



SURESH PRABHU MEETS VISITING SOUTH KOREAN TRADE MINISTER¹

Suresh Prabhu, Minister of Commerce and Industry and Civil Aviation and Mr. Kim Hyun-chong, the Minister for Trade, Industry and Energy, Republic of Korea, had a meeting at the Commerce Minister's residence in New Delhi. The Ministers reviewed the progress of India-Korea Comprehensive Economic Partnership Agreement (CEPA) upgradation negotiations and had an extensive discussion on trade and economic cooperation issues between the two countries.

The Ministers shared the view that both countries should strive towards achieving additional liberalization by upgrading CEPA in such a way that reflects the various interests and sensitivities of each side. They agreed that both sides should promote a favourable trade environment in which India and Korea may enjoy the benefits under the India-Korea CEPA.

Both the Ministers expressed their satisfaction on the signing of the Joint Statement on Early Harvest Package in the India-Korea CEPA upgradation. In the last meeting held in 2017, three deliverables were identified: early harvest package of CEPA, forming futures strategy group to jointly harness fourth generation technology and innovative products and trade remedies MOU. All three deliverables have been realized in the meeting.

IBBI AMENDS THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016²

1. The Insolvency and Bankruptcy Board of India (IBBI) has notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018.
2. The following are salient amendments to the regulations:
 - a. The regulations provide that wherever the corporate debtor has classes of creditors having at least ten creditors in the class, the interim resolution professional shall offer a choice of three insolvency professionals in the public announcement to act as the authorised representative of creditors in each class. A creditor in a class may indicate its choice of an insolvency professional, from amongst the three choices provided by the interim resolution professional, to act as its authorised representative. The insolvency professional, who is the choice of the highest number of creditors in the class, shall be appointed as the authorised representative of the creditors of the respective class.
 - b. An application for withdrawal of an application admitted under section 7, 9 or 10 of the Code (for closure of corporate insolvency resolution process) may be submitted to the interim resolution professional or the resolution professional, as the case may be, before issue of invitation for expression of interest, along with a bank guarantee towards estimated cost incurred for certain purposes under the process. The committee of creditors (CoC) shall consider the application within seven days of its constitution or seven days of receipt of the application, whichever is later. If the application is approved by the CoC with 90% voting share, the resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of such approval.
 - c. Where rate of interest has not been agreed to between the parties in case of creditors in a class, the voting share of such a creditor shall be in proportion to the financial debt that includes an interest at the rate of eight per cent per annum.
 - d. Where the appointment of resolution professional is delayed, the interim resolution professional shall perform the functions of the resolution professional from the fortieth day of the insolvency commencement date till a resolution professional is appointed.

¹ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1538151>

² Available at: <http://ibbi.gov.in/webadmin/pdf/press/2018/Jul/Press%20Release-CIRP%204July.pdf>

- e. A meeting of the CoC shall be called by giving not less than five days' notice in writing to every participant. The CoC may, however, reduce the notice period from five days to such other period of not less than forty-eight hours where there is any authorised representative and to twenty-four hours in all other cases. The authorised representative shall circulate the agenda to creditors in a class and announce the voting window at least twenty-four hours before the window opens for voting instructions and keep the voting window open for at least twelve hours.
 - f. The resolution professional shall form an opinion whether the corporate debtor has been subjected to certain transactions (preferential transactions, undervalued transactions, extortionate transactions or fraudulent transactions) by 75th day and make a determination of the same by 115th day of the insolvency commencement date. Where the resolution professional makes such a determination, he shall apply to the Adjudicating Authority for appropriate relief before 135th day of the insolvency commencement date.
 - g. The resolution professional shall publish an invitation for expression of interest (EoI) by the 75th day from the insolvency commencement date. The invitation shall specify the criteria, ineligibility, the last date for submission of EoI and other details and shall not require payment of non-refundable deposit. Any EoI received after the specified time shall be rejected. The resolution professional shall conduct due diligence based on material on record and issue a provisional list of prospective resolution applicants within 10 days of the last date of submission of EoI. On considering objections to the provisional list, the resolution professional shall issue the final list of prospective resolution applicants, within 10 days of the last date for receipt of objections.
 - h. The resolution professional shall issue the information memorandum, the evaluation matrix and the request for resolution plans (RFRP), within five days of issue of the provisional list to the prospective resolution applicants and allow at least 30 days for submission of resolution plans. The RFRP shall detail each step in the process, and the manner and purposes of interaction between the resolution professional and the prospective resolution applicant, along with corresponding timelines. The resolution plan needs to demonstrate that (a) it addresses the cause of default; (b) it is feasible and viable; (c) it has provisions for its effective implementation; (d) it has provisions for approvals required and the timeline for the same; and (e) the resolution applicant has the capability to implement the resolution plan. The CoC shall evaluate the resolution plan strictly as per the evaluation matrix to identify the best resolution plan and may approve it with the required majority. If approved by the CoC, the resolution professional shall endeavor to submit the resolution plan approved by the CoC to the Adjudicating Authority at least fifteen days before the maximum period for completion of corporate insolvency resolution process, along with a compliance certificate in the specified Form.
3. The regulations provide for a model timeline of the corporate insolvency resolution process assuming that the interim resolution professional is appointed on the date of commencement of the process and the time available is hundred and eighty days which is available at <http://ibbi.gov.in/webadmin/pdf/press/2018/Jul/Press%20Release-CIRP%204July.pdf>
- AA: Adjudicating Authority; AR: Authorized Representative; CIRP: Corporate Insolvency Resolution Process; CoC: Committee of Creditors; EoI: Expression of Interest; IM: Information Memorandum; IRP: Interim Resolution Professional; RA: Resolution Applicant; RP: Resolution Professional; RFRP: Request for Resolution Plan.

Team ICSI

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