues relative to regulations, administrations on the planned 3P India will examine, for the sake of improvement, issues related to regulation, management of contracts on public-private partnership projects.</u>	- <u>It is requested that GOJ and the related organisations, etc. will approach GOI, urging improvement of the PPP scheme.</u>	
25	Government Procurement	(1)	Severe Local Contents Requirement in Government Procurement and Publicly Funded Projects	- GOI has decided to grant incentives for government procurement of specified products such as laptop PC and dot-printers locally manufactured in India. GOI requires the added value in India of more than 40% before GOI deems a product as originating from India, while the local content rate requirement increases by 5% in each year. Obviously, these measures place foreign funded enterprises (FFE) in apparent inequality in competition against domestic manufacturers. Moreover, possible expansion of the scope of subject goods is another issue of concern to FFEs. <b>(Actions)</b> - On 10 February 2014, GOU has requested WTO dispute settlement consultations with GOI regarding India's solar photovoltaic domestic content requirements (DCR). In particular, the U.S. questions the statement in Phase I Batch II that projects must use domestically-made crystalline photovoltaic cells and modules (the major U.S. export products), which were not subject to GOI's Phase I Batch I.	- It is requested that GOI repeals incentive measures it grants upon domestically manufactured goods in government procurement.	- Customers' Requirement - F.No.8(41)/2912-IPHW
		(2)	<u>Lack of Information Concerning Government Procurement</u>	- <u>Information is scarce concerning the following issues:</u> (1) <u>Government procurement guidelines, and</u> (2) <u>Preferential measures in favour of domestic electronic products.</u>	- <u>It is requested that GOI confirms and provides the latest information on government procurement.</u>	

	Category	No	Issue	Issue Details	Requests	References
				<p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Information on GOI's implementing scheme concerning "Industrial Policy for Upgrading Electronics Industry" that GOI implements for enhancement by large margin the self-supply capacity of electronics products:               <ol style="list-style-type: none"> <li>(1) Ministry of Commerce and Industry (DoT) through Directorate General of Supplies and Disposals (DGS&amp;D) works toward materialising 'preferential market access' Policy, mandating a phased increase in procurement from domestic electronics products.</li> <li>(2) While government procurement is executed directly by each bureau in concern, DGS&amp;D performs as its 'nodal function', promoting the preferential measures on domestically manufactured electronics, pursuant to policy notifications given by DeitY, DoT, etc.</li> <li>(3) All items of notifications, promulgated for implementing preferential measures upon domestically manufactured electronics relative to government procurement, are subject to procedures set forth by DGS&amp;D (Notification of 10 February 2012).</li> </ol> </li> <li>- <u>On 24 June 2016, the WTO panel found in support of the United States: "The claims brought by the United States ... Domestic content requirements (DCR measures), discriminating imported solar cells and modules, imposed by India in the... Ongoing national solar mission...are inconsistent with both Article III:4 of the GATT 1994 and Article 2.1 of the TRIMs agreement".</u></li> </ul>		
26	Others	(1)	Shortage of Electric Power Supply	<ul style="list-style-type: none"> <li>- <u>Blackouts are extremely frequent.</u></li> <li>- <u>The basic infrastructure such as power supply continues to require overhauls. Chronic power shortage, abrupt blackout, unstable power voltage, etc. affect the use of electric appliances.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- Since 1995, GOI has introduced the 5-year tax-exemption measures for investment into the infrastructures under the BOT/BOOT terms.</li> <li>- GOI has authorised 100% private FDI on construction of electric power generation, power transmission and distribution system, road, and port for permission through the Automatic Route.</li> <li>- The Central Government has decided to authorise electric power generation enterprises to sell directly to SEZ enterprises to assure an uninterrupted supply of electric power at appropriate prices. Each State is required to grant access by the electric power enterprises ("EPE's") to the transmission and distribution lines in exchange for the payment of the Wheeling Charge.</li> <li>- Ministry of Power requires each State to grant a free hand to EPE's for establishment of the SEZ exclusive power stations.</li> <li>- The Examination Report of TPRB, WTO ended in June 2002, points out that in services, significant reforms have been pursued since the previous Review, 4 years ago especially in telecommunications, financial services and, to some extent, in infrastructure services, such as power and transport. However, the infrastructure services remain the major barrier for the Indian economy and, in particular, electricity power remains in short supply. The charges of telecommunication services have been substantially reduced, benefiting the other sectors in their cost reductions.</li> <li>- Enterprises investing in infrastructure of various sectors are entitled to 10-year income tax exemption, provided, however, those, as regards investment in the communication sector, enterprises are entitled to 5-year tax exemption and thereafter for 5-years, 30% reduction in income tax.</li> </ul>	<ul style="list-style-type: none"> <li>- <u>It is requested that GOI:</u> <ul style="list-style-type: none"> <li>-- <u>gives guidance for improvement,</u></li> <li><u>and</u></li> <li>-- <u>overhauls the environment for investment.</u></li> </ul> </li> <li>- <u>It is requested that GOI expedites overhauling the basic infrastructure.</u></li> </ul>	- National Electric Policy

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			<ul style="list-style-type: none"> <li>- On 15 December 2006, Japan and India signed "Joint Statement Towards Japan-India Strategic and Global Partnership" and announced "Japan-India Special Economic Partnership Initiative ("SEPI")".</li> <li>- On 22 December 2006, GOI issued Circular No.25 on "Foreign investment in Infrastructure Companies in Securities Markets," allowing foreign investment through the Indian Securities Market.</li> <li>- The power consumption per capita in India in 2005 of 480kWh was lower than the average of all African countries of 563kWh. In India, the average shortage of electric power in 2007 was 9.8%, while during the peak hours, the average shortage was 16.6%.</li> <li>- In May 2007, Indian Prime Minister Manmohan SINGH said: "Investment to the tune of 6 trillion rupees is estimated in the Eleventh 5-Year-Plan for expansion of electric power supply capacity, since only half of the planned increment of 41 million kilowatts was achieved during the Tenth 5-Year-Plan." According to the Ministry of Finance, Haldia Power Generation Project that requires about US\$440 billion investment in the next five years will use up one-third of investment in infrastructure development.</li> <li>- Shortage or undeveloped infrastructure such as water service, road, communication, waste and night-soil disposal is getting aggravated in Delhi in the rapidly growing economy. In various spots within the metropolitan area a number of crossover constructions are underway. Delhi metro that has started its service since 2002 under Japan's ODA has been steadily expanding its business area. Hopefully, it is contributing to improvement in the traffic infrastructure. (Digested from the web page of Delhi JCCI).</li> <li>- On 22 October 2008, "Joint Statement on the Advancement of the Strategic and Global Partnership between Japan and India" was released, whereby "The two Prime Ministers reaffirmed their commitment to the realization of the Western corridor of the Dedicated Freight corridor (DFC) project...with the Japanese ODA Loan ...the first phase is currently estimated to be approximately 450 billion yen". Further, as regards Delhi-Mumbai Industrial Corridor Project (DMIC), Japan Bank for International Cooperation (JBIC) confirmed both the joint establishment of a project development fund with India Infrastructure Finance Company Ltd. (IIFCL), and the 5 early bird projects that includes preparation of infrastructure in the neighbourhood of Delhi.</li> <li>- Eleventh Five Year Plan (2007-2012) envisages expenditure of about USD500 billion for investment into infrastructure, an increase from 5.4% to 9.3% in GDP ratio.</li> <li>- Planning Commission (India) pointed out the grave problems such as unstable and costly power supply and insufficient logistics infrastructure such as road, harbour and airport. Furthermore, it added the need for investment into infrastructure to the tune of 20.3 trillion Rupee (about USD 500 billion) in order to achieve 9% growth in annual average in the 11th 5-Year Plan (2007-2011).</li> <li>- The power shortage at peak hours in India reached 15.3% of the total power demand in 2009, while the loss in power distribution reached 26% in 2007. The situation is serious. While the total power generation capacity has increased by 50% in 2009 compared to 2001, the construction project for increasing the power supply facilities lags behind, namely, it has completed only 66% of the scheduled capacity.</li> <li>- On 26 February 2010, Finance Minister Pranab Mukherjee announced the Union Budget 2010/11 at the Lok Sabha. He will expend 173,522 crore Rs, corresponding to 46% of the budgeted total expenditure.</li> <li>- On 26 February 2010, Finance Minister Pranab Mukherjee announced the Union Budget 2010/11 at the Lok Sabha. By affording it "the project import status", he will apply the 5% basic tariff rate to the monorail under the city transport plan.</li> <li>- On 23 March 2010, Finance Minister Pranab Mukherjee announced at the Lok Sabha his approval of the private enterprises' issuance of long-term bond for procurement of fund directed to investment in the infrastructure, as a part of the government plan to promote fund creation for investment into the infrastructure department. GOI will grant the same preferential treatment to the private long term loan as is given to the infrastructure bond issued by the government.</li> </ul>		

Category	No	Issue	Issue Details	Requests	References
			<ul style="list-style-type: none"> <li>- In December 2011 upon Premier Noda's visit to India, based upon the concept of starting the Delhi Mumbai Industrial Corridor (DMIC), it was mutually agreed to start the Japan-India DMIC facility of USD 9 billion (under Yen Credit of Yen 450 billion), with each country contributing 50% of the cost of constructing the DMIC facility, in order to improve local infrastructure in DMIC region in its early stages. (*) DMIC is a Japan-India Joint Local Area Development Concept to lay Dedicated Freight Railway between Delhi and Mumbai, while developing infrastructure by mainly private investment in the vicinity, including industrial zone, distribution base, power generation, road port facilities, dwelling and commercial facilities.</li> <li>- On 19 November 2012, Japan Ministry of Economy, Trade and Industry (METI) and Indian Ministry of Commerce and Industry (MCI) formally agreed on the list of possible business sectors (19-sectors in all, related to railway, power generation, water environment and IT), based on the USD 4.5 billion contribution from Japan) out of the total DMIC fund facility of USD 9 billion.</li> <li>- <u>The balance between demand and supply in India in electric power volume, by shortage rate (shortage divided by demand), is on the way toward improvement: From 8% or so in 2011-2012 to 4.2% in 2013, 5.1% (estimate) in 2014. In major states where entry by Japanese affiliated enterprises has made a fair progress, the shortage rates are quite low: Gujarat nearly zero, Rajasthan (0.3%), Haryana (0.6%), Maharashtra (2.1%). On the other hand, the power shortage is conspicuous in the Southern India, where the shortage rates are far above the national average: Uttar Pradesh (14.0%), Karnataka (9.5%), Andhra Pradesh (6.9%), and Tamil Nadu (5.9%).</u></li> </ul>		
	(2)	Inadequate Logistics Infrastructure	<ul style="list-style-type: none"> <li>- <u>The congestions in the port facilities get in the way of timely completing customs clearance of import cargoes.</u></li> <li>- <u>Pending overhaul of the basic infrastructure such as roads.</u></li> <li>- <u>Delayed preparation of the drainage facilities on the public road causes traffic congestions by each rainfall, as the road gets submerged in water.</u></li> <li>- <u>There were several cases of parts damage to the machine during transport as the vibration from the poor pavement on the road surface got transmitted to the machines. In another case, the container without air suspension during transport hit the trees on the sidewalk, damaging the machine cover.</u></li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- In April 2007, GOI approved the modernisation projects for Chennai Airport (Kamaraj International Airport) and Kolkata Airport (Netaji Subhash Chandra Bose International Airport).</li> <li>- On 4 January 2008, Indian Prime Minister Manmohan SINGH asked once again Minister Nukaga of MOF for Japan to contribute to the Delhi-Mumbai Industrial Corridor (DMIC) development project aimed at preparing the comprehensive industrial park and port facilities between Delhi and Mumbai along with the project for constructing a cargo railway.</li> <li>- On 17 September 2009, GOI approved the proposal to deploy the ODA fund from Japan on development of the dedicated freight corridor (DFC) project. GOI proposed granting credit to GOI under the terms of "Special Terms for Economic Partnership (STEP)". GOI is hopeful that DFC Project will reinforce transportation capacity in the heavily congested cargo traffics, and boost exponentially the overall Indian economy and efficiency, through interlinking the vital locations, namely, production depots of raw materials, consumer centres, and major ports. DFC Project is due for completion by 2017.</li> </ul>	<ul style="list-style-type: none"> <li>- It is requested that GOI: <ul style="list-style-type: none"> <li>-- <u>improves the congestions under its direction, and</u></li> <li>-- <u>overhauls the environment for attracting foreign investment.</u></li> </ul> </li> <li>- <u>It is requested that GOI overhauls the basic infrastructure.</u></li> <li>- <u>It is requested that GOI takes step to overhauls the infrastructure, and to promote diffusion of air-suspended vehicles.</u></li> </ul>	



Category	No	Issue	Issue Details	Requests	References
			<p>- Out of the 19-sectors formally agreed mutually between Japan and India on Japan side USD 4.5 billion business sector list of Delhi Mumbai Industrial Corridor (DMIC) the distribution sectors are the following:</p> <p>(1) Construction of railway between Ahmedabad City and Dholera</p> <p>(2) Construction of municipal railway connecting Delhi-Manesar Industrial Area-Nimurana Industrial Area</p> <p>(3) Municipal railway construction project in Pune, near Mumbai</p> <p>(4) Municipal railway construction project connecting Dadri-Noida-Ghaziabad near Delhi</p> <p>(5) Railway transport business of finished cars.</p> <p>- Union budget 2016 (April 2016-March 2017) released on 29 February 2016 places major emphasis on investment into infrastructure such as the road overhaul and the agricultural development, while holding tight to structuring the healthy budget.</p> <p><u>The ambitious budgetary plan envisages increase in the investment amount of INR 970 billion maximum into the road infrastructure overhaul, completing the road system network over all municipalities, towns and villages throughout the nation.</u></p> <p><u>As an outcome of this effort, GOI expects increased demand for steel and cement materials, increased motor vehicles, improved domestic logistics helpful to transport of perishable foods and agricultural produce, etc., as well as the general improvement in the business environment.</u></p>		
	(3)	Under-developed Downstream Industries	<p>- <u>MFS, manufacturing finished products in India faces difficulty in increasing the local contents, due to the paucity of the downstream industries, such as electronic parts.</u></p> <p>- Scarcely few local suppliers are not capable of manufacturing high precision materials and parts that can be used for production of high-level energy saving products.</p> <p>- MFS has no alternative but to rely on imports to fill its needs for electronic parts, high precision machined aluminium/copper products, DC motors, etc.</p>	<p>- It is requested that GOI enriches its programme for fostering and supporting the downstream local industries.</p> <p>- It is requested that GOI enriches its programme for fostering and supporting the downstream local industries.</p> <p>- It is requested that GOI enriches its programme for fostering and supporting the downstream local industries.</p>	
	(4)	Inadequate Water Supply and Sewerage System	- <u>Inadequate basic infrastructure such as water supply and sewerage system. Abrupt water cut off. Poor maintenance of sewerage system causes poor sanitation, leading to epidemic illnesses, etc.</u>	- It is requested that GOI overhauls the basic infrastructure, as soon as possible.	
	(5)	Non-payment / Delayed payment	<p>- <u>MFS, having experienced Nonpayment/Delayed Payment of Accounts Receivables, due in part to differences in traditions in commerce, business ethics, balance of power, etc., has switched to advance payment in its terms of sale. However, on products with short life expectancy cycles (such as manufacturing equipment for smartphone parts), the delivery terms and the prices claim the top priority, so that even if collection is completed successfully, the delay in payment severely affects the profitability of the MFS's operation.</u></p>	- It is requested that GOI extends its helping hands to the less powerful SMEs by provision of information and facilitates collection of accounts receivables.	