▶목 차◀

성공적인 투자진출을 위한 TIP

합작 투자는 가능한 회피

인도에 경험을 가진 많은 업체들은 초기 정착의 어려움을 감수하더라도 합작투자는 최대한 피하라고 조언한다. 거래처 발굴 등 초기의 이점에도 불구하고 경영 마인드의 차이, 거래내역 등 세부 정보의 공유 등으로 인해 사후에 빈번하게 문제가 발생하기 때문이다.

급여 수준에 유의

일반적으로 인도의 임금 수준은 중국에 비해 약간 낮은 것으로 평가되나 업종에 따라서 전문 기술자 등은 의외로 높은 급여를 요구하며, 초기에 다소 낮은 임금으로 계약했다 하더라도 보다 나은 조건을 찾아 이직하는 경우가 많음을 유의해야 한다.

세제에 대한 정확한 이해가 필수적(법인세, 소비세, 배당세 등)

인도는 조세 제도가 복잡하고, 불투명한 점이 많아 기업관리의 최대 애로요인의 하나가 되고 있다. 현지에 진출해 있는 우리나라의 많은 건설업체들이 공통적으로 겪고 있는 대표적인 어려움은 바로 세금 문제라는 점을 유의해야 한다.

공장을 임대할 것인가, 직접 설립할 것인가 신중한 고려 필요

초기 자본투입 부담의 감소와 안정적인 공장 확보라는 목표가 상충될 수 있는데 이는 선택의 문제라고 할 수 있다. 공장 용지를 분양받을 때에도 분양을 하는 공공기관에서 조차 뒷돈을 요구하는 등 투명성이 낮아 애로를 겪고 있다. 다만 최근 수년간 인도의 부동산 가격이 지속적으로 상승해 왔고 앞으로도 중장기적으로 크게 상승할 것이라는 점을 감안하여 부동산을 매입하는 것도 적극 검토할 필요가 있다.

원료의 안정적 공급선을 확보

인도에서 조달할 수 있는 부품이나 원재료가 제한적인 경우가 많다. 또한 현지에서 생산된다 하더라도 물류 인프라의 취약으로 원활한 조달이 어려워 안정적인 공급에 애로를 겪을 수 있음을 유의해야 한다.

원활한 전력 공급 방안 강구 필요

인도는 전력 공급이 원활하지 못하여 단전이 일상화되고 있다. 특히 단전이 되어서는 안 되는 업종의 경우 대부분 자체 발전기를 이용하여 자가 발전으로 전기를 조달하는 업체가 많다. 자가 발전을 이용할 경우 연료비가 원가에 상당한 영향을 미치게 되며, 이러한 점을 사전에 면밀하게 검토해야 한다

관세 제도에 유의

인도는 다른 나라들과 달리 완제품과 부품, 원자재 등의 관세가 별다른 차이가 없는 경우가 많다. 따라서 단순히 부품을 수입하여 조립하는 것은 노동 인건비 비중이 크지 않은 경우 원가 절감에 크게 도움이 되지 못하는 경우가 많다는 점도 유의할 사항이다.

Ⅰ. 투자 여건

1. 투자 환경

■ 거시 경제 동향

● 인도는 최근 경제가 안정되고 몇 년째 고도성장이 계속되면서 세계적으로 큰 주목을 받고 있음

· IT, BT 등 지식산업 분야의 아웃소싱 기지로 부상하면서 3년 연속 7~9%의 성장을 거듭해 왔고, 제조업과 서비스업의 높은 성장과 IT 산업 활황 등에 힘입어 세계적인 기업들의 투자가 이어지고 있음. 인도의 기업들도 글로벌 기업으로 성장하면서 구매력을 갖춘 젊은 신흥 중산층도 급속히 늘어나는 추세임

■ 인도경제 고도성장궤도 진입

● 최근 인도경제가 고도성장궤도에 진입했다는 것이 많은 전문가들의 평가임

· 인도 재무부는 인도경제가 2005~2006년 9.0% 성장했다고 발표하였으며 2006~2007년은 9.2% 성장할 것으로 전망함

· 인도의 회계연도는 4월 1일부터 다음해 3월 31일까지이며, 2003~2004년 8.5%, 2004~2005년 7.5%에 이어 4년째 고도성장을 지속하고 있음

■ 무역 자유화에도 적극적

● 관세인하 등을 통한 무역 자유화에도 적극적이어서 최근 몇 년간 기본관세를 매년 5%씩 인하하였으며, 2006~2007년과

2007~2008년에도 각각 2.5%씩 인하한 바 있음 (2007~2008년 현재 기본 관세율은 10%임)

● 싱가포르 및 태국과 자유무역협정(FTA)을 이미 발효시킨 데 이어 아세안과의 FTA 협상도 금년 중 진행될 예정이며, 한국과도 경제동반자협정(CEPA) 협상을 추진 중임

· 인도의 대외무역 규모는 지난 3년간 연 30% 이상씩 성장하고 있음

■ 풍부한 인력이 강점

● 두터운 저연령층 인구

· 인도의 인구는 11억명으로 세계 총 인구의 16.7%에 달하여 중국에 이은 세계 2위의 인구대국임. 인구의 연령별 구조를 보면 인도는 상대적으로 중국보다 저연령층이 많은 편으로, 중국의 경우 15~59세 사이의 인구 비율이 2010년에 정점에 이른 후 감소할 것으로 예측됨. 2025년경에는 양국의 경제활동 인구가 비슷해지고 그 이후에는 인도가 오히려 많아질 것으로 전망됨

● 풍부한 고급인력

· 또한 인도는 고급인력도 풍부한 편으로 인도가 IT산업을 발전시킬 수 있었던 이유도 고급인력이 질적·양적으로 풍부했기 때문임. 매년 대학 졸업생의 수가 200만명에 달하며, 이들은 영어구사가 가능함. 일부 대학은 교육수준이 매우 높아 IIT(Indian Institute of Technology) 같은 경우 세계 유수의 공과대학으로 인정받고 있으며 졸업생들은 국내외에서 폭넓게 활동하고 있음

· 맥킨지 컨설팅의 대표였던 라자 굽타(Rajat Gupta)회장, 씨티그룹 수석 부회장인 빅터 메네제스(Victor Menezes), 선마이크로시스템즈의 공동창업자인 비노드 코슬라(Vinod Khosla)등이 IIT 출신으로, Fortune지 선정 500대 기업 중 IIT 출신이 중역으로 근무하지 않는 기업이 거의 없을 정도임

■ 소비시장의 부상

- 한편 소비계층의 부상은 인도의 또 다른 매력으로, 중산층이 두터워지고 고소득 전문직이 늘어나면서 인도 소비자의 구매력도 전반적으로 커지고 있음

· 최근 핸드폰, 승용차 등 소비재의 수요가 폭발적으로 증가하고 있음

■ IT산업 등에서 강점

- 산업 측면에서 인도 경제성장의 동력으로 IT산업을 빼놓을 수 없는데 IT산업은 인도경제에서 5.4%의 비중을 차지하고 있으며 직접고용 규모는 163만명에 달함

· IT산업의 급속한 발전은 인도 중산층 부각에 큰 영향을 끼침

· IT산업은 수출 위주의 소프트웨어 산업으로 2007~2008년의 수출 예상액은 319억 달러에 달함

2. 주요 경제 현황

■ 주요 산업별 동향

- 인도는 제조업 및 서비스업의 급속한 성장을 기반으로 성장세를 이어가고 있으며 농업부문의 영향력은 점차 감소하고 있음

<주요 산업별 성장률 동향>

(단위: %)

구 분	2003	2004	2005	2006
Agriculture,Forestry,Fishing	10	0	6	2.7
Industry	7.4	9.8	9.6	10
(a) Mining	3.1	7.5	3.6	4.5
(b) Manufacturing	6.6	8.7	9.1	11.3
(c) Electricity, Gas, Water	4.8	7.5	5.3	7.7
(d) Construction	12	14.1	14.2	9.4
Service	8.5	9.6	9.8	11.2
(a) Trade, Hotel, Transport, Communication	12.1	10.9	10.4	13
(b) Financing, Insurance, Real Estate, Business Service	5.6	8.7	10.9	11.1
(c) Community Services, Social & Personal Services	5.4	7.9	7.7	7.8
전체GDP성장률	**8.5**	**7.5**	**9**	**9.2**

자료원: Economic Survey & CSO

■ 산업별 생산구조

- 전통적으로 인도 경제에 큰 영향을 끼쳤던 농업부문의 영향력은 작아지고 있는 반면 제조업과 서비스업의 비중은 커지고 있음

  · 제조업보다 서비스업의 규모가 훨씬 큰 것이 인도 경제의 특징임

<인도의 산업별 생산구조>

(단위: %)

산업군		2002	2003	2004	2005
농림수산업		20.9	20.9	18.8	18.3
광공업	광업	2.8	2.5	3	2.8
	제조업	15.3	15.2	15.9	16
	전기, 수도, 가스	2.4	2.2	2.1	2
	건설업	6	6.2	6.5	6.8
소계		26.5	26.1	27.5	27.6
서비스업	도소매 유통, 호텔, 요식업	15.3	15.6	16.3	16.6
	교통, 통신, 창고	8	8.3	8.8	8.8
	금융, 보험, 부동산	14.7	14.7	14.5	14.3
	사회, 개인 서비스	14.8	14.3	14.3	14.4
소계		52.8	52.9	53.9	54.1

자료원: 인도 통계국

■ 인도경제의 취약점

● 취약한 제조업 기반

· 보통 산업이 발전하는 패턴은 1차산업→2차산업→3차산업 순이나 인도의 경우는 제조업 비중이 작고 서비스업의 비중이 큰 기형적 구조를 보임. 따라서 인도경제에 있어서 제조업 육성은 가장 큰 과제 중 하나이며 이와 함께 농업에 대한 의존도가 아직 높다는 것도 또 다른 취약점 중 하나임

● 관습 및 제도로 인한 다양한 사회갈등

· 한편 카스트 제도에 따른 계층 간 갈등이 표면화되고 있으며, 종교 갈등은 폭력적 형태로 많이 발생하고 있는 형국임. 또한 제도나 일처리 전반에 있어 비효율과 규제가 만연하고 고용 유연성이 부족한 것도 투자 장애요소로 작용함

● 낙후된 사회·경제적 환경

· 취약한 인프라와 투자환경, 누적된 재정적자 문제도 인도경제의 약점으로 지적되고 있음

3. 외국인투자 유치 현황

■ 외국인투자 현황

● 대 인도 외국인투자액은 승인액 기준 2004년 이후 급속한 증가 추세에 있는데, 이는 인도의 성장잠재력이 점차 알려지고 산업의 각 분야가 성장궤도에 진입했기 때문이며 중장기적으로 대 인도 투자는 계속 증가할 것으로 전망됨

<1991~2006년 인도의 외국인투자 유치 추이>

(단위: 백만 달러)

연도	1991	2000	2001	2002	2003	2004	2005	2006	누계
금액	15,483	4,029	6,130	5,035	4,322	6,051	7,722	10,592	59,364

주1) 금액은 인도의 회계연도에 따라 당해 연도 4월부터 다음해 3월까지의 통계임
주2) 2006년은 2006년 4월부터 12월까지의 통계임
자료원: 인도 상공부 Fact Sheet on FDI, 국제기준 적용

● 대 인도 투자는 최근 몇 년간 급속히 증가하고 있는데, 2006~2007년 회계연도를 살펴보면, 2006년 4월부터 12월까지 9개월간의 외국인투자 유입액은 106억 달러로, 전년 동기 대비 두 배 이상 증가한 것으로 나타남. 가장 많은 외국인투자를 유치한 업종은 전자장비, 서비스, 통신, 운송장비, 연료, 화학 산업 등임

■ 국가별 투자 현황

• 대 인도 주요 투자국은 미국, 영국, 네덜란드, 일본, 독일 등임. 하지만 누계 기준 최대 투자국은 모리셔스로 인도 외국인투자 유치 총액의 41.38%를 차지했는데, 이는 모리셔스가 미국과 유럽 등 선진국 기업들에게 조세회피를 위한 피난처(Tax Haven)로 이용되고 있기 때문임. 우리나라는 인도의 제9위 투자국으로 대 인도 외국인투자의 약 2%를 차지하고 있음

<주요국별 대 인도 외국인직접투자 현황>

순위	국가	2003	2004	2005	2006	누계		비중
						천만루피	백만달러	%
1	모리셔스	2,609	5,141	11,441	26,650	77,053	17,669	41.38
2	미국	1,658	3,055	2,210	3,042	23,717	5,708	12.74
3	영국	769	458	1,164	7,579	15,850	3,674	8.51
4	네덜란드	2,247	1,217	340	2,395	10,892	2,522	5.85
5	일본	360	575	925	292	9,223	2,188	4.95
6	싱가포르	172	822	1,218	2,487	6,875	1,588	3.69
7	독일	373	663	1,345	339	6,859	1,656	3.68
8	프랑스	176	537	82	365	3,641	859	1.96
9	한국	110	157	269	299	3,212	818	1.72
10	스위스	207	353	426	220	2,842	684	1.53
전세계총계		12,117	17,138	24,613	50,653	212,064	50,093	

주1) 2006년 통계는 2006년 4~12월 기준
주2) 투자금액은 국제 기준이 아닌 인도 기준이며, 비중은 루피화 기준
자료원: 인도 상공부

■ 산업별 투자 현황

• 인도의 외국인투자에서 가장 많은 비중을 차지하는 것은 전자기기, 소프트웨어, 운송(자동차), 통신, 서비스(금융, IT), 에너지(발전 및 정유), 화학 분야 등임

<인도의 업종별 외국인투자 현황>

분야	2003	2004	2005	2006	누계		비중
					천만루피	백만달러	%
전자기기 (소프트웨어 포함)	2,449	3,281	6,499	11,900	35,609	8,130	19.12
서비스	1,235	2,106	2,565	19,188	31,992	7,331	17.18
통신	532	588	3,023	2,275	16,612	3,874	8.92
운송 (자동차)	1,417	815	983	1,874	15,189	3,590	8.16
에너지 (발전 및 정유)	521	759	416	1,015	11,991	2,805	6.44
화학(비료제외)	94	909	1,979	699	9,279	2,296	4.98
인프라건설	216	696	667	3,559	5,531	1,224	3.83
제약	502	1,343	760	941	5,253	1,216	2.82
식품가공	511	174	183	222	4,925	1,227	2.64
시멘트	44	1	1,970	1,005	4,237	968	2.28

주1) 2006년 통계는 2006년 4~12월까지 통계임
주2) 투자금액은 국제 기준이 아닌 인도 기준임, 비중은 루피화 기준
자료원: 인도 상공부

■ 지역별 투자 현황

- 주별로는 마하라슈트라(Maharashtra), 델리(Delhi), 타밀나두(Tamil Nadu), 카르나타카(Karnataka) 등에 가장 많은 외국인 투자가 이루어졌으며 상위 5개 주에 대한 투자가 전체 투자의 50% 이상을 점하고 있음. 인도 정부가 발표한 2000~2007년 1월 기간 중 지역별 투자현황에 따르면 뭄바이(인근지 포함)가 전체 투자의 23.93%를, 뉴델리(인근지 포함)가 23.28%를 차지하였고, 이어서 첸나이 7.70%, 방갈로르 6.48%, 하이데라바드가 3.65%를 차지함

4. 사회간접자본 현황

■ 경제성장의 걸림돌

- 인도 정부는 인프라 부문의 중요성을 인식하고 지난 10년간 전력, 통신, 항만, 철도, 도로 등의 인프라 부문 투자에 정책 우선순위를 부여함

- 그럼에도 불구하고 실질적으로 성과를 거둔 부분은 통신과 도로 부문에 그치고 있음

  · 이는 정부의 재정적자 부담과 인프라 확충을 둘러싼 다양한 이해집단간의 갈등에서 기인하고 있으며, 정부는 재원조달을 위해 외자유치에 적극적으로 나서고 있으나 관련 투자실적은 정부의 기대에 못 미치고 있음

  · 인도 정부는 낙후된 인프라가 경제발전 및 외국인투자 유치의 주요 장애요소가 된 점을 절감하고, 10차 5개년 경제개발 계획기간(2002~2007년)동안 인프라 시장 개방과 동 분야의 민간자본 및 외국인투자 유치를 활발하게 추진하고 있음

- 인도 정부는 인프라 부문에 향후 5년간 1,500억 달러의 투자가 필요한 것으로 파악하고 있고, 이 중 상당 부분이 민간투자에 의해 이루어지기를 희망하고 있음

■ 인프라 현황 및 전망

- 인도의 도로망은 총 330만㎞로서 세계 2위 수준이나 이 중 국도 이상의 도로망(National Highway, State Highway)은 전체의 6%, 고속도로(Expressway)는 200㎞에 불과함(0.006%)

· 7단계 국도 개발계획을 통해 도로망을 전체적으로 개선하고 있음

- 인도의 전력 인프라는 매우 열악하여 평상시에는 9%, 피크타임 시에는 14% 전력이 부족한 상황임. 발전량뿐만 아니라 송·배전 손실과 도전 등이 심각하여 가정 및 산업체에서는 항상 자가 발전시설을 유지해야 하며, 그나마 공급되는 전력의 질도 매우 나빠서 안정기(Stabilizer)를 함께 사용해야만 전자기기의 고장을 예방할 수 있음

- 이 밖에 항만, 공항, 철도, 통신 등 기간 인프라가 노후하고 부족하여 전반적인 개선작업을 추진 중임. 정부가 많은 예산을 이 분야에 배정하고는 있으나 역부족으로 더 많은 민간 파트너십과 외국인투자가 요구됨

II. 투자유치 제도

1. 외국인투자 환경과 인센티브

가. 외국인투자 장려 및 제한 분야

■ 투자 장려 분야

● 대부분의 제조업 및 서비스 분야에 대해 외국인투자 자유화

· 대부분의 제조업은 외국인투자를 100% 허용하고 있으며, 기본적으로 제조업 분야에 대한 외국인직접투자를 장려하고 있다고 볼 수 있음

· 인프라 개발 관련 투자에 대해서는 단순히 100% 단독투자를 허용한다는 차원을 넘어 투자 인센티브를 제공하는 경우가 있으며 법인세 감면, 자본재 수입 시 관세를 면제 또는 감면해 주는 등의 혜택을 제공

· 대표적인 인프라 개발 분야는 발전(원자력 제외), 송전, 배전, 고속도로, 유료 도로, 교량, 항만, 호텔 및 관광, 도시개발 프로젝트, 주택 건설 등임

· 대규모 투자에 대해서는 해당 주 정부와 직접 협상이 가능하며, 이때 제공되는 인센티브는 투자 규모, 고용 창출효과 등에 따라 달라질 수 있음

■ 투자 제한 분야

● 외국인투자 금지 업종: 9개 업종

· 투기 도박업, 복권 비즈니스, 대금업, 주택 및 부동산업(도시

개발사업, 주택 건설 등 최근 정부가 일정한 조건하에 허용하고 있는 사업은 제외), 소매 유통업(단일 브랜드는 가능), 원자력 에너지, 농업 등

- 외국인투자 한도가 제한되는 업종

  · 외국인투자가 100% 허용되지 않는 업종, 즉 외국인 단독투자가 허용되지 않고, 투자 상한선 이내로 투자가 제한되는 업종

  · 이들 투자 상한이 정해져 있는 업종은 각 업종별로 투자 조건과 한도 비율이 정해져 있음

  · 대상 업종
  - ①공항 ②광물 ③농업(플랜테이션 포함) ④방송 ⑤석탄/갈탄 ⑥국내 항공 ⑦방위전략산업 ⑧약품/제약 ⑨위성 설치/가동 ⑩주택/부동산 ⑪사회간접자본 및 관련 서비스 ⑫보험 ⑬복권 및 도박 ⑭광업 ⑮비은행 금융업 ⑯석유 ⑰우편업 ⑱인쇄매체 ⑲민간은행 ⑳통신 소매업(단일브랜드) 도시개발사업 벤처캐피털

나. 투자 인센티브

■ 외국인투자 인센티브 유형: 크게 3종류로 구분

- 내외국인 투자촉진지역으로 경제특구라고 할 수 있는 '특별경제구역'(SEZ: Special Economic Zone)에 대한 지원

- IT산업을 육성하고 지원하기 위해 'IT 기술단지'에 대한 지원

- 수출 촉진을 위해 ‘수출촉진지역’(EPZ: Export Promotion Zone) 입주기업이나 ‘수출특화기업’(EOU: Export Oriented Unit)’에 대한 지원

■ 특별경제구역(SEZ): 내외국인 투자촉진지역

- 특별경제구역(SEZ) 개요

  · 외국인투자 유치를 확대하기 위해 2004년 12월 예산국회에서 특별경제구역(SEZ: Special Economic Zone) 법안을 상정하는 등 SEZ는 현재까지 인도의 외국인투자 유치를 위한 가장 대표적인 정책이 되고 있음

  · 기존의 수출촉진지역(EPZ: Export Promotion Zone) 등 자유무역지역들도 SEZ로 전환되고 있음

- 특별경제구역(SEZ) 입주 조건: 외화수취액>외화지불액

  · 원재료의 수입 등을 위해 지불하는 외화 지불액보다 수출 등을 통해 받아들이는 외화수취액이 더 많으면 되며, 다른 조건은 필요 없음. 즉 수출 위주 기업이 주요 유치대상임을 의미함

- 특별경제구역(SEZ)에 입주하는 업체에 제공되는 주요 혜택

  · 생산용 자본재 · 원재료 · 사무실용품 관세 면제

  · 자본재나 원자재 구입 시 소비세 면제

  · 인도 내에서 조달 · 구매한 물품, 동일 SEZ또는 다른 SEZ간 물품 판매 시 중앙정부의 판매세(Sales Tax) 면제

  · 서비스세(Service Tax) 면제

  · 일정기간 법인세 면제 또는 감면: 최장 15년

- 영업개시 후 최초 5년간 수출 이윤에 대한 법인세 면제
- 이후 5년간(영업개시 후 6~10년 기간) 법인세 50% 면제
- 이후 5년간(영업개시 후 11~15년 기간) 영업이익의 재투자에 따른 이익에 대해 50% 법인세 면제

● 특별경제구역(SEZ) 운영 현황

· 현재 22개 운영 중, 418개 사업승인 및 추진 중

■ IT산업에 대한 인센티브

● IT 테크놀로지 파크 입주기업에 대한 지원

· IT산업은 최근 인도 경제성장의 주역을 담당하고 있는 산업의 하나로서 인도 정부의 IT산업의 지속적인 육성과 발전을 위해 IT테크놀로지파크를 설립하고 이를 지원하고 있음

· IT파크는 크게 하드웨어 산업단지인 EHTP(Electronic Hardware Technology Park)와 소프트웨어 단지인 STP (Software Technology Park)로 구분하고 있음. 이들 IT파크로 지정된 지역에는 10년간 법인세 감면 및 자본재 도입 시 특혜관세를 제공하며, 각 주별로 특정지역을 지정하여 운영하고 있음

· 동 지원책은 2009년까지만 유효하기 때문에 향후에는 특별경제구역(SEZ)으로 통합될 예정임

■ 기타 지원 제도

● 각 주(州)별 투자 인센티브 제공

· 투자유치를 촉진하기 위해 인도의 각 주별로 각종 인센티브를 제공하고 있으며, 대표적으로 인도 북부의 유타란찰(Uttaranchal)주와 히마찰프라데쉬(Himachal Pradesh)주는 법인세 면제 등의 인센티브를 제공

· 수 년 전 지진 피해를 입은 구자라트(Gujarat)도 지진 피해지역 입주 시 상당한 인센티브를 제공함

· 수출특화기업(EOU)에 대한 지원 역시 조만간 SEZ 제도로 통합될 예정

2. 투자승인

■ 투자승인 개요 (법인 설립 시)

● 피고용자는 지난 1991년 경제 자유화 조치를 추진한 이래 부족한 국내투자를 보완하기 위해 원칙적으로 외국인투자를 장려하고 있으며, 기존의 투자제한 업종 및 각종 투자관련 규제를 점차 완화해 가고 있음

● 따라서 대부분의 업종에 대해 일정한 요건을 갖출 경우 별도의 승인 절차 없이 투자신청이 자동적으로 허용되는 자동승인(Automatic Route) 제도를 도입하고 있음

● 다만 금융, 항공, 국방, 무기, 부동산, 농업 등 일부 업종에 대해서는 일정한 투자제한이 있고, 영세기업 고유 업종에 대해서는 최대 24%까지만 투자가 허용되고 있음

● 과실송금에 있어서도 원칙적으로 자유송금이 보장됨. 다만 투자 후 일정기간동안 투자 원금에 대한 제한 의무, 배당 상한액, 외환 중립성(Foreign Exchange Neutrality) 등의 형태로 일정한

제한이 이루어지고 있음. 그러나 최근 인도의 외환보유고가 세계 5위를 기록할 정도로 외환 여건이 개선되면서 외환에 대한 규제도 점차 완화되는 추세

- 자동승인 분야는 인도중앙은행(RBI: Reserve Bank of India)에 위임되어 일정 요건을 갖출 경우 자동적으로 투자가 승인되고 있으며, 여타 제한 업종에 대해서는 정부의 승인을 필요로 함. 정부 승인 여부는 정부의 각 관련부처의 주요 인사로 구성된 '외국인투자촉진위원회(FIPB: Foreign Investment Promotion Board)' 에서 심의 결정함

■ 자동 투자승인(Automatic Route)

- 외국인투자자가 신규로 사업을 하고자 하는 경우 관련법규에 별도 규정이 있는 경우를 제외한 모든 사항에 대해 100%까지 투자가 자동 승인됨

- 여타 관련법규에서 해당 산업에 대해 별도의 허가를 필요로 하는 경우는 해당 허가를 받아야 함

  · 산업발전 및 규제에 관한 법률(Industries Development & Regulation Act, 1951)에서 별도의 허가를 요하는 사항

  · 영세기업 해당 업종으로 분류된 제조업으로 외국인투자 지분이 24%를 초과할 경우

  · 신산업정책(New Industrial Policy, 1991)에 의거, 산업의 지역배치 정책에 따라 별도의 허가를 요하는 경우

- 자동승인에 따른 투자절차 간소화를 위해 인도중앙은행(RBI)은 인도기업이 RBI로부터 사전 승인을 받지 않고 외국인투자를

받아들일 수 있도록 하용하고 있음. 다만 외국인투자자는 해당 RBI 지방사무소에 송금 후 30일 이내에 송금 사실을 통지해야 하며, 주식 발행 후 30일 이내에 관련서류를 제출해야 함

■ 외국인투자촉진위원회(FIPB) 승인

- 인도의 경쟁력이 취약한 분야에 대해서는 투자지분 상한이 정해져 있으며 특별한 경우에는 외국인투자촉진위원회(FIPB)의 승인을 요구하고 있음

- 투자 상한 제한 주요 분야

  · 항공업(49%), 케이블네트워크(49%), 은행업(민간부문)(74%), 방위산업(26%), 보험업(26%), 신문・정기간행물 출판업(26%), 통신업(74%), 단일 브랜드 소매업(51%)

- 외국인투자촉진위원회(FIPB) 승인 필요 주요 분야

  · 원자력 광산, FM Radio, 케이블네트워크, 담배, 배달업, 방위산업, 정유, 차(Tea) 산업

■ 투자 진출 형태

- 인도에 투자 진출하는 기본적인 형태는 다른 나라와 동일. 진출 형태로는 현지법인, 지사, 연락사무소(liaison office)가 있고, 특정 프로젝트만을 위해 한시적으로 운영되는 프로젝트사무소가 있음

■ 현지법인

- 현지법인은 인도 회사법(Company Act)에 따라 설립되며, 인도

내국기업으로 인도기업과 동일한 지위를 가짐. 현지에서 직접 생산을 하고자 할 경우에는 당연히 현지법인을 설립해야 함 (지사인 경우 제조활동 불가)

- 인도 회사법에 따라 단독회사 혹은 합작회사 형태로 설립 가능하여 주식의 공무여부에 따라 비공개회사(Private)와 공개회사(Public)로 나누어지며, 현지법인은 인도 국내기업에 적용되는 인도의 관련 법 규정을 모두 준수해야 함

■ 연락사무소(Liaison Office)

- 외국기업들이 인도와 비즈니스를 개시하기 위해 초기에는 연락사무소 형태로 사무실을 개설하고 있음. 연락사무소는 사업기회의 발굴이나 제품 홍보 등을 위하여 개설되며, 일체의 상업적 활동을 할 수 없기 때문에 매출이 발생해서는 안 됨. 따라서 연락사무소는 납세의 의무가 없음

· 법인세의 경우는 납세의무가 없으나 개인소득세, 기타소득세 (FBT: Fringe Benefit Tax)등은 부과됨

- 연락사무소는 커미션을 받거나 서비스를 제공한 대가를 받아서는 안 되며, 사무실에서 집행하는 모든 비용을 해외에 있는 본사에서 송금 받아야 함

- 기업등록청(ROC)에 등록을 하기 위해서는 회사 정관, 재무제표, 그리고 인도 내 사무실 설립계획서를 제출해야 함. 그러나 최근 인도 기업부의 회계규정의 완화로 인하여 연락사무소는 전체 재무제표를 제출할 필요 없이 인도 기업법 제594조에서 명시한 손익계산서만 제출하면 됨

■ 지사(Branch Office)

- 지사는 법인이 아닌 인도에 있는 외국기업으로 간주됨. 외국기업 지사의 활동은 인도 중앙은행에 의해 제한되며, 지사의 역할은 본사를 대신한 구매 및 판매 에이전트 활동, 조사활동, 수출입 업무의 수행, 인도기업과 기술 및 자본협력 추진, 전문 컨설팅 서비스 제공, 소프트웨어의 개발과 정보기술 서비스 제공, 본사에서 공급한 제품에 대한 기술지원으로 한정됨

- 지사는 인도에서 실질적인 비즈니스를 수행할 수 있으며, 개인소득세, 법인세, 관세, 최저한세, 원천징수세 등 제반 세금의 납세의무가 있음. 그러나 지사는 물품의 제조과정에 참여할 수 없음. 1949년 인도 은행법에 따라 인도에 지사를 설립하기 위해서는 인도 중앙은행의 승인을 받아야 하고, 지사는 세금을 납부한 후 발생한 이익을 인도 은행을 통해 송금할 수 있으나 사전에 인도 중앙은행 외국환관리부 승인을 받아야 함

- 인도에 지사를 설치하기 위해서는 인도 기업법에 따라 규정된 서류를 기업등록청(ROC)에 제출해야 함

- 인도는 외국기업과 인도기업 간 법인세율에서 외국기업에 높은 세율을 적용하고 있으며, 지사도 외국기업으로서의 법인세율을 적용받음(현재 실효 법인세율은 과세소득이 천만 루피 이하인 인도법인의 경우 30.9%, 동일 기준의 외국법인의 경우 41.2%가 부과되어 외국법인의 법인세율이 훨씬 높음)

■ 프로젝트사무소 (Project office)

- 외국기업은 인도에서 특정한 프로젝트를 수행하기 위하여 임시적으로 프로젝트 사무실을 개설할 수 있음. 프로젝트사무소는

기본적으로 특정 프로젝트를 수행하기 위한 제한적인 목적으로 설립됨. 프로젝트사무소에 대한 승인은 일반적으로 정부가 지원하는 건설 프로젝트, 피고용자 및 국제 금융기관 그리고 다국적 기관이 금융을 지원하는 프로젝트에 한하며 민간 프로젝트에 대한 사무소 개설은 예외적으로 승인됨

Ⅲ. 법인 설립

1. 공인회계사(Certified Accountant)의 섭외

■ 투자 형태의 결정

● 연락사무소, 지사, 프로젝트사무소, 현지법인 등 여러 투자 형태 중에서 일단 법인 설립을 결정한 다음에는 합작투자를 할 것인가 단독투자를 할 것인가를 결정해야 함

· 정부가 업종별 외국인 지분한도(equity cap)를 설정한 업종의 경우는 현지 파트너와의 합작이 필수적임

■ 공인회계사의 섭외

● 초기 투자승인 절차와 관련하여 독자적으로 업무를 진행시키는 것은 매우 어려운 일이며 경험자의 충고를 구하고 현지 한인사회, 정부 기관, 진출기업 등을 통해 정보를 얻는 것이 필요함

● 또한 실제 법인 설립 추진을 위해서는 공인회계사의 섭외가 필수적이며 공인회계사의 섭외는 현지의 한국인 투자 컨설턴트를 통해서도 가능함

· 인도 투자의 첫 번째 단계는 믿을만한 공인회계사를 섭외하는 것에서부터 시작되는데 최근에는 현지 공인회계사와 네트워크를 구축한 한인 업체가 투자컨설팅 및 법인설립을 대행해 주는 경우가 많음

■ 공인회계사의 역할

- 공인회계사에 따라 천차만별이지만 절차가 어느 정도 정형화되어 있는 법인 설립 업무에 대해서는 3천~5천 달러 가량의 비용을 수수료로 요구하며 자동승인 품목인 경우 설립완료까지 2개월 가량의 시간이 소요됨

  · 하지만 진출분야가 자동승인 품목인지 아닌지 혹은 제조업인지 아닌지에 따라 소요기간 및 비용이 변동하므로 공인회계사와 면밀한 사전상담이 필요함

- 제조업 및 산업허가를 요하는 품목이 아닌 통상적인 법인 설립의 경우 공인회계사의 역할은 아래와 같음

  · 법인 설립 서류작성 및 신청
  · 자본금등록비 납부 대행
  · 회사 및 개인 PAN Number(소득세 및 법인세 납부용 고유번호) 신청 및 수령
  · TDS(Tax Deduction at Source) Number 신청 및 수령
    - 소득공제 및 비용인정을 위한 고유번호
  · 회사 정관 작성 자문 및 필요시 정관 책자 발간
  · 직인 제공 (필요시)
  · 은행계좌 개설 대행
  · 판매세 번호(Sales Tax Number), 서비스세 번호(Service Tax Number), 소비세 번호(Excise Tax Number) 신청 및 수령
    - 세금납부를 위해 필요한 고유번호들이며 서비스 업종은 서비스세 번호, 제조업의 경우는 소비세 번호가 필요함

  · 수출입 허가번호 신청 및 수령 (필요시)

2. 법인 설립 절차

■ 개요

- 인도는 대부분의 품목을 자동승인(Automatic Route)품목으로 지정해 놓았으며 이 경우 기업등록청(ROC)등록 및 부가 행정 처리를 통해 간단히 법인을 설립할 수 있음

  · 한편 자동승인 품목이 아닌 경우는 외국인투자촉진위원회(FIPB: Foreign Investment Promotion Board)의 승인을 득하는 과정이 선행되어야 하며 제조업인 경우는 공장등록 등의 허가와 신고가 추가됨

- 한편 자동승인 품목일지라도 투자지분의 한도가 정해진 업종은 합작파트너를 통한 합작투자가 필수적임

  · 인도 내 법인은 무한책임회사(Unlimited Company), 보증책임회사(Company Limited by Guarantee), 주식유한회사(Company Limited by Shares)로 나누어지며, 주식의 공모여하로 구분하면 비공개회사(Private Company)와 공개회사(Public Company)로 나누어짐. 인도 내 현지법인의 경우 주식유한회사이면서 비공개회사로 설립하는 것이 일반적임

■ 일반적인 법인 설립절차

- 외국인투자촉진위원회(FIPB)승인: 자동승인품목인 경우 생략
- 상호 결정(Form 1A 작성 및 ROC(기업등록청)에 제출)
- 회사정관 작성
- 법인 설립 신고 및 법인증 수령(관련서류 ROC에 제출)
- PAN Number 신청 및 수령

- 은행계좌 설립
- TDS Number 신청 및 수령
- 수출입허가번호 신청 및 수령
- 세금관련 고유번호 신청
- 공장 등록, 노동부 등록, 발전기 사용허가, 소화기 등록 등

■ 외국인투자촉진위원회(FIPB) 승인

- 자동승인품목이 아닌, FIPB의 승인을 요구되는 품목에 대해서는 FC-IL을 작성하고 사업계획서를 포함한 기타 문서를 FIPB에 제출함

  · 만일 사업계획서에 관련된 내용이 모두 포함되어 있다면 FC-IL은 굳이 제출하지 않아도 무방함

  · FIPB의 승인을 득하면 30일 이내에 기업등록청(ROC)에 등록하여야 하며 FIPB 승인에 소요되는 기간은 보통 4~8주임

■ 산업허가 취득

- 한편 산업허가(Industrial License)를 취득해야 하는 산업인 경우 역시 FC-IL을 작성하여 산업지원사무국(SIA: Secretariat for Industrial Assistance)으로부터 산업허가를 취득해야 함

Ⅳ. 연락사무소 설립

■ 연락사무소 및 프로젝트사무소 설립

● 연락사무소 및 프로젝트사무소의 설립은 비교적 간단하며 투자신고서(FNC-1)를 작성하여 인도중앙은행(RBI)에 승인 요청해야 함

- 필요한 서류로는 주한 인도대사관에서 공증한 모기업의 정관, 모기업의 대차대조표, 사업자등록 사본 등이며 프로젝트사무소의 경우는 프로젝트 관련된 증빙이 추가로 필요함

- 연락사무소는 인도 내에서 본사와 인도 간의 영업 지원행위 및 커뮤니케이션 채널의 역할을 하며 직·간접의 상업 활동을 할 수 없고 따라서 어떠한 소득도 취할 수 없음

- 프로젝트사무소의 경우는 해당 프로젝트와 관련된 일시적인 활동만을 할 수 있으며 프로젝트 완료시 잉여자금을 해외로 송금할 수 있음

● RBI의 승인을 득하면 연락사무소, 프로젝트사무소 공히 30일 이내에 기업등록청(ROC)에 등록하여야 함

- 연락사무소는 영업행위를 하지 않기 때문에 당연히 세금을 납부하지 않아 PAN카드, TDS Number 외 Sales Tax Number 등은 신청하지 않음

- 연락사무소의 경우는 PAN카드와 TDS Number를 신청하는 것으로 법적인 설립절차는 종료되게 되며 프로젝트사무소는 필요시 Service Tax Number, 수출입코드 등을 신청해야 함

Ⅴ. 조세 제도

1. 조세 제도의 구성

■ 중앙정부 조세 수입 및 지출

- 중앙정부의 재정적자(Fiscal Deficit)는 2005~2006년 GDP의 4.1%에서 2006~2007년 3.7%로 개선됨

  · 인도경제의 취약점으로 지적되었던 재정적자 문제가 점차 개선되고 있으며 2007~2008년에는 3.3% 수준으로 개선될 것으로 전망

<인도 중앙정부 조세수입 및 지출 현황>

(단위: 천만 루피)

	2005	2006(추정)	2007(추정)
1. Revenue Receipts	**347,462**	**423,331**	**486,422**
2. Tax Revenue	270,264	345,971	403,872
3. Non-Tax Revenue	77,198	77,360	82,550
4. Capital Receipts	**158,661**	**158,306**	**194,099**
5. Recoveries of Loans	10,645	5,450	1,500
6. Other Receipts	1,581	528	41,651
7. Borrowing and other liabilities	146,435	152,328	150,948
8. Total Receipts (1+4)	**506,123**	**581,637**	**680,521**
9. Non-Plan Expenditure	**365,485**	**408,907**	**475,421**
10. On Revenue Account	327,903	362,183	383,546
11. Interest Payments	132,630	146.192	158,995
12. On Capital Account	37,582	46,724	91,875

	2005	2006(추정)	2007(추정)
13. Plan Expenditure	**140,638**	**172,730**	**205,100**
14. On Revenue Account	111,858	144,584	174,354
15. On Capital Account	28,780	28,146	30,746
16. Total Expenditure (9+13)	**506,123**	**581,637**	**680,521**
17. Revenue Expenditure (10+14)	439,761	506,767	557,900
18. Capital Expenditure (12+15)	66,362	74,870	122,621
19. Revenue Deficit (17-1) (GDP대비 비율)	92,299 (2.6%)	83,436 (2.0%)	71,478 (1.5%)
20. Fiscal Deficit [16-(1+5+6)] (GDP대비 비율)	**146,435** **(4.1%)**	**152,328** **(3.7%)**	**150,948** **(3.3%)**
21. Primary Deficit (20-11) (GDP대비 비율)	13,805 (0.4%)	6,136 (0.1%)	(8,047) (-0.2%)

자료원: PwC자료 재인용

- 전체 세입을 세목별로 분류하면 법인세가 전체 세입의 21%, 개인소득세가 13%, 관세가 12%, 소비세가 17%를 차지하며 서비스세, 비과세수입(Non Tax Revenue), 차입금이 각각 7%, 10%, 19%를 차지함

- 한편 전체 세출은 이자가 전체 세출의 20%, 국방비가 12%, 중앙정부 계획예산이 20%, 주 정부 비계획예산 지원이 5%, 주 정부 계획예산 지원이 7%, 보조금이 7%, 기타 비계획지출이 11%를 차지함

■ 조세 제도의 구성

- 조세 제도를 중앙정부와 주 정부로 구분할 경우 소득세, 법인세, 관세, 상속세, 부동산세 등은 중앙정부의 세목으로 편입되며 농업소득세, 농토에 대한 상속 및 부동산세(농토), 토지 및 건물에 대한 조세, 주세 등은 주 정부의 세목으로 편입됨

- 직접세로는 법인세, 소득세, 최저한세, 기타소득세(FBT) 등이

포함되며 간접세로는 관세, 서비스세, 소비세 등이 포함됨

2. 직접세

■ 법인세

회사형태	과세소득 연 천만 루피 이상	그 외의 경우
인도기업	33.99%	30.9%
외국기업	42.23%	41.2%

자료원: 인도 정부 2007년 예산안

- 이 세율은 교육세와 과징금이 포함된 금액임

- 우리 투자기업들은 대부분 현지법인이나 연락사무소 형태이기 때문에 부과세 납부 의무가 없는 연락사무소를 제외하면 대부분 세법상 인도기업으로 간주되며 다만 프로젝트사무소는 외국기업으로 간주됨

- SEZ 입주 등 투자인센티브 지역의 경우 법인세 면제나 감면 혜택이 주어짐

■ 배당세(Dividend Distribution Tax)

- 분배키로 한 배당에 대해 부과되는 세금이며 세율은 배당액의 16.996%임

  · 즉, 인도에서 이익의 과실송금을 위해 한국에 있는 이사에게 배당을 하기로 하였다면 배당 세액을 원천징수하고 나머지 금액만을 한국으로 송금하게 됨

■ 최저한세(MAT: Minimum Alternative Tax)

- 사업소득이 있는 기업이 아무리 많은 공제와 감면을 받더라도 납부해야 할 최소한의 세금임. 법인세를 회피하기 위한 목적으로 기업들이 이익을 전부 재투자하는 경우 등의 상황 발생 시 부과하는 세금임. 또한 SEZ 입주 등의 이유로 법인세가 감면되는 경우 최저한세 부과의 대상이 됨

<최저한세의 세율>

회사형태	과세소득 연 천만 루피 이상	그 외의 경우
인도기업	11.33%	10.3%
외국기업	10.557%	10.3%

자료원: 인도 정부 2007년 예산안

- 이 세율은 교육세와 과징금이 포함된 금액임

- 2007~2008년 회계연도부터 법인세 면제 대상 기업에 대해서도 최저한세를 납부토록 함으로서 특별경제구역(SEZ) 입주기업, 소프트웨어단지(STP) 입주기업, 수출특화기업(EOU)들이 타격을 받음

<개인소득세>

연간소득액	소득세율
0~110,000루피	면세
110,001~150,000루피	10.3%
150,001~250,000루피	20.6%
250,000루피 초과	30.9%

자료원: 인도 정부 2007년 예산안

- 이 세율은 3%의 교육세가 포함된 비율임

- 연소득 11만 루피까지는 면세이며 여성에 대한 면세구간은 0~145,000루피까지이고 노인에 대한 면세구간은 0~195,000루피까지임

  · 연간소득이 100만 루피(약 2,100만원) 이상인 소득자에 대해서는 10%의 과징금을 추가 부과함. 이 경우 세율은 33.99%임

  · 인도 근무 주재원의 경우는 대부분 최고세율이 적용됨

3. 간접세

■ 관세

- 기본관세(10%), 상계관세(16%), 특별상계관세(4%), 교육세(3%) 등이 합산되어 일반 품목의 경우 총 관세율은 34.13%임

  · 세부 항목들이 단순 합산되는 것이 아니고 특정 수식에 의해 계산되며 IT 품목 등 일부 품목은 감면 혜택이 주어짐

■ 소비세(Excise Duty)

- 제조물품에 부과되는 중앙정부 간접세로서 품목에 따라 8%, 16%, 24%로 3분화되어 있고 일반품목의 경우는 16%임

■ 서비스세(Service Tax)

- 각종 서비스에 부과되는 중앙정부 부과 간접세로서 세율은 12%임

■ 부가가치세(VAT)

- 최종 소비자에게 부과되는 세금으로 대부분의 경우 12.5% 부과

■ 물품입시세(Octroi)

- 인도의 각 주별 물품이동에 부과하는 통행세 성격으로 각 주는 물품이 반입되기 전에 통상 1% 미만의 물품입시세를 과세하고 있음

Ⅵ. 노무 관리

1. 일반적인 노동력 충원 여건

● 인도는 풍부한 근로가능 인구를 가지고 있으며 평균연령이 25세로 젊은 노동인력이 특히 풍부함

· 하지만 숙련인력의 경우 인력공급이 부족하여 최근 급여가 빠른 속도로 오르고 있음

· 전문 인력의 구인란은 심각하여 많은 IT기업이나 외국계 기업들은 높은 이직률과 임금상승률로 애로를 호소하고 있음

● 100명 이상 근로자를 고용한 생산현장의 경우, 폐업뿐만 아니라 근로자 감축의 경우도 사전에 정부의 허가를 받아야 하는 등 지나치게 까다로운 노동관련 법규로 인해 오히려 전체 노동력의 일부만이 정규직으로 취업하고 있으며 대다수는 법의 보호를 받지 못하는 비공식 직종에 취업하고 있음

2. 임금 현황

■ 임금은 산업, 업체 규모, 지역에 따라 매우 다양하게 결정

● 임금은 시간기준 또는 산출기준으로 지급될 수 있는데 전자가 일반적이며, 노조가 결성된 영역에서는 노사협상에 의해 결정됨

● 급여는 기본급과 수당으로 구성됨. 수당은 소비자물가지수에 연동되는 생계보조금의 성격을 갖고 있는데 통상 기본급의 60% 이상임

· 정부의 공기업 임금 가이드라인은 전체 임금 동향의 중요한 기준이 되는데 최근의 5차 임금권고안은 수당의 경우 물가에 100% 연동되도록 권고하고 있음

■ 상여금 및 사회보장비용의 지급

- 10인 이상 사업장의 고용주는 매년 연봉의 최저 8.33%, 최고 20%에 상당하는 상여금을 지급해야 할 의무가 부여됨

- 일종의 국민연금제도로서 근로자보장기금(EPF: Employees Provident Fund)제도가 20인 이상 사업장의 근로자에 대해 의무적으로 적용됨

· 기본급과 수당을 합한 급여의 12%를 노동자와 사측이 각각 부담하여 적립함

■ 급여수준

- 인도의 경제가 발전하고 숙련된 인재의 확보가 점차 어려워짐에 따라 인건비 상승률은 매우 높은 편이며 2006~2007년의 경우 인금상승률은 15~20% 선으로 추정되고 있음

· 인도는 지역 및 도시 그리고 직종 및 기업에 따라 임금수준이 천차만별이기는 하나 일반적인 경우의 임금 수준은 아래 표와 같음 (뉴델리 기준)

<인도의 임금수준(월급여)>

직 종	급여수준 (월)	비 고
공장노동자	약 80~90달러	고졸 신입
사무직원	약 300~400달러	인문계 대졸 신입 여직원
엔지니어	약 500~700달러	공대 출신 신입 남직원
매니저	약 900~1,300달러	7~10년차 관리직
고급 엔지니어	약 1,200~2,000달러	5~10년차 엔지니어

자료원: 뉴델리 무역관 자체조사(중견기업 기준)

3. 근무 및 해고

■ 통상적인 근무시간

- 공장법(The Factories Act, 1948)은 주 48시간 근무를 규정하고 있으나 통상적으로 사무직 근로자는 주 5일간 35~38시간, 공장 근로자는 주 6일간 43~48시간을 근무함

  · 1일 9시간을 초과하는 경우나 휴일근무 시 초과근무로서 두 배의 임금을 지급함

- 연간 7일의 유급병가(Sick Leave)가 허용되고 출산휴가는 12주이며, 경조사 등을 위해 7~10일의 임의휴가(Casual Leave)가 주어짐

  · 휴가는 보통 1년에 30일임

■ 해고 절차와 조건

- 고용 근로자 수 100명을 기준으로 해고 절차와 조건이 다르며, 제조업의 경우 일반적으로 해고 3개월 전에 서면으로 통보해야 법적 분쟁을 방지할 수 있음

  · 서비스업이나 사무직의 경우는 1개월 전에 서면통보하며 인도의 퇴직금은 최종급여의 50% × 근속연수로 계산함

- 100명 이상 근로자를 고용한 기업의 경우, 폐업뿐만 아니라 근로자 축소의 경우도 사전에 정부의 허가를 받아야 함

  · 명백한 업무불량이 인정될 경우 정부 승인이 없어도 3개월 전에 통지하면 해고할 수 있음

- 노동쟁의 발생건수는 1995년 1,066건에서 2004년 482건으로 크게 감소하였으며, 무노동 무임금의 원칙이 지켜지고 있는 상황임

구 분	2001	2002	2003	2004
쟁의건수	674	579	552	482
참가인원(천명)	687.8	1079.4	1815.9	1991.8
손실일수(천일)	23766.8	26585.9	30255.9	14670.1

자료원: ILO

Ⅶ. 기타 정보

1. 주요 한인기관 및 단체

■ 주 인도 한국대사관

- 전화: (91-11) 2688-5412/5419
- 홈페이지: www.mofat.go.kr/india

■ 뭄바이 총영사관

- 전화: (91-22)2388-6743~5
- 홈페이지: www.mofat.go.kr/mumbai

■ 델리 한인회

- 전화: (91-11) 4165-5061/ 98101-27937(M)
- 홈페이지: www.delhikorea.com

■ 첸나이 한인회

- 전화: (91-44) 2432-3747/ 98410-13329
- 담당자: 심상만

■ 뭄바이 한인회

- 전화: (91-22) 5655-0491/ 98201-32785
- 담당자: 서석준

■ 재 뉴델리 한국진출기업협의회

- 전화: (91-11) 93139-99913
- 담당자: 심영섭

■ 델리 벧엘한인교회

- 전화: (91-11) 98185-42583
- 홈페이지: www.holyhouse.org/indiabethel

■ 델리 임마누엘교회

- 전화: (92-11) 98102-81013
- 홈페이지: www.indo.or.kr

■ 뭄바이 한인교회

- 홈페이지: kcbombay.com, http://mumbai.kcem.or.kr

■ 마드라스 한인교회

- 홈페이지: http://mkc.or.kr

■ 첸나이 열방교회

- 홈페이지: www.chennai.or.kr

■ 아시아나 항공

- 전화: (91-11) 2332-9819/ 2331-5631

■ 대한항공

- 전화: (91-22) 2208-8910

■ 신한은행

- 전화: 뭄바이 (91-22) 2282-2200
  델 리 (91-11) 2370-6040

■ KOTRA 뉴델리무역관

- 전화: (91-11) 4166-0981

■ KOTRA 첸나이무역관

- 전화: (91-44) 2433-7280

■ KOTRA 뭄바이 무역관

- 전화: (91-22) 6631-8000

국가 개요

- 국　　명: 인도(The Republic of India)
- 면　　적: 3,287,000㎢(남한의 33배)

- 서북으로는 파키스탄, 아프가니스탄, 북으로는 중국, 네팔, 부탄, 동으로는 미얀마, 방글라데시, 남으로는 스리랑카와 접경

- 수　　도: 델리(Delhi)
- 주요도시: 델리, 뭄바이, 콜카타(캘커타), 방갈로르, 첸나이
- 인　　구: 10억9,524만명 (2006.8월)
- 민족구성: 드라비다, 인도-아리안, 힌두스타니, 몽골로이드족 등
- 언　　어: 힌디어를 비롯한 18개의 공용어, 영어는 제2공용어
- 종　　교: 힌두교, 이슬람교, 불교 및 기타 종교가 8:1:1의 비율
- 정부형태: 대통령제를 가미한 의원내각제-연방제
- 화폐단위: 루피(Rupee, Re 또는 INR로 표기)
- 환　　율: INR 40.65 / US$ 1 (2007.6.24일 기준)
- 기　　후: 열대몬순, 온대기후, 고산기후(북부) 등 다양
- 시　　차: GMT + 5.5 (뉴델리 기준, 한국보다 3.5 시간 빠름)

<부록> 투자 법령 및 관련 자료

CONTENTS

SECTION A

FDI POLICY

POLICY ON FOREIGN DIRECT INVESTMENT (FDI)

I. Sectors prohibited for FDI

i. Retail trading (except Single Brand Product retailing)

ii. Atomic energy

iii. Lottery business

iv. Gambling and Betting

II. All Activities/ Sectors would require prior Government approval for FDI in the following circumstances:

i. where provisions of Press Note 1(2005 Series) are attracted;

ii. where more than 24% foreign equity is proposed to be inducted for manufacture of items reserved for the Small Scale sector.

III. In Sectors/Activities not listed below, FDI is permitted up to 100% on the automatic route subject to sectoral rules / regulations applicable.

IV. Sector-specific policy for FDI : In the following sectors/activities, FDI upto the limit indicated below is allowed subject to other conditions as indicated:

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
1.	**Airports-**				
a.	Greenfield projects	100%	Automatic	Subject to sectoral regulations notified by Ministry of Civil Aviation www.civilaviation.nic. in	PN 4 / 2006
b.	Existing projects	100%	FIPB beyond 74%	Subject to sectoral regulations notified by Ministry of Civil Aviation www.civilaviation.nic. in	PN 4 / 2006
2.	**Air Transport Services**	49%- FDI; 100%- for NRI investment	Automatic	Subject to no direct or indirect participation by foreign airlines. Government of India Gazette Notification dated 2.11.2004 issued by Ministry of Civil Aviation www.civilaviation.nic. in	PN 4 / 2006

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
3.	**Alcohol-Distillation & Brewing**	100%	Automatic	Subject to license by appropriate authority	PN 4 / 2006
4.	**Asset Reconstruction Companies**	49% (only FDI)	FIPB	Where any individual investment exceeds 10% of the equity, provisions of Section 3(3)(f) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 should be complied with. www.finmin.nic.in	
5.	**Atomic Minerals**	74%	FIPB	Subject to guidelines issued by Department of Atomic Energy vide Resolution No. 8/1(1)/97-PSU/1422 dated 6.10.98.	
6.	**Banking - Private sector**	74% (FDI+FII)	Automatic	Subject to guidelines for setting up branches / subsidiaries of foreign banks issued by RBI. www.rbi.org.in	PN 2 / 2004
7.	**Broadcasting**				
a.	FM Radio	FDI +FII investment up to 20%	FIPB	Subject to Guidelines notified by Ministry of Information & Broadcasting www.mib.nic.in	PN 6 / 2005
b.	Cable network	49% (FDI+FII)	FIPB	Subject to Cable Television Network Rules (1994) Notified by Ministry of Information & Broadcasting www.mib.nic.in	
c.	Direct-To-Home	49% (FDI+FII). Within this limit, FDI component not to exceed 20%	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting www.mib.nic.in	

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
d.	Setting up hardware facilities such as up-linking, HUB, etc	49% (FDI+FII)	FIPB	Subject to Up-linking Policy notified by Ministry of Information & Broadcasting www.mib.nic.in	PN 1 / 2006
e.	Up-linking a News & Current Affairs TV Channel	26% FDI+FII	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting www.mib.nic.in	PN 1/ 2006
f.	Up-linking a Non-news & Current Affairs TV Channel	100%	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting www.mib.nic.in	PN 1 / 2006
8.	**Cigars & Cigarettes-** Manufacture	100%	FIPB	Subject to industrial license under the Industries (Development & Regulation) Act, 1951	PN 4 / 2006
9.	**Coal & Lignite mining** for captive consumption by power projects, and iron & steel, cement production and other eligible activities permitted under the Coal Mines (Nationalisation) Act, 1973.	100%	Automatic	Subject to provisions of Coal Mines (Nationalization) Act, 1973 www.coal.nic.in	PN 4 / 2006
10.	**Coffee & Rubber processing & warehousing**	100%	Automatic		PN 4 / 2006
11.	**Construction Development projects,** including housing, commercial premises, resorts, educational institutions, recreational facilities, city and regional level infrastructure, townships.	100%	Automatic	Subject to conditions notified vide Press Note 2 (2005 Series) including: a. minimum capitalization of US$ 10 million for wholly owned subsidiaries and US$ 5 million for joint venture. The funds would have to be brought within six months of commencement of business of the Company.	PN 2 / 2005 & PN 2 / 2006

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
				b. Minimum area to be developed under each project- 10 hectares in case of development of serviced housing plots; and built-up area of 50,000 sq. mts. in case of construction development project; and any of the above in case of a combination project. **[Note: For investment by NRIs, the conditions mentioned in Press Note 2 / 2005 are not applicable.]**	
12.	**Courier services** for carrying packages, parcels and other items which do not come within the ambit of the Indian Post Office Act, 1898.	100%	FIPB	Subject to existing laws and exclusion of activity relating to distribution of letters, which is exclusively reserved for the State. www.indiapost.gov.in	PN 4 / 2001
13.	**Defence production**	26%	FIPB	Subject to licensing under Industries (Development & Regulation) Act, 1951 and guidelines on FDI in production of arms & ammunition.	PN 4 / 2001 & PN 2 / 2002
14.	**Floriculture, Horticulture**, **Development of Seeds, Animal Husbandry**, **Pisciculture, aqua-culture, cultivation of vegetables, mushrooms, under controlled conditions** and services related to agro and allied sectors.	100%	Automatic		PN 4 / 2006

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
15.	**Hazardous chemicals,** viz., hydrocyanic acid and its derivatives; phosgene and its derivatives; and isocyanates and diisocyantes of hydrocarbon.	100%	Automatic	Subject to industrial license under the Industries (Development & Regulation) Act, 1951 and other sectoral regulations.	PN 4 / 2006
16.	**Industrial explosives-** Manufacture	100%	Automatic	Subject to industrial license under Industries (Development & Regulation) Act, 1951 and regulations under Explosives Act, 1898	PN 4 / 2006
17.	**Insurance**	26%	Automatic	Subject to licensing by the Insurance Regulatory & Development Authority www.irda.nic.in	PN 10 / 2000
18.	**Investing companies in infrastructure / services sector (except telecom sector)**	49%	FIPB	Foreign investment in an investing company will not be counted towards sectoral cap in infrastructure/services sector provided the investment is up to 49% and the management of the company is in Indian hands	PN 2 / 2000 & PN 5 / 2005
19.	**Mining** covering exploration and mining of diamonds & precious stones; gold, silver and minerals.	100%	Automatic	Subject to Mines & Minerals (Development & Regulation) Act, 1957 www.mines.nic.in Press Note 18 (1998) and Press Note 1 (2005) are not applicable for setting up 100% owned subsidiaries in so far as the mining sector is concerned, subject to a declaration from the applicant that he has no existing joint venture for the same area and/or the particular mineral.	PN 2 / 2000, PN 3 / 2005, & PN 4 / 2006

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
20.	**Non Banking Finance Companies- approved activities**				
i) ii) iii) iv) v) vi) vii) viii) ix) x) xi) xii) xiii) xiv) xv) xvi) xvii) xviii) xix)	**Merchant banking** **Underwriting** **Portfolio Management Services** **Investment Advisory Services** **Financial Consultancy** **Stock Broking** **Asset Management** **Venture Capital** **Custodial Services** **Factoring** **Credit Reference Agencies** **Credit Rating Agencies** **Leasing & Finance** **Housing Finance** **Forex Broking** **Credit card business** **Money changing business** **Micro credit** **Rural credit.**	100%	Automatic	Subject to: a. minimum capitalization norms for fund based NBFCs - US$ 0.5 million to be brought upfront for FDI up to 51%; US$ 5 million to be brought upfront for FDI above 51% and up to 75%; and US$ 50 million out of which US$ 7.5 million to be brought upfront and the balance in 24 months for FDI beyond 75% and up to 100%. b. minimum capitalization norms for non-fund based NBFC activities- US$ 0.5 million. c. foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities subject to bringing in US$ 50 million without any restriction on number of operating subsidiaries without bringing additional capital. d. joint venture operating NBFC's that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities subject to the subsidiaries also complying with the applicable minimum capital inflow. e. compliance with the guidelines of the RBI.	PN 2 / 2000, PN 6 / 2000, & PN 2 / 2001

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
21.	**Petroleum & Natural Gas sector**				
a.	Other than Refining and including market study and formulation; investment/ financing; setting up infrastructure for marketing in Petroleum & Natural Gas sector.	100%	Automatic	Subject to sectoral regulations issued by Ministry of Petroleum & Natural Gas; and in the case of actual trading and marketing of petroleum products, divestment of 26% equity in favour of Indian partner/public within 5 years. www.petroleum.nic.in	PN 1 / 2004 & PN 4 / 2006
b.	Refining	26% in case of PSUs 100% in case of Private companies	FIPB (in case of PSUs) Automatic (in case of private companies)	Subject to Sectoral policy www.petroleum.nic.in	PN 2 / 2000
22.	**Print Media-**				
a.	Publishing of **newspaper and periodicals** dealing with news and current affairs	26%	FIPB	Subject to Guidelines notified by Ministry of Information & Broadcasting. www.mib.nic.in	
b.	**Publishing of scientific magazines/ specialty journals/ periodicals**	100%	FIPB	Subject to guidelines issued by Ministry of Information & Broadcasting. www.mib.nic.in	PN 1 / 2004
23.	**Power** including generation (except Atomic energy); transmission, distribution and Power Trading.	100%	Automatic	Subject provisions of the Electricity Act, 2003 www.powermin.nic.in	PN 2 / 1998, PN 7 / 2000, & PN 4 / 2006
24.	**Tea Sector**, including tea plantation	100%	FIPB	Subject to divestment of 26% equity in favour of Indian partner/Indian public within 5 years and prior approval of State Government for change in land use.	PN 6 / 2002

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
25.	**Telecommunications**				
a.	Basic and cellular, Unified Access Services, National/ International Long Distance, V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS) and other value added telecom services	74% (Including FDI, FII, NRI, FCCBs, ADRs, GDRs, convertible preference shares, and proportio-nate foreign equity in Indian promoters/ Investing Company)	Automatic up to 49%. FIPB beyond 49%.	Subject to guidelines notified in the PN 5 (2005 Series).	PN 5 / 2005
b.	ISP with gateways, radio-paging, end-to-end bandwidth.	74%	Automatic up to 49%. FIPB beyond 49%.	Subject to licensing and security requirements notified by the Department of Telecommunications. www.dotindia.com	PN 4 / 2001
c.	ISP without gateway, infrastructure provider providing dark fibre, electronic mail and voice mail	100%	Automatic up to 49%. FIPB beyond 49%.	Subject to the condition that such companies shall divest 26% of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world. Also subject to licensing and security requirements, where required. www.dotindia.com	PN 9 / 2000
d.	Manufacture of telecom equipments	100%	Automatic	Subject to sectoral requirements. www.dotindia.com	PN 2 / 2000

S.No.	Sector/Activity	FDI Cap / Equity	Entry Route	Other conditions	Relevant Press Note issued by Deptt. of IPP www.dipp.gov.in
26.	**Trading**				
a.	Wholesale/cash & carry trading	100%	Automatic	Subject to guidelines for FDI in trading issued by Department of Industrial Policy & Promotion vide Press Note 3 (2006 Series).	PN 4 / 2006
b.	Trading for exports	100%	Automatic		
c.	Trading of items sourced from small scale sector	100%	FIPB		
d.	Test marketing of such items for which a company has approval for manufacture	100%	FIPB		
e.	Single Brand product retailing	51%	FIPB		
27.	**Satellites - Establishment and operation**	74%	FIPB	Subject to Sectoral guidelines issued by Department of Space/ISRO www.isro.org	
28.	Special Economic Zones and Free Trade Warehousing Zones covering setting up of these Zones and setting up units in the Zones	100%	Automatic	Subject to Special Economic Zones Act, 2005 and the Foreign Trade Policy. www.sezindia.nic.in	PN 9 / 2000, PN 2 / 2006 & PN 4 / 2006

SECTION B

PRESS NOTES
ON FDI POLICY

PRESS NOTES ON FDI POLICY

Government of India
Ministry of Industry
(Department of Industrial Policy & Promotion)
SIA (FC Division)
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Press Note No. 3 (1997 Series)

The Government have taken a series of steps to further liberalise and streamline the procedures and mechanism for approval of both domestie and foreign direct investment. In fulfilment of its commitment to provide greater transparency in decision making, the Government have announced a set of Guidelines for consideration of foreign direct invetment proposals by the Foreign Investment Promotion Board.

A set of Guidelines announced in this regard is enclosed for general information and for information of investors.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 10(32)/97-IP
Dated 17th January, 1997.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Guidelines for the consideration of Foreign Direct Investment (FDI) proposals by the Foreign Investment Promotion Board (FIPB)

The following Guidelines are laid-down to enable the Foreign Investment Promotion Board (FIPB) to consider the proposals for Foreign Direct Investment (FDI) and formulate its recommendations.

1. All applications should be put up before the FIPB by the SIA (Secretariat of Industrial Assistance) within 15 days and it should.4 be ensured that comments of the administrative ministries are placed before the Board either prior to/or in the meeting of the Board.

2. Proposals should be considered by the Board keeping in view the time-frame of 6 weeks for communicating Government decision (i.e. approval of IM/CCFI or rejection as the case may be).

3. In cases in which either the proposal is not cleared or further information is required in order to obviate delays presentation by applicant in the meeting of the FIPB should be resorted to.

4. While considering cases and making recommendations, FIPB should keep in mind the sectoral requirements and the sectoral policies vis-a-vis the proposal(s).

5. FIPB would consider each proposal in totality (ie. if it includes apart from foreign investment. technical collaboration/industrial licence) for composite approval or, otherwise. However, the FIPB's recommendation would relate only to the approval for foreign financial and technical collaboration and the foreign investors will need to take other prescribed clearances separately.

6. The Board should examine the following while considering proposals submitted to it for consideration.

   (i) whether the items of activity involve industrial licence or not and if so the considerations for grant of industrial licence must be gone into;

   (ii) whether the proposal involves technical collaboration and if so (a) the source and nature of technology sought to be transferred, (b) the terms of payment (payment of royalty by 100% subsidiaries is not permitted);

   (iii) whether the proposal involves any mandatory requirement for exports and if so whether the applicant is prepared to under take such obligation (this is for Small Industry Units, as also for dividend balancing and for 100% EOUs/EPZ Units).

   (iv) whether the proposal involves any export projection and if so the items of export and the projectcd destinations.

(v) whether the proposal has concurrent commitment, under other schemes such as EPCG scheme, etc.

(vi) in the case of Export Oriented Units (EOUs) whether the prescribed minimum value addition norms and the minimum turn over of exports are met or not.

(vii) whether the proposal involves relaxation of locational restrictions stipulated in the industrial licensing policy; and

(viii) whether the proposal has any strategic or defence related considerations.

7. While considering proposals the following may be prioritised.

(a) Items falling whithin Annexure III of the New Industrial Policy (i.e. those which do not qualify)' for automatic approval).

(b) Items falling in infrastructure sector.

(c) Items which have an export potential.

(d) Items which have large scale employment potential and especially for rural people.

(e) Items which have a direct or backward linkage with agro business/farm sector

(f) Items which have greater social relevance such as hospitals, human resource development, life saving drugs and equipment.

(g) Proposals which result in induction of technology or infusion of capital.

8. The following should be especially considered during the secrutiny and consideration of proposas.

(a) The extent of foreign equity proposed to be held (keeping in view sectoral caps if any - e.g. 24% for SSI units, 40% for air taxi/airlines operators, 49% in basic/cellular /paging etc. in Telecom Sector.)

(b) Extent of equity with composition of foreign/NRl (which may include OCB)/resident Indians.

(c) Extent of equity from the point of view whether the proposed project would amount to a holding company/wholly owned subsidiary/a company with dominant foreign investment (i.e. 76% or more) joint venture.

(d) Whether the proposed foreign equity is for setting up a new project (joint venture or otherwise) or whether it is for enlargement of foreign/NRl equity or whether it is for fresh induction of foreign equity/NRI equity in an existing Indian company.

(e) In the case of fresh induction offoreign/NRI equity and/or in cases of enlargement of foreign/ NRI equity), in existing Indian companies whether there is a resolution of the Board of Directors supporting the said induction/enlargement of foreign/NRl equity and whether there is a shareholders agreement or not.

(f) In the case of induction of fresh equity in the existing Indian companies and/or enlargement of foreign equity in existing Indian companies, the reason why the proposal has been made and the modality for induction/enhancement (i.e. whether by increase of paid up capital/ authorised capital, transfer of shares (hostile or otherwise) whether by rights issue, or by what modality].

(g) Issue/transfer/pricing of shares will be as per SEBI/RBI guidelines.

(h) Whether the activity is an industrial or a service activity or a combination of both.

(i) Whether the item of activity involves any restriction by way of reservation for the small scale sector.

(j) Whether there are any sectoral restrictions on the activity (e.g. there is ban on foreign investment in real estate while it is not so for NRI/OCB investment).

(k) Whether the item involves only trading activity and if so whether it involves export or both export and import, or also includes domestic trading and if domestic trading whether it also includes retail trading.

(l) Whether the proposal involves import of items which are either hazardous, banned or detrimental to environment (e.g. import of plastic scrap or recycled plastics).

In respect of the industries/activities listed in Annex III of the New Industrial Policy automatic approval for majority equity holding (50/51/74 per cent) is accorded by the Reserve Bank of India. FIPB may consider recommending higher levels of foreign equity in respect of these activities keeping in view the special requirements and merit of each case.

10. In respect of other industries/activities the Board may consider recommending 51 per cent foreign equity on examination of each individual proposal. For higher levels of equity upto 74 per cent the Board may consider such proposals keeping in view considerations such as the extent of capital needed for the project, the nature and quality of technology, the requirements of marketing and management skills and the commitment for exports.

11. FIPB may consider and recommend proposals for 100 per cent foreign owned holding/subsidiary companies based on the following criteria:

(a) where only "holding" operation is involved and all subsequent/downstream investments to be carried out would require prior approval of the Government.

(b) where proprietary technology is sought to be protected or sophisticated technology is proposed to be brought in;

(c) where at least 50% of production is to be exported,

(d) proposals for consultancy; and

(e) proposals for power, roads, ports and industrial model towns/industrial parks or estates.

12. In special cases, where the foreign investor is unable initially to identify an Indian joint venture partner, the Board may consider and recommend proposals permitting 100 per cent foreign equity on a temporary basis on the condition that the foreign investor would divest to the Indian parties (either individual, joint venture partners or general public or both) at least 26 percent of its equity within a period of 3 - 5 years.

13. Similarly in the case of a joint venture, where the Indian partner is unable to raise resources for expansion/technological upgradation of the existing industrial activity the Board may consider and recommend increase in the proportion/percentage (up to 100 per cent) of the foreign equity in the enterprise.

14. In respect of trading companies, 100 per cent foreign equity may be permitted in the case of the activities involving the following;

(i) exports;

(ii) bulk imports with export/expanded warehouse sales;

(iii) cash and carry wholesale trading;

(iv) other import of goods or services provided at least 75% is for procurement and sale of goods and services among the companies of the same group.

15. In respect of the companies in the infrastructure/services sector where there is a prescribed cap for foreign investment, only the direct investment should be considered for the prescribed cap and foreign investment in an investing company should not be set off against this cap provided the foreign direct investment in such investing company does not exceed 49 per cent and the management of the investing company is with the Indian owners.

16. No condition specific to the letter of approval issued to a foreign investor would be changed or additional condition imposed subsequent to the issue of a letter of approval. This would not prohibit changes in general policies and, regulations applicable to the industrial sector.

17. Where in case of a proposal (not being 100% subsidiary) foreign direct investment has been approved upto a designated percentage of foreign equity in the joint venture company, the percentage would not be reduced while permitting induction of additional capital subsequently. Also in the case of approved activities, if the foreign investor(s) concerned wishes to bring in additional capital on later dates keeping the investment to such approved activities, FIPB would recommend such cases for approval on an automatic basis.

18. As regards proposal for private sector banks, the application would be considered only after "in principle" permission is obtained from the Reserve Bank of India (RBI).

19. The restrictions prescribed for proposals in various sectors as obtained, at present, are given in the Annex and these should be kept in view while considering the proposals.

These Guidelines are meant to assist the FIPB to consider proposals in an objective and transparent manner. These would not in any way restrict the flexibility or bind the FIPB from considering the proposals in their totality or making recommendations based on other criteria or special circumstances or features it considers relevant. Besides these are in the nature of administrative Guidelines and would not in any way be legally binding in respect of any recommendation to be made by the FIPB or decisions to be taken by the Government in cases involving Foreign Direct Investment (FDI).

These guidelines are issued without prejudice to the Government's right to issue fresh guidelines or change the legal provisions and policies whenever considered necessary.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 2 (1998 Series)

Under the present policy,. Indian companies undertaking generation and transmission of electric energy, produced in hydro-electric power plants, coal based power plants, oil based thermal power plants and gas based thermal power plants are eligible for automatic approval up to 74% foreign equity.

2. The Government has reviewed the existing guidelines for automatic approval for foreign equity for electric generation, transmission and distribution projects and has decided to enlarge the provisions for automatic-approval for such projects. Accordingly, projects for electric generation, transmission and distribution will be permitted foreign equity participation up to 100% on the automatic approval route provided the foreign equity in any such project does not exceed Rs. 1500 crore. The categories which would qualify for such automatic approval are:

(i) Hydro-electricpower plants.

(ii) Coal/lignite based thermal power plants.

(iii) Oil based thermal power plants.

(iv) Gas based thermal power plants.

3. It is clarified that the facility for automatic approval, as enumerated in paragraph 2 above, does **not** include generation, transmission and distribution of electric energy produced in atomic reactor power plants and hence such proposals shall **not** qualify for automatic approval by RBI under this Press Note.

4. The provisions referred in para 2 above would be listed under the heading Part "D" of Annexure-III as appended to this Press Note as a substitution of the existing entry No. C-4 in Part “C” of Annexure-III.

5. The list appended to this Press Note is based on the National Industrial Classification of all Economic Activities (NIC), 1987. The entrepreneurs/investors are advised to give the description of their activity under this classification system when submitting their applications to the RBI.

6. All other terms and conditions as notified under Press Note No. 2 (1997 Series) dated the 17th January, 1997 and Press Note No. 14 (1997 Series) dated the 8th October, 1997 remain unchanged.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 10(31)/97-I.P.
Dated 13th June, 1998.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 16 (1998 Series)

In the Press Note No. 4 (1997 Series) issued by this Department on 30th April, 1997, guidelines for FDI in the Non-Banking Financial Companies (NBFCs) including norms for the minimum capitalisation were announced. The question of minimum capitalisation requirement has been reviewed by the Government and it has been decided that foreign investment proposals for purely financial consultancy services that are non-fund based, would not be subjected to the minimum capitalisation norms subject to the following conditions :-

"It would not be permissible for such a company to set up by any subsidiary for any other activity, nor any equity it may contribute in an NBFC holding/operating company would be reckoned as domestic equity."

NBFCs undertaking fund based activities shall, however, continue to attract minimum capitalisation norms.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 10(32)/97-I.P.
Dated 3rd November, 1998.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 5 (1999 SERIES)

As per guideline No. 2 of the Guidelines for the consideration of Foreign Direct Investment (FDI) proposals by the Foreign Investment Promotion Board (FIPB) as notified vide Press Note No. 3 (1997 series), proposals for FDI should be considered by the Board keeping in view the time-frame of six weeks for communicating government decision (i.e., approval of IM or CCFI or rejection as the case may be).

With a view to expediting disposal of FDI proposals, Government have decided to reduce the time frame for consideration of such proposals to thirty (30) days from six weeks. Accordingly, guideline No. 2 as contained in Press Note No. 3 (1997 series) shall stand modified as under:

"Proposals should be considered by the Board keeping in view the time-frame of thirty (30) days for communicating Government decision (i.e., approval of IM/CCFI or rejection as the case may be)."

This is for general information of investors.

(Ashok Kumar)
Joint Secretary to the Government of India

F. No. 10(32)/97-IP
Dated 19th March, 1999.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 7 (1999 Series)

As per existing provision the foreign collaboration approvals are subject to the condition that the total non resident shareholding including foreign holding in the Indian company should not exceed the amount as well as the percentage specified in the approval letter. For any proposed increase in the amount as also the percentage of non resident shareholding, prior approval of the Government is necessary.

Proposals are received by the Government for financial restructuring in the following manner:

(a) in the case of joint venture companies proposals for increase in the amount of non resident equity within the approved percentage of non resident equity and

(b) In case of wholly owned subsidiaries or holding companies of foreign companies in India, proposals relating to enhancement of paid up capital.

Government keeping in view the desirability of infusion of additional funds as equity by the foreign company leading to increased investment inflows have reviewed the existing provision for obtaining prior approval of the Government for increase in the amount of foreign equity without change in the percentage of equity in the above type of cases and decided that henceforth there would be no need for obtaining prior approval of FIPB/Government for increase in the amount of foreign equity within the percentage of foreign equity already approved in all cases in which the original project cost was up to Rs. 600 crore. Any company can henceforth infuse additional funds by way of foreign equity as a result of financial restructuring (provided there is no change in the percentage of foreign equity) and notify the same to the Secretariat of Industrial Assistance (SIA) within thirty days of receipt of funds as also allotment of shares to non resident shareholders.

The above procedure will. however, not apply in cases of increase in the percentage of foreign equity as also where initial approval was granted by CCFI. Such cases shall require prior approval of the FIPB/Government as per the existing procedure.

This is for general information of investors.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 7(9)/99-IP
Dated 1st April, 1999.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 9 (1999 Series)

Subject: Policy relating to the standard conditions applicable to foreign owned Indian holding companies requiring prior and specific approval of FIFB/Government for downstream investment in Annexure III activities, which qualify for Automatic Approval.

The Government have reviewed the existing policy relating to the standard conditions applicable to foreign owned Indian holding companies requiring prior and specific approval of FIFB/Government for downstream investment. On careful consideration of the matter and with a view to further simplifying the investment procedures for downstream investment. it has been decided to permit foreign owned Indian holding companies to make downstream investment in Annexure III activities, which qualify for Automatic Approval subject to the following conditions:-

(a) downstream investments may be made within foreign equity levels permitted for different activities under the automatic route;

(b) proposed/existing activities for the joint venture company being fully confined to Annexure III activities;

(c) increase in equity level resulting out of expansion of equity base of the existing/fresh equity of the new joint venture company;

(d) the downstream investment involving setting up of an EOU/STP/EHTP project or items involving compulsory licensing; SSI reserved items; acquisition of existing stake in an Indian company by way of transfer/ as also buyback shall not be eligible for automatic approval and shall require prior approval of FIPB/Government;

(e) the holding company to notify SIA of its downstream investment within 30 days of such investment even if shares have not been allotted alongwith the modality of investment in new/ existing ventures (with/without expansion programme);

(f) proposals for downstream investment by way of induction of foreign equity in an existing Indian Company to be duly supported by a resolution of the Board of Directors supporting the said induction as also a shareholders Agreement and consent letter of the Foreign Collaborator;

(g) issue/transfer/pricing/valuation of shares shall be in accordance with SEBI/RBI guidelines;

(h) foreign owned holding companies would have to bring in requisite funds from abroad and not leverage funds from domestic market for such investments. This would, however not preclude downstream operating companies to raise debt in the domestic market.

2. The above procedure will form part of the FIPB Guidelines and paragraph 11(a) of the "Guidelines for the consideration of Foreign Direct Investment (FDI) proposals by the Foreign Investment Promotion Board (FIPB)" notified vide Press Note No. 3 (1997 Series) shall stand modified accordingly in respect of down stream investment by foreign owned Indian holding companies.

3. All investors and entrepreneurs may please take note of the aforesaid revision in the policy.

(Ashok Kumar)
Joint Secretary to the Government of India

F.No. 7(13)/99-IP
Datde 12th April, 1999.

Government of India
Ministry of Industry
Department of Industrial Policy & Promotion
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Press Note No. 12 (1999 Series)

The Government, vide Press Note No. 4 (1997 Series), had announced the norms for FDI in Non Banking Financial Sector. It was further clarified vide Press Note No. 16 (1998 series) that foreign investment proposals for purely financial consultancy services that are non-fund based, would not be subjected to the minimum capitalisation norms as applicable to the NBFCs subject to certain conditions.

2. The matter has been reviewed and it has since been decided as under:

3. The guidelines for foreign equity investment in Non Banking Financial Services sector would be amended to provide for a minimum capitalisilion norm of US$ 0.5 million, for the activities which are not fund based and only advisory or consultancy in nature, irrespective of the foreign equity participation level.

4. The provision of (1) above would be applicable in the following permitted NBFC activities for foreign equity investment:

i. Investment advisory services

ii. Financial consultancy

iii. Credit Reference Agencies

iv. Credit Rating Agencies

v. Forex broking

vi. Money changing business

5. The other provisions of the guidelines of Press Note No. 4 (1997 Series) and Press Note No. 16 (1998 Series) would, however, continue to be applicable in the above cases.

(Ashok Kumar)
Joint Secretary to the Government of India

F. No. 10(32)/97-IP
Dated 1st July, 1999.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No.2 (2000 Series)

Subject : Expansion of list of industries/activities eligible for automatic route for Foreign Direct Investment (FDI), Non Resident Indian (NRI) and Overseas Corporate Body (OCB) investment.

In pursuance of Government's commitment to early implementation of the second phase of the economic reforms and with a view to further liberalising the FDI regime, Government, on review of the policy on FDI, has decided to place all items / activities under the automatic route for FDI/NRI and OCB investment except the following :

i. All proposals that require an Industrial Licence which includes (i) the item requiring an Industrial Licence under the Industries (Development and Regulation) Act, 1951; (ii) foreign investment being more than 24% in the equity capital of units manufacturing items reserved for small scale industries; and (iii) all items which require an Industrial Licence in terms of the locational policy notified by Government under the New Industrial Policy of 1991.

ii. All proposals in which the foreign collaborator has a previous venture/tie-up in India. The modalities prescribed in Press Note No. 18 dated 14.12.98 of 1998 Series, shall apply in such cases.

iii. All proposals relating to acquisition of shares in an existing Indian company in favour of a foreign/NRI/OCB investor.

iv. All proposals falling outside notified sectoral policy/caps or under sectors in which FDI is not permitted and/or whenever any investor chooses to make an application to the FIPB and not to avail of the automatic route.

2. All proposals for investment in public sector units as also for EOU/EPZ/ EHTP/STP units would qualify for automatic route subject to the above parameters.

3. The modalities and procedures for automatic route would remain the same and RBI would continue to be the concerned agency for monitoring/reporting as per existing procedure. The National Industrial Classification of all Economic Activities (NIC), 1987, shall remain applicable for description of activities and classification for all matters relating to FDI/NRI/OCB investment.

4. FDI/NRI/OCB investment under the automatic route shall continue to be governed by the notified sectoral policy and equity caps and RBI shall ensure compliance with the same.

5. Areas/sectors/activities hitherto not open to FDI/NRI/OCB investment shall continue to be so unless otherwise decided and notified by Government.

6. Henceforth, any change in sectoral policy/sectoral equity cap shall be notified by the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion.

7. Press Note No. 2 (1997 Series), Press Note No. 14 (1997 Series), Press Note No. 2 (1998 Series) and Press Note No. 1 (1999 Series) stand superseded to the extent as aforesaid.

(Ashok Kumar)
Joint Secretary to the Government of India

F. No. 7(4)/2000-IP
Dated 11th February, 2000.

SECTOR SPECIFIC GUIDELINES FOR FOREIGN DIRECT INVESTMENT

Sl.No.	Sector	Guidelines
1.	Banking	NRI holding may be upto 40%, inclusive of equity participation by other foreign investors. Foreign investment of upto 20% is permitted by foreign banking companies or finance companies including multilateral financial institutions. Multilateral institutions are allowed to invest within the overall foreign direct investment cap of 40% in case of shortfall in foreign direct investment contribution by NRIs. The automatic route is not available.
	Non-Banking Financial Companies (NBFC)	a. FDI/NRI/OCB investments allowed in the following 17 NBFC activities shall be as per levels indicated below: i. Merchant banking ii. Underwriting iii. Portfolio Management Services iv. Investment Advisory Services v. Financial Consultancy vi. Stock Broking vii. Asset Management viii. Venture Capital ix. Custodial Services x. Factoring xi. Credit Reference Agencies xii. Credit rating Agencies xiii. Leasing & Finance xiv. Housing Finance xv. Forex Broking xvi. Credit card business xvii. Money changing Business b. Minimum Capitalisation Norms for fund based NBFCs: i For FDI upto 51% - US$ 0.5 million to be brought upfront ii For FDI above 51% and upto 75% - US$5 million to be brought upfront iii For FDI above 75% and upto 100% - US$ 50 million out of which US $ 7.5 million to be brought upfront and the balance in 24 months iv 100% NBFC with a minimum capital of US$ 50 million allowed to set up 100% downstream subsidiary to undertake specific NBFC activities. Such a subsidiary, however, would be required to dis-invest its equity to the minimum extent of 25%, through a public offering only, within a period of 3 years. c. Minimum capitalisation norms for non-fund based activities:

Sl.No.	Sector	Guidelines
		Minimum capitalisation norm of US $ 0.5 million is applicable in respect of all permitted non-fund based NBFCs with foreign investment. The automatic route is not available.
2.	Civil Aviation (detailed guidelines have been issued by Ministry of Civil Aviation)	In the domestic Airlines sector: i. FDI upto 40% permitted subject to no direct or indirect equity participation by foreign airlines is allowed. ii. 100% investment by NRIs/OCBs. iii. The automatic route is not available.
3.	Telecommunication	i. In basic, Cellular Mobile, paging and Value Added service, and Global Mobile Personal Communications by Satellite, FDI is limited to 49% subject to grant of licence from Department of Telecommunications and adherence by the companies (who are investing and the companies in which investment is being made) to the licence conditions for foreign equity cap and lock in period for transfer and addition of equity and other licence provisions. ii. No equity cap is applicable to manufacturing activities.
4.	Information Technology	FDI upto 100% permitted for E-commerce activities subject to the condition that such companies would divest 26% of their equity in favour of the Indian public in five years, if these companies are listed in other parts of the world. Such companies would engage only in business to business (B2B) e-commerce and not in retail trading, inter alia, implying that existing restrictions on FDI in domestic trading would be applicable to e-commerce as well.
5.	Petroleum (other than Refining)	a. Under the exploration policy, FDI upto 100% is allowed for small fields through competitive bidding; upto 60% for unincorporated JV; and upto 51% for incorporated JV with a No Objection Certificate for medium size fields. b. For petroleum products and pipeline sector, FDI is permitted upto 51%. c. FDI is permitted upto 74% in infrastructure related to marketing and marketing of petroleum products. d. 100% wholly owned subsidiary(WOS) is permitted for the purpose of market study and formulation. e. 100% wholly owned subsidiary is permitted for investment/ Financing. f. For actual trading and marketing, minimum 26% Indian equity is required over 5 years. The automatic route is not available.

Sl.No.	Sector	Guidelines
	Petroleum Refining	a. FDI as permitted upto 26% in case of Public Sector Units. PSUs will hold 26% and balance 48% by public. Automatic route is not available. b. In case of private Indian companies, FDI is permitted upto 100% under automatic route.
6.	Housing & Real Estate	No foreign investment is permitted in this sector. NRIs/OCBs are allowed to invest. The scheme specific to NRIs and OCBs covers the following: a. Development of serviced plots and construction of built up residential premises. b. Investment in real estate covering construction of residential and commercial premises including business centres and offices c. Development of townships d. City and regional level urban infrastructure facilities, including both roads and bridges e. Investment in manufacture of building materials f. Investment in participatory ventures in (a) to (e) above g. Investment in housing finance institutions
7.	Coal and Lignite	i. Private Indian companies setting up or operating power projects as well as coal or lignite mines for captive consumption are allowed FDI upto 100%. ii. 100% FDI is allowed for setting up coal processing plants subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing. iii. FDI upto 74% is allowed for exploration or mining of coal or lignite for captive consumption. iv. In all the above cases, FDI is allowed upto 50% under the automatic route subject to the condition that such investment shall not exceed 49% of the equity of a PSU.
8.	Venture Capital Fund (VCF) and Venture Capital Company(VCC)	An offshore venture capital company may contrinute upto 100% of the capital of a domestic venture capital fund and may also set up a domestic asset management company to manage the fund. VCFs and VCCs are permitted upto 40% of the paid up corpus of the domestic unlisted companies. This ceiling would be subject to relevant equity investment limit in force in relation to areas reserved

Sl.No.	Sector	Guidelines
		for SSI. Investment in a single company by a VCF/VCC shall not exceed 5% of the paid-up corpus of a domestic VCF/VCC. The automatic route is not available.
9.	Trading	Trading is permitted under automatic route with FDI upto 51% provided it is primarily export activities, and the undertaking is an export house/trading house/super trading house/star trading house. However, under the FIPB route:- i. 100% FDI is permitted in case of trading companies for the following activities: • exports; • bulk imports with export/exbonded warehouse sales; • cash and carry wholesale trading; • other import of goods or services provided at least 75% is for procurement and sale of goods and services among the companies of the same group and for third party use or onward transfer/distribution/sales. ii. The following kinds of trading are also permitted, subject to provisions of EXIM Policy: a. Companies for providing after sales services (that is no trading per se) b. Domestic trading of products of JVs is permitted at the wholesale level for such trading companies who wish to market manufactured products on behalf of their joint ventures in which they have equity participation in India. c. Trading of hi-tech items/items requiring specialised after sales service d. Trading of items for social sector e. Trading of hi-tech, medical and diagnostic items. f. Trading of items sourced from the small scale sector under which, based on technology provided and laid down quality specifications, a company can market that item under its brand name. g. Domestic sourcing of products for exports. h. Test marketing of such items for which a company has approval for manufacture provided such test marketing facility will be for a period of two years, and investment in setting up manufacturing facilities commences simultaneously with test marketing.
10.	Investing companies in infrastructure/ service sector	In respect of the companies in infrastructure/service sector, where there is a prescribed cap for foreign investment, only the direct investment will be considered for the prescribed cap and foreign investment in an investing company will not be set off against this cap provided the foreign direct investment in such investing company does not exceed 49% and the management of the investing company is with the Indian owners. The automatic route is not available.

Sl.No.	Sector	Guidelines
11.	Atomic energy	The following three activities are permitted to receive FDI/NRI/OCB investments through FIPB (as per detailed guidelines issued by Department of Atomic Energy vide Resolution No.8/1(1)/97-PSU/1422 dated 6.10.98): a. Mining and mineral separation b. Value addition per se to the products of (a) above c. Integrated activities (comprising of both (a) and (b) above. The following FDI participation is permitted: i. Upto 74% in both pure value addition and integrated projects. ii. For pure value addition projects as well as integrated projects with value addition upto any intermediate stage, FDI is permitted upto 74% through joint venture companies with Central/State PSUs in which equity holding of at least one PSU is not less than 26%. iii. In exceptional cases, FDI beyond 74% will be permitted subject to clearance of the Atomic Energy Commission before FIPB approval.
12.	Defence and strategic industries	No FDI/NRI/OCB investment is permitted
13.	Agriculture (including plantation)	No FDI/NRI/OCB investment is permitted
14.	Print media	No FDI/NRI/OCB investment is permitted
15.	Broadcasting	No FDI/NRI/OCB investment is permitted
16.	Power	Upto 100% FDI allowed
17.	Drugs & Pharmaceuticals	i. FDI upto 74% in the case of bulk drugs, their intermediates and formulations (except those produced by the use of recombinant DNA technology) would be covered under automatic route. ii. FDI above 74% for manufacture of bulk drugs will be considered by the Government on case to case basis for manufacture of bulk drugs from basic stages and their intermediates and bulk drugs produced by the use of recombinant DNA technology as well as the specific cell/tissue targeted formulations provided it involves manufacturing from basic stage.

Sl.No.	Sector	Guidelines
18.	Roads & Highways, Ports and Harbours.	FDI upto 100% under automatic route is permitted in projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours.
19.	Hotels & Tourism	100% FDI is permissible in the sector. The term hotels include restaurants, beach resorts, and other tourist complexes providing accommodation and/or catering and food facilities to tourists. Tourism related industry includes travel agencies, tour operating agencies and tourist transport operating agencies, units providing facilities for cultural, adventure and wild life experience to tourists, surface, air and water transport facilities to tourists, leisure, entertainment, amusement, sports, and health units for tourists and Convention/Seminar units and organisation. Automatic route is also available upto 51% subject to the following parameters. For foreign technology agreements, automatic approval is granted if i. upto 3% of the capital cost of the project is proposed to be paid for technical and consultancy services including fees for architecture, design, supervision, etc. ii. upto 3% of the net turnover is payable for franchising and marketing/publicity support fee, and iii. upto 10% of gross operating profit is payable for management fee, including incentive fee.
20.	Mining.	i. For exploration and mining of diamonds and precious stones FDI is allowed upto 74% under automatic route. ii. For exploration and mining of gold and silver and minerals other than diamonds and precious stones, metallurgy and processing FDI is allowed upto 100% under automatic route. iii. Press Note No. 18 (1998 series) dated 14.12.98 would not be applicable for setting up 100% owned subsidiaries in so far as the mining sector is concerned, subject to a declaration from the applicant that he has no existing joint venture for the same area and / or the particular mineral.
21.	Postal services	Couriers carrying packages, parcels and other items which do not come within the ambit of Indian Post Office Act 1998 shall not be permitted.

Sl.No.	Sector	Guidelines
22.	Pollution Control and management	FDI upto 100% in both manufacture of pollution control equipment and consultancy for integration of pollution control systems is permitted under automatic route.
23.	Advertising and films	Automatic approval is available for the following: • Upto 74% FDI in advertising sector • Upto 100% FDI in film industry (i.e. film financing, production, distribution, exhibition, marketing and associated activities relating to film industry) subject to the following: i. Companies with an established track record in films, TV, music, finance and insurance would be permitted. ii. The company should have a minimum paid up capital of US$ 10 million if it is the single largest equity shareholder and at least US$ 5 million in other cases. iii. Minimum level of foreign equity investment would be US$ 2.5 million for the single largest equity shareholder and US$ 1 million in other cases. iv. Debt equity ratio of not more than 1:1, i.e., domestic borrowings shall not exceed equity.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 6 (2000 Series)

Subject : FDI in the Non-Banking Financial Sector – relaxation of norms – reg.

Press Note No. 4 (1999 Series), inter-alia, provides for a 100% foreign equity in Non-Banking Finance Companies (NBFCs) where such NBFC has to act only as a holding company with a minimum capitalisation of US $ 50 million and specific activities to be undertaken by down stream subsidiaries with minimum 25% domestic equity, of which 10% has to be brought-up front and the remaining 15% over a period of 2 years.

2. Government, on review of the policy in this regard, has decided to allow holding companies with a minimum capital of US$ 50 million, to set up a 100% downstream subsidiary to undertake specific NBFC activities. Such a subsidiary, however, would be required to dis-invest its equity to the minimum extent of 25%, through a public offering only, within a period of 3 years.

3. Press Note No. 4 (1997 Series) issued by Government on 30th April, 1997 shall stand amended to the above extent.

4. The other provisions of the NBFC guidelines issued through Press Notes No. 13 of (1997 Series), 8 and 16 of (1998 Series), 11, 12 and 14 of (1999 Series) would continue to be applicable.

(A.C. Duggal)
Director

F. No. 7(4)/2000-IP
Dated 31st March, 2000.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 7 (2000 Series)

Subject: Review of existing sectoral policy and sectoral equity cap for Foreign Direct Investment (FDI) / Non Resident Indian (NRI) / Overseas Corporate Bodies (OCB) Investment.

In pursuance of Government's commitment to further liberalising the FDI regime, Government, on review of the policy on FDI, has decided to bring about the following changes in the FDI policy:

I. Foreign Direct Investment upto 100% is allowed for e-commerce activities subject to the condition that such companies would divest 26% of their equity in favour of the Indian public in 5 years, if these companies are listed in other parts of the world. Further, these companies would engage only in business to business (B2B) e-commerce and not in retail trading, inter alia, implying that existing restrictions on FDI in domestic trading would be applicable to e-commerce as well.

II. Vide Press Note No. 12 of 1992 Series, it had been decided to withdraw the condition of dividend balancing in all foreign investment approvals except for industries in the 22 specified consumer goods sector. On review of the existing policy on dividend balancing applicable to 22 specified consumer goods industries, and with a view to attracting FDI, it has been decided, with immediate effect, to remove the condition of dividend balancing on these 22 consumer goods industries. This decision will come into force from the date of issue of this Press Note and the export obligation and concomitant dividend balancing will remain applicable until the date of issue of this Press Note.

III. Under Press Note No. 2 of 1998 series, projects for electricity generation, transmission and distribution with foreign equity upto 100%, had been made eligible for automatic approval provided the foreign equity in any such project does not exceed Rs. 1500 crore. The categories that qualified for such automatic approval are hydroelectric power plants, coal / lignite based thermal power plants, oil based thermal power plants and gas based thermal power plants. Generation, transmission and distribution of electrical energy produced in atomic reactor power plants is not elgible for automatic approval. Keeping in view the growing demand for power in the country and the need for more investment in this sector, Government, as part of further liberalisation of FDI regime, has decided to remove the upper limit for foreign direct investment in respect of projects relating to electric generation, transmission and distribution (other than atomic reactor power plants).

IV. As per existing guidelines for FDI in petroleum sector, FDI in refining is permitted upto 26% (public sector holding of 26% and balance 48% by public). In case of private Indian companies, FDI in refining is permitted upto 49%. Government, as part of liberalisation of FDI regime has decided to increase the level of FDI in oil refining sector under automatic route from the existing 49% to 100%.

(M.S. Srinivasan)
Joint Secretary to the Government of India

F. No. 7(4)/2000-IP
Dated 14th July, 2000.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 9 (2000 Series)

Subject : Review of existing sectoral policy and sectoral equity cap for Foreign Direct Investment (FDI) and investment by Non Resident Indians (NRI) / Overseas Corporate Bodies (OCB).

In pursuance of Government's commitment to liberalisting the FDI regime, Government, on review of the policy on FDI, has decided to bring about the following changes in the FDI policy :

I. FDI upto 100% is allowed through the automatic route for all manufacturing activities in Special Economic Zones (SEZs), except for the following activities :

  a. arms and ammunition, explosives and allied items of defence equipment, defence aircraft and warships;

  b. atomic substances;

  c. narcotics and psychotropic substances and hazardous chemicals;

  d. distillation and brewing of alcoholic drinks; and

  e. cigarettes / cigars and manufactured tobacco substitutes.

II. FDI upto 100% is allowed for the following activities in the telecom sector :

  a. ISPs not providing gateways (both for satellite and submarine cables);

  b. Infrastructure Providers providing dark fibre (IP Category I);

  c. Electronic Mail; and

  d. Voice Mail

  The above would be subject to the following conditions :

  a. FDI upto 100% is allowed subject to the condition that such companies would divest 26% of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world.

  b. The above services would be subject to licensing and security requirements, wherever required.

  c. Proposals for FDI beyond 49% shall be considered by FIPB on case to case basis.

III. Payment of royalty upto 2% for exports and 1% for domestic sales is allowed under automatic route on use of trademarks and brand name of the foreign collaborator without technology transfer.

IV. Payment of royalty upto 8% on exports and 5% on domestic sales by wholly owned subsidiaries to offshore parent companies is allowed under the automatic route without any restriction on the duration of royalty payments.

V. Offshore Venture Capital Funds / Companies are allowed to invest in domestic venture capital undertakings as well as other companies through the automatic route, subject only to SEBI regulations and sector specific caps on FDI.

(A.C. Duggal)
Director

F. No. 7(4)/2000-IP
Dated 8th September, 2000.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 10 (2000 Series)

Subject : Review of existing sectoral policy and sectoral equity cap for Foreign Direct Investment (FDI) and investment by Non Resident Indians (NRI) / Overseas Corporate Bodies (OCB).

In pursuance of Government's commitment to liberalise the FDI regime, on review of the policy on FDI, it has been decided that foreign equity participation upto 26% in the Insurance sector, as prescribed in the Insurance Act, 1999, will be allowed under the automatic route.

Companies bringing in FDI shall, however, be required to obtain necessary licence from the Insurance Regulatory & Development Authority for undertaking insurance activities.

(M.S. Srinivasan)
Joint Secretary to the Government of India

F. No. 7(4)/2000-IP
Dated 19th October, 2000.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 2 (2001 Series)

Subject : Liberalisation of the existing norms for foreign investment in the NBFC sector.

In pursuance of the Government's commitment to liberalise the FDI regime, it has been decided to further liberalise the FDI guidelines in respect of NBFC sector as under :

(a) The existing requirements to bring in capital would continue to be applicable. That is, if the

(i) FDI is less than 51%, US$ 0.5 million to be brought in upfront;

(ii) FDI is more than 51% and upto 75%, US$ 5 million to be brought in upfront; and

(iii) FDI is more than 75% and upto 100%, US$ 50 million, out of which US$ 7.5 million to be brought in upfront and the balance in 24 months.

(b) Foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities, subject to bringing in US$ 50 million as at (a) (iii) above (without any restriction on number of operating subsidiaries without bringing in additional capital).

(c) Joint Venture operating NBFCs that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities, subject to the subsidiaries also complying with the applicable minimum capital inflow, i.e., (a) (i) and (a) (ii) above.

(d) FDI in the NBFC sector is put on automatic route subject to compliance with guidelines of the Reserve Bank of India. RBI would issue appropriate guidelines in this regard.

2. Press Note No.4 (1997 Series), Press Note No.13 (1997 Series), Press Note No.8 (1998 Series), Press Note No.16 (1998 Series), Press Note No.11 (1999 Series), Press Note No.12 (1999 Series) and Press Note No.6 (2000 Series) issued on FDI in NBFC Sector stand modified to this extent.

(M. S. Srinvasan)
Joint Secretary to the Government of India

F. No. 5(16)/2001-FC.I
Dated 17th April, 2001.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 4 (2001 Series)

Subject : Revision of existing sectoral guidelines and equity cap on Foreign Direct Investment (FDI), including investment by Non Resident Indians (NRIs) and Overseas Corporate Bodies (OCBs).

With a view to further liberalising the FDI regime, Government have effected the following changes in the FDI policy:

i. FDI up to 100% is permitted on the automatic route for manufacture of drugs and pharmaceutical, provided the activity does not attract compulsory licensing or involve use of recombinant DNA technology and specific cell / tissue targeted formulations. FDI proposals for the manufacture of licensable drugs and pharmaceuticals and bulk drugs produced by recombinant DNA technology and specific cell / tissue targeted formulations will require prior Government approval.

ii. FDI up to 100% is permitted in airports, with FDI above 74% requiring prior approval of the Government.

iii. The defence industry sector is opened up to 100% for Indian private sector participation with FDI permissible up to 26%, both subject to licensing.

iv. FDI up to 100% is permitted for development of integrated townships, including housing, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities such as roads and bridges, mass rapid transit systems; and manufacture of building materials. Development of land and providing allied infrastructure will form an integral part of township's development, for which necessary guidelines/norms relating to minimum capitalisation, minimum land area, etc., will be notified separately by the Government. FDI in this sector would be permissible with prior Government approval.

v. FDI up to 100% is permitted on the automatic route in hotel and tourism sector.

vi. FDI up to 100% is permitted in courier services subject to existing laws and exclusion of activity relating to distribution of letters. FDI in this sector would be permissible with prior Government approval.

vii. FDI up to 100% is permitted on the automatic route for Mass Rapid Transport Systems in all metropolitan cities, including associated commercial development of real estate.

viii. NRI investment in foreign exchange is made fully repatriable whereas investments made in Indian rupees through rupee accounts shall remain non-repatriable.

ix. FDI up to 74% is permitted for the following telecom services subject to licensing and security requirements:

   a. Internet service providers with gateways;

   b. Radio paging; and

   c. End-to-end bandwidth

   Proposals with FDI beyond 49% shall require prior Government approval.

x. FDI up to 49% from all sources is permitted in the banking sector on the automatic route subject to conformity with guidelines issued by RBI from time to time.

2. The provisions of Press Note No. 2 of 2000 stand modified to the above extent.

(M. S. Srinvasan)
Joint Secretary to the Government of India

F. No. 5(6)/2000-FC.I
Dated: 21st May, 2001.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 2 (2002 Series)

Subject: Guidelines for licensing production of Arms & Ammunitions.

In pursuance of the Government decision to allow private sector participation up to 100% in the defence industry sector with foreign direct investment (FDI) permissible up to 26%, both subject to licensing, as notified vide Press Note No. 4 (2001 Series), the following guidelines for licensing production of arms and ammunitions are hereby notified:

1. Licence applications will be considered and licences given by the Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, in consultation with Ministry of Defence.

2. Cases involving FDI will be considered by the FIPB and licences given by the Department of Industrial Policy & Promotion in consultation with Ministry of Defence.

3. The applicant should be an Indian company / partnership firm.

4. The management of the applicant company / partnership should be in Indian hands with majority representation on the Board as well as the Chief Executive of the company / partnership firm being resident Indians.

5. Full particulars of the Directors and the Chief Executives should be furnished along with the applications.

6. The Government reserves the right to verify the antecedents of the foreign collaborators and domestic promoters including their financial standing and credentials in the world market. Preference would be given to original equipment manufacturers or design establishments and companies having a good track record of past supplies to Armed Forces, Space and Atomic energy sectors and having an established R & D base.

7. There would be no minimum capitalization for the FDI. A proper assessment, however, needs to be done by the management of the applicant company depending upon the product and the technology. The licensing authority would satisfy itself about the adequacy of the net worth of the foreign investor taking into account the category of weapons and equipment that are proposed to be manufactured.

8. There would be a three-year lock-in period for transfer of equity from one foreign investor to another foreign investor (including NRIs & OCBs with 60% or more NRI stake) and such transfer would be subject to prior approval of the FIPB and the Government.

9. The Ministry of Defence is not in a position to give purchase guarantee for products to be manufactured. However, the planned acquisition programme for such equipment and overall requirements would be made available to the extent possible.

10. The capacity norms for production will be provided in the licence based on the application as well as the recommendations of the Ministry of Defence, which will look into existing capacities of similar and allied products.

11. Import of equipment for pre-production activity including development of prototype by the applicant company would be permitted.

12. Adequate safety and security procedures would need to be put in place by the licensee once the licence is granted and production commences. These would be subject to verification by authorized Government agencies.

13. The standards and testing procedures for equipment to be produced under licence from foreign collaborators or from indigenous R & D will have to be provided by the licensee to the Government nominated quality assurance agency under appropriate confidentiality clause. The nominated quality assurance agency would inspect the finished product and would conduct surveillance and audit of the Quality Assurance Procedures of the licensee. Self-certification would be permitted by the Ministry of Defence on case to case basis, which may involve either individual items, or group of items manufactured by the licensee. Such permission would be for a fixed period and subject to renewals.

14. Purchase preference and price preference may be given to the Public Sector organizations as per guidelines of the Department of Public Enterprises.

15. Arms and ammunition produced by the private manufacturers will be primarily sold to the Ministry of Defence. These items may also be sold to other Government entities under the control of the Ministry of Home Affairs and State Governments with the prior approval of the Ministry of Defence. No such item should be sold within the country to any other person or entity. The export of manufactured items would be subject to policy and guidelines as applicable to Ordnance Factories and Defence Public Sector Undertakings. Non-lethal items would be permitted for sale to persons / entities other than the Central or State Governments with the prior approval of the Ministry of Defence. Licensee would also need to institute a verifiable system of removal of all goods out of their factories. Violation of these provisions may lead to cancellation of the licence.

16. Government decision on applications to FIPB for FDI in defence industry sector will be normally communicated within a time frame of 10 weeks from the date of acknowledgement by the Secretariat for Industrial Assistance in the Department of Industrial Policy & Promotion.

(M. S. Srinvasan)
Joint Secretary to the Government of India

F. No. 5(37)/2001-FC:I
Dated 4th January, 2002.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 5 (2002 Series)

Subject: Prohibition on foreign investment in lottery business, gambling and betting - regarding

As per existing policy, lottery business, gambling and betting are not open to foreign investment, which applies to FDI, FII portfolio investment, NRI/OCB portfolio investment, NRI/OCB investment on non-repatriation basis and investment by foreign venture capital investors.

2. Government has been receiving queries from certain State Governments, prospective investors, technology providers, franchise / trademark / brand name licesnsors, management consultants, etc. as to whether fdi is permissible in Government / private lotteries, online lotteries, casinos, etc., and also whether foreign technology collaboration, including licensing of franchise / trademark / brand name, management contract, etc., are permitted in the lottery business, gambling and betting sector.

3. It is clarified that both foreign investment and foreign technology collaboration in any form are completely prohibited in the lottery business, gambling and betting sector.

(M.S. Srinivasan)
Joint Secretary to the Government of india

F. No. 5(31)/2000-FC I
Dated 5th July, 2002.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 6 (2002 Series)

Subject: Revision of existing sectoral guidelines for FDI, including investment by non-resident Indians and overseas corporate bodies.

As part of the ongoing liberalisation of the FDI regime, the Government, in partial relaxation of the extant policy which prohibits FDI in the agriculture sector, including plantations, has decided to allow FDI up to 100% in tea sector, including tea plantations. Proposals for FDI in tea sector will require prior approval of the Central Government and would be subject to following conditions:

(i) compulsory divestment of 26% equity of the company in favour of an Indian partner / Indian public within a period of five years; and

(ii) prior approval of the State Government concerned in case of any future land use change.

The above dispensation would be applicable to all fresh investments (FDI) made in this sector from the date of this notification.

2. The provisions of Press Note No. 2 (2000 Series) dated 11.2.2000 stand modified to the above extent.

(M. S. Srinvasan)
Joint Secretary to the Government of India

F. No. 5(9)/2000-FC.I
Dated 5th July, 2002.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 3 (2003 Series)

Subject: Capitalisation of import payables -liberalisation of policy.

At present, issue or shares by a company in India to a person resident outside India is permitted only against inward remittance of convertible foreign exchange through normal banking channels or by debit to NRE / FCNR account of the person concerned maintained with an authorised foreign exchange dealer bank.

2. As a part of the ongoing process of liberalisation, it has been decided to permit issue of equity shares against lumpsum, fee, royalty and External Commercial Borrowings (ECBs) in convertible foreign currency already due for payment/repayment, subject to meeting all applicable tax liabilities and procedures.

(R.S. Julaniya)
Director

F. No. 5(4)/2003-FC
Dated 29th July, 2003.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 5 (2003 Series)

Subject: Issue of shares against External Commercial Borrowings - liberalisation of.

Vide Press Note 3 (2003 Series) dated 28th July, 2003 issue of equity shares against lump-sum fee, royalty and External Commercial Borrowings (ECBs) in convertible foreign currency already due for payment/repayment, subject to meeting all applicable tax liabilities and procedures has been permitted.

As a part of the ongoing process of liberalisation, it has been decided to permit issue of equity shares against all External Commercial Borrowings (excluding those deemed as ECBs) received in convertible foreign currency, subject to meeting all tax liabilities and procedures.

(R.S. Julaniya)
Director

F.No. 5(4)/2003-FC
Dated 28th November, 2003.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 1 (2004 Series)

Subject: Revision of existing sectoral guidelines and equity cap on Foreign Direct Investment (FDI), including investment by Non Resident Indians (NRIs) and Overseas Corporate Bodies (OCBs)

With a view to further liberalising the FDI regime, Government have effected the following changes in the FDI Policy:

i) FDI up to 100 per cent is permitted in printing scientific and technical magazines, periodicals and journals, subject to compliance with the legal framework as applicable and guidelines issued in this regard from lime to time by the Ministry of Information and Broadcasting. FDI in this sector would be permissible with prior Government approval.

ii) FDI up to 100 per cent is permitted on the automatic route on Petroleum product marketing. FDI for this sector would be permissible subject to the existing sectoral policy and regulatory framework in the oil marketing sector.

iii) FDI up to 100 per cent is permitted on the automatic route in oil exploration in both small and medium sized fields subject to and under the policy of the Government on private participation in : (a) exploration of oil and (b) the discovered fields of national oil companies.

iv) FDI up to 100 per cent is permitted on the automatic route for petroleum product pipelines subject to and under the Government Policy and regulations thereof.

v) FDI up to 100 per cent is permitted for Natural Gas/LNG Pipelines with prior Government approval.

2. The provisions of Press Note 2 of 2000 stand modified to the above extent.

(Umesh Kumar)
Joint Secretary to the Gavemment of India

F. No. 9/1//2002-FC
Dated 28th January, 2004.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 2 (2004 Series)

Subject: Revision of existing sectoral guidelines and equity cap an Foreign Direct Investment (FDI), including investment by Non Resident Indias (NRIs) and Overseas Corporate Bodies (OCBs)/Foreign Institutional Investors (FIIs) in the Banking Sector.

With a view to further liberalising foreign investment in Banking Sector, the Government have effected the following changes:

1. FDI limit in Indian Private Sector Banks

(a) FDI limit in Private Sector Banks is raised to 74 per cent under the automatic route including investment by FIIs. This will include FDI investment under Portfolio Investment Scheme (PIS) by FIIs, NRIs and shares acquired prior to September 16, 2003 by OCBs and continue to include IPOs, Private placements, GDRs/ADRs and acquisition of shares from existing sharehoiders.

(b) The aggregate foreign investment in a private bank from all sources will be allowed up to a maximum of 74 per cent of the paid up capital or the Bank. At all times. at least 26 per cent of the paid up capital will have to be heid by residents, except in regard to a wholly-owned subsidiary of a foreign bank.

(c) The stipulations as above will be applicable to all investments in existing private sector banks also.

(d) The permissible limits under portfolio investment schemes through stock exchangers for FIIs and NRIs will be as follows:

(i) In the case of FIIs, as hitherto, individual FII holding is restricted to 10 per cent, aggregate limit for all FIIs cannot exceed 24 per cent, which can be raised to 49 per cent by the bank concerned passing a resolution by its Board of Directors followed by passing of a special resolution to that effect by its General Body.

(ii) Thus, the FII investment limit will continue to be within 49 per cent.

(iii) In the case of NRIs, as hitherto, individual holding is restricted to 5 per cent and aggregate limit cannot exceed 10 per cent. However, NRI holding can be allowed up to 24 per cent provided the banking company passes a special resolution to that effect in the General Body.

(e) Applications for Foreign Direct Investment (FDI route) in private banks having joint venture/ subsidiary in insurance sector may be addressed to the Reserve Bank of India (RBI) For consideration in consultation with the Insurance Regulatory and Development Authority (IRDA) in order to ensure that the 26 per cent limit of Foreign shareholding applicable for the insurance sector is not being breached.

(f) Transfer of shares under FDI from residents to non-residents will continue to require approval of Foreign Investment Promotion Board (FIPB) under Foreign Exchange Management Act (FEMA).

(g) The policies and procedures prescribed from time to time by RBI and other institutions such as SEBI, D/o Company Affairs and IRDA on these matters will continue to apply.

(h) RBI guidelines relating to acquisition by purchase or othewise of shares of a private bank, if such acquisition results in any person owning or controlling 5 per cent or mare of the paid up capital of the private bank will apply to foreign investors as well.

2. Setting up of a subsidiary by foreign banks

(a) Foreign banks will be permitted to either have branches or subsidiaries not both.

(b) Foreign banks regulated by a banking supervisory authority in the home country and meeting Reserve Bank's licensing criteria will be allowed to hold 100 per cent paid up capital to enable them to set up a wholly-owned subsidiary in India.

(c) A foreign bank may operate in India through only one of the three channels viz., (i) branch/es (ii) a wholly-owned subsidiary and (iii) a subsidiary with aggregate foreign investment up to a maximum of 74 per cent in a private bank.

(d) A foreign bank will be permitted to establish a wholly-owned subsidiary either through conversion of existing branches into a subsidiary or through a fresh banking licence, A foreign bank will be permitted to establish a subsidiary through acquisition of shares of an existing private sector bank provided at least 26 per cent of the paid capital of the private sector bank is held by residents at all times times consistent with para 1(b) above.

(e) A subsidiary of foreign bank will be subject to the licensing requirements and conditions broadly consistent with those for new private sector banks.

(f) Guidelines for setting up a wholly-owned subsidiary or a foreign bank will be issued separately by RBI.

(g) All applicaticns by a foreign bank for setting up a subsidiary or for conversion of their existing branches to subsidiary in India will have to be made to the RBI.

3. At present there is a limit of ten per cent on voting rights in respect of banking companies, and this should be noted by potential investor. Any change in the ceiling can be brought about only after final policy decisions and appropriare parliamentary approvals.

(Umesh Kumar)
Joint Secretary to the Gavemment of India

F. No. 5/6/2000-FC
Dated 5th March, 2004.

Government of India
Ministry of Finance
Department of Economic Affairs
(FI Unit)
***

Press Note

Subject: Simplification of foreign investment procedures

In order to make the environment in India more attractive for foreign investors, Government has decided to simplify the procedure by placing the following under the General Permission route (i.e. RBI route) instead of existing Government approval route (i.e. FIPB route) for speedy and streamlined investment approvals:

a) Transfer of shares from resident to non-resident (including transfer of subscribers' shares to non-residents) other than in financial services sector provided the investment is covered under automatic route, does not attract the provisions of SEBI's (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, falls within the sectoral cap and also complies with prescribed pricing guidelines.

b) Conversion of ECB/Loan into equity provided the activity of the company is covered under automatic route, the foreign equity after such conversion falls within the sectoral cap and also complies with prescribed pricing guidelines.

c) Cases of increase in foreign equity participation by fresh issue of shares as well as conversion of preference shares into equity capital provided such increase falls within the sectoral cap in the relevant sectors, are within the automatic route and also complies with prescribed pricing guidelines.

In respect of the procedural simplifications given at para 1 above, the onus of complying with the sectoral cap/limits prescribed under the FDI policy as well as other guidelines/regulations would rest with the buyer and seller/issuer.

Necessary notification/circular under FEMA giving details of the simplification of procedures are being brought out by the Reserve Bank of India.

(U.K. Sinha)
Joint Secretary to the Gavemment of India

F. No. 1/3/2003-FIU
Datde 29th September, 2004.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 1 (2005 Series)

Subject: Guidelines pertaining to approval of foreign/technical collaborations under the automatic route with previous ventures/tie-up in India.

The Government has reviewed the guidelines notified vide Press Note 18 (1988 series) which stipulated approval of the Government for new proposals for foreign investment/technical collaboration where the foreign investor has or had any previous joint venture or technology transfer/ trademark agreement in the same or allied field in India.

2. New proposals for foreign investment/technical collaboration would henceforth be allowed under the automatic route, subject to sectoral policies, as per the following guidelines.

(i) Prior approval of the Government would be required only in cases where the foreign investor has an existing joint venture or technology transer/trademark agreement in the 'same' field. The onus to provide requisite justification as also proof to the satisfaction of the Government that the new proposal would or would not in any way jeopardize the interests of the existing joint venture or technology/trademark partner or other stakeholders would lie equally on the foreign investor/technology supplier and the Indian partner.

(ii) Even in cases where the foreign investor has a joint venture or technology transfer/trademark agreement in the 'same' field prior approval of the Government will not be required in the following cases:

a. Investments to be made by Venture Capital Funds registered with the Security and Exchange Board or India (SEBI); or

b. Where in the existing joint-venture investment by either of the parties is less than 3%; or

c. Where the existing venture/collaboration is defunct or sick.

(iii) In so far as joint ventures to be entered into after the data of this Press Note are concered, the joint venture agreement may embody a 'conflict' of interest clause to safeguard the interests of joint venture partners in the event of one of the partners desiring to set up another joint venture or a wholly owned subsidiary in the 'same' field of economic activity.

3. These guidelines would come into force with immediate effect.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 8/1/2003-FC (Pt.)
Dated 12th January, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 2 (2005 Series)

Subject: Foreign Direct Investment (FDI) in townships, housing, built-up infrastructure and construction-development projects

With a view to catalysing investment in townships, housing, built-up infrastructure and construction-development projects as an instrument to generate economic activity, create new employment opportunities and add to the available housing stock and built-up infrastructure, the Government has decided to allow FDI up to 100% under the automatic route in townships, housing, built-up infrastructure and construction-development projects (which would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure), subject to the following guidelines:

a. Minimum area to be developed under each project would be as under:

   i. In case of development of serviced housing plots, a minimum land area of 10 hectares

   ii. In case of construction-development projects, a minimum built-up area of 50,000 sq.mts

   iii. In case of a combination project, anyone of the above two conditions would suffice

b. The investment would further be subject to the following conditions:

   i. Minimum capitalization of US$10 million for wholly owned subsidiaries and US$ 5 million for joint ventures with Indian partners. The funds would have to be brought in within six months of commencement of business of the Company.

   ii. Original investment cannot be repatriated before a period of three years from completion of minimum capitalization. However, the investor may be permitted to exit earlier with prior approval of the Government through the FIPB.

c. At least 50% of the project must be developed within a period of five years from the date of obtaining all statutory clearances. The investor would not be permitted to sell undeveloped plots.

   For the purpose of these guidelines, "undeveloped plots" will mean where roads, water supply, street lighting, drainage, sewerage, and other conveniences, as applicable under prescribed regulations, have not been made available. It will be necessary that the investor provides this infrastructure and obtains the completion certificate from the concerned local body/service agency before he would be allowed to dispose of serviced housing plots.

d. The project shall conform to the norms and standards, including land use requirements and provision of community amenities and common facilities, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government!Municipal/ Local Body concerned.

e. The investor shall be responsible for obtaining all necessary approvals, including those of the building/layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules/bye-Iaws/regulations of the State Government! Municipal/Local Body concerned.

f. The State Government / Municipal / Local Body concerned, which approves the building / development plans, would monitor compliance of the above conditions by the developer."

2. Para (iv) of Press Note 4 (2001 Series), issued by the Government on 21.5.2001, and Press Note 3 (2002 Series), issued on 4.1.2002, stand superceded.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 5(6)/2000-FC
Dated 3rd March, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 3 (2005 Series)

Subject: Clarification regarding Guidelines pertaining to approval of foreign/technical collaborations under the automatic route with previous ventures/tie-ups in India.

The Government, vide Press Note 1 (2005 Series) dated 12.1.2005, notified fresh guidelines for approval of new proposals for foreign/technical collaboration under the automatic route with previous venture/tie up in India. According to these guidelines, prior approval of the Government would be required for new proposals for foreign investment/technical collaboration, in cases where the foreign investor has an existing joint venture or technology transfer/trademark agreement in the same field in India.

2 The Government had, earlier vide Press Note 10 (1999 Series) notified the definition of "same field" as the 4 digit National Industrial Classification (NIC) 1987 Code. It is hereby reiterated that for the purposes of Press Note 1 (2005 Series), the definition of 'same' field would continue to be 4 digit NIC 1987 Code.

3 It is also clarified that proposals in the Information Technology sector, investments by multinational financial institutions and in the mining sector for same area/mineral were exempted from the application of Press Note 18 (1998 Series) vide Press Note 8 (2000 Series), Press Note 1(2001 Series) and Press Note 2 (2000 Series) respectively. Investment proposals in these sectors would continue to be exempt from Press Note 1 (2005 Series).

4. From para 2(i) of the guidelines notified vide Press Note 1 (2005 Series), it is clear that prior Government approval for new proposals would be required only in cases where the foreign investor has an existing joint venture, technology transfer/trademark agreement in the 'same' field subject to provisions of para 2(ii) of the Press Note 1 (2005 Series).

5. For the purpose of avoiding any ambiguity it is reiterated that joint ventures, technology transfer/ trademark agreements existing on the date of issue of the said Press Note i.e. 12.1.2005 would be treated as existing joint venture, technology transfer/trademark agreement for the purposes of Press Note 1 (2005 Series).

(Umesh Kumar)
Joint Secretary to the Government of India

F.No.8/1/2003-FC(Pt.)
Dated 15th March, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 4 (2005 Series)

Subject: Conversion of NRI investment into repatriable equity-clarification

Vide Press Note 4 (2001 Series), investment by Non-Resident Indian (NRI) made in foreign exchange on non-repatriable basis was allowed to be made fully repatriable whereas investment made in Indian rupees through rupee account continued to remain non-rapatriable.

2. Proposals for conversion of NRI investment into repatriable equity are hitherto being considered by the FIPB for approval. The procedure has been reviewed in the context of various liberalization measures taken by the Government in the recent past.

3. It is clarified that in terms of Press Note 4 (2001 Series), all proposals would qualify for conversion of non-repatriable equity into repatriable equity under the automatic route provided:

(a) the original investment by the NRI was made in foreign exchange under the FDI Scheme (Schedule I of FEMA Regulation 20/2000 dated 3.5.2000); and

(b) the sector/activity in which the investment is proposed to be converted into repatriable equity is on the automatic route for FDI.

(R.S. Julaniya)
Director

F. No. 5/20/2005-FC
Dated 31st August, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 5 (2005 Series)

Subject: Enhancement of the Foreign Direct Investment ceiling from 49 per cent to 74 per cent in the Telecom sector

In pursuance of the Government's commitment to liberalise the FDI regime, it has been decided to enhance the Foreign Direct Investment ceiling from 49 per cent to 74 per cent in certain telecom services (such as Basic, Cellular, Unified Access Services, National/International Long Distance, V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS) and other value added services), subject to the following conditions:-

A. The total composite foreign holding including but not limited to investments by Foreign Institutional Investors (FIIs), Non-resident Indians (NRIs), Foreign Currency Convertible Bonds (FCCBs), American Depository Receipts (ADRs), Global Depository Receipts (GDRs), convertible preference shares, proportionate foreign investment in Indian promoters/investment companies including their holding companies, etc., herein after referred as FDI, will not exceed 74 per cent. Thus, 74 per cent foreign investment can be made directly or indirectly in the operating company or through a holding company. Hence, the remaining 26 per cent will be owned by resident Indian citizens or an Indian Company (i.e. foreign direct investment does not exceed 49 percent and the management is with the Indian owners). It is clarified that proportionate foreign component of such an Indian Company will also be counted towards the ceiling of 74%. However, foreign component in the total holding of Indian public sector banks and Indian public sector financial institutions will be treated as 'Indian' holding. The licensee will be required to disclose the status of such foreign holding and certify that the foreign investment is within the ceiling of 74% on a half yearly basis.

B. The majority Directors on the Board including Chairman, Managing Director and Chief Executive Officer (CEO) shall be resident Indian citizens, enforced through licence agreement. The appointment to these positions from among resident Indian citizens shall be made in consultation with serious Indian investors. Serious investor has been defined below in para G(ii).

C. The Share Holder Agreements (SHA) shall specifically incorporate the condition that majority directors on the Board including Chairman, Managing Director and CEO shall be resident Indian citizens and shall also envisage the conditions of adherence to Licence Agreement.

D. FDI upto 49 per cent will continue to be on automatic route. Foreign Investment Promotion Board (FIPB) approval shall be required for FDI in the licensee company/Indian promoters/ investment companies including their holding companies if it has a bearing on the overall ceiling of 74 per cent. While approving the investment proposals, FIPB shall take note that investment is not coming from unfriendly countries.

E. The investment approval by FIPB shall envisage the conditionality that Company would adhere to Licence Agreement.

F. FDI shall be subject to laws of India and not the laws of the foreign country/countries.

G. Department of Telecommunications (DoT) will enforce the above and the conditions mentioned below through appropriate amendment in licence:-

(i) There shall be a non-obstante clause in the licence which confers powers upon the licensor to cancel the licence under certain defined circumstances.

(ii) In order to ensure that at least one serious resident Indian promoter subscribes reasonable amount of the resident Indian shareholding, such resident Indian promoter shall hold at least 10 per cent equity of the licensee company.

(iii) The Company shall acknowledge compliance with the licence agreement as a part of Memorandum of Association of the Company. Any violation of the licence agreement shall automatically lead to the company being unable to carry on its business in this regard. The duty to comply with the licence agreement shall also be made a part of Articles of Association.

(iv) Chief Technical Officer (CTO)/Chief Finance Officer (CFO) shall be resident Indian citizens. The Licensor/DoT shall also be empowered to notify key positions to be held by resident Indian citizens.

(v) The Company shall not transfer the following to any person/ place outside India:-

(a) any accounting information relating to subscriber (except for roaming/billing) (Note: it does not restrict a statutorily required disclosure of financial nature);

(b) user information (except pertaining to foreign subscribers using Indian Operator's network while roaming); and

(c) details of their infrastructure/network diagram except to telecom equipment suppliers/manufacturers who undertake the installation, commissioning etc. of the infrastructure of the licensee Company on signing of non-disclosure agreement.

(vi) The Company when entering into roaming agreements with service providers outside India must provide, on demand, the list of such users (telephone numbers, in case of foreign subscribers using Indian Operator's network while roaming).

(vii) The Company must provide traceable identity of their subscribers. However, in case of providing service to roaming subscriber of foreign Companies, the Indian Company shall endeavor to obtain traceable identity of roaming subscribers from the foreign company as a part of its roaming agreement.

(viii) No traffic (mobile and landline) from subscribers within India to subscribers within India shall be hauled to any place outside India.

(ix) No Remote Access (RA) shall be provided to any equipment manufacturer or any other agency out side the country for any maintenance/repairs by the licensee. However, RA may be allowed for catastrophic software failure (such as failure to boot up etc.) which would lead to major part of the network becoming non-functional for a prolonged period, subject to meeting the following conditions:

(a) An identified Government agency (Intelligence Bureau) will be notified, when RA is to be provided.

(b) Remote Access password is to be enabled for a definite period only and only for access from pre-approved locations of the Original Equipment Manufacturer (OEM) Vendors and only for the equipments specifically under repair/ maintenance.

(c) The control of Remote Access i.e. activation, transfer of data, termination etc. shall be within the country and not at a Remote location, abroad.

(d) The Government agency will be given all support to record the transactions for on-line monitoring.

(e) Any equipment or software that forms part of the overall monitoring shall not be permitted to have remote access under any circumstances.

(f) DoT will define appropriately the terms catastrophic software failure, major part of the network, and prolonged period used under this clause.

(x) It shall be open to the Department of Telecommunications to restrict the Licensee Company from operating in any sensitive area from the National Security angle.

(xi) In order to maintain the privacy of voice and data, monitoring shall only be upon authorisation by the Union Home Secretary or Home Secretaries of the States/Union Territories.

(xii) For monitoring traffic, the licensee company shall provide blind access of their network and other facilities as well as to books of accounts to the security agencies.

(xiii) In case of not adhering to Licence conditions envisaged in para G, the licence(s) granted to the company shall be deemed as cancelled and the licensor shall have the right to encash the performance bank guarantee(s) and the licensor shall not be liable for loss of any kind.

2. The conditions at para 1 above shall also be applicable to the existing companies operating telecom service(s) which had the FDI cap of 49%.

3. The relevant provisions of FDI policy for 'investment companies', as given in Press Note 2 (2000 series) dated 11.2.2000 issued by Department of Industrial Policy and Promotion will no longer be applicable to telecom sector.

4. An initial correction time of 4 months from the date of issue of this notification shall be allowed to the existing licensee companies providing telecom services mentioned in para 1 above for ensuring adherence to the aforesaid conditions. An unconditional compliance to the aforesaid conditions shall be submitted to the licensor within this period.

5. Press Note 15 (1998 Series) and Press Note 2 (2000 Series) issued by Department of Industrial Policy & Promotion stand modified to the above extent.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 9(1)/2002-FC
Dated 3rd November, 2005.

Government of India
Ministry of Finance
Department of Economic Affairs
(Banking Division)
***

Press Release

Subject: Foreign Direct Investment (FDI) in Asset Reconstruction Companies.

Government has decided to permit Foreign Direct Investment (FDI) in the equity capital of Asset Reconstruction Companies (ARCs). Foreign Investment Promotion Board (FIPB) would henceforth consider applications from person/entities eligible to invest in India in the equity capital of Asset Reconstruction Companies registered with Reserve Bank of India under the FDI route subject to the following conditions:

(a) Maximum Foreign equity shall not exceed 49% of the paid up capital.

(b) Where any individual investment exceeds 10% of the equity, ARC should comply with the provisions of Section 3(3)(f) of SARFAESI Act.**

Foreign Direct Investment alone will be permitted; investments by Foreign institutional Investors (Flls) will not be permitted.

2. The policy on FDI in ARCs would be reviewed after two years.

3. Necessary notification/circular under FEMA are being brought out separately by Reserve Bank of India

(Amitabh Verma)
Joint Secretary to the Government of India

F.No. 44/17/2004-BO II
Dated 8th November, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 6 (2005 Series)

Subiect: FDI in Terrestrial Broadcasting FM.

Till now, foreign investment was permitted in Terrestrial Broadcasting up to 20% under the Portfolio Investment Schemes under Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 and Foreign Direct Investment (FDI) was not permitted by foreign entities.

2. Government of India has recently announced Phase II of the programme for expansion of FM radio broadcasting services through private agencies to supplement and complement the efforts of the All India Radio by operationalising radio for providing programmes with local content and relevance, improving the qualiy of fidelity in reception and generation, encouraging participation by local talent and generating, employment.

3. The Government has now decided to permit foreign investment, including FDI, NRI and PIO investments and portfolio investments up to 20% equity for FM Radio's Broadcasting Services subject to such terms and conditions as specified from time to time by Ministry of Information and Broadcasting for grant of permission for setting up of FM Radio Stations.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 5(35)/99-FC
Dated 15th November, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Release

Subject: Clarifications on approval procedure regarding cases not covered under automatic route of RBI.

Under the extant policy, FDI up to 100% is permitted under the automatic route in most sectors/ activities. Similarly, automatic route is also allowed for foreign technology collaboration where the payments are within 5% for domestic sales and 8% for exports. No approval of the Government is required in such cases.

2. Only cases not covered under the automatic route need approval of the Government through the Foreign Investment Promotion Board (FIPB) or Project Approval Board (PAB) for FDI and/or Foreign Technology collaboration respectively. It has been observed that sometimes proposals are submitted for prior Government approval even though the cases are eligible for the automatic route.

3. `The investors are hereby advised to access the automatic route where the policy so permits. Henceforth, whenever prior approval of the Government is sought for activities or royalty payments eligible for the automatic route, the investors would need to indicate specific reason for seeking prior Government approval while submitting their proposals.

(Umesh Kumar)
Joint Secretary to the Government of India

F .No. 5(19)/2005-FC
Dated 23rd December, 2005.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 1 (2006 Series)

Subject: Foreign Direct Investment (FDI) in Up-linking of TV Channels.

At present, FDI up to 49% is permitted for setting up hardware, Up-linking HUB, etc., subject to compliance with the Broadcasting Laws and Regulations and subject to the detailed guidelines for Up-linking announced by the Ministry of Information and Broadcasting from time to time.

2. Under the revised guidelines for Up-linking notified on 2.12.2005, the Government has decided to allow FDI in the Up-linking of TV Channels as under:

a) FDI up to 49% would be permitted with prior approval of the Government for setting up Up-linking HUB/ Teleports;

b) FDI up to 100% would be allowed with prior approval of the Government for Up-linking a Non-News & Current Affairs TV Channel;

c) FDI (including investment by Foreign Institutional Investors (FIIs) up to 26% would be permitted with prior approval of the Government for Up-linking a News & Current Affairs TV Channel subject to the condition that the portfolio investment in the form of FII/ NRI deposits shall not be "persons acting in concert" with FDI investors, as defined in the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. The Company permitted to uplink the channel shall certify the continued compliance of this requirement through the Company Secretary at the end of each financial year.

While calculating foreign equity of the applicant company, the foreign holding component, if any, in the equity of the Indian shareholder companies of the applicant company will be duly reckoned on pro-rata basis, so as to arrive at the total foreign holding in the applicant company. However, the indirect FII equity in a company as on 31st March of the year would be taken for the purposes of pro-rata reckoning of foreign holdings.

3. FDI for Up-linking TV Channels will be subject to compliance with the Up-linking Policy of the Government of India notified by the Ministry of Information & Broadcasting from time to time.

(Umesh Kumar)
Joint Secretary to the Government of India

F.No. 5(35)/99-FC
Dated the 13th January, 2006.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 2 (2006 Series)

Subject: Clarification regarding Foreign Direct Investment (FDI) in townships, housing, built-up infrastructure and construction-development projects.

The Government, vide Press Note 2 (2005 Series) dated 2.3.2005, had notified the policy for Foreign Direct Investment (FDI) in townships, housing, built-up infrastructure and construction-development projects. The Government has received few requests from investors seeking clarifications on applicability of these policy guidelines to some other sectors such as Special Economic Zones, Hotels, Hospitals, etc.

2. The matter has been considered in the light of the policy prevailing prior to issue of the subject Press Note. FDI up to 100% was already allowed under the automatic route in the Hotel and tourism sector, vide Press Note 4 (2001 Series) and in the Hospital sector, vide Press Note 2 (2000 Series). Special Economic Zones are separately regulated under the Special Economic Zone Act, 2005.

3. It is clarified that the provisions of Press Note 2 (2005 Series) shall not apply to Special Economic Zones; neither shall it apply to establishment and operation of hotels and hospitals which shall continue to be governed by Press Note 4 (2001 Series) and Press Note 2 (2000 Series) respectively.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 12/36/2005-FC
Dated 16th January, 2006.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
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Press Note No. 3 (2006 Series)

Subject: Guidelines for FDI in Retail Trade of 'Single Brand' Products

The Government has decided to allow FDI up to 51%, with prior Government approval, in retail trade of 'Single Brand' products. This is, inter alia, aimed at attracting investments in production and marketing, improving the availability of such goods for the consumer, encouraging increased sourcing of goods from India, and enhancing competitiveness of Indian enterprises through access to global designs, technologies and management practices.

2. FDI up to 51% in retail trade of 'Single Brand' products would be subject to the following conditions:

i. Products to be sold should be of a 'Single Brand' only.

ii. Products should be sold under the same brand internationally.

iii. 'Single Brand' product-retailing would cover only products which are branded during manufacturing.

3. FDI would be allowed only with prior approval of the Government. Application seeking permission of the Government for FDI in retail trade of 'Single Brand' products would be made to the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. The application would specifically indicate the product/product categories which are proposed to be sold under a 'Single Brand'. Any addition to the product/ product categories to be sold under'Single Brand' would require a fresh approval of the Government.

4. Applications would be processed in the Department of Industrial Policy & Promotion, to determine whether the products proposed to be sold satisfy the notified guidelines, before being considered by the FIPB for Government approval.

5. These guidelines would come into force with immediate effect.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 5(3)/2005-FC
Dated 10th February, 2006.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 4 (2006 Series)

Subject: Rationalisation of the FDI Policy

The policy on Foreign Direct Investment (FDI) has been reviewed on a continuing basis and several measures announced from time to time for rationalization / liberalization of the policy and simplification of procedures.

2. Government of India has recently further reviewed the policy on FDI and decided as under:

a. To allow under the automatic route, FDI up to 100%, for :

i. distillation & brewing of potable alcohol;

ii. manufacture of industrial explosives;

iii. manufacture of hazardous chemicals;

iv. manufacturing activities located within 25 kms of the Standard Urban Area limits which require Industrial license under the Industries (Development & Regulation) Act, 1951;

v. setting up Greenfield airport projects;

vi. laying of Natural Gas/LNG pipelines, market study & formulation and Investment financing in the Petroleum & Natural Gas sector; and

vii. cash & carry wholesale trading and export trading.

b. To increase FDI caps to 100% and permit it under the automatic route for:

i. coal & lignite mining for captive consumption;

ii. setting up infrastructure relating to marketing in Petroleum & Natural Gas sector; and

iii. exploration and mining of diamonds & precious stones.

c. To allow FDI up to 100% under the automatic route in

i. power trading subject to compliance with Regulations under the Electricity Act, 2003;

ii. processing and warehousing of coffee and rubber.

d. To allow FDI up to 51 % with prior Government approval for retail trade of 'Single Brand' products, detailed guidelines for which have been notified vide Press Note 3 (2006 Series).

e. To allow under the automatic route transfer of shares from residents to non-residents in financial services, and where Securities & Exchange Board of India (Substantial Acquisition of Shares & Takeovers) Regulations, 1997 are attracted, in cases where approvals are required from the Reserve Bank of India/ Securities & Exchange Board of India (Substantial Acquisition of Shares & Takeovers) Regulations, 1997/Insurance Regulatory & Development Authority. With this, transfer of shares from residents to non-residents, including acquisition of shares in an existing company would be on the automatic route subject to sectoral policy on FDI.

f. To dispense with the requirement of mandatory divestment of 26% foreign equity in B2B e-Commerce.

3. FDI/NRI investment under the automatic route shall continue to be governed by the Sectoral regulations/licensing requirements.

4. A summary of the FDI policy and regulations applicable in various sectors / activities is at the Annex.*

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 5(3)/2005-FC
Dated 10th February, 2006.

* Policy in Section 'A'.

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
SIA (FC Division)
***

Press Note No. 5 (2006 Series)

Subject: Enhancement of Foreign Direct Investment ceiling from 49% to 74% in the Telecom Sector - Amendment to Press Note 5 (2005 Series)

Guidelines for enhancement of Foreign Direct Investment (FDI) ceiling in the telecom sector were notified vide Press Note 5 (2005 Series) on 3.11.2005. In terms of para 4 of the said Press Note, an initial correction time of 4 months from the date of issue of the Press Note was allowed to the existing licensee companies providing telecome services for ensuring adherence to the conditions.

The Government has decided to extend the time limit for the telecom service provider companies to comply with the conditions set out in Press Note 5 (2005 Series) by four months w.e.f. from 3.3.2006, i.e. till 2.7.2006.

Press Note 5 (2005 Series) dated 3.11.2005 stands modified to the above extent.

(Umesh Kumar)
Joint Secretary to the Government of India

F. No. 9(1)/2002-FC
Dated 3rd March, 2006.

SECTION C

FDI DATA

FOREIGN DIRECT INVETMENT DATA
(From August 1991 to December 2005)

Table 1 - Financial year-wise FDI Inflows (equity capital only)

Table 2 - FDI Inflows Data as per International practices.

Table 3 - Country-wise FDI Inflows from August 1991 to December 2005.

Table 4 - Sector-wise FDI Inflows from August 1991 to December 2005.

Table-1

Financial year-wise FDI Inflows (equity capital only)

(Amount US$ million)

S.No.	Financial Year (April – March)	Amount of FDI Inflows
1.	**August 1991-March 2000**	**16,703**
2.	2000-2001	2,908
3.	2001-2002	4,222
4.	2002-2003	3,134
5.	2003-2004	2,634
6.	2004-2005	3,755
7.	2005-2006 (up to December 2005)	3,695
8.	**Total (April 2000- December 2005)**	**20,348**
Cumulative Total (from August 1991 to December 2005)		**37,051**

Table-2

FDI Data as per International practices

(Amount US$ million)

S. No.	Financial Year (April-March)	Equity		Re-invested earnings	Other capital	Total FDI Inflows	Portfolio investment including GDR/ADR, FIIs & Offs-hore Funds
		FIPB Route/ RBI's Automatic Route/Acquiti-sition Route	Equity capital of unincor-porated bodies #				
1.	**August 1991 - March 2000**	**15,483**	-	-	-	**15,483**	**18,492**
2.	2000-01	2,339	61	1,350	279	4,029	2,760
3.	2001-02	3,904	191	1,645	390	6,130	2,021
4.	2002-03	2,574	190	1,833	438	5,035	979
5.	2003-04	2,197	190	1,798	488	4,673	11,377
6.	2004-05	3,251	111	1,816*	357*	5,535	8,909
7.	2005-06 (up to Dec. 05)	3,691	140	738*	150*	4,719	8,161
8.	**Total (April 2000-December 2005)**	**17,956**	**883**	**9,180**	**2,102**	**30,121**	**34,207**
Cumulative Total (from August 1991 to December 2005)		**33,439**	**883**	**9,180**	**2,102**	**45,604**	**52,699**

Source: *(i) '#' Figures for equity capital of unincorporated bodies for 2005-06 are estimates.*

(ii) '' Data in respect of 'Re-invested earnings' & 'Others capital' for the year 2004-2005 & 2005-2006 (up to December) are provisional.*

Table-3

Country-wise FDI Inflows from August 1991 to December 2005

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
1	Mauritius	11,115.47	37.25
2	U.S.A.	4,912.75	15.80
3	Japan	2,059.33	6.79
4	Netherlands	1,987.18	6.65
5	U.K.	1,911.77	6.26
6	Germany	1,338.88	4.27
7	Singapore	962.41	3.14
8	France	772.99	2.55
9	South Korea	748.98	2.28
10	Switzerland	613.58	1.98
11	Italy	485.74	1.58
12	Sweden	471.99	1.56
13	Hongkong	366.11	1.05
14	Australia	154.79	0.51
15	Denmark	156.49	0.51
16	U.A.E.	140.95	0.50
17	Belgium	142.41	0.46
18	Malaysia	135.82	0.46
19	Cyprus	117.47	0.40
20	Russia	116.33	0.39
21	Cayman Island	103.46	0.37
22	Canada	105.39	0.35
23	British Virginia	81.42	0.28
24	Bermuda	70.51	0.23
25	Thailand	74.73	0.22
26	Phillipines	52.35	0.15
27	Finland	43.25	0.14
28	Luxembourg	41.05	0.14
29	Israel	43.71	0.13
30	Austria	39.62	0.13
31	Spain	32.16	0.11

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
32	Bahrain	32.65	0.11
33	South Africa	30.87	0.11
34	Indonesia	30.32	0.11
35	West Indies	31.98	0.11
36	Oman	24.02	0.08
37	Nevis	19.17	0.07
38	Bahamas	20.76	0.06
39	Ice Land	18.65	0.06
40	Ireland	19.80	0.06
41	Saudi Arabia	19.14	0.06
42	Moracco	15.21	0.05
43	Iran	19.66	0.05
44	Norway	14.40	0.05
45	Taiwan	15.13	0.04
46	Gibraltar	10.97	0.04
47	Bangladesh	9.66	0.04
48	Kenya	8.98	0.03
49	Panama	10.19	0.03
50	Slovenia	8.24	0.03
51	Korea(North)	8.36	0.02
52	Kuwait	6.09	0.02
53	British Isles	5.38	0.02
54	Channel Island	5.64	0.02
55	Sri Lanka	4.88	0.02
56	Tunisia	4.31	0.02
57	Czech Republic	4.73	0.02
58	Liechtenstein	4.48	0.02
59	New Zealand	3.66	0.01
60	China	2.91	0.01
61	Isle of Man	2.85	0.01
62	Nigeria	2.48	0.01
63	Greece	2.68	0.01
64	Poland	2.00	0.01
65	Scotland	2.00	0.01
66	Slovakia	1.85	0.01

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
67	Uruguay	1.45	0.00
68	St. Vincent	1.38	0.00
69	Liberia	1.36	0.00
70	Portugal	1.21	0.00
71	Cuba	1.04	0.00
72	Seychelles	1.02	0.00
73	Ukraine	0.84	0.00
74	Uganda	0.81	0.00
75	Estonia	1.07	0.00
76	Belorussia	0.90	0.00
77	Brazil	0.81	0.00
78	Maldives	0.56	0.00
79	Aruba	0.43	0.00
80	Bhutan	0.61	0.00
81	Egypt	0.45	0.00
82	Malta	0.29	0.00
83	Hungary	0.31	0.00
84	Yugoslavia	0.24	0.00
85	Columbia	0.25	0.00
86	Croatia	0.20	0.00
87	Muscat	0.28	0.00
88	Nepal	0.22	0.00
89	Tanzania	0.18	0.00
90	Bulgaria	0.14	0.00
91	Virgin Islands	0.13	0.00
92	Zambia	0.10	0.00
93	Turkey	0.10	0.00
94	Vietnam	0.10	0.00
95	Qatar	0.09	0.00
96	Mayanmar	0.05	0.00
97	Peru	0.04	0.00
98	Mexico	0.04	0.00
99	Kazakhstan	0.02	0.00
100	Afghanistan	0.02	0.00
101	Romania	0.02	0.00

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
102	West Africa	0.02	0.00
103	Tatarstan	0.01	0.00
104	Argentina	0.01	0.00
105	Jordon	0.01	0.00
106	Yaman	0.01	0.00
107	Sudan	0.01	0.00
108	Syria	0.01	0.00
109	Malta	0.00	0.00
110	Lebanon	0.00	0.00
111	Georgia	0.00	0.00
112	Costa Rica	0.00	0.00
113	NRI	310.98	0.96
114	Unindicated Country	301.49	0.95
Total		**30,452.54**	**100.00**
115	Advance of Inflows (from 1999 to 2004)	2,178.72	-
116	RBI's –NRI Schemes	2,509.86	-
117	Acquisition of existing shares (from 1996 to 1999)	1,848.86	-
118	Stock Swapped	61.20	-
Grand Total		**37,051.18**	**-**

Table-4

Sector-wise FDI Inflows from August 1991 to December 2005

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
1	Electrical Equipments (Including computer software & electronics)	4,885.88	16.50
2	Transportation Industry	3,143.09	10.34
3	Services Sector	2,971.66	9.64
4	Telecommunications	2,890.12	9.58
5	Fuels (Power & Oil Refinery)	2,521.49	8.41
6	Chemicals (Other than Fertilizers)	1,889.51	5.86
7	Food Processing Industries	1,173.18	3.67
8	Drugs and Pharmaceuticals	948.54	3.18
9	Cement and Gypsum Products	746.79	2.54
10	Metallurgical Industries	627.32	2.12
11	Consultancy Services	444.48	1.59
12	Miscellaneous Mechanical & Engineering	491.45	1.51
13	Textiles (Includ Dyed, Printed)	430.07	1.32
14	Trading	374.23	1.16
15	Paper and Pulp including paper product	363.46	1.10
16	Hotel & Tourism	308.51	1.04
17	Glass	255.59	0.81
18	Rubber Goods	233.30	0.77
19	Commercial, Office & Household Equipment	231.67	0.66
20	Industrial Machinery	204.84	0.65
21	Machine Tools	155.43	0.52
22	Agricultural Machinery	135.50	0.43
23	Timber Products	107.12	0.37
24	Medical and Surgical Appliances	101.68	0.35
25	Soaps, Cosmetics and Toilet Preparations	88.74	0.31
26	Ceramics	89.70	0.27
27	Earth-moving Machinery	73.91	0.26
28	Fertilizers	78.22	0.26
29	Fermentation Industries	76.52	0.25
30	Leather, Leather Goods and Pickers	51.84	0.15
31	Glue and Gelatin	36.04	0.12
32	Vegetable Oils and Vanaspati	35.14	0.11

(Amount in US$ million)

Ranks	Sector	Amount of FDI inflows	%age of total inflows
33	Prime movers other than Electrical	30.61	0.08
34	Industrial Instruments	21.70	0.06
35	Sugar	17.27	0.06
36	Scientific Instruments	14.85	0.05
37	Photographic Raw Film and Paper	15.25	0.05
38	Dye-stuffs	16.01	0.05
39	Boilers and Steam Generating Plants	5.01	0.01
40	Mathematical, Surveying and Drawing	0.00	0.00
41	Miscellaneous Industries	4,166.86	13.79
Total		**30,452.58**	**100.00**
42	Advance of Inflows (from 1999 to 2004)	2,178.72	-
43	RBI's -NRI Schemes	2,509.86	-
44	Acquisition of existing shares (from 1996 to 1999)	1,848.86	-
45	Stock Swapped	61.20	-
Grand Total		**37,051.22**	**-**