Europe India Chamber of Commerce

Newsletter

Issue: 12 Volume: 2 **February 2009**

Euro celebrates its 10th birthday; and is fulfilling its promises

Ten years ago, on 1 January 1999 Europe launched its grand experiment with a shared currency. In marking the 10th anniversary of the Euro on 1 January 2009, the currency is finally trying to fulfill its promise as a way to lower borrowing costs, ease trade and tourism, boost growth and strengthen the European community.

Over 320 million Europeans use the Euro as their official currency. In addition, some 40 countries around the world link their own currencies to the value of the Euro, adding 180 million people who indirectly use the Euro as their currency - by comparison, about 60 countries peg the value of their currencies to the U.S. dollar. Nothing like the Euro has ever been attempted in our modern age, and possibly ever in human history. With the economies within the original euro zone ranging from Germany, with its solid performance and low inflation, to soft economies of Italy and Portugal, with their higher rates of inflation, some wondered whether the grand currency experiment was going to work. In a time of turmoil in financial markets around the world and a deepening recession, it might seem a bit bold to predict the Euro's future. Even without the current crisis this could be a challenge, especially in light of the variation in the Euro's value during the first 10 years of its existence. However, two key factors provide guideposts for future observation. When the Euro was introduced, analysts had warned that the internal structure of the euro zone might precipitate the collapse of the new currency. However, predictions of the Euro's demise have been proven wrong to date, but the fact remains that the euro zone is not a homogenous economic unit. The worldwide financial crisis is forcing euro zone members to cooperate and coordinate their efforts more than ever before. Between Euro area countries, there is now more trade in goods and services, greater financial integration - and increasing foreign direct investment and cross-border portfolio holdings, as well as sustained job creation. The introduction of the Euro in fact is the actual implementation of the Common Market and the Economic and Monetary Union (EMU). It is based on the success of the common market and is a significant factor of economic stability necessary for further growth in the EU. It determined the increased competition and innovation. Since the launch of the Euro, the euro zone has generated 15.7 million new jobs - one million more than the United States over the period. Sixteen countries are now members of the EU's monetary union, but each country still determines its own economic policies and taxation rates. For example, income tax rates are not uniform within the euro zone, and VAT (value-added tax) on goods and services sold varies from 15 to 21 percent (the EU mandates a minimum 15 percent VAT for all EU members.) For India, the euro zone economies' remains an important market.

Shot in the arm for foreign law firms as they get tax reprieve from Bombay HC

In a landmark judgment, the Mumbai High Court has ruled that the income of the foreign law firms will be taxable in India only to the extent of their operations in the country, and with this, the foreign law firms have received a shot in the arm for further engagement in India. An early beneficiary of the judgment has been Clifford Chance, a UK-based legal firm which during 1996-97 was appointed as legal advisors for three projects in India - Bhadravati power project, Vizag power project and Ravva oil and gas fields' project. In the subsequent financial year, it began work on the Vemagiri power project as well. Only the Bhadravati project had an Indian firm - Ispat Industries - which was the JV partner for construction of the power plant. The partners for the other projects were "not resident" in the country.

Clifford Chance was remunerated on an hourly rate basis with each of its partners and employees maintaining detailed time sheets. This was a record of the time spent on doing such work in India and outside it. The bills so raised were paid to Clifford Chance by the clients outside India. The law firm had filed a return showing an income liable to Indian taxation of 1.3 million US$.

Despite the resistance to their entry, foreign law firms have tie-ups and associate offices in India with whom they continue to work. Some foreign law firms boast of an active 'India practice' despite not having set up shop in the country. EICC is of the view that foreign law firms should be allowed to operate in India on a level-playing field with the Indian law firms so that they bring with them a fresh brand of professionalism, competence and expertise that the legal profession here has failed to develop indigenously. However, these foreign law firms should be allowed to practice in India only and only if the Indian law firms are also given equal status in their countries; meaning it should be reciprocal and not one sided. In the meantime, it is reported that the Government is gearing up to allow foreign law firms to operate in India. In this context the government has circulated draft regulations as a step toward opening the country's legal market. Legislation was passed last December allowing the formation of limited liability partnerships (LLP) which will allow Indian law firms to reorganize and become more competitive, with existing law restricting them to just 20 partners. International law firms have been banned from practicing in India since a 1995 ruling by Mumbai's High Court, forcing firms like London's Clifford Chance LLP and New York's White & Case LLP to set up practices in other countries, including Singapore to serve Indian companies.

The Indian legal profession has, in recent years, undergone a significant change, emerging as highly competitive and ready to move along with the ongoing wave of globalization. The interest of foreign law firms to open shop in India therefore is hardly surprising, since India offers a full range of legal services, of comparable quality, at literally a fraction of the price otherwise have to be paid.

Denmark scouts for Indian talent

Denmark is all set to invite Indian skilled manpower to boost its economy and also to address the shortage of human resources. The country has set up a 'Work in Denmark' centre at the Danish Embassy in India to facilitate job applications from Indian professionals. The country is keen to take on a cross-section of Indian professionals to "supplement" Denmark's captive talent. In step, a 10-15% growth in bilateral trade between India and Denmark has been noticed.

Denmark ranks as the 24th-largest foreign investor in India, ahead of countries such as Russia, Austria, and Ireland. Direct Investment Inflows from Denmark into India from 1991 till March 2008 have totalled Rs. 7,155.5 Million or approx. US$ 173.4 Million. The A. P. Møller-Mærsk Group, which has invested heavily in India in recent times by acquiring a major equity stake in the Gujarat Pipavav Port, is one of the leading investors from Denmark. Other major investors from Denmark include Cheminova Agro, F.L.Smidth, Danfoss, Danisco, Lundbeck, and LM Glasfiber. Two leading Indian companies Tata Consultancy Services (TCS) and Larsen and Toubro (L&T) have been successfully operating in Denmark for the past several years.

India and Denmark have concluded a Bilateral Investment Promotion and Protection Agreement (BIPPA) and a protocol on the Avoidance of Double Taxation in the 1990s. India's bilateral trade with Denmark increased from DKK 5,172 Million (approx. US$ 870 Million) in calendar year 2006 to DKK 5,795 Million (approx. US$ 1,064 Million) in CY 2007, registering a 12% growth rate in DKK terms. - The balance of trade remains in India's favour, displaying a rapidly increasing Indian surplus, in CY 2007 amounting to DKK 1,790 Million or approx. US$ 329 Million. India's exports to Denmark grew from DKK 3,190 Million (approx. US$ 536 Million) in CY 2006 to DKK 3,793 Million (US$ 696 Million) in CY 2007, recording a noteworthy growth rate of 18.88% in Danish Kroner terms. India's exports to Denmark now accounts for 0.70% of Denmark's global imports.

India's mobile 'ringing' tone gets louder, bigger and better

Despite the controversy over spectrum allocation and a slowing economy, the telecom sector in the country has continued to grow at a scorching pace in 2008. The number of telephone users in the country grew from 272 million in December 2007 to nearly 380 million at the end of 2008. The growth has been fuelled primarily by the popularity of mobile phones. The wireless user base surged from 233 million in December 2007 to 340 million at the end of 2008. At this rate of growth the total telecom subscriber base is expected to reach 700 million by the year 2012 with about 650 million mobile users and 50 million landlinesyear India is the second largest wireless market in the world, trailing only to China.

With more than ten million new phone connections being added to the network each month, India has emerged as the fastest growing telecom market in the world, attracting not just global service providers like Britain-based Vodafone but also big handset manufacturers like Finland's Nokia that not too long ago was reluctant to make an entry because of low volumes. However, the telecom boom story is not without its own set of surprises. Going by recent data compiled by industry watchdog Telecom Regulatory

Authority of India (TRAI), the growth is being powered with equal fervour by rural areas, once regarded as low-end, low-volume markets with modest purchasing power. Notwithstanding the controversies, foreign investments continued to flow into the sector. International players, including NTT DoCoMo, Telenor and Etisalat, have announced investments into Indian mobile companies. Nokia made additional investments into its telecom gear manufacturing unit in Tamil Nadu and Russian conglomerate Sistema bought 74 per cent stake in Shyam Telelink.

EICC Secretary General asks Indian manufacturers to become competitive and quality conscious

The Secretary General of the EICC has called Indian companies to become competitive and at the same time improve their products through innovation to meet international standards. Addressing the Maharashtra Chamber of Commerce, Industry & Agriculture organised "Global Maharashtra" Conference, the Secretary General also expressed the view that the proposed Free Trade Agreement with EU would help India to get market access for its products such as textiles, pharmaceutical products, leather and processed agricultural goods and other consumer items. He added that the FTA between India and the EU could provide a big boost to both economies as the world economy has already slipped into recession. The Conference held in Mumbai on 10 January 2009 was attended by more than 150 entrepreneurs and business leaders from India, Europe, US, Canada, South East Asia and Gulf countries. The Chief Minister and Deputy Chief Minister of Maharashtra also addressed the event.

The Secretary General observed that in spite of the fact that EU is India's largest trading partner accounting for 24% of trade, the EU-India trade and economic relations have not matured and it is more complimentary rather than competitive. In his view, due to the current economic and financial crisis, Europe is moving into unexpected and unpredictable directions which offer Indian business a unique opportunity to make some innovative plans to enhance the existing business cooperation between the two continents. At the same time, the Secretary General said that that it was important that EU businesses remained optimistic and look for new alliances with countries like India. He also said that although trade and investment remains the corner stone of EU-India relations, it is not enough that EU is India's largest trading partner and also it is not enough that India has effected several changes in its tariff and custom policies, as for both of them there could be significant opportunities for market access improvement through substantial structural changes in their economic and investment policies.

During the visit to India, the Secretary General also attended the VGGIS 2009 in Ahmedabad along with Board Members Mr. Sanjay Dalmia and Dr. Mohan Kaul. The Secretary General also took an opportunity to meet Mr. Sushil Handa, Chairman of the Claris Lifesciences Limited. Claris Lifesciences Limited is an international pharmaceutical company in the business of manufacturing and marketing of high end injectables with focus on New Drug Delivery Systems for treatment of critical illnesses and diseases. Globally, the company operates in more than 76 countries, through its subsidiaries, offices and marketing/distribution network, and a diverse customer profile covering institutions, major corporate hospitals and international aid agencies. The EICC is glad to inform its readers that Claris Lifesciences Limited will become Chamber's Corporate Member and Mr. Handa will join the EICC Board of Directors.

The Secretary General also held meetings with top brasses of the Indian Merchants' Chamber in Mumbai and discussed various issues connected with the IMC's offer to organise the "India Calling 2009" in Brussels in association with the EICC. The Conference will be partnered by the Government of India and sponsored by big corporates including the Government of Maharashtra.

India may ease FDI norms in domestic airlines

In a precursor to clear the decks for divesting stake in the government-owned National Aviation Company of India Limited (NACIL), it is reported that the civil aviation ministry is likely to move a proposal on allowing foreign airlines to invest in domestic carriers. The idea is being mooted to increase the funding options for domestic airlines that have drawn up huge expansion plans. Domestic carriers are expected to buy close to 480 aircraft in the next five years involving an investment of $30 billion.

The proposed increase in FDI in domestic carriers would, however, come with a rider. Though FDI in the sector is allowed, no foreign airline company can have a direct or indirect stake in domestic carriers. Various foreign private equity firms, institutional investors and NRIs have been increasing their stakes in

Indian carriers. Foreign stake in SpiceJet and Air Deccan has already reached close to 40%. Moreover, most companies in the sector including Jet Airways, Kingfisher Airlines, GoAir, IndiGo and Air Deccan are in talks with private equity players for mobilizing debt and equity. Analysts are of the view that a higher FDI cap would help bring in foreign investments in the sector that will go a long way in funding the fleet and operation expansion plans of the airline companies.

Although divestment of government equity in the state carrier seems a difficult and time consuming proposition which would need political consensus and support, the ministry seems to have moved forward in this direction. As the Indian government clears the way for foreign investors to own up to 25 per cent in Indian carriers, Kingfisher has turned its eye towards overseas partners. Also as for Air France -KLM, after finalizing a deal with Alitalia for a 25% stake with a price tag of 322 million euros, it appears that the European giant may have entered into preliminary talks for a 20-25% minority stake in the Indian five star carriers. In recent days Jet Airways' name has also been tied with Etihad, while British Airways has been hinted at pursuing a GoAir minority stake.

Indian government cuts red tape; eases rules for entry of foreign companies into the country

Multinational and foreign companies will now find it less cumbersome to establish a place of business in India, as the Government has done away with some red tape. The Ministry of Corporate Affairs (MCA) has removed the requirement of foreign companies/foreign nationals to get consular verification in their country of origin for establishing place of business or setting up a subsidiary in India. This benefit will be available to only those foreign companies incorporated in a country that fall outside the Commonwealth but a party to the Hague Apostille Convention 1961. This move is likely to bring down significantly the time taken to incorporate company in India by foreign entities. There was a general grievance from the field that such companies have to wait for long to set up a subsidiary in India as they faced difficulties on what documents were required to be filed and the authorities from whom the documents had to be authenticated. Further, it would take almost eight months to set up a subsidiary in India. However, now with this move the process will be shortened. For foreign companies incorporated in a country falling outside the commonwealth, but a signatory to The Hague Apostille Convention 1961, documents certified by the Government official of that convention country would be entitled for recognition in India without any further verification. A notarised list (notarised in the country of origin) of the directors and the Secretary of the company, apart from name and address of the person resident in India who will be authorised to accept notice on behalf of the company, need to be submitted to authorities here. In the case of foreign nationals residing outside India in countries signatory to the Hague convention and seeking to register a company in India, the Ministry of Corporate Affairs has said that their signatures and address on the Memorandum of Association and proof of identity, where required, should be notarised before the notary of the country of their origin and duly verified in accordance with Hague Convention. This would be sufficient for recognition of documents in India. With this the cumbersome and often costly formalities for legalisation of foreign public documents originating from countries that are signatories to the Hague Convention has been removed.

First Plenary Session of the European Parliament sees MEPs seal the deal on pesticides

From 12-15 January, the European Parliament met in Strasbourg for its first plenary session in 2009. The presentation of the Czech Presidency of the Council of the European Union was the main topic on the agenda. Members of the European Parliament also discussed some pressing international issues. Highlights of the Parliament session included the adoption of the legislation on pesticides, reports on fundamental rights, public procurement in defence and trade with the Western Balkans. Some other issues debated included reports on Trade and economic relations with Western Balkans, the Common Agricultural policy and Global Food Security, Developing civil dialogue under the Treaty of Lisbon and Equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

MEPs sealed the deal on pesticides: The MEPs backed overwhelmingly an agreement reached with the Council in December 2008 on the new EU pesticides legislation. The two new laws will increase the number of pesticides available on the market, while progressively banning the use of a number of dangerous chemicals in these products, and ensure the safer use of pesticides. In order to enter into force, laws still require a formal adoption by Member States' ministers at the Council.
