

CHAPTER 4.

CHINA, INDIA AND RUSSIA: THE CONTINUING DIALOGUE

An element of the OECD Investment for Development Initiative includes dialogue with the major non-member players in the field of international investment. Three large countries currently involved with the OECD Investment Committee are China, India and the Russian Federation.

The co-operation focuses on promoting transparent and open investment policy and effective implementation, improvement of FDI data quality and maintaining appropriate standards in support of sustainable development.

This chapter outlines the country programmes of co-operation with the People's Republic of China and the Russian Federation. It also summarises in detail the recently established dialogue between the Government of India and the OECD Investment Committee, with information on the nature of the barriers to inward FDI and progress made in removing these obstacles and in creating a favourable investment environment.

PART 1. CHINA

Co-operation between the OECD and China began in 1999. It has since developed extensively and is strongly supported by the Investment Committee to promote transparency, openness and effective implementation and enforcement of policies towards investment. The OECD gives its patronage to the annual China International Fair for Investment and Trade in Xiamen.

Based on active co-operation with the Ministry of Commerce of the People's Republic of China and contributions by OECD Members and private practitioners, the OECD Investment Policy Review of China: Progress and Reform Challenges was published in July 2003 and launched shortly afterwards at press conferences in China, Hong Kong (China), Japan and the United States. It showed that China could attract more and better FDI by adopting more open investment policies and recommended a number of policy options, including the relaxation of formal restrictions on foreign enterprise ownership, the streamlining of investment approval procedures and improvements in the institutional framework such as stronger enforcement of intellectual property rights, greater transparency in the formulation of legislation and a more effective legal system. The report included a foreword by Madam Ma Xiuhong, the Deputy Minister of Commerce in charge of foreign investment.

In 2005 work on policy towards cross-border mergers and acquisitions commenced with a pilot project in North-East China focusing on the development and implementation of national policies on cross-border mergers and acquisitions in the region. These policies, embodied in laws passed in 1998-2003, have been aimed largely at involving multinational enterprises based outside China in the restructuring of state-owned enterprises (SOEs) in North-East China, which is the country's original industrial heartland. A well-attended conference was held in Changchun, the capital of Jilin province, in February to launch the project. The conference was jointly chaired by MOFCOM, the OECD and local government leaders. This was followed by an OECD fact-finding mission to Beijing and to China's three North-East provinces in April involving a wide range of interviewees from both public and private sectors in China and OECD Member countries. The results of the mission will be included in a background report to be presented to a multi-stakeholder conference in Beijing in December after it has been reviewed by the Chinese and OECD governments and commented on by an advisory group of independent experts. The conference will acknowledge the progress made by the Chinese government in developing a regulatory framework for cross-border mergers and acquisitions then examine remaining obstacles to such transactions and propose policy options to deal with them.

In 2006 the Investment Committee will initiate a project with China on OECD Member country and Chinese government approaches to corporate responsibility. This project responds to China's increasingly apparent need to develop concepts and mechanisms to promote good corporate citizenship in the context of both rapid economic growth in China and increasing investment by Chinese enterprises abroad. It also stems from the need of OECD-based multinational enterprises to be able to compete with Chinese enterprises (both in China and in the rest of the world) on a level playing field. Civil society organisations in China will be invited to participate with the OECD and with the Chinese government in

an exchange of views on major areas of corporate responsibility. The objective is to reach common understandings of corporate responsibility standards and to work with existing initiatives to promote stronger and better-informed commitment to good corporate behaviour on the part of all enterprises operating in China and all Chinese enterprises operating abroad. Prominence will be given to the OECD Guidelines for Multinational Enterprises in this dialogue.

A second project in the Investment Committee's programme of work for 2006 will cover Chinese and OECD Member country government approaches to international investment agreements. China has since the 1980s been highly active in negotiating bilateral investment treaties and is continuing to engage in consultations with OECD Member country governments with a view to negotiating new treaties or to renegotiating existing treaties. In such consultations it is important that all sides share an understanding of the concepts employed.

PART 2. RUSSIAN FEDERATION

The Russian Federation and the Investment Committee have been intensifying investment policy co-operation over the past five years in recognition of the importance of foreign investment policies in Russia's overall reform strategy, the critical role of international investment for economic diversification and modernisation as well as the need for Russia to harmonise its policies with international best practices as a part of the country's integration into the world economy and international system. The co-operation programme uses the peer review mechanism to assist Russia in assessing the compatibility of its investment policies with OECD standards and eventually preparing its adherence to OECD investment instruments.

The main focus of the 2003-2004 programme was the Investment Policy Review of the Russian Federation: Progress and Reform Challenges that examined the country's progress in enhancing its general economic environment and developing its legal framework for investment. The Review by the OECD Investment Committee took place in June 2004, with the Russian delegation headed by the Deputy Minister of Economic Development and Trade and the First Deputy Chairman of the Central Bank. The publication of the Review was launched to the press in Moscow in December 2004 and posted on OECD and Russian Ministry websites. The Review remarked several positive developments such as the gradual overhaul of the tax system, the land reform and the introduction of the new customs and foreign exchange legislation, but it also noted a persisting lack of investor confidence and a number of investment impediments, in particular foreign ownership restrictions in several key sectors, such as energy and financial services, excessive administrative burden on enterprises and widespread corruption and rent-seeking behaviour. The policy options proposed by the 2004 Investment Policy Review include removing remaining regulatory barriers to foreign investment, improving public and corporate governance, simplifying and making more transparent regulations and administrative procedures and ensuring a better compliance with federal laws and regulations at sub-federal government levels.

Based on these recommendations, the 2005-2006 co-operation programme concentrates on Russia's investment policy implementation and its foreign exchange and capital control reforms. In both areas, the OECD investment instruments are used as the benchmarks to measure Russia's achievements and as the reference tools to enhance its policy enforcement capacity. The activity seeks to involve the Russian authorities, foreign investors and practitioners during the whole duration of the projects, including in the final peer review process within the Investment Committee.

The starting point of the project on foreign investment policy is an investor survey commissioned by the OECD to provide foreign investors' views on Russia's compliance with basic principles of foreign investment policy transparency as embodied in the OECD Framework for Investment Transparency and the OECD Checklist for FDI Incentive Policies. In parallel, the Investment Policy Division of the Ministry of Economic Development and Trade accepted to co-ordinate a self-evaluation of Russian foreign investment policy, especially with respect to access to information and consultation procedures involving foreign investors. Using the recently developed methodology, the project will also measure the level of Russia's foreign investment liberalisation compared to OECD and some non-OECD countries.

The exchange of views with the business community and sharing experiences with OECD countries should help identifying best policy options to boost the investment climate in Russia through better transparency and coherence of foreign investment-related policy.

The project on foreign exchange and capital control reforms takes advantage of OECD members' experience with full liberalisation and good practices undertaken within the framework of the OECD Code of Liberalisation of Capital Movements. The review will assess the implementation of Russia's recent foreign exchange legislation as well as regulations and other measures supporting orderly abolition of remaining capital controls, including financial sector supervision, statistical reporting, anti-money laundering and other safeguards. The exercise will assist Russian authorities in increasing transparency, procedural fairness and consistency of foreign exchange regulations.

PART 3. INDIA

Summary of Dialogue between the Government of India and the OECD Investment Committee*

The dialogue was a continuation of co-operation on investment policies between India and the OECD following the OECD-India Investment Roundtable and Global Forum on International Investment held back-to-back in New Delhi in October 2004.

A high-level delegation of the Government of India held a dialogue with the Investment Committee on 7 April 2005 in response to an invitation by the Committee to the Government of India to discuss India's policies towards investment. The delegation was led by Mr Ashok Jha, Secretary to the Government of India and head of the Department of Industrial Policy and Promotion in the Ministry of Commerce and Industry.

Mr Jha made a presentation on the background and specifics of measures to liberalise investment in India since 1991 and reiterated the Government of India's commitment to continuing economic and investment policy reform. The presentation was amplified and extended in Mr Jha's responses to questions from Investment Committee members. The text below is a consolidation of presentation and responses. Annexes 1 to 6 contain details of foreign direct investment opening and restrictions supplied by the Government of India at the invitation of the Committee.

The economic context of investment liberalisation in India

The Indian delegation presented recent economic achievements of the country as follows:

The Indian economy has experienced sustained economic expansion during the reform period, with real annual GDP growth averaging 6.2% since 1991 and reaching 6.9% in the 2004-2005 fiscal year. Goldman Sachs forecasts 5% average annual GDP growth up to 2050. Services now account for over half of GDP. Exports reached USD75 billion in the 2004-2005 fiscal year and foreign investment approximately USD16 billion in the 2003-2004 fiscal year. India has mature capital markets and a well-developed banking system.

India's improved economic performance is based on sound macroeconomic management. The tax structure has been rationalised, policies on inward and outward investment have been liberalised, the rupee has been made fully convertible on trade account and the Fiscal Responsibility and Budget Management Act will ensure that the government budget deficit is brought to zero by 2008. Industrial policy has been to de-license and deregulate. Trade policy has been to lift quantitative restrictions and reduce customs duties, resulting in a doubling of India's share in global merchandise trade in five years.

* Prepared by Ken Davies, OECD Investment Division.

India is now not just a centre for knowledge-based sectors, but is a major and highly competitive manufacturing centre, having become a major producer of automobile components, motorcycles, optical media and steel. India's competitive edge is its highly skilled manpower. India has more than 380 universities and 1,500 research institutions. The number of knowledge workers in software and service industries increased from 56,000 in 1990-1991 to 650,000 in 2003 and is forecast to reach 2 million in 2008.

The overall regulatory regime for FDI

Mr Jha explained that India's opening to foreign investment has been rapid since 1991. Before then up to 40% foreign ownership of enterprises had been allowed on a selective basis. These restrictions have been steadily lifted, so that 100% foreign ownership is now permitted in many sectors. Further opening has occurred recently in several sectors, including infrastructure, domestic airlines and telecommunications.

Foreign investment in many sectors is now available via the automatic route, i.e. with no prior government permission required, merely an obligation to inform the Reserve Bank of India¹ within 30 days of inward remittances or the issue of shares to non-residents. In other cases, prior approval must be obtained from the Foreign Investment Promotion Board (FIPB), which generally issues a decision within 4-6 weeks.

India provides post-establishment national treatment to investment and has signed BITs with 57 countries. India has not signed regional trade agreements apart from the South Asian Free Trade Agreement (Safta). The country is now starting to enter into comprehensive economic agreements.

A foreign investor can choose any form of business, including joint venture, wholly-foreign-owned subsidiary or branch. All investments, profit and dividends of foreign investors may now be freely repatriated. Foreign investors may acquire immovable property incidental to or required for their activity. Companies incorporated in India are treated as Indian companies for taxation purposes and India has signed double taxation avoidance agreements with 65 countries.

Five states account for 80% of FDI inflows because they are more receptive to FDI. There is now increasing competition between states for FDI.

Outward investment policies have also been liberalised since 1992. Indian corporates are now allowed to invest up to 100% of their net worth overseas. As a result, there was over USD3 billion in outward investment in each of the 2002-2003 and 2003-2004 fiscal years. During these two years, Indian corporates made over 100 major acquisitions overseas. Over 55% of this outward investment was in manufacturing.

Sectoral issues

Mr Jha explained that market opportunities now exist in rapidly expanding sectors, including telecommunications, information technology, electricity generation and road building. However, FDI restrictions persist in a number of sectors. Restrictions generally take three forms, which may be applied separately or together: 1) foreign ownership ceilings, 2) prior approval by the FIPB (as opposed to the automatic route), 3) special approval by sector-specific government authorities. [See Annexes 3-6 for details.]

Press Note 18

In answer to a question from the Committee, Mr Jha explained that press note 18, which restricts investment projects proposed to be engaged in by a foreign investor who is already involved in the same field,² has been substantially modified. The restriction has been removed for all new joint ventures. For joint ventures formed earlier it is now restricted to new investments in the same field, not, as previously, in related fields. For example, an investor with a joint venture in plate glass may not freely make another investment in plate glass but faces no restriction in investing in the manufacture of glass tumblers. [See Annex 1 for further details.]

Prospects for further reform

Economic reform is continuing

Mr Jha emphasised that economic reform is an “ongoing exercise”. The “entire gamut of activities in the economic sphere” is being looked at for possible reform, including taxation, customs, labour laws and exit policies. Key areas for reform now include: 1) agriculture, which employs 60% of the population, so it is important to stimulate demand and invest in it; 2) entry and exit barriers for companies, which are being looked at with a view to rationalisation; 3) the financial sector.

However, social factors induce the government to consider carefully the pace of reform. Mr Jha explained that there is no social safety net, so care has to be taken to protect jobs. Much growth in the organised sector has been jobless growth; job growth has been mainly in the unorganised sector. There are 430 million people in the workforce and 8 million are added each year, so India needs to add 8 million jobs a year just to sustain existing employment.

Taxation reform

Twenty-one Indian states agreed to adopt VAT from 1 April 2005. Tax constitutes 30-35% of final prices. Introducing VAT will cut indirect taxation so that tax will be only 14% of final prices.

Tariff reductions

Peak customs duties were cut in this year’s budget from 20% to 15% and will be further cut to 5-8% in the next few years. Tariffs have fallen sharply since 1991: peak tariffs were then 300% and have been cut to 15% in February 2005. In answer to a question from the Committee whether India intended to bring its tariffs in line with those of ASEAN, Mr Jha noted that ASEAN does not have uniform tariffs, and that these vary from near-zero tariffs in Singapore to relatively high tariffs in Indonesia. India is considering reducing the peak tariffs to a 5-8% range and eventually to zero. While peak tariffs will be 5-8%, tariffs on many products could be zero.

Financial-sector reform

Continual financial-sector reforms are, Mr Jha said, individually small, but collectively “noteworthy”. The Fiscal Responsibility Act will keep the “fiscal deficit under close watch”. FDI in private-sector banks is being liberalised.

Further liberalisation of FDI is being considered

There are many sectors in which the Indian government considers it can further liberalise FDI. The first step is to raise ownership ceilings where these exist, e.g. from 26% to 50% or even 100%. The government will also consider whether it is necessary to maintain a legal requirement for FIPB approval in various sectors where FDI is not permitted via the automatic route. The Government of India planned to complete a review of all FDI policies by 15 May 2005. This review was to include the whole retail sector, where FDI via the automatic route is already permitted in the “cash and carry” business-to-business retail sector.

A law on Special Economic Zones which is expected to be enacted soon is intended to provide a liberalised climate and incentives, including tax exemptions, for FDI in such zones. Special Economic Zones will not be export-processing zones, as they will not be limited to exporting. However, duty-free imports will only be available for exporting, so if items are sold locally, duty will first have to be paid on their inputs.

The Government of India is trying to reduce bureaucracy in FDI administration. The central government has set up an investment implementing agency, which meets approximately monthly and talks to both actual and potential investors grouped by sector or by country of origin. Difficulties are sorted out across the table in such meetings, to which state government representatives are also invited.

The Investment Committee asked if foreign investors who chose the FIPB route for investment projects in India even when such projects qualified for the automatic route did so because they did not have confidence in the legal system. The Indian delegation answered that foreign investors who chose the FIPB route instead of using the automatic route do not do so for legal protection, but because (they themselves say) they prefer to have a piece of paper. Judges in India are, he said, independent, so the judicial process in itself has nothing to do with choosing the FIPB route. The Secretariat was subsequently notified that only approximately 5% of planned foreign investment projects are submitted to the FIPB even when they qualified for the automatic route and that this share is diminishing.

In answer to questions by the Investment Committee on India’s modest FDI performance so far relative to the size of the Indian economy, Mr Jha considered that FDI inflows do not depend solely on the policy framework, which is a necessary but not a sufficient condition. The main other reasons for insufficient FDI inflows include: 1) inadequate physical infrastructure, so India is now focusing on this; 2) tax policies, so indirect taxes (i.e. VAT) are now being examined; 3) labour reform, in particular the exit policy.

Public-private partnerships in infrastructure

Infrastructure projects may not be financially viable on their own, while public-private partnerships (PPPs) in infrastructure can bring in private-sector resources and technical and managerial capabilities. Mr Jha described PPPs as the “cornerstone of infrastructure projects”. In 1991 India had expected that opening up infrastructure to foreign investment would attract huge inflows, but found that there was “no-one knocking on the door” because such projects were unprofitable unless user charges were set too high for consumers. It was therefore realised that there is a need to make infrastructure projects viable in terms of revenue, and not just offer capital grants.

There is an estimated 10-15% “viability gap” in most sectors which the government offers to fund because it is not able to bear the full cost of infrastructure investment. Viability gap funding is available for transport, power and water-related infrastructure projects and for international convention centres. Such funding takes various forms, including capital grants, operational and management support, and interest subsidies. Support is linked to predefined milestones. The Indian government is considering funding the viability gap up to 20% to reduce financial risk.

Future co-operation between India and the Investment Committee

India is a member of the Committee’s Task Force overseeing the development of the Policy Framework for Investment. It also actively contributed to the OECD Annual Roundtable on Corporate Responsibility on *OECD Guidelines for Multinational Enterprises and Developing Countries: Building Trust* held in June 2005 in conjunction with the annual meeting of the National Contact Points for the OECD Guidelines for Multinational Enterprises.

In addition to continuing to attend outreach events, the Committee invited India to consider the possibility of observership at OECD meetings, including peer reviews in areas of common interest, and closer association with OECD investment instruments in future.

The Government of India also expressed interest in sharing India's most recent approaches to bilateral investment treaties (BITs) and investment chapters of trade agreements and contributing experience on international investment in infrastructure and public utilities, including through public-private partnerships (PPPs).

Annex 1

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

Press Note 1 (2005)³

The Government has reviewed the guidelines notified *vide* Press Note 18 (1998 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.

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

- i) Prior approval of the Government will be required only in cases where the foreign investor has an existing joint venture or technology transfer/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 will or will not in any way jeopardise 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 of 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 date of this Press Note are concerned, 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.

These guidelines shall come into force with immediate effect.

Umesh Kumar, Joint Secretary to the Government of India

Annex 2

Sectors¹ under automatic route for FDI up to 100%²

Most manufacturing activities.
Non-banking financial services.
Drugs and pharmaceuticals that do not attract compulsory licensing or involve the use of recombinant DNA technology.
Food processing.
Electronic hardware.
Software development.
Film industry.
Advertising.
Hospitals.
Private oil refineries.
Pollution control and management.
Exploration and mining of minerals other than diamonds and precious stones.
Management consultancy.
Venture capital funds/companies.
Setting up/development of industrial parks/model towns/Special Economic Zones.
Petroleum products pipelines.
Electricity generation (except atomic energy).
Electricity transmission.
Electricity distribution.
Mass rapid transport systems.
Roads and highways.
Toll roads.
Vehicular bridges.
Ports and harbours.
Hotels and tourism.
Township housing, built-up infrastructure and construction development projects.
Advertising and films.
Computer-related services.
Research and development services.
Construction and related engineering services.
Pollution control and management services.
Urban planning and landscape services.
Architectural services.
Health-related services and social services.
Travel-related services.
Road transport services.
Maritime transport services.
Internal waterways transport services.

1. This list of sectors is illustrative only. Sectors not on the list may also be subject to automatic approval up to 100% foreign ownership. Some of the sectors on this illustrative list, e.g. non-banking financial services, may be subject to various additional requirements as shown in Annexes 3-6.

2. Information supplied by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India.

Annex 3

Sectoral FDI Restrictions⁴

Airports

Up to 100% FDI is permitted, but government approval is required above 74%.

Atomic minerals

The following three activities are permitted to receive FDI/NRI investments through FIPB (as per detailed guidelines issued by the Department of Atomic Energy, vide Resolution No. 8/1(1)/97-PSU/1422 dated 6 October 1998: PB):

- 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. Up to 74% in both pure value addition and integrated products.
- ii. For pure value addition projects as well as integrated projects with value addition up to any intermediate stage, FDI is permitted up to 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.

Agriculture (including Plantation)

No FDI/NRI investment is permitted other than the tea sector, where FDI is FDI up to 100% is permitted up to 100% , including in plantations, with prior government approval and subject to the following conditions:

Compulsory divestment of 26% of equity in favour of the Indian partner/Indian public within a period of five years, and

Prior state government approval is required in case of any future land use change. The above dispensation would be applicable to all fresh investments (FDI) made in this sector.

Broadcasting

(a) *TV Software Production*

100% foreign investment allowed subject to:

- i. All future laws on broadcasting and no claim of any privilege or protection by virtue of approval accorded, and
- ii. Not undertaking any broadcasting from Indian soil without government approval.

(b) *Setting up hardware facilities such as uplinking, HUB, etc.*

Private companies incorporated in India with permissible FII/NRI/PIO equity within the limits (as in the case of the telecommunications sector FDI limit up to 49% inclusive of both FDI and portfolio investment) to set up uplinking hub (teleports) for leasing or hiring out their facilities to broadcasters.

Footnote: As regards satellite broadcasting, all TV channels irrespective of management control to uplink from India provided they undertake to comply with the broadcast (programme and advertising) code.

(c) *Cable Network*

Foreign investment is allowed up to 49% (inclusive of both FDI and portfolio investment) of paid-up share capital. Companies with a minimum of 51% of paid-up share capital held by Indian citizens are eligible under the Cable Television Network Rules (1994) to provide cable TV services.

(d) *Direct-to-home (DTH)*

Companies with a maximum of foreign equity including FDI/NRI/FII of 49% are eligible to obtain a DTH licence. Within the foreign equity, the FDI component may not exceed 20%.

(e) *Terrestrial Broadcasting FM*

The licensee shall be a company registered in India under the Companies Act. All share holding should be held by Indians except for the limited portfolio investment by FII/NRI/PIO/OCB subject to such ceiling as may be decided from time to time. The company shall have no direct investment by foreign entities, NRIs and OCBs. As of now, foreign investment is permissible up to 20% portfolio investment.

(f) *Terrestrial TV*

No private operator is allowed in terrestrial TV transmission.

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 up to 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 up to 74% is allowed for exploration or mining of coal or lignite for captive consumption.

- iv. 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.

Domestic airlines

(Detailed guidelines have been issued by the Ministry of Civil Aviation.)

In domestic airlines

- i. FDI up to 49% is permitted under the automatic route, subject to no direct or indirect equity participation by foreign airlines.
- ii. 100% investment by NRIs is permitted under the automatic route.

Defence and strategic industries

FDI, including NRI investment, is permitted up to 26% with prior government approval, subject to licensing and security requirements. Detailed guidelines for the participation of private-sector and foreign investors in this sector are given in Annex 4.

Drugs and pharmaceuticals

FDI up to 100% is permitted on the automatic route for manufacture of drugs and pharmaceuticals, provided the activity does not attract compulsory licensing or involve use of recombinant DNA technology, and specific cell/tissue targeted formulations.

Establishment and operation of satellites

FDI up to 74% is permitted with prior government approval.

Housing and real estate

NRIs are allowed to invest in the following activities:

- 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 in regional level urban infrastructure facilities, including both roads and bridges.
- e. Investment in the manufacture of building materials, which is also open to FDI.
- f. Investment in participatory ventures in a to e above.
- g. Investment in housing finance institutions, which is also open to FDI as an NBFC.

Investing companies in infrastructure and services sectors

In respect of companies in the infrastructure/services 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 FDI in such a company does not exceed 49% and management of the investing company is with the Indian owners. The automatic route is not available.

Insurance

FDI up to 26% in the Insurance sector is allowed on the automatic route subject to obtaining a licence from the Insurance Regulatory and Development Authority (IRDA).

Lotteries, gambling and betting

The Government has reiterated prohibition of foreign direct investment (FDI)/foreign technical collaboration (FTC) in any form in the lottery business, gambling and betting sector. Foreign technology collaboration including franchise/trading/brand name, management contract, etc., in the lottery business, gambling and betting sector is also prohibited.

Mining

For exploration and mining of diamonds and precious stones FDI up to 74% is allowed via the automatic route. For exploration and mining of gold and silver and minerals other than diamonds and precious stones FDI up to 100% is allowed via the automatic route. Press Note No. 18 (1998 series) dated 14 December 1998 and Press Note No. 1 of 2005 dated 12 January 2005 are not applicable for setting up 100% owned subsidiaries in the mining sector, subject to a declaration from the applicant that he has no existing joint venture for the same area and/or the particular mineral.

Non-banking financial companies

- a. FDI/NRI investments are allowed in the following NBFC activities shall be as per the 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 and finance.
 - xiv. Housing finance.
 - xv. Foreign exchange broking.
 - xvi. Credit card business.
 - xvii. Money changing business.
 - xviii. Micro credit.
 - xix. Rural credit.
- b. Minimum capitalisation norms for fund-based: NBFCs:
- i. For FDI up to 51%: USD 0.5 million to be brought up front.
 - ii. For FDI above 50% and up to 75%: USD 5 million to be brought up front.
 - iii. For FDI above 75% and up to 100%: USD 50 million out of which USD 7.5 million to be brought up front and the balance in 24 months.
- c. Minimum capitalisation norms for non-fund based activities: A minimum capitalisation norm of USD 0.5 million is applicable in respect of all permitted non-fund based NBFCs with foreign investment.
- d. 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 USD 50 million as in b iii above (without any restriction on the number of operating subsidiaries without bringing in additional capital).
- e. 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. b i and B ii above.
- f. FDI in the NBFC sector is put on automatic route subject to compliance with the guidelines of the Reserve Bank of India. The RBI will issue appropriate guidelines in this regard.

Petroleum (other than refining)

- a. FDI is permitted up to 100% via the automatic route for petroleum products marketing. FDI in this sector is permissible subject to the existing sectoral policy and regulatory framework in the oil marketing sector.
- b. FDI up to 100% is permitted via 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 (i) exploration for oil and (ii) the discovered fields of national oil companies.

- c. FDI is permitted up to 100% via the automatic route for petroleum products pipelines subject to and under the government policy and regulations thereof.
- d. FDI up to 100% is permitted via the automatic route for Natural Gas/LNG pipelines with prior government approval.
- e. 100% wholly-owned subsidiary (WOS) is permitted for the purpose of market study and formulation.
- f. 100% wholly-owned subsidiary (WOS) is permitted for investment/financing.
- g. For actual trading and marketing, a minimum of 26% Indian equity is required over 5 years.

Petroleum (refining)

- a. FDI is permitted up to 26% in the case of public sector units (PSUs). PSUs will hold 26% (Refining) and the balance of 48% by the public. The automatic route is not available.
- b. In the case of private Indian companies, FDI is permitted up to 100% via the automatic route.

Postal services

FDI up to 100% is permitted in courier services with prior government approval excluding distribution of letters, which is reserved exclusively for the state.

Print media

The following participation in Indian entities publishing newspapers and periodicals is permitted:

- a. FDI up to 100% in publishing/printing scientific and technical magazines, periodicals and journals.
- b. FDI up to 26% in publishing newspapers and periodicals dealing with news and current affairs, subject to verification of antecedents of the foreign investor, keeping editorial and management control in the hands of resident Indians and ensuring against dispersal of Indian equity.

Detailed guidelines have been issued by the Ministry of Information and Broadcasting.

Private sector banking

74% from all sources via the automatic route subject to guidelines issued by the RBI. Consolidated guidelines are in Annex 5.

Telecommunications

- i. Basic, cellular, value added services and global mobile personal communications by satellite: FDI is limited to 74% subject to licensing and security requirements adherence by the companies (who are investing and the companies in which the 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. In ISPs with gateways, radio-paging and end-to-end bandwidth, FDI is permitted up to 74% with FDI, beyond 49% requires Government approval. These services are subject to licensing and security requirements.
- iii. No equity cap is applicable to manufacturing activities.
- iv. FDI up to 100% is allowed for the following activities in the telecommunications sector:
 - a. ISPs not providing gateways (both for satellite and submarine cables).
 - b. Infrastructure providers providing dark fibre (IP Category I).
 - c. Electronic mail
 - d. Voicemail.

The above are subject to the following conditions:

- a. FDI up to 100% is allowed subject to the condition that such companies 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.
- b. The above services are subject to licensing and security requirements, wherever required.
- c. Proposals for FDI beyond 49% shall be considered by the FIPB on a case-by-case basis.

Trading

Trading is permitted via the automatic route with FDI up to 51% provided it is primarily exporting activities, and the undertaking is an export house/trading house/super trading house/star trading house. However, via the FIPB route:

- i. 100% FDI is permitted in the case of trading companies for the following activities:
 - a. Exports.
 - b. Bulk imports with ex-port/ex-bonded warehouse sales.
 - c. Cash-and-carry wholesale trading.
 - d. 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 the provisions of foreign trade policy:

- a. Companies for providing after-sales services (i.e. not trading per se).
- b. Domestic trading or 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 high-tech items/items requiring specialised after-sales service.
- d. Trading of items for the social sector.
- e. Trading of high-tech, medial and diagnostic items.
- f. Trading of items sourced from the small-scale sector under which, based on the technology provided and laid-down quality specifications, a company can market that item under its brand name.
- g. Domestic sourcing of products for export.
- 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.
- i. FDI up to 100% is permitted for e-commerce activities subject to the condition that such companies 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. Such companies will engage only in business-to-business (B2B) e-commerce and not in retail trading. FDI is not permitted in retail trading activity.

Township Development

FDI up to 100% is allowed via the automatic route in townships, housing, built-up infrastructure and construction-development projects which include, but are not restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure subject to conditions and guidelines as in Annex 6.

Venture Capital

As per Schedule VI under the FEMA Regulation, a registered Foreign Venture Capital Investor (FVCI) may invest in Indian Venture Capital Undertakings (IVCU) or in a VCF after approval from the RBI.

Annex 4

Guidelines for Consideration of Foreign Direct Investment (FDI) Proposals by the Foreign Investment Promotion Board (FIPB)⁵

The Guidelines are meant to assist the FIPB to consider the proposals in an objective and transparent manner. These do 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 are not in any way legally binding in respect of any recommendation to be made by the FIPB or decisions to be taken by the government in cases involving 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.

These guidelines stand modified to the extent changes have been notified by the Secretariat for Industrial Assistance from time to time.

The following guidelines are laid down to enable the FIPB to consider the proposals for FDI and formulate its recommendations:

- All applications shall be put before the FIPB within 15 days and it should be ensured that comments of the administrative ministries are placed before the Board either prior to or in the meeting of the Board.
- Proposals should be considered by the Board keeping in view the time frame of 30 days for communicating the government's decision (i.e. approval of FM/CCEA or rejection, as the case may be).
- In cases in which either the proposal is not cleared or further information is required, in order to obviate delays presentation by the applicant in the meeting of the FIPB should be resorted to.
- While considering cases and making recommendations, the FIPB should keep in mind the sectoral requirements and the sectoral policies vis-à-vis the proposal(s).
- The FIPB shall consider each proposal in totality (i.e. if it includes apart from foreign investment, technical collaboration/industrial licence) for composite approval or otherwise. However, the FIPB's recommendation shall relate only to the approval for foreign financial and technical collaboration and the foreign investor will need to take other prescribed clearances separately.
- The Board shall examine the following while considering proposals submitted to it for consideration:
 - i. Whether the items of activity involve an industrial licence or not and, if so, the considerations for grant of an industrial licence must be gone into.

- ii. Whether the proposal involves technical collaboration and, if so, the source and nature of technology sought to be transferred.
- iii. Whether the proposal involves any mandatory requirement for exports and, if so, whether the applicant is prepared to undertake such an obligation (this is for items reserved for the small-scale sector 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 projected destinations.
- v. Whether the proposal has a concurrent commitment under other schemes, such as the EPCG Scheme, etc.
- vi. In the case of export-oriented units (EOUs), whether the prescribed minimum value addition norms and the minimum turnover of exports are met or not.
- vii. Whether the proposal involves relaxation of local restrictions stipulated in the industrial licensing policy.
- viii. Whether the proposal has any strategic or defence-related considerations.
- ix. Whether the proposal has any existing joint venture or technology transfer/trademark agreement in the same field in India, and, if so, whether this agreement is sick or defunct; the investment by either party is less than 3% and investment is by the FVCI, the detailed circumstance in which it is considered necessary to set up a new joint venture/enter into a new technology transfer (including trademark), and proof that the new proposal shall not in any way jeopardise the interest of the existing joint venture or technology/trademark partner or other stakeholders.

Guidelines

1. While considering proposals, the following may be prioritised:
 - a. Items/activities covered under the government route (i.e. those which do not qualify under the automatic route).
 - b. Items falling in the infrastructure sector.
 - c. Items which have an export potential.
 - d. Items which have large-scale employment potential, especially for rural people.
 - e. Items which have a direct or backward linkage with agribusiness/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 the induction of technology or infusion of capital.
2. The following should be especially considered during the scrutiny and consideration of proposals:

- a. The extent of foreign equity proposed to be held (keeping in view sectoral caps, if any – e.g. 24% for SSI units, 49% for air taxi/airline operators, 74% in basic/cellular/paging in the telecommunications sector, etc.).
 - b. The extent of equity with composition of foreign/NRI/resident Indians.
 - c. The extent of equity from the point of view of whether the proposed project would amount to a holding company/a wholly-owned subsidiary/a company with dominant foreign investment (i.e. 75% 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 the enlargement of foreign/NRI 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 of foreign/NRI equity and/or 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/NRI equity and whether there is a shareholders agreement or not.
 - f. In the case of induction of fresh equity in 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 a ban on foreign investment in real estate while it is not so for NRI 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 hazardous, banned or detrimental to the environment (e.g. import of plastic scrap or recycled plastics).
3. In respect of activities to which equity caps apply, the FIPB may consider recommending higher levels of foreign equity as compared to the prescribed caps, keeping in view the special requirements and merits of each case.
 4. In respect of other industries/activities, the Board may consider recommending 51% foreign equity on examination of each individual proposal. For higher levels of equity up to 74% 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 to exports.

5. The FIPB may consider recommending proposals for 100% foreign-owned holding/subsidiary companies based on the following criteria:
 - a. Where only a “holding” operation is involved, all subsequent/downstream investments to be carried out shall 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.
 - e. Proposals for industrial model towns/industrial parks or estates.
6. 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% foreign equity on a temporary basis on condition that the foreign investor shall divest to the Indian parties (either individuals joint venture partners or the general public or both) at least 26% of its equity within a period of 3-5 years.
7. Similarly in the case of a joint venture where the Indian partner is unable to raise resources for expansion/technological upgrading of the existing industrial activity, the Board may consider and recommend an increase in the proportion/percentage (up to 100%) of foreign equity in the enterprise.
8. In respect of trading companies, 100% foreign equity may be permitted in the case of activities involving the following:
 - i. Exports.
 - ii. Bulk imports with ex-port/ex-bonded 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.
9. In respect of 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 an investing company does not exceed 49% and the management of the investing company is with the Indian owners.

10. No condition specific to the letter of approval issued to a foreign investor shall be changed or additional condition imposed subsequent to the issue of a letter of approval. This shall not prohibit changes in general policies and regulations applicable to the industrial sector.
11. Where in case of a proposal (not being 100% subsidiary) foreign direct investment has been approved up to a designated percentage of foreign equity in the joint venture company the percentage shall not be reduced while permitting induction of additional capital subsequently. Also in the case of approved activities, if the foreign investor(s) concerned wish to bring in additional capital on later dates keeping the investment to such approved activities, the FIPB shall recommend such cases for approval on an automatic basis.
12. As regards any proposal for private-sector banks, the application shall be considered only after “in principle” permission has been obtained from the RBI.
13. The restrictions prescribed for proposals in various sectors that obtain at present⁶ should be kept in view while considering proposals.

Annex 5

Guidelines for Foreign Direct Investment (FDI) in the Banking Sector⁷

(Press Note No. 2 of 2004 series)

1. Limits for FDI via the automatic route in private-sector banks:
 - a. In terms of the Press Note No. 2 (2004 series) dated 5 March 2004 issued by the Ministry of Commerce and Industry, Government of India, FDI up to 74% from all sources is permitted in private-sector banks via the automatic route, subject to conformity with the guidelines issued by the RBI from time to time.
 - b. For the purpose of determining the above-mentioned ceiling of 74% FDI via the automatic route in respect of private-sector banks, the following categories of shares will be included:
 - i. FDI investment under the Portfolio Investment Scheme (PIS) by FIIs, NRIs and shares acquired prior to 16 September 2003.
 - ii. IPOs.
 - iii. Private placements.
 - iv. ADRs/GDRs.
 - v. Acquisition of shares from existing shareholders [subject to d below].
 - c. It may be clarified that as per the Government of India guidelines, the issue of fresh shares via the automatic route is not available to those foreign investors who have a financial or technical collaboration in the same field. This category of investors requires FIPB approval.
 - d. It may be further clarified that, as per the Government of India guidelines, the automatic route is applicable to the transfer of existing shares in a banking company from residents to non-residents within the sectoral equity cap. This category of investors require FIPB approval followed by “in principle” approval by the Exchange Control Department (ECD) of the RBI. The “fair price” for transfer of existing shares is determined by the RBI broadly on the basis of SEBI guidelines for listed shares and the erstwhile CCI guidelines for unlisted shares. After receipt of “in principle” approval, the resident seller can receive funds and apply to the ECD of the RBI to obtain final permission for transfer of the shares.
 - e. Under the Insurance Act, the maximum foreign investment in an insurance company has been fixed at 26%. Application for foreign investment in banks which have joint ventures/subsidiaries in the insurance sector should be made to the RBI. Such applications will be considered by the RBI in consultation with the Insurance Regulatory and Development Authority (IRDA).
 - f. Foreign banks having a branch presence in India are eligible for FDI in the private-sector banks subject to the overall cap of 74% mentioned above with the approval of the RBI.

2. The limit for FDI in public sector banks:

FDI and portfolio investment in nationalised banks are subject to overall statutory limits of 20% as provided under Section 3 (2D) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/80. The same ceiling also applies in respect of such investments in the State Bank of India and its associate banks.

3. Voting rights of foreign investors:

In terms of the statutory provisions under the various banking acts, the voting rights, when exercised, are stipulated under:

Private sector banks – Section 12 (2) of the Banking Regulation Act 1949]

No person holding shares, in respect of any share held by him, shall exercise voting rights on poll in excess of 10% of the total voting rights of all the shareholders.

Nationalised banks – [Section 3 (2E) of the Banking Companies (Acquisition and Transfer of Undertakings) Acts, 1970/80]

No shareholder, other than the Central Government, shall be entitled to exercise voting rights in respect of any shares held by him in excess of 1% of the total voting rights of all the shareholders of the nationalised banks.

State Bank of India (SBI) – [Section 11 of the State Bank of India Act 1955]

No shareholder, other than the RBI, shall be entitled to exercise voting rights in excess of 10% of the issued capital. (The Government, in consultation with the RBI, can raise the above voting rate to more than 10%.)

SBI Associates—[Section 19 (1) and (2) of the SBI (Subsidiary Bank) Act 1959]

No person shall be registered as a shareholder in respect of any shares held by him in excess of two hundred shares.

No shareholder, other than the SBI, shall be entitled to exercise voting rights in excess of 1% of the issued capital of the subsidiary bank concerned.

4. Approval of the RBI and reporting requirements:

- i. Under extant instructions, transfer of shares of 5% or more of the paid-up capital of a private-sector banking company requires prior RBI acknowledgment. For FDI of 5% or more of the paid-up capital, the private-sector banking company has to apply on the prescribed form to the Department of Banking Operations and the Department in the Regional office of the RBI where the Bank's Head Office is located.
- ii. Under the provisions of the FEMA 1999, any fresh issue of shares of a banking company, either via the automatic route or with the specific approval of the FIPB, does not require further approval of the Exchange Control Department (ECD) of the RBI from the exchange control

angle. The Indian banking company is only required to undertake two-stage reporting to the ECD as follows:

- a. In the first stage, the Indian company has to submit a report within 30 days of the date of receipt of the amount of consideration indicating the names and addresses of foreign investors, the date of receipt of funds and their rupee equivalent, the name of the bank through which funds were received and details of Government approval, if any.
- b. In the second stage, the Indian banking company is required to file within 30 days from the date of issue of the shares, a report on form FC-GPR together with a certificate from the Company Secretary of the company concerned certifying that various regulations have been complied with. The report will also be accompanied by a certificate from a Chartered Accountant indicating the manner of arriving at the price of shares issued.

5. Conformity with SEBI regulations and Companies Act provisions.

Wherever applicable, FDI in banking companies should conform to the provisions regarding shareholding and share transfer, etc., as stipulated by SEBI, Companies Act, etc.

6. Disinvestments by Foreign Investors

In terms of regulations 10 and 11 of RBI Notification No. FEMA/20.2000-RB dated 3 May 2000 issued under FEMA 1999, disinvestments by foreign investors are governed by the following rules:

- i. The sale of shares by non-residents on a stock exchange and the remittance of the proceeds thereof through an authorised dealer does not require RBI approval.
 - ii. The sale of shares by private arrangement requires prior RBI approval. The RBI grants permission for the sale of shares at a price that is market-related and is arrived at in terms of the guidelines in the above-mentioned regulation 10.
7. All commercial banks which either have foreign investments or intend to have foreign investments must observe the above guidelines.

Annex 6

Guidelines for FDI in the Development of Township, Housing, Building, Infrastructure and Construction Projects⁸

(Press Note No. 2 of 2005 series)

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 vide Press Note No. 2 (2005 series) decided to allow FDI up to 100% via the automatic route in townships, housing, built-up infrastructure and construction-development projects (which include, but are not restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure), subject to the following guidelines:

- a. The minimum area to be developed under each project shall be as below:
 - i. In the case of development of serviced housing plots, a minimum land area of 10 hectares.
 - ii. In the case of construction-development projects, a minimum built-up area of 50,000 square metres.
 - iii. In the case of a combination project, any one of the above two conditions will suffice.
- b. The investment will be further subject to the following conditions:
 - i. Minimum capitalisation of USD 10 million for wholly-owned subsidiaries and USD 5 million for joint ventures with Indian partners. The funds must be brought in within six months of commencement of business of the Company.
 - ii. The original investment may not be repatriated before a period of three years from completion of minimum capitalisation. 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 shall not be permitted to sell undeveloped plots. For the purpose of these guidelines, “undeveloped plots” shall 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 for the investor to provide this infrastructure and obtain a completion certificate from the concerned local body/service agency before being 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-laws/regulations of the State Government/Municipal/Local Body concerned.
- f. The State Government/Municipal/Local Body concerned, which approves the building/development plans, shall monitor compliance of the above conditions by the developer.

Paragraph iv of Press Note 4 (2001 series) issued by the Government on 21 May 2001 and Press Note 3 (2002 series) issued on 4 January 2002 stand superseded.

Glossary of Abbreviations

CCI	Competition Commission of India
EOU	Export-oriented unit
EPCG	Export promotion capital goods
EPZ	Export promotion zone
FII	Foreign institutional investor
FIPB	Foreign Investment Promotion Board
FVCI	Foreign venture capital investor
IRDA	Insurance Regulatory and Development Authority
IVCU	Indian venture capital undertaking
JV	Joint venture
NBFC	Non-bank financial company
NRI	Non-Resident Indian. An Indian Citizen who stays abroad for employment/ carrying on business or vacation outside India or stays abroad under circumstances indicating an intention for an uncertain duration of stay abroad is a non-resident, including persons posted in UN organisations and officials sent abroad by the government on temporary assignments. Non-resident foreign citizens of Indian Origin are treated on par with non-resident Indian citizens.
OCB	Overseas corporate body. Overseas Corporate Bodies predominantly owned by Individuals of Indian Nationality and origin resident outside India (OCBs) include overseas Companies, partnership firms, societies and other corporate bodies which are owned, directly or indirectly to the extent of at least 60% by individuals of Indian Nationality or Indian Origin resident outside India as also overseas trusts in which at least 60% of the beneficial interest is irrevocably held by such persons. Such ownership interest should be actually held by them and not in the capacity as nominees.
PIO	Person of Indian origin. For the purpose of availing of the facilities of opening and maintenance of bank accounts and investments in shares/ securities in India, a foreign citizen (other than a citizen of Pakistan or Bangladesh) is deemed to be of Indian Origin, if: i. he, at any time, held an Indian passport; ii. he or either of his parents or any of his grand parents was a citizen of India by virtue of the Constitution of India or Citizenship Act, 1956 (57 of 1955). A spouse (not being a citizen of Pakistan or Bangladesh) of an Indian Citizen or of a person of Indian Origin is also treated as a person of Indian origin for the above purpose.
PPP	Public-private partnership

PSU	Public sector unit
RBI	Reserve Bank of India (India's central bank)
Safta	South Asian Free Trade Agreement
SEBI	Security and Exchange Board of India
SSI	Small-scale industry
VCF	Venture capital fund
WOS	Wholly-owned subsidiary

Notes

1. The Reserve Bank of India (RBI) is India's central bank.
2. "Press note 18" is the common name for a Government of India regulation published in press release number 18 in 1998. The regulation states that the automatic route will not be available for FDI or technology collaborations if the foreign investor has, or had, a joint venture, technology transfer or trademark agreement in the same or an allied field. In such cases, the foreign investor must apply to the FIPB, explaining why a new venture is necessary and must prove that the new proposal will not jeopardise the interests of the existing (or earlier) partner or other stakeholders.
3. Information supplied by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India.
4. Information supplied by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India.
5. Information supplied by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India.
6. i.e. those in Annex 3 of this paper.
7. Information supplied by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India.
8. Information supplied by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India.