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CII
Confederation of Indian Industry

CII - Deloitte Report on Cost of Compliance in Manufacturing

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Contents

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1. Executive summary

Over the past two decades, there have been changes in the Indian economy which has progressed from a government controlled, quota regime to a more liberalized business environment. However it is widely believed that the reforms relating to the legal and regulatory compliances have not kept pace with the change and are seen to be cumbersome and business unfriendly.

In this context, Deloitte Touche Tohmatsu India Pvt Ltd (Deloitte) along with the Confederation of Indian Industry (CII) conducted a survey focusing on the "Cost of Compliance" for companies from the manufacturing industry doing business in India. The objective of this survey is to highlight key issues faced by companies relating to legal/statutory requirements. The survey was conducted with a focus on compliances relating to company structure, taxation, employee, factory and environmental.

Outdated requirements, unfriendly procedures and lack of clarity in rules / legislations have been identified by the respondents as the key issues faced across company structure, employee, environmental, and factory related compliances.

Simplification of laws/procedures, increasing self-certification/ self-regulation, increased automation of processes, and managing the discretionary powers of government officials in a more effective way are the key recommendations by the respondents to reduce compliance related load.

- Simplification of laws/procedures: Lack of clarity in interpretation leads to litigations, and considerable time / energy of senior management being spent. In addition, bringing in certainty in laws would help companies in reducing compliance challenges
- Increasing self-certification/ self-regulation: The Indian compliance regime lays increased importance to inspection and monitoring, however, some of the government departments are not adequately staffed to handle this. The respondents opined self-certification may be introduced in a phased manner in greater number of areas of compliance.
- Automation of processes: Automation of processes has resulted in reducing the time and cost involved in the compliance process. Initiatives such as e-filing at the MCA (Ministry of Corporate Affairs) are often cited by the respondents as the way forward to reduce compliance burden.
- The time taken for the legal processes is another area where the respondents believe that the businesses are significantly impacted.

2. Introduction

Policy evolution in India

After independence, India adopted a socialist, mixed economy model with the state retaining control over the important components of the economy like heavy industries and utilities[1]. While private sector activity was allowed, the government controlled it through licensing and quotas complemented by high tariff barriers. Accordingly, the government policies and regulations were made to suit the business environment that was in vogue at that time. After 1985, the Indian government embarked on a process of reforms which involved the elements of de-licensing of industries, abolition of output quotas for firms, permission for private entry into sectors which were hitherto the monopoly of the government, and liberalization of quotas and tariffs on capital goods imports[1]. In addition, there was an increased focus on attracting foreign capital to be invested in manufacturing. This necessitated changes in the regulatory and compliance regime, which however has not been fully achieved. The existing regulatory framework in India seems to have evolved in an uneven way across and within sectors of the economy, resulting in time consuming and expensive processes at the firm level[2].

Due to the federal nature of Indian governance as well as the consensual nature of decision making in the Indian democracy, the regulatory reforms process has been slow. While the economic reforms, in general, have improved the overall business environment through market oriented policies, the old paradigm of seeking to control businesses through a multiplicity of procedures and inspections have impacted the manufacturing sector[1]. A survey by World Bank in 2012 ranks India 132nd of 183 countries tracked globally in terms of ease of doing business and has attributed the high costs associated to complying with rules and regulations set out for businesses as the key reasons for the low rating.

Manufacturing companies - Compliance

The national manufacturing policy envisions increasing manufacturing sector growth to 12-14% over the medium term to make it the engine of growth for the economy. However the policy recognizes that the compliance burden on industry arising out of procedural and regulatory formalities needs to be reduced through rationalization of business regulations in order to achieve the stated objectives.

On an average, a manufacturing unit needs to comply with nearly 70 laws and regulations (Annexure A). Apart from facing multiple inspections, these units have to also file as many as 100 returns in a year. The national manufacturing policy points out that even though a number of efforts have been made in the past (e.g. single window systems, fast track approvals, e-filing of forms etc.) to bring down this compliance burden, they have been only partially successful as different government departments are not willing to shed or reinvent their roles.

Survey Objectives

In the above context, Deloitte and CII carried out a dip stick survey of companies in the manufacturing sector with an objective to understand the key pain points and costs incurred in compliance including internal costs (staff and infrastructure costs for compliance related activities) and external costs (fees paid to service providers, cost of transactions/fees, etc). The survey captures issues related to statutory requirements across various governmental bodies including the time and money spent by companies on meeting the compliance requirements. Wherever data was available, we have also provided comparisons with other countries on cost and time involved in compliance.

[1] Regulatory Management and Reform in India – OECD Report
[2] Approach to regulation-Issues and Options, Consultation Paper, Planning Commission, Government of India (2006)

Structure of the survey

In order to understand the issues related to compliance, the participants for the survey were selected from diverse backgrounds:

- Ownership structures (Private, Public, and JVs)
- Companies operating out of Special Economic Zones
- Small, medium and large companies, based on the turnover
- Companies operating out of different geographic locations in India
- Companies operating in different industry verticals

The respondents were from organizations covering a fair distribution based on the turnover (Figure 1) and also on the industry segments covered (Figure 2).

For the purposes of conducting the survey, five areas were identified for highlighting compliance / regulatory issues:

- **Company structure**: relating to formation, filing of returns, etc.
- **Taxation**: covering both direct and indirect taxes
- **Factory/Branch**: referring to compliances relating to the entity such as Factory's Act, Shops and Establishments Act, etc.
- **Employee**: covering working conditions, payment of wages/salaries, collective bargaining, etc.
- **Environmental**: covering pollution control, social impact, etc.

Across these five areas, the respondents indicated the key challenges faced over six parameters covering:

- Time taken
- Unfriendly procedure
- Outdated requirements/ rules
- Intrusive inspections
- Lack of clear laws/rules
- Graft

Figure 1 Company Size of Respondents (INR Crores)

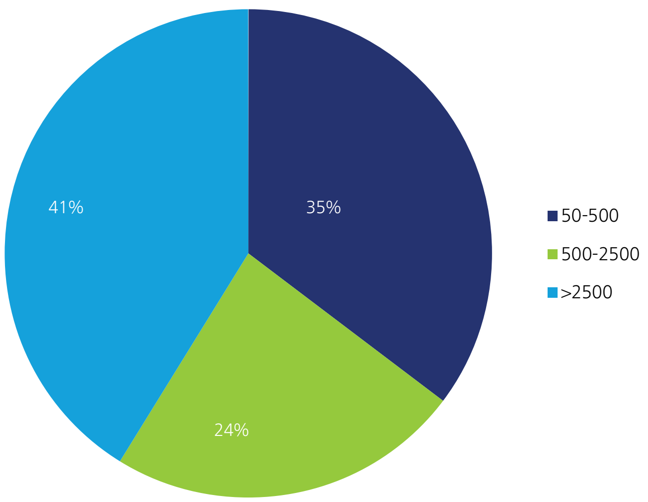
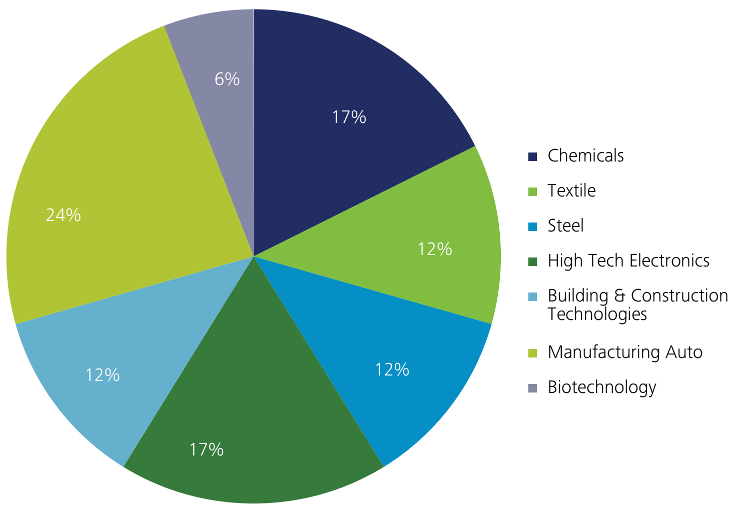


Figure 2: Industry Segments Interviewed



For each of the areas of compliance, the respondents also indicated their recommendations, which were grouped under the following seven heads:

- Simplification of Laws/Procedures
- Automation of processes
- Removing the need to interact with government departments
- Curtailing discretionary powers of government officials
- Increasing self-certification / self-regulation
- Reducing the number of inspections
- Others

The survey is based on a limited number of responses with a view to understand the key concerns faced by organizations. It is likely that in many cases the respondent organizations may have provided their best estimates in the absence of readily available data required for the purpose of responding to this survey. The issues as well as recommendations have been compiled based on the weights / ranks assigned by the respondents. The responses provided are indicative and specific to the respective businesses and hence may vary from company to company. While the respondents alluded to graft, the survey did not attempt to characterize or quantify the same. This aspect has been recognized as real and the respondents have ranked it amongst other aspects relating to achieving compliance.

3. Survey findings

The ratings of the respondents have been weighted based on the perception of being unfavorable. Therefore longer the bar shown in the figures given in the subsequent paragraphs, greater the difficulty faced in dealing with that aspect. In the case of recommendations, the priorities have been arrived at based on the rankings provided by the respondents.

Company structure related compliances

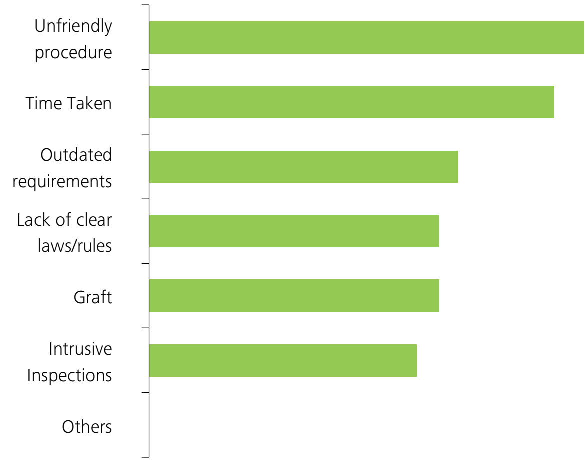
This section deals with information relating to formation, filing of returns, etc

The respondents were asked to indicate the compliance issues faced by them in the following areas relating to company structure

- RoC and RBI filings
- FIPB
- Agreements / contracts relating to business partners

Unfriendly procedures, the time taken and outdated requirements were the key issues indicated by the respondents for company structure related compliances. The respondents reported that the key initiatives for improvement should be automation of procedures and simplification of laws / procedures. While the respondents indicated that initiatives like e-filing were helpful, they also emphasized that increasing automation and self-certification would reduce the compliance related work.

Figure 3: Company structure related compliance issue



Key Recommendations

Simplification of Laws/Procedures	
Automation of processes	
Removing the need to interact with government departments	
Curtailing discretionary powers of government officials	
Increasing self- certification/ self-regulation	
Reducing the number of inspections	

High Priority

Low Priority

A comparative analysis of various countries (with data inputs from different global agencies such as World Bank's Doing Business and USAID[3]) would help us understand where India stands in terms of ease of adherence to compliances on a global scale and in specific, to its competing emerging economies - Brazil, China and Russia.

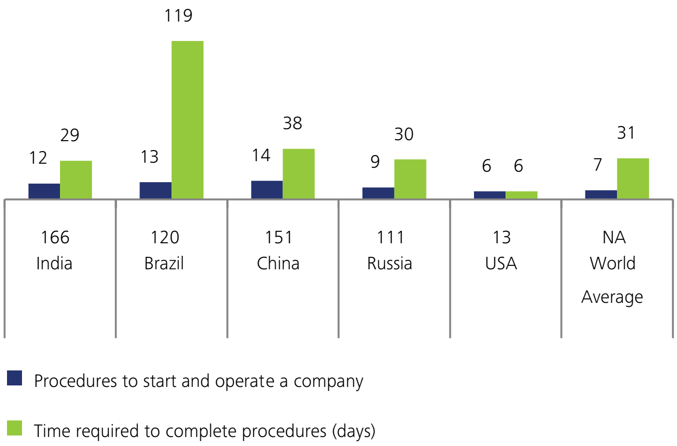
How India fares globally in starting a business: Rank 166

To draw a comparison with other countries, India ranks 166th globally in starting a business

- In 2011, India and Brazil introduced measures that helped speed up business start-up process
- While, India eased business start-up by establishing an online VAT registration system and replacing the physical stamp previously required with an online version, Brazil carried on by further enhancing the electronic synchronization between federal and state tax authorities.
- On key performance terms, India fares better than China and Brazil in the number of procedures and time requirement for registering a start-up. While the cost and minimum capital look high as a proportion of per capita income at the moment, this is likely to get better over a period of time given the growth in per capita income.

Procedural compliance to start a business[3]

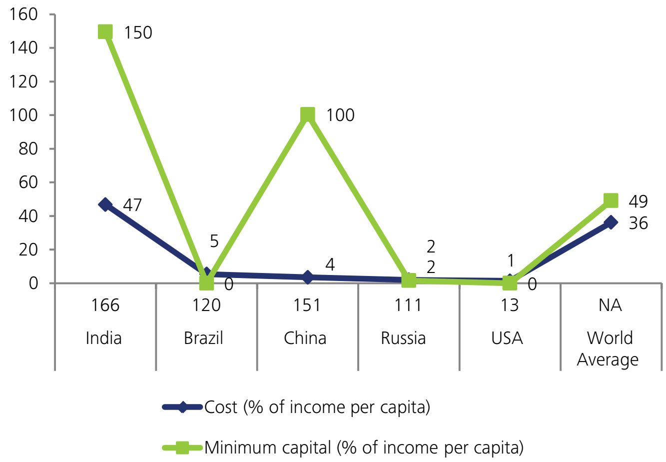
Figure 4: Procedures to start a business



Source: World Bank - Doing business2012

Cost Incurred in complying with procedures for a start-up

Figure 5: Cost for compliance for a start up



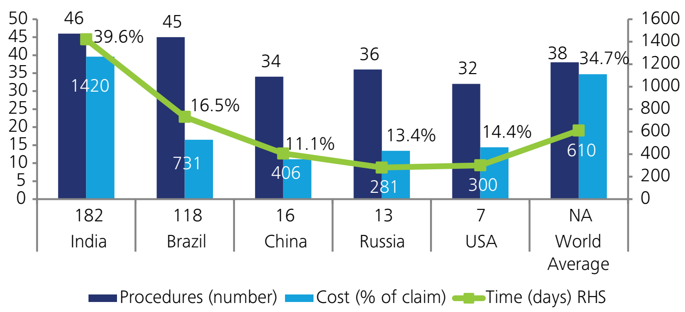
Source: World Bank - Doing business2012

[3] United States Agency for International Development, World Bank Doingbusiness2012

India ranks 182th globally in enforcing legal contracts as per the World Bank Doing Business study-2012. Enforcing contracts measures the time, cost and procedural complexity of resolving commercial lawsuit between two domestic businesses. India ranks second from the last on a global scale in ease of enforcing contracts.

Contract enforcement and dispute resolution

Figure 6: Enforcing legal contracts



Source: World Bank - Doing business2012

Taxation related compliances

This section covers both direct and indirect taxes.

Lack of clear laws and rules, unfriendly procedures and time taken in getting responses from government agencies were indicated as the key issues faced by the respondents.

The respondents also indicated that simplification of laws / procedures, curtailing discretionary powers of government officials and increasing self- certification/ self-regulation were needed measures to reduce compliance load.

Figure 7: Taxation related compliance issues

Key Recommendations

Simplification of Laws/Procedures	
Automation of processes	
Removing the need to interact with government departments	
Curtailing discretionary powers of government officials	
Increasing self- certification/ self-regulation	
Reducing the number of inspections	

High Priority

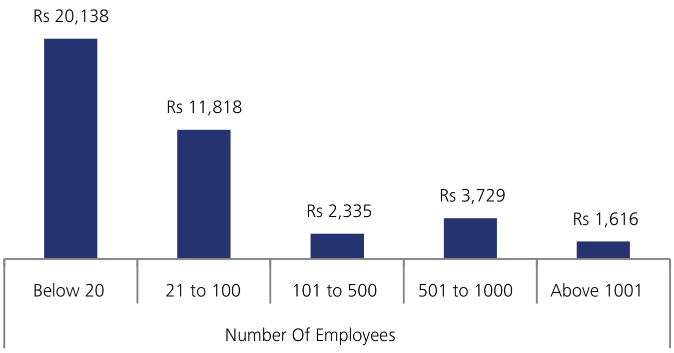
Low Priority

Compliance costs for filing taxes

The cost of compliance in respect of taxes includes all internal administration costs plus advisory costs such as costs incurred for availing professional audit, tax or other legal service.

Compliance costs per employee for Taxes

Figure 8: Employee costs for tax compliance

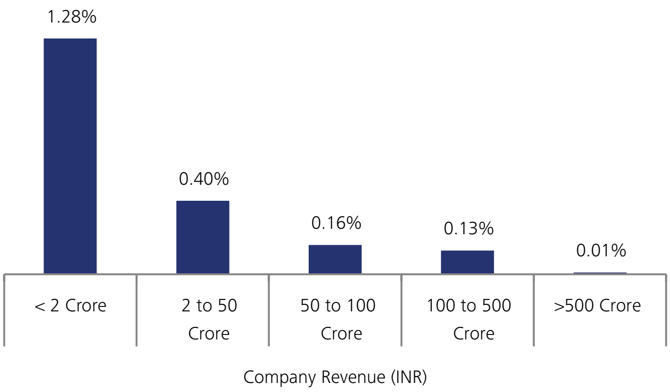


Source: National Institute of Public Finance and Policy

The opinions of the respondents to the survey seem to be supported by the data published by National Institute of Public Finance and Policy. There seems to be high fixed costs to be incurred by companies to deal with the compliances relating to taxation.

Compliance Costs for Taxes (as a % of Revenue)

Figure 9: Costs for tax compliance (%)



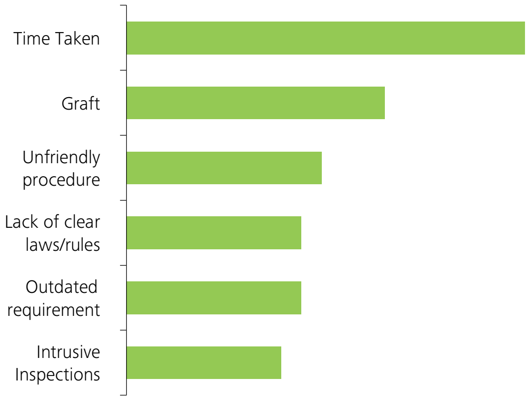
Source: National Institute of Public Finance and Policy

Factory / Branch related compliances

This section deals with premises related compliances. The respondents were asked to indicate and rank the compliance issues faced by them in the areas of Factory's Act, Boiler Regulations, Chief Controller of Explosives (PESO), Shops and Establishments Act, etc. Unfriendly procedures, graft and time taken in getting the responses from the government agencies were indicated by the respondents as the issues faced by them.

The respondents indicated that simplification of laws / procedures and increasing self- certification/ self-regulation as measures to reduce the compliance load.

Figure 10: Factory / Branch related compliance issues



Key Recommendations

Simplification of Laws/Procedures	●
Automation of processes	◕
Removing the need to interact with government departments	○
Curtailing discretionary powers of government officials	◕
Increasing self- certification/ self-regulation	●
Reducing the number of inspections	○

● High Priority

○ Low Priority

Employee related compliances

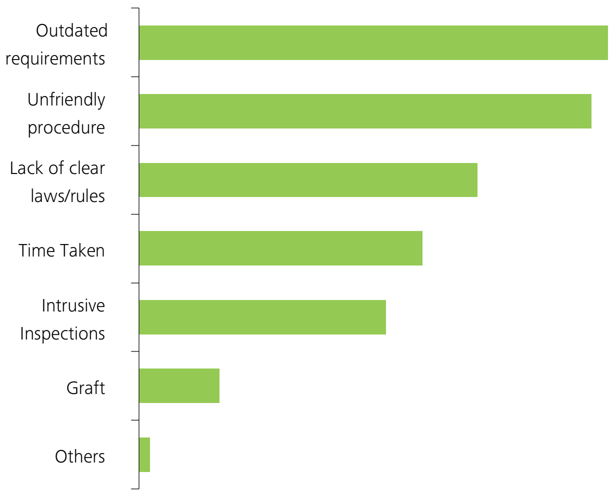
This section covers working conditions, payment of wages/salaries, collective bargaining, etc

The respondents were asked to indicate and rank the compliance issues faced by them in the areas of safety, health, medical, payment of wages, contract employees etc.

Unfriendly procedure, outdated requirements/ rules and lack of clear laws/rules were reported to be the key issues faced by the respondents.

The respondents indicated that simplification of laws / procedures and increasing self- certification/ self-regulation should be undertaken to reduce compliance load.

Figure 11: Employee related compliance issues



Key Recommendations

Simplification of Laws/Procedures	●
Automation of processes	◔
Removing the need to interact with government departments	○
Curtailing discretionary powers of government officials	○
Increasing self- certification/ self-regulation	●
Reducing the number of inspections	○

● High Priority

○ Low Priority

Environmental related compliances

This section covers aspects of pollution control, social impact, etc

The respondents were asked to indicate and rank the compliance issues faced by them in the environmental related compliance including getting clearances for projects and pollution related compliances.

Time taken for getting the clearances, unfriendly procedures and graft were indicated by the respondents as key issues faced.

The respondents indicated that simplification of laws/procedures and curtailing discretionary powers of government officials as measures to reduce the compliance burden.

Key Recommendations

Simplification of Laws/Procedures	●
Automation of processes	◔
Removing the need to interact with government departments	○
Curtailing discretionary powers of government officials	◕
Increasing self- certification/ self-regulation	◔
Reducing the number of inspections	○

● High Priority

○ Low Priority

According to Indian Central Pollution Control Board (CPCB), only 71% of 2,526 large and medium industrial units in India's highly polluting industries category were in compliance with the environmental norms. The compliance levels have drastically come down from 84% in 2004.

The industry closure rates have also increased by 45% since 2000. In 2010, about 476 such polluting companies were temporarily/permanently shut down due to environmental compliance constraints and the associated costs.

Figure 12: Environmental compliance issues

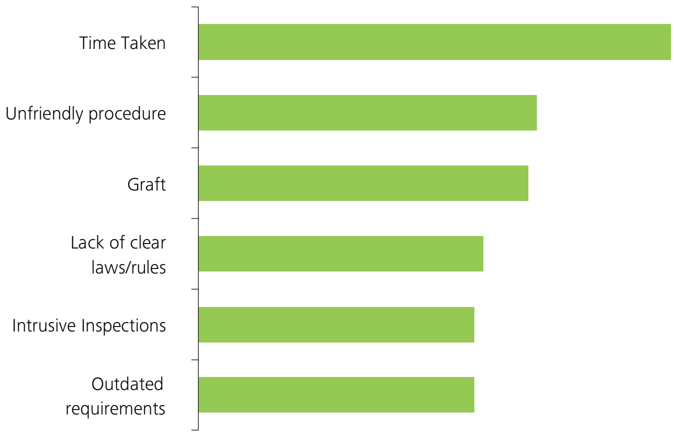
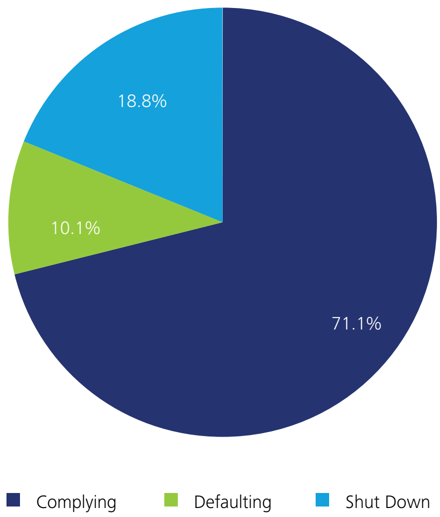


Figure 13: Environmental compliance status of highly polluting Industries across India (2010)



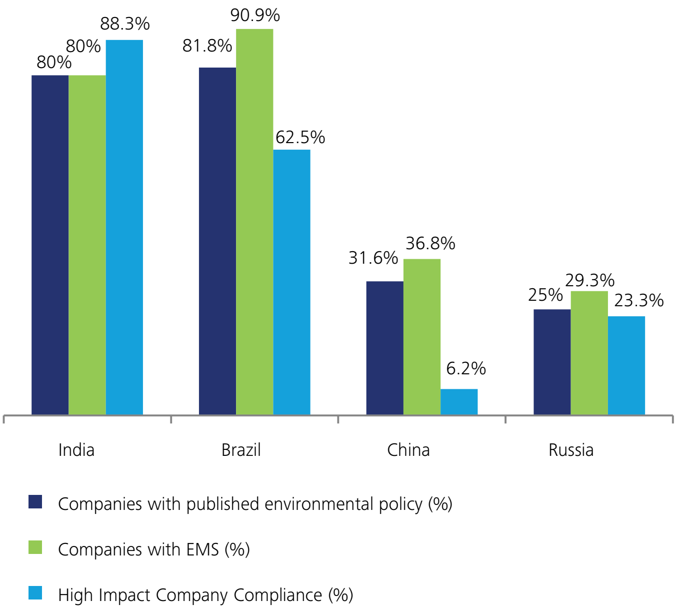
Source: Central Pollution Control Board

Environmental reporting compliance of various companies in BRIC

Analysis of environmental performances of various companies in emerging economies indicates that, amongst the BRIC peers, India stands next to Brazil in terms of environmental compliance policy disclosure and reporting. Indian companies trail its Brazilian counterparts in implementing measures and obtaining certifications with respect to environmental management systems and compliance.

India tops the peer group in the high impact (highly polluting companies) segment with about 88.3% of the companies employing strict measures of compliance. Compared to China and Russia, Indian and Brazilian companies fare quite well in all aspects related to environmental compliance.

Figure 14: Companies with Environmental Policies and EMS (2009)



Source: Partners for Financial Stability, USAID

Cost and time spent on compliance activities

The respondents were asked to indicate the relative costs (includes fees paid to external consultants, lawyer fee, etc.) incurred as well as the time spent by senior, middle and junior management resources in compliance related activities.

Company expenses (include travel, government fees/ charges, other expenses, penalties, etc.) are high for environmental and taxation related compliances. Companies spend more on external consultants in the areas of company structure and taxation related compliances. The costs indicated in Figure 18 and 19 are on a relative scale comparing the five areas.

Also, it can be observed that the time spent by senior management is high in taxation related reporting and compliances. It should be noted that the management levels were indicated by the respondents and the survey does not attempt to re-define junior, middle or senior management.

Figure 15: Time spent – Senior management

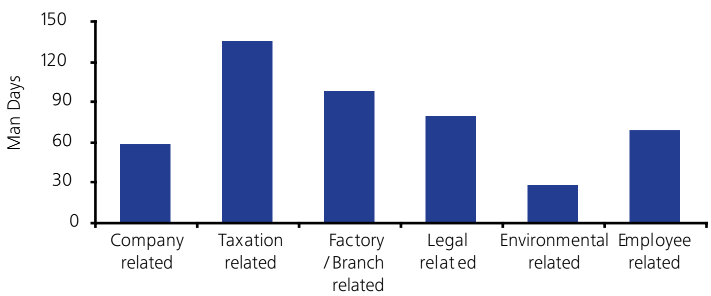


Figure 16: Time spent - Middle management

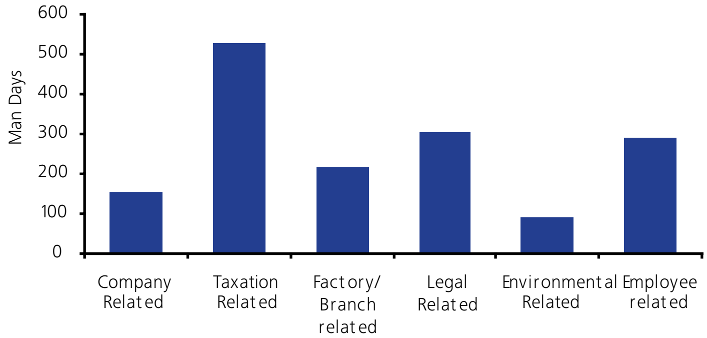


Figure 17: Time spent – Junior management

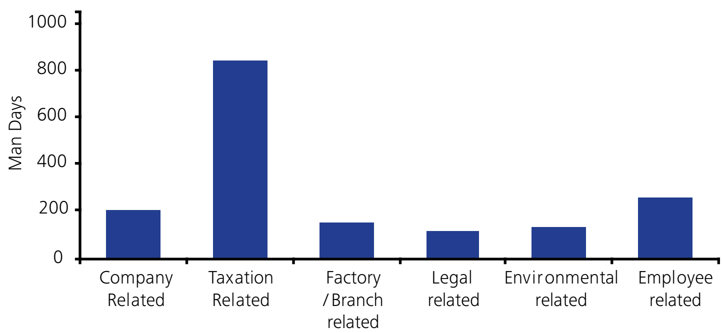
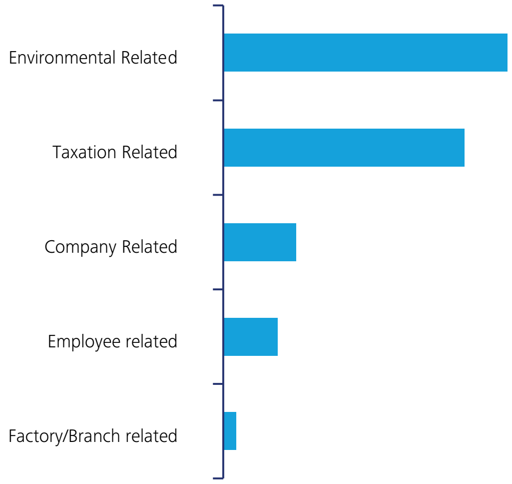
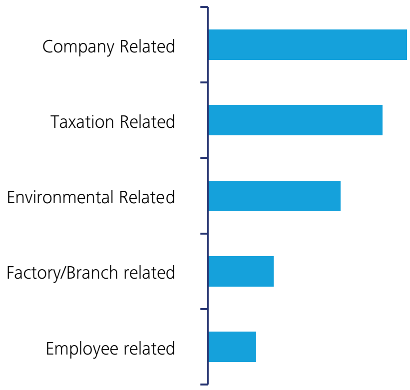


Figure 18: Compliance expenses (internal)



(Excl External service providers)

Figure 19: Average expenses (external)



(External service providers)

4. Conclusions

- Based on the responses indicated, outdated requirements, unfriendly procedures and lack of clarity in rules/legislations have been primarily indicated as the key issues faced by organizations across company structure, employee, environmental, and factory related compliances
- The respondent also indicated simplification of laws/procedures, increasing self- certification/ self-regulation, increased automation of processes, and managing the discretionary powers of government officials in a more effective way as the key recommendations in order to reduce compliance related load.
  - **Simplification of laws/procedures**:Lack of clarity in interpretation leads to litigations, and considerable time / energy of senior management being spent. In addition, bringing in certainty in laws would help companies in reducing compliance challenges.
  - **Increasing self- certification/ self-regulation**: The Indian compliance regime lays increased importance to inspection and monitoring, however, some of the government departments are not adequately staffed to handle this. The respondents opined self-certification may be introduced in a phased manner in greater number of areas of compliance.
  - **Automation of processes**: Automation of processes has resulted in reducing the time and cost involved in the compliance process. Initiatives such as e-filing at the MCA (Ministry of Corporate Affairs) are often cited by the respondents as the way forward to reduce compliance burden.
  - The time taken for the legal processes is another area where the respondents felt that the businesses are significantly impacted
- While much of the responses or conclusions would come as no surprise to the reader, this report brings out the relative criticality of the different aspects of compliance.

5. Annexure

Annexure A:

a) List of key compliances (non-tax compliances) required for manufacturing companies in India.

- The following table has been reproduced from the CII archives to provide an indication of the time required for filing the returns / reports.

Sr No	Particulars of the Returns/Reports	Frequency	Submission in	To	Estimated money spent (In Rs.)	Estimated time spent Per return (Days)
1	Return under rule 110 in Form 21 on labour requirements, minimum wages, holidays, welfare activities	Yearly	January	Labour Commissioner & Director of Factories, & Dy Director of Factories	3467	4
2	Return under Rule 110 in Form 22 in advance reporting on labour matters to be undertaken further during to be sent to Sr. Inspector of factories	Half Yearly	July	Labour Commissioner & Director of Factories, & Dy Director of Factories	867	1
3	Under rule 82-2. Every principal employer shall send return in Form XXV in duplicate so as to reach the Registering Officer concerned. (contract Labour – Regulation & Abolition) Act 1970, Under Sec 7/ rule 17	Yearly	January	Labour Commissioner & Director of Factories, & Dy Director of Factories	1734	2
4	Under rule 5 – return under Form D to inspector within 30 days after expiry of time limit of 8 months from the close of accounting year. Payment of bonus Act – 1965	Yearly	December	Labour Inspector,	867	1
5	As per rule 56-A of Industrial disputes central rules, return to be submitted in Form G-1 to Asst. Labour Commissioner. This is basically a progress report on constitution and functioning of works committee. Form G-1	Half Yearly	January & July	Labour cum conciliation Officer	3125	3
6	Under rule 7 (1) in form A – Return of holidays to be sent to Sr Inspector (factories) under state rules e.g. in Punjab state, under Pb. Industrial Estt. (National and Festival Holidays & Casual sick leaves) Act, 1965	Yearly	November	Director of Factories, Labour Commissioner & Director of Factories, & Dy Director of Factories,	433	0.5
7	6&7 to be submitted to Ch Inspector (factories) or state Govt. This license is valid up to 31st Dec and hence is required to be got renewed annually 1 month prior to expiry license.	Yearly	November	Dy Director of Factories	1734	2

8	Quick Employment Survey	Quarterly	Jan, Apr, Jul & Oct	Ministry of Labour & Employment Labour Bureau,	867	1
9	Return under the Employment Exchange (CNV) Act 1960 – rules under ER-1 & Rule-6 to be filed with employment exchange. The Employment Exchange (CNV) Act 1959	Quarterly	Jan, Apr, Jul & Oct	The District Employment Officer,	867	1
10	Return under the Employment Exchange Act 1959 in Form ER-II to be filed with employment exchange	Once in two years	October		1734	2
11	PF Challan	Monthly	15th of Next Month	PF Office, SBI Banks	436	1
12	ESI Challan	Monthly	21st of Next Month	ESI, Office, SBI Banks	3808	3
13	ESI Challan (form 6)	Half Yearly	May, Nov	ESI Office, SRO office	7617	6
14	PF Return	Monthly	25th of Next Month	PF Office	1308	3
15	PF Return (3A & 6A)	Yearly	Apr	PF Office	8886	7
16	EDLI Report	Monthly		LIC	436	1
17	Form 4	Yearly		PPCB	791	0.5
18	Environment Audit Report (Annexure XXX)-Form-V)	Yearly		PPCB	3427	3
19	Water Consumed & Prevention of Pollution	Monthly	Cess Rule 1978	PPCB	867	0.5
20	Reading of Energy Return – Water Circulation	Monthly		PPCB	734	0.5
21	Hazardous Wastes Return	Monthly	Mgmt. Handling & Transboun-dary Movement, Rules 2008	PPCB	791	0.5
22	SPM & Ambient Air	Quarterly		PPCB	867	0.5

Source: Confederation of Indian Industry

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The Confederation of Indian Industry (CII) works to create and sustain an environment conducive to the growth of industry in India, partnering industry and government alike through advisory and consultative processes.

CII is a non-government, not-for-profit, industry led and industry managed organisation, playing a proactive role in India's development process. Founded over 117 years ago, it is India's premier business association, with a direct membership of over 7000 organisations from the private as well as public sectors, including SMEs and MNCs, and an indirect membership of over 90,000 companies from around 400 national and regional sectoral associations.

CII catalyses change by working closely with government on policy issues, enhancing efficiency, competitiveness and expanding business opportunities for industry through a range of specialised services and global linkages. It also provides a platform for sectoral consensus building and networking. Major emphasis is laid on projecting a positive image of business, assisting industry to identify and execute corporate citizenship programmes. Partnerships with over 120 NGOs across the country carry forward our initiatives in integrated and inclusive development, which include health, education, livelihood, diversity management, skill development and water, to name a few.

The CII Theme for 2012-13, 'Reviving Economic Growth: Reforms and Governance,' accords top priority to restoring the growth trajectory of the nation, while building Global Competitiveness, Inclusivity and Sustainability. Towards this, CII advocacy will focus on structural reforms, both at the Centre and in the States, and effective governance, while taking efforts and initiatives in Affirmative Action, Skill Development, and International Engagement to the next level.

With 63 offices including 10 Centres of Excellence in India, and 7 overseas offices in Australia, China, France, Singapore, South Africa, UK, and USA, as well as institutional partnerships with 223 counterpart organisations in 90 countries, CII serves as a reference point for Indian industry and the international business community.

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