Europe India Chamber of Commerce

Newsletter

Issue: 6 Volume: 1 August 2008

IMC joins EICC in partnering the Pharma Roundtable in Brussels

Indian Merchants' Chamber has accepted EICC invitation to partner the Pharma Roundtable on 21-22 September 2008 which will be held in the European Parliament (in Room **A5G2**) in Brussels. With more than eighty per cent of the pharma industry located in the Western India and particularly in Maharashtra and Gujarat, participation of the IMC members will greatly enhance the importance of the Roundtable and bring value added to the outcome of the event as major pharmaceutical companies in the region are members of the IMC. The EICC greatly appreciates the IMC's acceptance of its request and welcomes IMC's cooperation. Fresh with the success of its recent India Calling 2008 in Canada in June which brought together more than 180 businessmen from India, Europe, US and Canada for the Conference, the IMC is exploring the possibility of organizing the next "India Calling Conference" in Brussels in association with the EICC.

EICC also expects a strong delegation of Indian drug manufacturers attending this event as representatives of the Pharmaceuticals Export Promotion Council (pharmexcil). Pharmexcil is a statutory body recently set by the ministry of commerce. It has been established in response to the various long pending representations of pharma industry associations like Indian Drug Manufacturers Association (IDMA), Bulk Drug Manufacturers Association (BDMA), Organisation of Pharmaceutical Producers of India (OPPI), Indian Pharmaceutical Alliance (IPA) for creation of an exclusive/focused council to promote exports in the fast growing knowledge based pharma sector.

EICC to participate in the Budapest Round Table 2008 on 6 – 7 November 2008

The European Academy of Sciences and Arts has invited EICC to participate at this year's "Budapest Round Table 2008" as panelists. This year's event will focus on "inter-cultural business dialogue" in the global environment where actors are increasingly interlinked and mutually dependent economically. The event will especially devote on the relations between Europe, the People's Republic of China, and India. Knowledge of and experience with each other's culture, language and business traditions are necessary preconditions for mutually beneficial interaction.

The discussions and the outcome will become part of multi-media material that will be distributed internationally (India, Europe and the People's Republic of China). Given the importance of the subject, many Board Members of the EICC have agreed to participate in the discussion. The EICC will be represented by its Co-Chairman Mr. Ravi Mehrotra CBE, Patron Dr. Prem Sharma and Board Member Dr. Mohan Kaul. President of the Indian Merchants' Chamber Mr. M N Chaini has also been invited to speak.

Budapest Roundtable 2008 is part of the "Budapest Round Table" annual series and will formulate an opinion on the subject discussed and issue it as a Memorandum. The events are organised under the patronage of the European Academy of Sciences and Arts. Each year, one research field is chosen to be brought together at an annual event to exchange best practice and results. The chief objective of these events is to address in a direct dialogue between key actors current issues of socio-economic importance and related best practices.

Court ruling allows Indian professionals to return to UK

In a major policy change, Britain has decided to allow thousands of Indian professionals, who left the UK after being adversely affected by the November 2006 changes to immigration rules, to return and work in Britain. At least 5,000 Indians, disenfranchised by the Britain's recent diktats on immigration policy that forced them to return to their homeland, are to be allowed to re-enter the country, in the latest twist in the two-year-old wrangle over holders of Highly-Skilled Migrant Programme (HSMP) visas. The new visa guidelines, published early last month, offer full protection to non-European holders of HSMP visas, of whom at least 30,000 are estimated to be Indian. Over 5,000 highly skilled migrants, most of them Indians, left Britain following the changes that were challenged in the High Court. The court ruled on April 8 this year that the November 2006 changes could not be applied retrospectively. Thousands of Indian professionals had to leave Britain since they did not qualify under the new criteria. Many who applied for extension to stay were refused, and were instead served deportation orders. Many more chose not to apply since they could not meet the new criteria, and returned home. All such Indian and other non-EU professionals would now be allowed to return to Britain and continue under the criteria under which they first entered as part of the Highly Skilled Migrants Programme. Moreover, such professionals who now apply to return to Britain will not have to pay application fees to process their papers. The new policy guidance covers not only migrants who were approved before November 7, 2006, but also those who were refused extension under the unlawful rules, including those migrants who did not apply for extension and migrants who have either switched immigration categories to more restrictive visa regimes or left the UK as a result.

Creating synergies: Union Bank of India in pact with Belgium firm for MF venture

In order to make a strong foray into asset management, the Union Bank of India; one of India scheduled banks has entered into an agreement with the Belgium-based KBC Asset Management NV to form a joint venture asset management company in India. KBC asset management NV is a wholly-owned subsidiary of KBC group of Belgium and has strong presence in Central and Eastern Europe and Belgium. The company has assets under management worth Euro 174 billion as on end-2007. Union Bank has disclosed that it would have a 51-per cent stake in the joint venture company, while KBC holding 49 per cent. The bank already has a JV with Japanese life insurance firm, Dai-Ichi, in which it holds a 23 percent stake. With this, the industry was expected to witness an addition of 9 million new retail mutual fund customers during the period. It is learnt that the UBI has plans to use 1,000 of its branches for the mutual funds venture in the initial phase and scale up to include all branches in the future. The bank also plans to recruit around 500 marketing executives to strengthen its team for the mutual funds business and is expected to get operational in the next 3-6 months.

India may open FDI in sensitive areas, sectors

India is seriously considering a policy on foreign direct investment (FDI) in sensitive areas and sectors. It is learnt that the ministry of home affairs (MHA) has readied a FDI policy note. An important element of the policy is the definition of sensitive areas. According to MHA's definition, any project that falls within 50 km of international borders is a sensitive project. The FDI policy paper has proposed that multilateral agencies be pursued to accept the provision of prior security clearance for foreign manpower engaged in construction activities under the National Security Clause. On country-specific bans, it is proposed that there should be a case-by-case security vetting of sensitive projects instead of a blanket country-specific ban. In contrast, the finance ministry has been recommending, especially for hydro-power projects, inclusion of an upfront country-specific ban in international tender documents. On the visa regime, MHA has noted that at present foreign workers are entering India on business visas. A separate project work visa, like in other countries, has been proposed which means that a foreign national should apply first for a work permit and after receiving the work permit, he may apply for a visa.

For such a FDI policy to succeed, it ought to be transparent. If past experience is any guide to the issue of FDI in India, the proposed move to have a separate FDI policy for sensitive sectors is likely to generate a lot of debate. It should also be noted that today, all major powers have laws that strictly regulate FDI in sensitive sectors. The US passed the Exxon-Florio provision in 1988, giving the President the authority to suspend or prohibit any foreign acquisition, merger or takeover of a US Corporation that is determined to threaten the national security of the US. France enacted a law in 2004 and 2005, reforming its foreign investment rules (the 'Reform Law'), which modified the scope of French foreign investment regulations, requiring prior authorisation for investment in companies' operation in "the interests of national defence". Similarly, in 2004 and 2005 Germany amended its Foreign Trade Act and the Foreign Trade and Payments Regulations, giving the ministry of economics and labour the right to prevent the acquisition of more than 25% of the voting rights in German companies in certain sectors to safeguard "important security interests".

It is also learnt that the government is planning to raise FDI ceiling in defence production through the automatic route to 49% from the current limit of 26%. This will enable global defence majors to set up ventures in India without having to wait for government clearances in cases where the foreign investment component goes beyond 26%. The move could attract top international defence suppliers like Lockheed Martin and Bombardier to set up joint ventures in India. The increase in FDI would be subject to guidelines for licensing production of arms & ammunitions under Press Note 2 of 2002. There would be a three-year lock-in period for transfer of equity from one foreign investor to another foreign investor (including NRIs & OCBs with 60% or more NRI stake) and such transfer would be subject to prior approval of the Foreign Investment Promotion Board (FIPB. The department of industrial policy and promotion (DIPP) is of the view that an FDI hike would attract more investment in the sector, which has hardy seen any major investment since it was opened up in 2001.

India`s outward FDI up 29.6% at $17.4 bn in FY08

India's outward foreign direct investments (FDI) rose by 29.6 per cent to $17.4 billion in 2007-08, backed by India's Inc large-scale acquisitions, growing appetite for an overseas presence and the hunt for energy assets. The outward FDI in 2006-07 was $13.45 billion. It is not just sending out funds-kind-of-situation where there is long wait for returns. The inflows, in the form of dividend, royalty, repayment of loans and licence fees, from outward FDI rose by 76.7 per cent to $916 million in 2007-08 as against $518 million a year ago, according to Reserve Bank of India data. Outward investment refers to investment by Indian entities and partnership firms in joint ventures and wholly-owned subsidiaries abroad, besides remittances for production sharing agreements for oil exploration. The data does not include investments by individuals and banks. Of the total investments in 2007-08, 81.6 per cent were in the form of equity and loans accounted for the remaining 18.4 per cent. During the same period, about 95 per cent outward FDI proposals were for investments exceeding $5 million. Reviewing the trends in overseas investments by Indian business in its July bulletin, the RBI said "Outward FDI witnessed a substantial pick-up from 2006-07 onwards, facilitated largely by progressive liberalisation of overseas investment policies". The manufacturing sector led the investments, with a 43 per cent share, followed by the non-financial services (11 per cent) and trading (4 per cent). The manufacturing sector saw proposals in electronic equipment, fertilisers, agricultural and allied products and gems and jewellery. Investment proposals in non-financial services included areas such as telecommunications, medical services and software development services. About 65 per cent of the outward investments was routed to tax-friendly places. For 2007-08, 35 per cent of the proposals were aimed at Singapore, followed by Netherlands (23 per cent) and British Virgin Islands (7 per cent).

India finally gets a say in OECD tax convention

For the first time the model tax convention of the OECD, on which tax treaties of most countries are modelled, has given out guidance on taxation of permanent establishment (PE), incorporating India's views. The powerful grouping had granted 'observer status' to India in July 2006. Inclusion of the views of a non-member in the model convention is an important development, pointing at the growing stature of India. The development (OECD document containing India's position) has significant meaning. This clearly becomes a benchmark for how the Indian tax authorities intend to interpret the tax treaty positions laid down in the model convention. It also formally defines India's tax treaty policy for any future negotiation with a country on a tax pact. India, however, differs with the model convention on a large number of issues. The OECD commentary clarified that a website cannot create a PE and that a person may not have a 'place of business' merely by hosting a website on a particular server situated at a particular location. India's position suggests that in certain circumstances, the above situations could create a PE. The OECD model convention does not include a specific rule relating creation of PE merely on account of furnishing of services. However, most of India's tax treaties contain such a rule. The OECD commentary was updated in 2005 to clarify that a company cannot have a PE in another country merely because it purchases goods manufactured by an affiliate in that country or the affiliate supplies services. On this aspect, India is of the view that where a group company manufactures goods or provides services for or on behalf of a foreign enterprise, the first mentioned company could constitute a PE if the other requirements of the definition are also satisfied. The OECD model convention was amended in 2000 to address eligibility of treaty benefits to entities such as trusts wherein the entity itself is not taxed, but instead its members are taxed on the income. The OECD model convention had generally indicated that in such a situation the members of such an entity should be eligible for treaty benefits.

French cement-maker Lafarge to pump in $1 bn for pan-India

French **c**ement-maker is all set to increase capacity to 20 MT with three new units in India**.** In a move that could push Lafarge several steps up among the cement-makers in India, the French company is all set to pump in over $1 billion to take its overall capacity close to 20 million tonnes (MT) in the next five years. After acquiring L&T Concrete and capturing over 25 per cent of the market share in ready-mix concrete space in the country, the cement major is set to establish a pan-India presence.

About 400 French companies are based in India and the numbers are increasing with some SME also setting up shops. Indian presence in France has also grown. Recent acquisitions of Negma Laboratories by Wockhardt's for 265 million Euros, Sintex's acquisitions of Nief for 30.7 million Euros are changing India's profile. Bilateral trade between France and India is currently about 6.2 billion Euros and is growing over 20 per cent a year. French companies are active in India in a number of projects, notably in construction and engineering sectors. A number of French fashion brands like L'Oreal and Louis Vutton have made forays in Indian market. Major French companies present in India are LaFarge, Alcatel, Societe Generale, L'Oreal, BNP, Danone, Alsthom, SanofiAvantis, Saint Gobain, Schneider, Renault, Michelin, Total, Loius Vuition, Airbus, Sodexho, Onyx and Environment SA. Indian companies which have registered their presence in France are Tata Consultancy, Wipro, Infosys, Tata Steel, Reliance Communications, Jindal.

EU adopts new regulation for GSP

The European Commission on 25 July adopted a new regulation on Generalised System of Preferences (GSP) which will come into effect from 1st January 2009 until the end of 2011. The European Union (EU) hopes that the new regulation will allow the EU to maintain preferential access to its market for 176 developing countries. The renewed preference system will be updated and improved, ensuring that GSP is targeted at those countries that need it most, a press release issued by the EU said. GSP provides real economic value to developing countries, with € 57 billion worth of trade under the scheme in 2007. As a result of re-calculations to reflect the evolution of trade, preferences for specific product groups will be re-established for six beneficiary countries of GSP (Algeria, India, Indonesia, Russia, South Africa and Thailand). Preferences will be suspended for one country, Vietnam, for Section XII products (footwear and some other products). These adjustments are triggered automatically when a country's performance on the EU market goes above or below a certain threshold. Suspension of preferences, called "graduation", reflects the fact that a particular country is competitive in the EU market for the products in question. Alongside the standard GSP scheme, the EU also offers a special incentive arrangement for Sustainable Development and Good Governance, known as GSP+. This offers additional preferences to support vulnerable developing countries in their ratification and implementation of relevant international conventions on human and labour rights, environmental protection, and good governance. Everything But Arms, the EU's open-ended duty-free, quote-free regime for Least-Developed Countries (LDCs), which also operates under the GSP Regulation, is also maintained. A special arrangement for the 50 least-developed countries, known as the "Everything But Arms" (EBA) initiative, provides the most favourable treatment of all, granting the LDCs "duty-free and quota-free" access to the EU market.

The EU Generalised System of Preferences is the system of preferential trading arrangements through which the European Union extends preferential access to its markets to developing countries. In 1968 the United Nations Conference on Trade and Development (UNCTAD) recommended the creation of a 'Generalised System of Tariff Preferences' under which developed countries would grant trade preferences to all developing countries. The EU was the first to implement a GSP scheme in 1971. The EU's GSP grants products imported from the 178 GSP beneficiary countries and territories either duty-free access or a tariff reduction.
