

Issues and Requests Relating to Foreign Trade and Investment - Gulf Cooperation Council

Category	No	Issue	Issue Details	Requests	References
1 Restrictions on Entry of Foreign Capitals	(1)	Restricted Foreign Capital Majority Share Contribution Rate	<p>- UAE and Kuwait restricts up to 49% the capital contribution ratio of foreign funded enterprises (FFEs), while the capital contribution of FFEs is effectively disallowed in many business sectors in Qatar and Saudi Arabia. Restrictions upon FFEs capital contribution doggedly continue. (Company Act amendment reportedly approved by the cabinet in December 2011 remains unpromulgated in detail, as of 25 January 2015.)</p> <p>- <u>In many countries, restrictions remain on foreign capital majority share contribution, barring FFEs' entry in setting up distribution foothold in GCC. (Commercial capital investment solely by FFE's is disallowed.)</u></p> <p>(Actions)</p> <p>- <u>UAE Company Act was enforced from 1 July 2015, with grace period granted to existing companies up to 30 June 2016.</u></p>	<p>- It is requested that Government of UAE (GOU) repeals the restrictions on FFEs' capital contribution ratio.</p> <p>- It is requested that GCC liberalises the domestic market to allow FFEs' dynamic sales activity as distributor.</p>	<p>- Company Act, or Foreign Investment Act of each GCC Member State</p> <p>- Distributor Protection Laws</p>
	(2)	Protective Policy Favouring Locally Capitalized Distributors	<p>- <u>Due to the compulsion of distribution of 100% locally capitalized distributors, FFEs are unable to make their own direct distribution. Upon occurrence of disputes, FFEs position is extremely unfavorable. (While it is possible to cause the local enterprises with less than 100% FFEs capital ownership to function as an effective distributor, FFEs' majority capital contribution is disallowed.)</u></p> <p>- Under the domestic industry protection policy, it is imperative to designate indigenous distributor in each GCC country. However, the termination of the distributor agreement drives FFEs into extremely disadvantageous terms (with the demand for payment of outrageous penal sum).</p>	<p>- It is requested that GCC countries <u>repeal the respective Distributorship Law.</u></p> <p>- While it is best to have the Agency Act repealed in each country, it is impractical in the light of the history of requests made on this issue. It is requested that each GCC country amends the respective Distributorship Law to enable FFEs and the new local distributor to negotiate favorably termination/change of the local distributor with the premise of appointing a new local distributor, toward the staged solution of the problems, (by applying the principle of competition to the existing local distributor, as well).</p>	<p>- Distributorship Law of each GCC country</p>

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9 Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	Mandatory Acquisition of Consular Legalisation on Products Import	<p>- <u>The consular legalisation of each GCC country is quite cumbersome, as customs clearance documents must be consular legalized at diplomatic establishments in exporting countries. In practice, it is no longer required in some GCC country(ies). The extremely steep cost of the consular legalisation in UAE is a serious problem.</u></p> <p>- <u>GCC requires consular legalisation on documents for trade such as invoices with added costs and a longer lead-time.</u></p>	<p>- <u>It is requested that GCC countries will dispense with the consular legalisation requirement.</u></p> <p>- <u>Only a few countries in the world now require consular legalisation. It is requested that GOJ sounds out the respective subject countries for removal of this requirement.</u></p>	Customs rules and regulations
	(2)	Compulsory Submission of Public Documents of the Exporting Countries upon Imports of Foods, Drugs, etc.	<p>- <u>While certificate of health (for foods) and free sale certificate (drugs including health foods) issued by the government of exporting country are necessary, GOJ issues no such document, sometimes disabling export/import or causing hiatus.</u></p>	<p>- <u>It is requested that GOJ makes such documents available.</u></p>	
	(3)	Delayed FTA Negotiation	<p>- <u>In 2006, GCC and Japan started negotiation toward the FTA conclusion, provided, however, that no further progress resulted in negotiation. Should other countries such as ROK sign FTA ahead of Japan, it may result in hiatus of export/import business or make Japanese companies disadvantageous.</u></p> <p>- <u>Japan-GCC EPA has come to a standstill, while customs duty on plastic resin remains the same, so that unfavourable competitive climate continues against the FTA/EPA enforced countries. As a result, depending upon products, orders concentrate upon FTA/EPA enforced countries, narrowing the selective range of the importers.</u></p> <p>(Actions)</p> <p>- <u>The FTA negotiation between GCC and Japan that began in 2006 has been held pending since 2010, as GCC began its review of the entire FTA Policy.</u></p>	<p>- <u>It is requested that GCC and GOJ conclude FTA as soon as possible.</u></p> <p>- <u>It is requested that GOJ makes transparent the FTA/EPA negotiation and its early conclusion is eagerly awaited.</u></p>	
	(4)	Physical Inspection upon Import Customs Clearance by Opening Containers	<p>- <u>At the container yard, a substantial rate (about 30%) of containers was opened for inspection. It took much time and substantial cost for shippers; numerous damages were caused upon reloading cargoes back to containers.</u></p>	<p>- <u>It is requested that GOJ approaches GCC for rectifying the inspection rate to a level in line with other countries, as the inspection rate is excessively too high.</u></p>	Customs rules and regulations

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	(5)	Pre-shipment Inspection System	- <u>Upon customs clearance, pre-shipment inspection certificate issued by a third party institution is required, however, it is extremely costly (SASO in Saudi, and KUSO in Kuwait), while changes to inspection details are frequent occurrences.</u>	- <u>It is requested that GOJ approaches the countries requiring to abolish pre-shipment inspection: as such inspection is required only in a few countries in the world.</u>	Customs rules and regulations
	(6)	Impossibility of Shipping Transport	- As there is a risk that cargoes disappear (particularly small ones addressed to individuals), shipping transport may not be used.		
	(7)	Safeguard Measures	- On 7 November 2009, following the petition by local manufacturers in Saudi Arabia and Oman, investigation was conducted on shape steel (square shape steel, structural shape steel, beam shape steel), GCC initiated investigation on safeguard measures. (Improvement) - On 30 December 2009, large shape steel with 200mm or more has been removed from the subject goods of investigation as Mills, local manufacturer, may not produce. - On 9 June 2010, at the TSAD Standing Committee, GCC Antidumping Secretariat determined no serious injury to the domestic industries, and on 9 June 2010, officially notified the Japanese subsidiary of Mills for termination of investigation.		
11	Restriction on Profits Remittance Abroad	(1) Delayed Payments	- <u>Especially concerning governments and state owned enterprises, etc. in Dubai, etc., construction fees remain unpaid or in arrears.</u>	- <u>It is requested that GCC countries will execute payments promptly without delay when due.</u>	
14	Taxation Systems	(1) Discriminatory Tax Treatment Foreign vs. Domestic	- In certain countries in GCC including qatar, corporate income tax is exempted on fully GCC citizen owned enterprises. Consequently, the Japanese affiliated enterprises face competitive disadvantage against the local enterprises funded by the local capitals. (Actions) - <u>The FTA negotiation between GCC and Japan that began in 2006 has been held pending since 2010, as GCC began its review of the entire FTA Policy.</u>	- It is requested that GOJ accelerates negotiation on free trade agreement (FTA) between Japan and GCC to support the entry into GCC countries of Japanese affiliated industries, so that they receive the same preferential tax treatment in corporate income tax etc. as is afforded to the GCC local capital enterprises.	

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17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Copy Products Flooding the Market	- <u>Counterfeits, pirate editions infringing trademark right, copyright, etc. are in broad circulation, while the competent authorities' clampdown is hardly sufficient.</u>	- <u>It is requested that the authorities in concern tightens its clampdown, fines, and penalties.</u>	- Trademark Act - Copyright Act - Design Act - Patent Act, etc. of each of the GCC countries
		(2)	Assumption of Cost Incurred for Disposal of Counterfeit Goods	- While the authorities works for eradication of counterfeit goods, copy goods, etc., they compels authorized importers' assumption of the costs incurred for storage, transportation, and destruction.	- It is requested that the authorities take steps to strengthen: -- legislation for executing IPRs, -- clampdown at Customs, -- introduction of import injunction measures and their facilitation against counterfeit goods, and -- alleviation of the cost assumption on authorized importers relative to confiscated counterfeit goods.	- The Anti-Counterfeiting Trade Agreement (ACTA), October 2010
19	Industrial Standards, Approval of Safety Standards	(1)	Vexatiously Complex Response to Rules and Regulations on Pharmaceuticals, etc.	- <u>When exporting particle beam treatment system or equipment to countries, where legislation is not well organised relative to pharmaceuticals, the purchasers, from time to time, are required to seek application of EU/USA legislation on pharmaceuticals as the governing law. Furthermore, apart from the regulation of pharmaceuticals, in each country, various restrictions exist, including without limitation, restrictions on protection from radiation, restrictions concerning manufacture, import, sales, etc. of pharmaceutical equipment. It is extremely complex to respond properly to each requirement.</u>	- <u>It is requested that GOJ takes steps to negotiate with respective countries to cause the respective countries to accept acquisition of certification of conformity to the Japanese pharmaceuticals law suffices for acquisition of licences and approvals in the respective countries.</u>	- Pharmaceuticals Law, etc.
22	Environmental Pollution and Waste Disposal	(1)	Mandatory Use of Oxo-Biodegradable Plastic Bags and other related Packaging Materials	- Mandatory use of oxo-biodegradable plastic bags and other related packaging materials enforced from 1 January 2014 under UAE Ministerial Decree No.118-2013 expands the scope of the items subject to regulations from the previous shopping bags only to 15-items of packaging materials, (although it seems uncertain, including) packaging materials for electric/electronic products. In addition, the Decree requires submission of sample packaging materials using the Emirates Authority for Standardization & Metrology (ESMA) approved additives for further approval by the ESMA and attachment of Mark for Certification of Conformity. Use of oxidatively decomposed Packaging Materials susceptible of oxidation, in lieu of the sturdy, ruggedly composed materials, which are prerequisite for quality assurance of	- It is requested that GCC exempts packing materials for electric/electronic products from the Decree.(DE of EU and KEA of R.O.K. already despatched letters to ESMA, requesting clarification of the subject products, and postponement of its enforcement. Furthermore, Gulf Petrochemicals and Chemicals Association (GPCA) submitted its Position Paper to UAE, to the effect that this Decree	- United Arab Emirates / Ministry of Environment & Water Office of the Minister UAE Ministerial Decree No.118-2013

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				products, goes beyond the reasonable extent of protecting the products in transit.	is not an optimum correct policy, as it gives negative impact among others on plastic recycling efforts, etc.)	
23	Inefficient Administrative Procedures, Regimes and Practices	(1)	Sponsorship Scheme	- <u>FFEs establishing branches, representative offices in UAE, Qatar, Kuwait, etc. must designate an indigenous person or a fully domestically capitalised enterprise as "Service Attorney" (so called "Sponsor"), with a corresponding remuneration payable to such Sponsors, each year.</u>	- <u>It is requested that the GCC countries repeal the sponsor designation obligations.</u>	- Company Act or Foreign Investment Act of each GCC country.
26	Others	(1)	Demand for Continuation of Support after Export of Pharmaceutical Equipment	- <u>When exporting particle beam treatment system or equipment (PBTSE) to newly developing countries, simply exporting system or equipment does not suffice. Exporter's total support is necessary after introduction of PBTSE, including without limitation, the environmental overhaul of the importing country (such as human resources, laws and regulations, health Insurance scheme, pharmaceutical infrastructure, construction, operational financing, etc.)</u>	- <u>It is requested that GOB takes steps to:</u> -- <u>exchange human resources between Japanese universities, hospitals and research institutes (JHRIs) equipped with PBTSE and medical institutions of a partner country in order to promote human resources of the partner country(ies)(PCs),</u> -- <u>grant incentives such as tax reduction, priority allocation of facilities expense, etc. to JHRI's accepting interns of PCs,</u> -- <u>support export PCs by providing overhaul for medical information infrastructure (such as support for overhauls of operation by remote control, establishment of international security guidelines for medical information, framework construction for medical information collection scheme, etc.), and</u> -- <u>construct the framework to utilise public fund loan on new technology.</u>	