Dubey & Partners Advocates

NEWSLETTER

.... a primer on recent developments in India

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NATIONAL POLICY ON SOFTWARE PRODUCTS (2019) NATIONAL SOFTWARE PRODUCT MISSION (NSPM)

The Information Technology and Information Technology Enabled Services (IT-ITES) industry of the country is a critical pillar in India's economic growth. The industry has potential to be a driving force for enabling India to develop capabilities for harnessing new technologies cutting across all the sectors, namely, agriculture, health, education, manufacturing etc, thereby creating significant employment and entrepreneurial opportunities. According to NASSCOM the sector at present is generating an estimated revenue of around USD 168 billion, including export of USD 126 billion on an annual basis, which is around 8% contribution to India's GDP. The industry is also one of the largest organised sector employers, generating nearly 14 million direct and indirect jobs. It is further estimated that the industry can contribute up to 350 billion USD accounting to ~10 percent of India's GDP by 2025.

To develop India as a Software Product Nation and a global leader in conception, design, development and production of intellectual capital driven Software Products, thus, accelerating growth of entire spectrum of IT Industry of the country.

The strategies of the mission will be as follows:-

1. Promoting Software Products Business Ecosystem
2. Promoting Entrepreneurship & Innovation for Employment
3. Skilling and Human Resource Development
4. Improving Access to Domestic Market and Cross Border Trade Promotion

The broad objectives of the mission will be as follows:-

a. Design appropriate strategy for development of the software product industry to ensure optimum utilization of its potential and to establish India as a global Software Product Hub.
b. Recommend specific policy measures to ensure an enabling ecosystem for design, development, innovation, value addition, (take other words from Vision), based on use of ICT.
c. Recommend specific initiatives to be undertaken to tap the full potential of the domestic and the international markets for the Software product industry.
d. Monitor and collate various initiatives taken under this policy with an aim to create 3.5 million employment opportunities and boost software products revenue tenfold by 2025.
e. Facilitate various Government agencies and other bodies in promotion of Software Products, specific to the various programmes envisaged under this policy.
f. Encourage States to participate in programmes and promote Indian Software Products in line with this policy.
g. Monitor SPDF, Research & Innovation Fund.
h. Take any other measures as may be required in the context.

THE ARBITRATION AND CONCILIATION (AMENDMENT) BILL, 2018

It is a part of the efforts of the Government to encourage institutional arbitration for settlement of disputes and make India a centre of robust Alternative Dispute Resolution (ADR) mechanism. The Amendments in the Act of 1996 will facilitate achieving the goal of improving institutional arbitration by establishing an independent body to lay down standards, make arbitration process more party friendly, cost effective and ensure timely disposal of arbitration cases.

i. To facilitate speedy appointment of arbitrators through designated arbitral institutions by the Supreme Court or the High Court, without having any requirement to approach the court in this regard. It is envisaged that parties may directly approach arbitral institutions designated by the Supreme Court for International Commercial arbitration and in other cases the concerned High Courts.

ii. The amendment provides for creation of an independent body namely the Arbitration Council of India (ACI) which will grade arbitral institution and accredit arbitrators by laying down norms and take all such steps as may be necessary to promote and encourage arbitration, conciliation, mediation and other ADR Mechanism and for that purpose evolve policy and guidelines for the establishment., operation and maintenance of uniform professional standards in respect of all matters relating to arbitration and ADR mechanism. The Council shall also maintain an electronic depository of all arbitral awards,

iii. The ACI shall be a body corporate. The Chairperson of ACI shall be a person who has been a Judge of the Supreme Court or Chief Justice or Judge of any High Court or any eminent person. Further, the other Members would include an eminent academician etc. besides other Government nominees,

iv. It is proposed to amend sub section (1) of section 29A by excluding International Arbitration from the bounds of timeline and further to provide that the time limit for arbitral award in other arbitrations shall be within 12 months from the completion of the pleadings of the parties.

v. A new section 42A is proposed to be inserted to provide that the arbitrator and the arbitral institutions shall keep confidentiality of all arbitral proceedings except award. Further, a new section 42B protects an Arbitrator from suit or other legal proceedings for any action or omission done in good faith in the course of arbitration proceedings.

vi. A new section 87 is proposed to be inserted to clarify that unless parties agree otherwise the Amendment Act 2015 shall not apply to (a) Arbitral proceedings .which have commenced before the commencement of the Amendment Act of 2015 (b) Court proceedings arising out of or in relation to such arbitral proceedings irrespective of whether such court proceedings are commenced prior to or after the commencement of the Amendment Act of 2015 and shall apply only to Arbitral proceedings commenced on or after the commencement of the Amendment Act of 2015 and to court proceedings arising out of or in relation to such Arbitral proceedings.

NITI AAYOG & RMI RELEASE TECHNICAL ANALYSIS OF FAME II SCHEME

The NITI Aayog and the Rocky Mountain Institute (RMI) released a report on opportunities for the automobile sector and government under the Faster Adoption and Manufacturing of Electric Vehicles II (FAME II) scheme.

The technical report titled '*India's Electric Mobility Transformation: Progress to Date and Future Opportunities'*, quantifies the direct oil and carbon savings that the vehicles incentivized under FAME II will deliver. RMI is an Indian and global non profit organisation focused on driving the efficient and restorative use of resources.

The report also quantifies the catalytic effect that FAME II and other measures could have on the overall Electric Vehicle (EV) market. According to the analysis, if FAME II and other measures – in public and private space - are successful, India could realize EV sales penetration of 30% of private cars, 70% of commercial cars, 40% of buses and 80% of two and three-wheelers by 2030.

Extrapolating from the same, the lifetime cumulative oil and carbon savings of all electric vehicles deployed through 2030 could be many-fold larger than the direct savings from FAME II. For example, achieving these levels of market share by 2030 could generate cumulative savings of 846 million tonnes of CO2 over the total deployed vehicles' lifetime.

The FAME II scheme, which was notified by the Union Cabinet in February 2019, aims to further accelerate the government of India's commitment to a clean mobility future, sees the electrification of transportation as a primary focus area. FAME II intends to catalyze the market for faster adoption of EVs to ensure durable economic growth and global competitiveness for India's automotive industry.

Key highlights from the report:

- Effects of FAME II will go beyond the vehicles that are eligible under the FAME II
- There is considerable energy and CO_2 savings associated with the two, three, and four-wheeled vehicles and buses covered by FAME II over their lifetime, as well as the potential savings associated with greater adoption levels by 2030
- The electric buses covered under FAME II will account for 3.8 billion vehicle kilometers travelled (e-vkt) over their lifetime
- In order to capture the potential opportunity in 2030, batteries must remain a key focal point as they will continue to be the key cost driver of EVs.
- Vehicles eligible under FAME II scheme can cumulatively save 5.4 million tonnes of oil equivalent over their lifetime worth Rs 17.2 thousand crores.

- EVs sold through 2030 could cumulatively save 474 million tonnes of oil equivalent (Mtoe) worth INR 15 lakh crore and generate net CO_2 savings of 846 million tonnes over their operational lifetime.

- India needs auto industry's active participation to ease electric mobility transition. The auto and battery industries could collaborate to enhance customer awareness, promote domestic manufacturing, promote new business models, conduct R&D for EVs and components, consider new business models to promote EVs

- Government should focus on a phased manufacturing plan to promote EVs, provide fiscal and non-fiscal incentives for phased manufacturing of EVs and batteries. Different government departments can consider a bouquet of potential policies, such as congestion pricing, ZEV credits, low emission/exclusion zones, parking policies, etc. to drive adoption of EVs.

India's electric vehicle market is poised for growth with a blend of policies, such as FAME II, and the automotive industry's willingness to provide new mobility solutions to the citizens of the country. Such a transformation will create enormous economic, social and environmental benefits for the citizens of India.

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