FOREIGN DIRECT INVESTMENT POLICY & BUSINESS OPPORTUNITIES

India is the second most populous country and the largest democracy in the world. The far reaching and sweeping economic reform undertaken since 1991 have unleashed the enormous growth potential of the economy. There has been a rapid, yet calibrated, move towards deregulation and liberalisation, which has resulted in India becoming a favourite destination for foreign investment. The mood is upbeat and the signals strong. Undoubtedly India has emerged as one of the most vibrant and dynamic of the developing economics.

What India Offers

- One of the largest economies of the world, fourth largest economy in terms of purchasing power parity.
- Large and rapidly growing consumer market-up to 300 million people constitute the market for branded consumer products.
- Easy access to markets of the other nations belonging to the South Asian Association for Regional Cooperation (Bangladesh, Bhutan, Maldives, Nepal, Pakistan and Sri Lanka).
- Large and diversified infrastructure spread across the country.
- Promising future in the Information technology industry.
- Large manufacturing capability, spanning almost all areas of manufacturing activities.
- Well-developed research and development (R&D) infrastructure and technical and marketing services.
- Well-established knowledge industry.
- Abundance of natural resources (has a rich mineral base), and agricultural self-sufficiency.
- Developed banking system-commercial banking network of over 63,000 branches supported by a number of National and State level financial institutions.
- Vibrant capital market consisting of 22 stock exchanges with over 9,000 listed companies.
- Skilled manpower and professional management including engineers, managerial personnel, accountants, and lawyers, available at competitive costs.
- Conducive foreign investment environment that provides freedom of entry, investment, location, choice of technology, import and export.
- The policy environment provides clear guidelines for entry, freedom of location, choice of technology, production, repatriation of capital, dividends, etc., which is specifically aimed of enhancing the flow of FDI.
- Well-balanced package of fiscal incentives.

- Stable democratic environment fostered by over 60 years of Independence.
- Established, Independent judiciary.
- English the preferred business language.

INVESTMENT POLICY

Foreign Direct Investment

As part of the economic reforms programme, policy and procedures governing foreign investment and technology transfer have been significantly simplified and streamlined.

Automatic Route

Today, foreign investment is freely allowed in all sectors including the services, sector except in cases where there are sectoral ceilings.

Business opportunities

The reform process has deregulated the economy and stimulated domestic and foreign investments, taking India firmly into the forefront of investment destinations. The Government, keen to promote investment in the country has radically simplified and rationalised polices, procedures and regulatory aspects, Foreign investment is welcome in almost all sectors, except those of strategic concern (for instance, defence and atomic energy).

A series of incentives has been announced to promote investments. These include import of capital goods at concessional customs duty (subject to fulfillment of certain export obligations), liberalisation of external commercial borrowing norms, tax holiday, and concessional tax treatment for certain sector. In addition, several State Government offer incentives, such as subsidy on fixed capital, loans at concessional rates of interest, and attractive power rates, While several incentives are project specific, a number of firms have been successful in negotiating favourable investment terms with the State Government concerned.
Since the initiation of the economic liberalisation process in 1991, sectors such as automobiles, chemicals, food processing, oil & natural gas, petrochemicals, power, services, and telecommunications have attracted considerable investments. Today, in the changed investment climate, India offers exciting business opportunities in virtually every sector of the economy.

ENERGY - POWER

Investment Policy

The 1991 Power Policy seeks to attract significant private sector investment in the Indian power sector. The key initiatives include:
Private sector permitted to set up cool, gas or liquid based thermal project, hydel projects and wind or solar projects of any size.
Foreign equity participation brought under automatic approval of generation, transmission and distribution of power generated in hydro-electric, oil based and coal/lignite based power projects.

Role of the Central Government curtailed and the State Governments and State Electricity Boards (SEBs) empowered to negotiate directly with developers, facilitating speedy clearances for the investor.
Ancillary sector such as cool significantly deregulated.
100% foreign equity permitted.

Opportunities

Over the 10 year period from 1997-2007, a total capacity addition of 98,000 MW is envisaged, entailing an investment of Rs. 5,750 billion in power generation, transmission and distribution.

The specific project opportunities expected in the near future include: Liquid Fuel Based Projects using low sulphur heavy stock (LSHS), furnace oil (FO), heavy petroleum stock (HPS), Naphtha, Vacuum Residue, Condensate and Orimulsion are permitted by the Government. Import of liquified natural gas (LNG) is also being considered for setting up large capacity combined cycle power plants, Transmission projects for power transfer are available for competitive bidding by the Central Transmission Utility (Power Grid) and State Transmission Utilities (SEBs)/Grid Corporations). The transmission system project is being identified for competitive bidding by the Central and State Transmission Utilities.

Attractive investment opportunities are likely to develop in distribution of power as several State governments have agreed to allow the gradual entry of the private sector in distribution.

Non-Conventional Energy Sources
Investment Policy

Foreign Investors can enter into a joint venture with an Indian partner for financial and/or technical collaboration and also for setting up of renewable energy based power generation projects. The liberalised foreign investment approval regime is aimed at facilitating foreign investment and transfer of technology through joint ventures.
100% foreign investment as equity is permissible.
Government of India is encouraging foreign investors to set up renewable energy based power generation project on Build-Own-Operate basis.

Opportunities

In India, investment opportunities are available for the following types of investors and users:-
Investment by foreign investors in renewable energy: Wind, Solar Photo-Voltaic, Solar Thermal, Small Hydro, Biomass, Co-generation, Geothermal, Tidal and Urban & Industrial Wastes based power projects.
Investment by foreign investors for manufacturing of renewable energy systems and devices based on: Wide, Solar Photo-voltaic, Solar Thermal, Small Hydro, Biomass, Co-

generation, Geothermal, Tidal and Urban & Industrial Wastes for their utilisation in India and also for exports to developing and Third World countries.

OIL & NATURAL GAS

Investment Policy

The Government has announced significant new policy initiatives to attract foreign investment.

In exploration and production, oil and gas fields are open to the private sector as well as for foreign participation under production sharing contracts. Foreign investment it to be permitted up to;
100% in small-sized oil fields
60% for unincorpoorated joint ventures and 51% for incorporated joint ventures
100% for exploration and production of blocks identified under the new Exploration Licensing Policy.

In the case of private Indian companies, FDI in refining is permitted up to 49%. The level of FDI in the oil refining sector under automatic approval has been raised from 49% to 100% EOU refineries, 100% FDI is permitted.

For gas fields developed in the private sector, promoters are free to market the gas at market related prices.

For the petroleum products and pipeline sector, FDI is permitted up to 51%

FDI is permitted up to 74% in infrastructure related to marketing and marketing of petroleum products.

100% wholly owned subsidiary is permitted for investment /financing.

For actual trading and marketing, minimum 26% Indian equity is required over 5 years.

COAL

Investment Policy

Private Indian companies setting up or operating power projects as well as cool or lignite mines for captive consumption are allowed FDI up to 100%.
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.
FDI up to 74% is allowed for exploration or mining of coal or lignite for captive consumption. In all the above cases, FDI is allowed up to 50% under the Automatic

Route subject to the condition that such investment shall not exceed 49% of the equity of a PSU.

COMMUNICATION & INFORMATION TECHNOLOGY

Telecommunication

Investment Policy

In Basic, cellular Mobile, Paging and Value Added Service, and Global mobile personnel communications by satellite, FDI is limited to 49% subject to grant of licence from the Department of Telecommunications and adherence by the companies (who are investing and the companies in which investment is being made) to the licence condition for foreign equity cap and lock-in-period for transfer and addition of equity and other licence provisions.

FDI upto 100% is allowed for the following activities in the telecom sector.
ISPs not providing gateways (both for satellite and submarine cables):
Infrastructure Providers providing dark fibre (IP category);
Electronic Mail; and
Voice Mail
Up to 100% FDI in telecom manufacturing activities on automatic approval basis.

Internet Services

There in no restriction on the number of Internet Service Providers (ISPs). No licence fee is payable up to October 31, 2003; thereafter a token licence fee of Rs. 1 per annum is payable, ISPs are free to fix their own tariff; ISPs have been permitted to establish their own international gateways for carrying internet traffic. They can obtain transmission link on lease from DTS, licensed basic service providers, railways, SEBs, Power Grid Corporation or any other operator specially authorised to lease such lines, ISPs can also establish their own transmission link within their service area if such links are not available from any of the authorised agencies.

Basic Telephone Services

Basic service providers are permitted to establish last mile linkages and carry their own long distance traffic within their service area. They are to be permitted direct interconnectivity and sharing of infrastructure with other basic service providers or any other type of service providers in their area of operation.

Cellular Mobile Services

Cellular service providers are permitted to carry their own long distance traffic within their service area. They are to be permitted direct interconnectivity and sharing of infrastructure with other cellular service providers or any other type of service providers in their area in their area of operation.

National Long Distance Services

As per the National Telecom policy `99, National Long Distance Services (NLD) beyond the service area shall be opened for competition. With a view to providing choice to consumers and promoting competition, all access provides would be mandatorily required to provide interconnection to all NLD providers.

Global Mobile Personal Communication By Satellite (GMPCS)

There is no restriction on the number of GMPCS licences and licences are issued on first-come-first-served basis. Gateways for GMPCS are to be located in India and operation and maintenance of the same are to be with an organisation designated by the Government. A two-tier licence fee is payable- a fixed component plus a variable component as percentage of revenues.

Other Value Added Services

As the telecommunications and Information Technology (IT) infrastructure in the country is expanding, there is a surge in demand for a range of value added services. The scheme for value added services has been considerably liberalised. These services include radio paging, public mobile radio trunking, and domestic data using VASTs, Evolving of new services- Tele-education, Tele-medicine, Tele-banking, Call Centre- is catching up with the Indian Industry and has recently witnessed significant investments from domestic and foreign investors.

INFORMATION TECHNOLOGY

Investment Policy

Automatic approval for foreign equity in software and almost all areas of electronics.
Automatic approval accorded for foreign technology agreements in all areas of electronics except aero-space and defence, subject to specified conditions.
100% foreign investment permitted in units set up exclusively for exports. Such units can be set up under any one of the following schemes; EHTPs, STPs, Free Trade Zones/EPZs, and 100% EOUs.

Opportunities

According to a recent World Bank study, India is the preferred location for software vendors for its quality and cost. India has strong unique base, which provides opportunity for the development of products for Internet based applications. Further, India has global connectivity with international dialing facility from over 13220 locations. Leased/switched high-speed data links from major centres through STPs and VSNL for point-to-point communication are also available. Internet connectivity is provided through several networks. Abundant investment opportunities exist in the following thrust areas in India:

Communication Infrastructure
Optic Fibre Cable
Gateways
Satellite based Communication Wireless
Software Development
IT-enables Services
IT Education (100,000 post graduate professionals in IT required annually by 2010)
IT-enabled education
Data Centres & Server Farms

E-COMMERCE

Investment Policy

Up to 100% FDI is permitted for e-commerce, subject to the condition that the companies concerned would divest 26% of their equity in favour of the Indian public in five years, if the companies are listed in other parts of the world.

Opportunity

According to a study by ICRA Ltd., the volume of e-business in India is likely to increase to a level above Rs. 250 billion in the next three to four years, The figure makes a clear case for large scale investments in the Indian e-commerce sector.

PHARMACEUTICALS

Investment Policy

Automatic approval for up to 74% foreign equity in the case of bulk drugs, their intermediates and formulations (except those produced by the use of recombinant DNA technology).

Opportunities

India pharmaceutical industry has shown tremendous progress in terms of infrastructure development, technology base and range of production, India derives its technological strengths in pharmaceuticals on the following bases:

Self reliance displayed by the production of 70% of bulk drugs and almost the entire requirement of formulations within the country.
Low cost of production
Low R&D Costs.

Innovative scientific manpower
Strength National Laboratories
Increasing balance of trade in Pharma sector.

CHEMICALS

Opportunities

The chemical industry in India is well established and has recorded a steady growth in the overal Indian industrial scenario. The chemical and allied industries have been amongst the faster growing segments of the Indian industry. The chemical industry is highly heterogeneous encompassing many sector like organic and inorganic chemicals, dyestuffs, paints, pesticides, and specialty chemicals. Some of the prominent individual chemical industries are caustic soda, soda ash, carbon black, phenol, acetic acid, mathanol and azo dyes.

Currently, there is tremendous scope for growth in chemical sector. The per capita consumption of chemicals in India is well below the prevailing world level. For instance, in sulphuric acid, which is considered the barometer of growth in the chemical industry, the per capita consumption is only about 5kg per annum in India as compared to 40kg in industrially develoed countries.

BIOTECHNOLOGY

The setting up of a separate Department of Biotechnology (DBT) under the Ministry of Science and Technology in 1986 gave a new impetus to the development of modern biology and biotechnology in India. In more than two decade of its existence, the department has promoted and accelerated the pace of development of biotechnology in the country. In India, concerted efforts for over a decade in R&D in the identified areas of modern biology and biotechnology have paid rich dividends. The proven technologies at the laboratory level have been scaled up and demonstrated in field. Patenting of innovations, technology transfer to industries and close interaction with them have given a new direction to biotechnology research.Necessary guidelines for transgenic plants, recombinant vaccines and drugs have also been evolved. A strong base of indigenous capabilities has been created.

Opportunities

Biotechnology industry serves as a research arm to Agritech, and Pharma industry with increased potential for strategic alliances.
Global trends show that all large pharmaceutical players are putting their money in healthcare for long-term benefits. It is expected that nearly half the drugs in the next decade would be biotech Products.
Tremendous potential in agri business in an agrarion economy like India.
Potential therefore for transgenic seeds, bio-fertilizers etc.

Number of small firms is high, knowledge based, research-intensive industry, with low capital Requirements.

The field of biotechnology both for new innovations and application would form a major research and commercial endeavour for socio economic development in this decade.

INFRASTRUCTURE SECTOR

ROADS

Investment Policy

FDI up to 100% under automatic route is permitted in projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours.

Opportunities

Highway construction
Four-Laning of over 35,000 km of National Highways.
Highway related en route activities like restaurants, motels, and rest/parking areas as may be decided by the implementing agency.
Select project opportunities include : Chennai-Nellor (US$ 350 million) Bangalore-Chennai (US$ 305 million) Surat-Manor (US$ 180 million) Jaipur-Ajmer (US$ 147 million)

PORTS

Investment Policy

The principal legislations governing Indian ports are The Indian Ports Act, 1908, and the Major Ports Trust Act, 1963, the Indian Government recently announced a series of measures to promote foreign investment in the port sector as listed below:
No approval required for foreign equity up to 51% in projects providing supporting services to water transport, such as operation and maintenance of piers, loading and discharging of vehicles.
Automatic approval for foreign equity up to 100% in construction and maintenance of ports and harbours, However, if the total foreign equity investment exceeds Rs. 15 billion, the proposal will be referred to the FIPB.
Open tenders are to be invited for private sector participation on a Build-Operate-Transfer (BOT) basis. Evaluation of bids will be based on the maximum licence period, will not exceed 30 years and at the end of the BOT period all assets will revert to the port in accordance with the conditions of the agreement.

The Government has announced guidelines for private/foreign participation that permit formation of joint venture between major ports and foreign ports, between major ports and minor ports, and between major ports and companies.

The measures are aimed at attracting new technology, fostering strategic alliances with minor ports to create on optimal port infrastructure and enhancing private sector confidence in the funding of ports.
The guidelines permit the formation of a joint venture between :
a major port and foreign ports for the purposes of constructing new port facilities within existing ports, improving productivity of existing ports, and development of new port ;
a major port trust and a company or a consortium of companies where ; a company or a consortium of companies, selected through a BOT bidding under the guidelines of private sector participation alliances with a major port trust for improving the viability of the scheme and/or to enhance the confidence of the private sector.
A company or a consortium of companies is selected under the scheme of innovative/unsolicited proposals
Oil PSUs/a joint venture company of oil PSUs are/is selected for oil related port facility as a port based industry.

Opportunities

The areas identified for privatisation or investment by the private sector include:
Leasing out of existing port assets
Creating of additional assets :
Construction or operation of container terminals
Construction or operation of break-bulk, multipurpose and specialised cargo berths
Warehousing, container freight stations, Storage facilities and tank farms
Cranage and handling equipment
Setting up captive power plants,
Dry docking and ship repair frailties
Leasing of equipment and floating craft from the private sector
Pilotages
Captive facilities for port based industries.

CIVIL AVIATION

Investment Policy

The monopoly of public sector air carriers ended with the repealing of Air Corporation Act, 1953 on March1, 1994.
Automatic approval for foreign equity participation in Airport infrastructure up to 100 percent
Equity from foreign airlines not allowed in domestic air-transport services
Foreign Financial Institutions allowed to hold equity in the domestic air-transport sector provided they do not have foreign airlines as their shareholders

Foreign Investors allowed to have representation (up to 33 per cent of total) on Board of Directors of the domestic airline company.
Government to consider private sector participation, construction and operation on new airports on a BOT basis.
Minimum fleet size for a scheduled operator raised from the existing 3 aircrafts to 5
Management contract with a foreign airline is not permitted.

Opportunities

Construction of world-class international airports in five cities, permitting up to 100% foreign equity investment announced.
Important private sector aided projects; New airport near Kochi (US$ 85.7 million).
Projects for development of new airports at Bangalore and Mumbai with private sector participation are under consideration
Other private sector aided airports planned; Ahmedabad airport, Amritsar airport up gradation, Chennai cargo complex, new international terminal and a second runway for Delhi airport, runway extension and international block for Jaipur airport