Overseas Market Information

India-Singapore Comprehensive Economic Cooperation Agreement

(Continued from previous issue)

Investment

The investment chapter aims to promote and protect investments from both countries. Market access for investments is based on the principle of National Treatment subject to the commitments or reservations undertaken. The chapter contains a number of useful features to protect investments. The key features are highlighted as follows :

- ***Beneficiaries :*** Citizens and Enterprises based in Singapore or India. Indian investors are not required to seek foreign investment approval for coverage under the investment chapter.
- ***Broad Range of Investment Instruments :*** The chapter covers a broad range of investment instruments and assets, such as equity and debt instruments, Intellectual Property Rights (IPR) and, business licenses and permits. Investments in the nature of both Foreign Direct Investment (FDI) and portfolio investments are covered.
- ***National Treatment :*** The chapter accords National Treatment to investors from both countries. The market access feature of this provision is subject to the commitments and reservations undertaken.
- ***Expropriation and Compensation :*** Both countries can not expropriate investments, directly or indirectly, without proper legal safeguards. Expropriation must be premised on public purpose and compensation based on market value. Land expropriation will be governed by the domestic legislation of each country.
- ***Investor to State Dispute Settlement :*** To give investors greater confidence in investing in either country, both countries have committed to allowing investors, once the investment is established, to take a dispute relating to an obligation under the chapter to an international arbitration tribunal.
- ***Free Transfers :*** Both countries will allow the investors to freely transfer funds related to their investments, such as capital, profits, dividends and royalties.
- ***Joint-Ventures :*** India has agreed to bind its recent liberalization measures regulating the ability of current joint-ventures to enter into new joint-ventures (India's Press Note 1 of 2005).
- ***Real Estate :*** India has agreed to bind its new regulations governing investments in the real estate sector (India's Press Note 2 of 2005).
- ***Others :*** The Indian government has formally recognised Temasek and GIC as distinct entities. They are allowed to each own up to 10% of a listed Indian company, similar to other Foreign Institutional Investors (FII), as stipulated under current Securities and Exchange Board of India (SEBI) regulations.

Trade in Services

The services chapter ensures that service suppliers in India and Singapore are guaranteed access into each other's markets. The key features are highlighted as follows :

- ***Market Access :*** Both countries may not restrict access into their services market by imposing quantitative restrictions (eg. numerical quotas on services suppliers that are allowed in the market).
- ***National Treatment :*** Services suppliers will be granted the same treatment as local service suppliers, i.e., no discrimination.
- ***Domestic Regulation :*** The chapter ensures that domestic regulations governing the provision of services are reasonable, impartial and objective.
- ***Mutual Recognition Agreements (MRAs) :*** The chapter facilitates the freer movement of people. Professional bodies in the accounting and auditing, architecture, medical (doctors), dental and nursing services sectors in both countries will negotiate agreements, within a year of the signing of CECA, recognising each other's education and professional qualifications. This means that upon the completion of these mutual recognition agreements, Indian and Singaporean professionals from these five professions could be able to practice in Singapore and India respectively. Professional bodies for services sectors not listed above would also be encouraged to enter into negotiations for MRAs.

The services commitments made by each country can be found in the Annexes to the Services Chapter. There are additional disciplines pertaining to Telecommunication Services and Financial Services in their respective Annexes to the Services Chapter.

Generally, the benefits of the CECA will extend to the citizens, permanent residents, local companies as well as foreign MNCs that are constituted or otherwise organised in India or Singapore. Companies wishing to supply audio-visual, educational, financial and telecommunication services, through commercial presence in India or Singapore, would have to meet ownership or control criteria in order to benefit from the CECA.

Both countries have committed to liberalise various services sectors beyond its WTO commitments.

The sectors which Singapore gets preferential access include business services, construction and related engineering services, financial services, telecommunication services, tourism and travel related services and transport services.

India would be able to enjoy preferential treatment for sectors such as business services, distribution services, education services, environmental services and transportation services.

- ***For Financial Services***, Singapore owned or controlled financial institutions have been given greater privileges to access the Indian market. In banking, DBS, UOB and OCBC can each set up a wholly owned subsidiary (WOS) in India to enjoy treatment on par with Indian banks in branching, places of operations and prudential requirements. Alternatively, should they choose to set up as branches, they have been allocated a separate quota of 15 branches (for all 3 banks) over 4 years, over and above the quota for all foreign banks.
- For asset management, Singapore owned or controlled fund managers have the additional privilege of offering Indian investors mutual funds and collective investment schemes (CIS) listed on the Singapore Exchange (SGX) as well as exchange traded funds (ETF). These instruments offered by our asset managers are free from the restriction that they must only invest in entities which have a stake in Indian companies. India has similarly lifted this limitation for India owned or controlled fund managers. Both Singapore and India owned or controlled fund managers can also invest an additional US$ 250 mn in equities and instruments listed on the SGX, including mutual funds, CIS and ETFs. This is in addition to the US$ 1 billion cap that all asset managers can invest abroad.
- Indian banks and financial institutions can take advantage of CECA to expand their activities in Singapore. To this end, Indian banks, that satisfy Singapore's admission criteria, will be given Wholesale Bank Licences and up to 3 bank licences with Qualifying Full Banks privileges. In addition, India insurers and capital market intermediaries that satisfy our admission criteria will have open access to set up in Singapore.
- ***For Telecommunication Services***, India will bind its foreign equity limit from 25% to 49% for most services including basic, cellular and long-distance services and 74% for internet and infrastructure services. India will also ensure that telecommunication providers from Singapore are treated fairly, transparently, and allowed to obtain access to the necessary public infrastructure in order to offer their services, thereby creating a more level playing field in India for our Singapore's telecom providers. On its part, Singapore has made binding commitments for telecommunication services such as Basic Telecommunication Services (facilities-based), Mobile Services, and Value-Added Network (VAN) Services.

Air Services

India and Singapore have reaffirmed their rights and obligations under previous agreements and recognise the importance of air connectivity to support the expansion of tourism, trade and investments.

Both countries will review and enhance further air services linkages through the bilateral Air Services Agreement, in future.

Movement of Natural Persons

The cross-border movement of natural persons plays a central role in initiating and supporting trade and investments in goods and services. This chapter enhances trade and investment flows by facilitating easier temporary entry for 4 categories of business persons from India and Singapore :

- ***Business Visitors*** who are holders of five years multiple journey visa will be permitted to enter and engage in business activities for a period of up to 2 months, which upon request, may be further extended by up to 1 month.
- ***Short-term Service Suppliers*** will be granted temporary entry to service their contracts for an initial period of up to 90 days in the first instance.
- ***Professionals*** employed in 127 specific occupations will be allowed entry and stay for up to 1 year or the duration of contract, whichever is less.
- ***Intra-corporate Transferees*** (i.e. managers, executives and specialists within organisations) will be permitted to stay and work in India and Singapore for an initial period of up to 2 years or the period of the contract, whichever is less. The period of stay may be extended for period of up to 3 years at a time for a total term not exceeding 8 years.

The Movement of Natural Persons chapter does not apply to measures regarding citizenship, residence or employment on a permanent basis. It also does not apply to immigration measures as long as these immigration measures do not nullify or impair the commitments made by either country.

The chapter will grant Singaporean and Indian Citizens and Permanent Residents guaranteed entry and stay in each other's country as business visitors, short-term service suppliers, professionals and intra-corporate transferees.

Singapore companies will have certainty when they choose to deploy Singapore staff to help manage their Indian operations. Skilled and qualified professionals and service suppliers from Singapore would also gain easier access to the vast Indian market. Similarly, this would also apply to Indian companies when they deploy Indian staff to manage their operations in Singapore.

With freer movement of business persons between countries, bilateral trade and investment flows should be significantly enhanced. Hence, companies from both countries can leverage on the chapter to drive greater economic integration between India and Singapore.

E-Commerce

Both India and Singapore reaffirm their commitment to promote a liberalised environment for electronic commerce. The chapter on electronic commerce addresses fair treatment of digital products, such as software, e-books and e-movies, coming from Singapore.

The Agreement also prohibits any imposition of Customs Duties on digital products delivered electronically. In addition, both sides commit to ensuring transparency by making publicly available all relevant laws and regulations affecting electronic commerce.

Intellectual Property

The Chapter on Intellectual Property (IP) Cooperation is focused on collaboration and cooperation between the Parties.

The Parties agreed to undertake and promote mutually beneficial cooperation in the fields of IP and Plant Variety Rights. These forms of cooperation could include the joint organisation of training programmes, and collaboration on projects to promote the effective use and application of IP. The Parties have specifically identified their leading training centers : the IP Academy, Singapore, and the Intellectual Property Training Institute (Nagpur), as initial partners for cooperation.

The provisions on cooperation and collaboration in IP and training arrived at under the Chapter paves the way forward for collaboration between the Parties in the development of key IP programmes and IP infrastructure. Singapore and India benefit mutually in terms of potential exchange on IP and IP-related training and education programmes. In addition, the mutual recognition of the importance of plant variety rights means that both Singapore and India will be able to consider cooperation activities in this field.

Science & Technology

The Science and Technology cooperation chapter will allow for the fostering of closer collaboration in research and development and commercialisation of technologies between the scientific and research communities from the two countries. It expands an earlier agreement on science and technology signed in 1995.

The agreement is geared towards harnessing the complementary capabilities available in the two countries. The areas of focus that have been identified for possible cooperation are marine and agricultural biotechnology, space research, advance materials and information technology.

Education

The education cooperation chapter is aimed at combining the strengths of the education system in India and Singapore to the mutual benefit of the two countries.

One of its key mandates is to facilitate joint post-graduate programmes between the world-renowned Indian Institutes of Technology (IIT) and Institute of Science (IISc) with the Singapore Universities. These programmes will focus on research and education with clear industrial linkages to companies from both countries. Arising from this, NUS and IIT Bombay have recently signed an MOU to establish a joint graduate engineering programme. The NUS-IIT-B tie-up is the first alliance by any IIT with a foreign university in a significant manner. The programme will draw heavily on existing NUS and IIT-B infrastructure and course modules. Both IIT-B and NUS professors will participate in joint teaching and supervision of projects. The partnership is expected to yield some 40 MS and eight Ph.D graduates annually.

The chapter also provides that degrees specified by the University Grants Commission of India or an Institution of National Importance of India, and by Universities in Singapore, shall be recognised for the purposes of admission into the Universities of both countries. This is in addition to all other admission criteria that must still be satisfied.

A Joint Committee on Education will be established to emphasise the key role that education will play in fostering the relationship between the two countries. Its members will be drawn not only from government but from the private sector as well.

Media

The media cooperation chapter offers a platform for the regulatory agencies from both sides to work closely together. This will allow focus not only on regulatory issues of mutual concern, but more importantly on promoting greater industry and private sector collaboration. Some of the areas of collaboration that could be looked into are digital media and convergent services, intellectual property rights, education and training, coproduction of film and television content, distribution and marketing, and research and development.

Dispute Settlement

In any international agreement, whilst we do not expect nor hope for disputes between the Parties as to what the agreement means, it would nevertheless be prudent to prepare for such an eventuality. In this connection, Singapore and India have negotiated a comprehensive set of dispute settlement procedures. Disputes are subject to consultations, negotiations, conciliation and arbitration just like in the WTO, thereby enhancing the rule of law in international trade.

Review

The Ministers of India and Singapore, who are responsible for trade negotiations, will meet within a year of the date of entry into force of CECA for a review. Subsequent reviews will be done biennially or otherwise as appropriate.

Please contact the following officer at the Ministry of Trade and Industry should you have further queries :

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For further information on concluded FTAs or FTAs in general, please refer to the FTA website, *http://www.fta.gov.sg* or e-mail : *mti_fta@mti.gov.sg*

(Source : Internet)