

India protests against US Bill raising visa fees for IT workers

The Bill is expected to have an additional cost implication of over \$250 million a year on Indian IT companies

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India on Tuesday protested a move by the US to increase visa fees for software professionals, calling it "highly discriminatory".

The hike would adversely impact the competitiveness and commercial interests of Indian companies operating in the US, commerce minister Anand Sharma told US trade representative Ron Kirk.

"Though the need of the US government to strengthen their border security is understandable, it is inexplicable to our companies to bear the cost of such a highly discriminatory law," Sharma wrote in a letter to his US counterpart.

The US Senate on 6 August passed a new Bill to increase fees that companies have to pay to get H1B and L1 visas for skilled workers.

This will impact Indian information technology (IT) companies as they use these visas to ship engineers to the

US for onsite work.

The Bill is slated for approval in the US Congress on 10 August and would be placed before President Barack Obama for ratification before it becomes law. It is expected to have an additional cost implication of over \$250 million (₹1,158 crore) a year on Indian IT companies.

The Bill proposes to raise money from higher visa fees to fund an extra \$600 million spending to strengthen security along the US border with Mexico.

The Bill specifies that fees would be hiked primarily for those employers who have more than 50% of their staff on the H1B or L1 category visas.

Sharma said while US companies use these visas in larger numbers, they will not be liable for the increased fees and Indian companies will be affected as they are more likely to cross the threshold of 50% of the employees being on H1B and L1 visas.

Sharma has also raised in his letter the issue of Indian software companies already being burdened due to the absence of a totalisation agreement, thus requiring them to pay more than \$1 billion every year to the US government in the form of social security "with no benefit or prospect of refund".

Commerce ministry officials expressed surprise at the timing of the legislation ahead of the India-US trade policy forum meeting in September and the US President's India visit, planned in early November.

"What is the point of talking if the atmosphere is like this?" a commerce ministry official asked on condition of anonymity. "This is discriminating, trade-restrictive and extremely unfair."

India would also find out whether the move by the US is in violation of the World Trade Organisation rules, another commerce ministry official said. "We are analysing that aspect," he said, but declined to be identified.

"There is no provision under the GATT (general agreement on tariffs and trade) agreement that limits the ability of a country to impose a fee on visas. However, if the fee effectively discriminates against Indian companies, we may try and clarify the issue through GATT," said Samir Gandhi, international trade lawyer with the law firm Economic Law Practice.

"The government has to take up the issue at a bilateral level," said Ameet Nivsarkar, vice-president of industry lobby group Nasscom. "It has to

make sure that the US understands that the Bill is discriminatory in nature as it will impact only a certain section of the industry working in the US, mostly Indians."

India is increasingly concerned by protectionist measures by the US.

In July, the US department of labour published final determination of a list of products that the department believes might have been mined, produced or manufactured by forced or indentured child labour.

US government contractors who supply products that appear on this list are required to certify that forced child labour was not used to make the product.

The products from India that have been included in the list are bricks, cotton seed, embroidered textiles, garments, rice and stones.

"The government of India's stand is that labour standards should not be linked with trade as it becomes non-tariff barrier," Harish Rawat, minister of labour and employment told Lok Sabha on 9 August. "Our national child labour policy addresses the complex issue of child labour in a comprehensive, holistic and integrated manner."

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