

International Trade Hotlines

February 22, 2011

INDIA-JAPAN SIGN COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT ("CEPA")

On February 16, 2011, India and Japan successfully concluded a historic bilateral free trade agreement - the Comprehensive Economic Partnership Agreement (CEPA) - in Tokyo. The CEPA follows from the commitment made by both the countries' Prime Ministers in October 2010.

India has already signed similar comprehensive agreements with Singapore and South Korea. Japan CEPA is the third such comprehensive agreement and the first such agreement with one of the largest economies in the world. CEPA will reduce tariffs on 94% of goods within a decade. The CEPA is expected to boost bilateral trade between India and Japan to \$25 billion from the present \$10.3 billion. The co-operation chapters in the CEPA encompass trade in goods and services, removal of tariff barriers and other features which will facilitate bilateral cooperation in several sectors. Some of the key features of the CEPA are as follows:

KEY FEATURES OF CEPA

1. Trade in Goods: The Trade in Goods chapter provides for tariff concessions that will make Japanese goods more competitive vis-a-vis other foreign imports into India. Some of the sectors that will benefit include electronics, pharmaceuticals, etc. The agreement has ensured that the sensitive sectors for India such as agriculture, fruits, spices, wheat, basmati rice, edible oils, wines and spirits, etc are fully protected. Japan, on the other hand, has scrapped duties on certain foodstuffs such as curry ingredients, pepper and tea but has exempted its highly protective and sensitive agricultural commodities such as rice, wheat and some dairy products from the tariff cut.

2. Customs Duty: Customs duties on various goods have been eliminated, whereas certain duties are eliminated in equal annual installments from base rate to free over a certain period of time. Customs duties on goods have been classified under tariff lines indicated with "A", "B5", "B7", "B10", "B15", "Pa", "Pb" and "X". Therefore, for instance, for the purpose of the tariff line category "B10", if the base rate for a particular kind of goods is 30¹, then the customs duty will be eliminated in 11 equal installments from base rate to free. In some cases, customs duties are totally excluded from any reduction or elimination. Rules of origin provisions have also been dealt with in detail. Some of the sectors that will benefit are:

Automobiles: Lifting of tariffs will help Japanese auto companies to easily ship auto parts to their Indian factories. India also plans to gradually bring down tariffs on Japanese steel, eventually to zero.

Pharmaceuticals: Indian generic drug companies will now get easier access to the Japanese market. There is a specific article in CEPA dealing with co-operation between the two states in the area of generic medicines including expeditious registration with the Pharmaceuticals and Medical Devices Agency, Japan. Sale of generics will also be given national treatment. The Japanese pharma market is very lucrative due to the growing healthcare needs of the fast ageing Japanese population. Japan can benefit from Indian pharma companies' high quality and relatively inexpensive generic medicines.

Textiles: With tariffs expected to be reduced or eliminated, Indian textile and garment exports to Japan will be greatly benefited.

3. Trade in Services: The Trade in Services chapter ensures that services such as financial services, telecommunications services, information technology services, etc in India and Japan are guaranteed access into each other's markets. National treatment and Most Favoured Nation treatment will be applicable to Trade in Services.

4. Movement of Natural Persons: This chapter enhances trade and investment flows by facilitating easier temporary entry for various categories of persons (business visitors, contractual service suppliers, qualified and independent professionals and intra-corporate transferees) from India to Japan and vice versa.

5. Competition related: Each country shall, in accordance with its laws and regulations, take appropriate measures against anticompetitive activities, in order to facilitate trade and investment flows between them.

6. Intellectual Property: Both countries have agreed to ensure adequate, effective and non-discriminatory protection of intellectual property, in accordance with the provisions of the TRIPS Agreement. Further, both countries will endeavor to take such measures as deemed appropriate to enhance public awareness of protection of intellectual property including educational and dissemination projects on the use of intellectual property as well as on the enforcement of intellectual property rights. A number of procedural aspects in the area of registration and prosecution have also been streamlined.

7. Investment Dispute Settlement: CEPA contains detailed provisions of settlement of investment disputes between investor and state. It provides for various forms of arbitration including arbitration before the International Centre for the Settlement of Investment Disputes (ICSID), the UN and any other arbitral forum that an investor and state may choose. It recognizes the rights of parties to seek injunctive relief before appropriate courts even if parties have

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submitted themselves to arbitration. For the substantive dispute, once the parties choose arbitration, the jurisdictions of their various courts is ousted to the extent permitted by law and subject to the right to seek injunctive relief.

CONCLUSION

The Preamble of the CEPA, *inter alia*, states that globalization and technological progress has posed various economic and strategic challenges and opportunities for both India and Japan and hence there was a need to liberalize and facilitate trade in goods and services and promote investment opportunities between the two nations.

With China overtaking Japan as the world's second-largest economy in 2010, Japan has been keen to de-risk itself from heavy reliance on China and this CEPA will allow it to invest more in India. Japan needs to find new markets and India needs access to Japanese technology and innovation. The CEPA should facilitate this for both countries. This will also enhance the global competitiveness of both, India and Japan.

- Vivek Kathpalia & Prerak Hora

Source: CEPA between Japan and the Republic of India <http://www.mofa.go.jp/region/asia-paci/india/epa201102/index.html> and various other news reports

1 The base rates for each category of goods are provided at http://www.mofa.go.jp/region/asia-paci/india/epa201102/pdfs/ijcepa_x01_e.pdf

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