

**GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA**

UNSTARRED QUESTION NO:6133

ANSWERED ON:14.05.2012

FTAS

J Helen Davidson;Natarajan Shri P.R.

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

- (a) the details of Bilateral Investment Treaties (BITs) and Free Trade Agreements (FTAs) or Economic Partnership which have been signed by the Union Government till date;
- (b) whether the above said agreements have a certain clause relating to Bilateral Investment Protection and legal action by the foreign investing companies;
- (c) if so, the details thereof;
- (d) the details of number of cases filed by investing companies against India for breach of such clauses;
- (e) the reaction of the Government thereto; and
- (f) the details of treaty signed between India and its neighbours including Pakistan, China, Nepal and Bangladesh to improve trade between them during the last three years?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (SHRI JYOTIRADITYA M. SCINDIA)

(a) Till date, India has signed Bilateral Investment Promotion and Protection Agreements (BIPAs) with 82 countries, starting with the United Kingdom in 1994. Of these 82 countries, BIPAs with 72 countries have been enforced. The list of 82 countries and texts of 72 enforced BIPAs are available on the Ministry of Finance website <http://finmin.nic.in>. Besides, India has signed 17 Free Trade Agreements (FTAs)/Comprehensive Economic Partnership Agreement (CEPA)/Comprehensive Economic Cooperation Agreement (CECA)/Preferential Trade Agreements (PTAs). The details of these Agreements are available on Department of Commerce's website <http://commerce.gov.in>.

(b)&(c) : BIPAs are intended to provide fair and equitable treatment to the investors of either country in the territory of the other country. BIPAs include provisions for settlement of disputes between an Investor and a Contracting Party, in which any dispute between an investor of one Contracting Party and the other Contracting Party in relation to an investment of the former under the Agreement shall, as far as possible, be settled amicably through negotiations between the parties to the dispute. In case a dispute is not settled amicably, a provision exists for arbitration. Provisions for resolution of disputes between the Contracting Parties are also included in BIPAs. CECAs/CEPAs have provisions for settlement of dispute between a Party and an Investor of the other party to the Agreement.

(d)&(e):The Government has received notices under the provisions of the applicable Bilateral Investment Promotion and Protection Agreements (BIPAs)/ Comprehensive Economic Cooperation Agreement (CECA) to resolve alleged investor disputes, namely from the following foreign investors:

- (i) M/s Sistema Joint Stock Financial Corporation, Russia under BIPA between India and Russia;
- (ii) M/s Telenor Asia Pte Ltd., Singapore under Comprehensive Economic Cooperation Agreement (CECA) between India and Singapore;
- (iii) M/s Capital Global Limited and M/s Kaif Investment Limited, both Mauritius based investors in M/s Loop Telecom Limited under BIPA with Mauritius;
- (iv) M/s Vodafone International Holdings BV, the Netherlands, under BIPA with the Netherlands,
- (v) M/s Devas Employees Mauritius Pvt. Ltd., Mauritius under BIPA with Mauritius; and
- (vi) M/s The Children's Investment Fund Management, United Kingdom under BIPA with the UK and Cyprus;

The said notices are being handled in terms of the provisions of the applicable agreements, keeping in view the details of the case. The Award dated 30th September 2011 of the International Tribunal in the case between M/s White Industries Ltd. Australia (WIAL) and Government of India (Ministry of Coal), under BIPA between India and Australia, has gone against the Government of India.

(f) During the last three years, India has signed one Trade Agreement viz. India – ASEAN Trade in Goods Agreement (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam) on 13.08.2009.