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Asian Exporters' Chamber Of Commerce and Industry

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WEEKLY VIEWPOINT

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UPDATES OF THE WEEK

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Bilateral News

INDIA-RUSSIA TIES ‘NOSE DIVE’; AFTER S-400 SHIPMENTS, RUSSIA COULD NOW SUSPEND OIL EXPORTS TO INDIA

India, which has been lapping up cheap Russian oil for domestic consumption as well as export as refined commodities, hasn’t been compensating Russia for its oil imports.

Lavrov pointed out that Russia has accumulated billions of rupees in Indian banks that Russia cannot use.

“This is a problem. We need to use this money. But for this, Rupees must be converted to another currency, and this is now being discussed.”

India and Russia have been exploring options for settling their trade in rupees or rubles since the start of the Russian Special Operation (SMO) in Ukraine in February 2022, but they have made little headway even after more than a year.

The problem is – India’s imports from Russia far exceed its exports. As a result, Indian rupee payments to Russian bank Vostro accounts in Indian banks are of no use to Russia.
The obvious solution is for India to step up its exports to Russia.

Unfortunately, Indian exports are severely constrained by the lackluster quality of Indian goods. Also, Russia is a resource-rich country, so India doesn’t have the option to export commodities to Russia.

India could pay the accumulated billions of rupees to Russia by converting them to a currency like the Chinese Yuan, however, that would entail bearing the cost of conversion. China’s massive trade surplus with India makes the rupee particularly weak against the Yuan.

Source: The Mint

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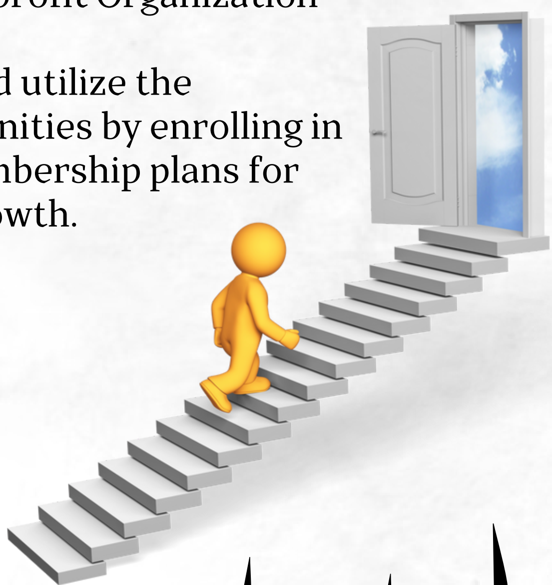

TRIGGERING OF AN INTERNATIONAL INVESTMENT DISPUTE

Bilateral Investment Treaties (BITs): India has signed more than 130 BITs with other countries that provide for the resolution of investment disputes through international arbitration. These BITs provide investors with a level of protection and certainty when investing in India.An international investment treaty is a treaty concluded between economies (usually two, sometimes more) with the object of promoting and protecting foreign investment. These usually take the form of Bilateral Investment Treaties (BITs) or, increasingly, investment chapters found in Free Trade Agreements (FTAs).

Investment treaties are an important component of the framework governing the conditions for foreign investment in many countries. About 2500 such treaties are in force today, including investment provisions of trade agreements.

1.WHAT ARE INTERNATIONAL INVESTMENT TREATIES?

An international investment treaty is a treaty concluded between economies (usually two, sometimes more) with the object of promoting and protecting foreign investment. These usually take the form of Bilateral Investment Treaties (BITs) or, increasingly, investment chapters found in Free Trade Agreements (FTAs). Investment treaties do two things:

1. They create obligations for the government of the economy in which an investment is made (the "host economy") to treat foreign investors according to standardsthat are set out in the treaty.
2. They almost always grant foreign investors the right to bring claims for compensation against the host economy for violation of the standards of treatment contained in the treaty. There are presently over 2,500 investment treaties in force around the world. Every APEC economy has entered into at least one investment treaty.

2.WHAT ARE THE OBLIGATIONS OF THE HOST ECONOMY UNDER AN INVESTMENT TREATY?

Each investment treaty is different, but there are similarities among almost all of them. Generally, the substantive obligations of the host economy include:

a. Requirement of "non-discrimination"
b. Requirement of "fair and equitable" treatment
c. The requirement to provide "full protection and security".
d. Prohibition against illegal expropriation
e. Obligation to "observe undertakings"
f. Guarantee of free transfer of funds related to investments.

3.WHAT HAPPENS IF THERE IS A DISPUTE BETWEEN A FOREIGN INVESTOR AND THE HOST ECONOMY ABOUT OBLIGATIONS UNDER AN INVESTMENT TREATY?

Investment treaties almost always contain a mechanism for the binding resolution of disputes between protected foreign investors and the host economy.

If the investor believes that the host economy has not treated it in accordance with the treaty, the investor may bring a claim for monetary damages against the host economy using the treaty's dispute resolution mechanism. This typically involves the use of an independent arbitral tribunal.

ARE INVESTOR CLAIMS UNDER INVESTMENT TREATIES COMMON?

Claims by foreign investors under investment treaties are increasingly common.

4.HOW MUCH COMPENSATION CAN A HOST ECONOMY BE ORDERED TO PAY IN AN INVESTMENT TREATY ARBITRATION?

Claims brought by investors under investment treaties are often very large. The median size of a claim by a foreign investor is approximately USD $113 million, and claims for much larger amounts are not uncommon.

Although foreign investors often do not recover the full amount that they claim, awards against host economies can be large, especially relative to the size of the economy. The largest award to date was rendered in 2014 for USD $50 billion against Russia for the expropriation of the Yukos Oil Company.

In 2019, an award of more than USD $8 billion was rendered against Venezuela.

5. HOW MUCH DOES IT COST THE HOST ECONOMY TO DEFEND ITSELF IN AN INVESTMENT TREATY ARBITRATION?

Arbitration of disputes under investment treaties is expensive. It is estimated that the average cost of defending an investment treaty arbitration is USD $5 million.

In addition to the financial costs, defending an investment treaty claim requires a significant expenditure of time and human resources by the host economy. The average investment treaty arbitration takes 4-5 years to resolve.

6 .WHICH PARTS OF GOVERNMENT CAN VIOLATE INVESTMENT TREATY OBLIGATIONS?

All of them. Investment treaties apply to the actions of government at all levels, whether central, regional or local. In addition, investment treaties apply to all branches of government. The executive, the legislature, and even the judiciary can take actions that can result in the violation of the host economy's investment treaty obligations.

7. CAN THE HOST ECONOMY BE RESPONSIBLE FOR THE ACTIONS OF STATE-OWNED ENTERPRISES (SOES)?

Yes. While an economy will not ordinarily be responsible for the actions of SOEs, this conclusion can change if the actions of the SOE are controlled or directed by government officials.

International News

SOUTH KOREA'S HYUNDAI MOTOR TO INVEST $2.45BN IN INDIAN STATE

South Korea's Hyundai Motor Co said on Thursday it will invest 200 billion rupees ($2.45 billion) in the Indian state of Tamil Nadu over the next 10 years to beef up electric vehicle production in the world's most populous country.
Tamil Nadu's Chennai, dubbed the Detroit of Asia, is a hub for automobile manufacturing where the likes of Ashok Leyland, TVS Motor and Renault-Nissan churn out millions of vehicles every year.
Hyundai, through its Indian subsidiary Hyundai Motor India, will also set up a battery pack assembly unit with an annual capacity of 178,000 units and install 100 EV charging stations across the southern state in the next five years, it said in a statement.

The company plans to increase the production volume at its factory near Chennai to 850,000 vehicles per year from roughly 775,000 currently. However, the car maker did not disclose a timeline to achieve the target, citing volatile demand.

Hyundai also expects its export volumes to hit 319,000 vehicles by 2032, from 181,000 in 2022.
The investment plan comes days after India's federal government said it would raise taxes on imported vehicles to boost local manufacturing.

Hyundai is also developing a local vendor base for EV parts instead of importing them, as the government's production incentive scheme is applicable only when manufacturing is done within the country, Puneet Anand, a senior executive for corporate affairs, said in a news conference.

India's EV industry is growing rapidly with a slew of launches by domestic carmakers Tata Motors and Mahindra & Mahindra as well as global rivals Nissan Motor and Renault SA.

Source: Hindustan Times

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HEADLINES OF THE WEEK

- **Slight rise in the domestic share indices also supported the Indian unit. Both the Nifty 50 and the Sensex closed 0.1% and 0.2% higher respectively.**

- **India Shipping News is an Online Web Portal which delivers fastest and most relevant current news on Shipping, Logistics, Maritime and Export- Import industry.**

- **India’s merchandise imports from Russia increased by 369 percent to $46.3 billion in 2022-23 from only $9.87 billion in 2021-22 with almost two-thirds consisting of crude oil as it diversified from more expensive Middle Eastern crude following the Russian invasion of Ukraine**

- **India's imports from OPEC at all-time low as Russian oil buy peaks. India's imports of crude oil from the Organisation of the Petroleum Exporting Countries**

INDIA RUPEE REVIEW: ENDS AT OVER 3-WEEK LOW ON IMPORTERS' DLR BUYS

The rupee ended at over a three-week low against the dollar today as banks persistently bought the greenback for oil marketing companies and importers, dealers said. However, banks' dollar sales for exporters limited the losses for the Indian currency, they added.

After moving in a narrow range of 14 paise through the day, the rupee settled at 82.1625 a dollar as against 82.0900 a dollar on Thursday.

The rupee opened largely steady at 82.10 a dollar today as a rise in the dollar index on Thursday was offset by a fall in crude oil prices, dealers said.

The dollar index strengthened due to safe-haven demand for the greenback as traders fear a possible recession in the world's largest economy, owing to a political standoff over the debt ceiling in the US. On Thursday, US Treasury Secretary Janet Yellen asked Congress to increase the $31.4 trln debt limit to avoid an unprecedented default, which may trigger a global economic downturn.

Meanwhile, data on Thursday showed the number of Americans filing new claims for unemployment benefits rose to an over one-year high last week, raising the odds that the Federal Reserve will halt its rate hikes next month.

Data also showed that producer prices in the US rose moderately in April, the smallest annual increase in over two years.

At 1506 IST, the dollar index was at 102.11 against 102.06 on Thursday. It was at 101.47 on Wednesday. More

Source: The Economic Times