ADB sponsored RETA Project in India

India's Global Interface: Trade and Investment

Dr. P. C. Sinha[1]

Contents

[1] Senior Consultant
E-mail: sinha.prabhas@gmail.com

1. Introduction to Trade and Investment Promotion Policies of India

1.1 Indian Legislation on Trade and Investment Administration

Indian Legislation on Trade Administration

Laws governing Customs and customs administration mainly include Customs Act, 1962 and Customs Tariff Act, 1975. The Customs Act, 1962 is one of the major acts of India governing its import and export tariff and regulating its customs valuation standards. The Customs Tariff Act, 1975 stipulates in detail customs classification and specific tariff collection measures, including the classification and applicable tariff rates for imports and exports. The basic trade law of India is Foreign Trade (Development and Regulation) Act, 1992. Relevant laws include the Foreign Trade (Regulation) Rules, 1993. The Customs Tariff Act, 1975 has been amended to include various provisions on safeguard measures. The Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 and Customs Tariff (Transitional Products Specific Safeguard Duty) Rules, 2002 govern the procedural aspects of safeguards. Section 9, 9A and 9B of the Customs Tariff Act, 1975 as well as the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 constitute the legal basis for anti-dumping investigations and the imposition of anti-dumping duties.

Indian Legislation on Investment Administration

Directive laws on foreign investment in India include the Reserve Bank of India Act, 1934, Industrial Policy, 1991, Foreign Exchange Management Act, 1999, Companies Act, 1956, and Income Tax Act, 1961. In addition, India has promulgated many regulations governing specific aspects of foreign exchange management, such as the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000, Foreign Exchange Management (Establishment in India of branch or office or other place of business) Regulations, 2000, and Foreign Exchange Management (Insurance) Regulations, 2000.

List of Related Major Acts & Regulations

- Customs Act, 1962
- Customs Tariff Act, 1975
- Foreign Exchange Regulation Act (FERA), 1973
- Foreign Exchange Management Act (FEMA), 2000
- The Conservation Of Foreign Exchange And Prevention Of Smuggling Activities Act (COFEPOSA), 1974
- Valuation Act, 1988
- Smugglers And Foreign Exchange Manipulators (Forfeiture Of Property) Act (SAFEMA), 1976
- The Foreign Trade (Development and Regulation) Act, 1992
- Smugglers And Foreign Exchange Manipulators (Forfeiture Of Property) Act (SAFEMFOPA), 1976
- The Prevention of Money Laundering Bill, 1999
- Custom House Agents Licensing Regulations, 1984
- Baggage Rules, 1998
- Custom & Central Excise Duties Drawback Rules, 1995
- Central Excise Act, 1944
- The BIS (Certification) Regulations, 1988

1.2 Trade Administration in India

Indian Tariff system

Tariff in India is exclusively collected by the central government with the major part being ad valorem duty. The Ministry of Finance of India adjusts the tariff rates every year in its annual budgeting. In the Budget 2005-06, the import duties on a series of goods are reduced. Duty on polyester and nylon chips, textile fibres, yarns and intermediates, fabrics, and garments is reduced from 20 percent to 15 percent. Duty on primary and secondary metals is reduced from 15 percent to 10 percent. Industrial raw materials such as catalysts, refractory raw materials, basic plastic materials, molasses and industrial ethyl alcohol are now liable to a reduced customs duty rate of 10 percent; duty on lead is reduced from 15 percent to 5 percent. Duty on nine specified machinery used in pharmaceutical and biotech sectors is reduced to 5 percent. Duty on seven specified machinery used in leather and footwear industry is reduced from 20 percent to 5 percent; Duty on textile machinery and materials and parts of textile machinery is reduced from 20 percent to 10 percent. Duty on printing equipment components is reduced from 20 percent to 10 percent. From 1st January 2005 India started to offer zero tariff to 115 products including computer, telecommunication equipment, semiconductors, and scientific instruments. According to Customs Tariff Act, 1975, India's tariff mainly consists of the following categories:

- *Basic duty:* This is the basic duty levied under the Customs Act. On general occasions, ordinary import duty is imposed on imports, but lower rates are offered to countries and regions with which India has signed trade agreements. At present, the average tariff rate is around 30 percent.

- *Additional Duty*: Any article which is imported into India shall, in addition, be liable to a duty (hereafter in this section referred to as the additional duty) equal to the excise duty for the time being leviable on a like article if produced or manufactured in India (means the excise duty for the time being in force which would be leviable on a like article if produced or manufactured in India, or, if a like article is not so produced or manufactured, which would be leviable on the class or description of articles to which the imported article belongs, and where such duty is leviable at different rates, the highest duty) and if such excise duty on a like article is leviable at any percentage of its value, the additional duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article.

- *Export Duty:* At present very few articles such as skins and leather are subject to export duty.

India's Import Administration

India has complicated regulations and restrictions on import, which can be roughly classified into the following four categories:

- Open general license items: At present, India allows the majority of imports into the Country without any restrictions. The importer only needs to fill in an open general license to import these items.

- Prohibited items: The list of prohibited items covers wild animal products, ivory, animal stomach inner membrane and animal fat.

- Restricted items: Special licenses need to be obtained from the Directorate General of Foreign Trade of India to import restricted items. The list covers some consumer goods, precious stones, animal and plants, seeds, some pesticide, medicine and chemicals, electronic products, safety-related products, and products reserved for the production of small enterprises.

- Canalized items: Some canalized items can be imported only by specified public-sector agencies. These include petroleum products (to be imported only by the Indian Oil Corporation); nitrogenous phosphates, potassic and complex chemical fertilizers (by the Minerals and Metals Trading Corporation); vitamin- A drugs (by the State Trading Corporation); oils and seeds (by the State Trading Corporation and Hindustan Vegetable Oils); and cereals (by the Food Corporation of India). However, import restrictions on these items may be phased out gradually.

In addition to the aforesaid restrictions, primary animal and plant products, food, tea waste, meat, poultry, and used cars to be imported into India are also subject to relevant laws and regulations of India.

India's Export Administration

Since 1991, India has formulated schemes for different industries and has constantly issued various incentive measures. Tax reduction and exemption is offered to export enterprises, enterprises in special economic zones or export processing zones for the purpose of promoting export. In addition, the Foreign Trade Policy 2004-09 that took effect in September 2004 stipulates a series of new 5-year import and export incentive measures. The new policy mainly involves agriculture, handicraft industry, handloom, jade, jewellery, leather and shoe making sectors, exempting import duty for agricultural production materials, service tax for goods and services to be exported, service tax for export-oriented companies and enterprises, and bank securities for importers and exporters whose business volume reaches Rs. 5 crores.

Other Trade-related Tariff Systems in India

With a view to protecting the interests of its domestic enterprises, the central government of India levies protective tariff through government announcement. Besides, it also has the power to increase the import and export tariff as an emergency measure and to levy safeguard duty, anti-dumping duty and countervailing duty. A particularly noteworthy fact is that the Customs Duty Act, 1975 particularly provides that the central government of India is entitled to impose transitional products special safeguard duty on imports from China.

1.3 India's Investment Administration

The foreign investment policy of India is showing signs of loosened control. In 2005, India expanded the proportion of foreign investment allowed in private banking and telecommunication sectors. In February 2005, India raised the maximum limit of foreign ownership in private banks from 49 percent to 74 percent. In August 2005, The India cabinet abolished the restrictions that foreign investors are only allowed 10 percent votes in private banks. In February 2005, India raised the investment ceiling of FDI allowed in basic telecommunications services from 49 percent to 74 percent, but such investment is subject to Government approval. At present, there exist two kinds of approval procedures for FDI. One is automatic approval procedure and the other is government approval procedure. Foreign investors are allowed to invest in all sectors (including the service sector) freely provided that the investment proportion is in compliance with that allowed in the foreign investment policy applicable to that particular industry. The government of India authorizes the Reserve Bank of India (RBI) to handle approval and examination in accordance with the automatic procedures. With regard to other foreign investments, approval must be obtained with the relevant government authorities, namely, to be approved by the Indian government with the recommendation of Foreign Investment Promotion Board (FIPB) of India.

Foreign Direct Investment in India under Automatic Route

FDI up to 100 percent is allowed under the automatic route from foreign/NRI (Non-residents in India) investors without prior approval in most of the sectors. FDI in sectors/activities under automatic route does not require any prior approval either by the Government or RBI, but the investors are required to notify the regional office concerned of RBI within 30 days of receipt of inward remittances. In the event of any change in the industrial policy or the maximal limit for foreign investment, the Department of Industrial Policy & Promotion and the Secretariat for Industrial Assistance (SIA) under it will issue foreign investment announcements promptly. After that, RBI will announce the policy issued by the Secretariat for Industrial Assistance in the Foreign Exchange Management Act.

Foreign Direct Investment Subject to Indian Government Approval

Except for FDI under the automatic route mentioned above, all the other FDI requires government approval, particularly the following:

- Activities/items that require an Industrial License (including sectors retained for small enterprises, sectors that require compulsory license, and sectors subject to regional restrictions);
- Proposals in which the foreign collaborator has an existing venture/tie up in India in the same field
- Proposals for acquisition of shares in an existing Indian company in the Financial services sector and where Foreign Exchange Management Rules, 1997 is attracted; and

- All proposals falling outside notified industrial policy or under sectors in which FDI is not permitted.

FDI applications with NRI (Non-residents in India) Investments and 100 percent export-oriented unit (EOU) should be submitted to the Public Relation & Complaint Section (PR&C) of Secretariat of Industrial Assistance (SIA), and the other FDI applications should be made in FC-IL forms and submitted to the Department of Economic Affairs under the Ministry of Finance. The Government usually makes decisions on whether to approve investment applications within 30 days.

Sectors Forbidding FDI

The extant foreign investment policy does not permit FDI in the following cases: gambling and betting, lottery business, business of chit fund, housing and real estate business (except for the development of townships, housing, built-up infrastructure and buildings notified in Investment Press Note 2 (2005 series)), trading in transferable development rights (TDRs), retail trading; atomic energy; agricultural or plantation activities (excluding floriculture, horticulture, development of seeds, animal husbandry, pisiculture and cultivation of vegetables, mushrooms etc. under controlled conditions and services related to agriculture and allied sectors) and Plantations(other than tea plantations).

1.4 Competent Authorities for Administering Trade and Investment in India

The Ministry of Commerce and Industry is India’s trade administration authorities. It consists of the Department of Commerce and the Department of Industrial Policy & Promotion. The Department of Commerce is in charge of trade affairs and consists of Directorate General of Foreign Trade and Directorate General of Supplies & Disposals (DGS&D). The Central Board of Excise and Customs under the Ministry of Finance is responsible for setting tariff rates, levying tariff duties, monitoring the customs and fighting against smuggling. The Reserve Bank of India (RBI) is the competent authority of foreign exchange management. It is responsible for formulating, implementing and monitoring monetary policy, regulating and monitoring the operation of banks and the financial system, managing and controlling foreign exchange as well as issuing currency. The Foreign Direct Investment Promotion Board of India is the authority responsible for examining and approving FDI that falls beyond the automatic approval route. India Foreign Investment Implementation Authority (FIIA) has been established to facilitate quick implementation of FDI approvals and assist foreign investors in getting necessary approvals. The Indian Investment Centre is the official investment management organization of India. It is the first contact point and is the single window agency for authentic information or any assistance that may be required for investments, technical collaborations and joint ventures. Its services are free of charge.

1.5 India’s Industrial Policy

The Government's liberalisation and economic reforms programme aims at rapid and substantial economic growth, and integration with the global economy in a harmonised manner. The industrial policy reforms have reduced the industrial licensing requirements, removed restrictions on investment and expansion, and facilitated easy access to foreign technology and foreign direct investment.

Industrial Licensing

All industrial undertakings are exempt from obtaining an industrial licence to manufacture, except for (i) industries reserved for the Public Sector (Annex I), (ii) industries retained under compulsory licensing(Annex II), (iii) items of manufacture reserved for the small scale sector and (iv) if the proposal attracts locational restriction.

Industrial Entrepreneurs Memorandum (IEM)

Industrial undertakings exempt from obtaining an industrial license are required to file an Industrial Entrepreneur Memoranda (IEM) in Part 'A' (as per prescribed format) with the Secretariat of Industrial Assistance (SIA), Department of Industrial Policy and Promotion, Government of India, and obtain an acknowledgement. No further approval is required. Immediately after commencement of commercial production, Part B of the IEM has to be filled in the prescribed format. The facility for amendment of existing IEMs has also been introduced.

Locational Policy

Industrial undertakings are free to select the location of a project. In the case of cities with population of more than a million (as per the 1991 census), however, the proposed location should be at least 25 KM away from the Standard Urban Area limits of that city unless, it is to be located in an area designated as an "industrial area" before the 25th July, 1991. Electronics, Computer software and Printing (and any other industry which may be notified in future as "non polluting industry") are exempt from such locational restriction. Relaxation in the aforesaid locational restriction is possible if an industrial license is obtained as per the notified procedure. The location of industrial units is further regulated by the local zoning and land use regulations as also the environmental regulations. Hence, even if the requirement of the locational policy stated in paragraph 1.3 is fulfilled, if the local zoning and land use regulations of a State Government, or the regulations of the Ministry of Environment do not permit setting up of an industry at a location, the entrepreneur would be required to abide by that decision.

Policy Relating to Small Scale Undertakings

An industrial undertaking is defined as a small scale unit if the investment in fixed assets in plant and machinery does not exceed Rs. 10 million. The Small Scale units can get registered with the Directorate of Industries/District Industries Centre in the State Government concerned. Such units can manufacture any item including those notified as exclusively reserved for manufacture in the small scale sector. Small scale units are also free from locational restrictions cited in paragraph 1.3 above. However, a small scale unit is not permitted more than 24 per cent equity in its paid up capital from any industrial undertaking either foreign or domestic. Manufacture of items reserved for the small scale sector can also be taken up by non- small scale units, if they apply for and obtain an industrial license. In such cases, it is mandatory for the non-small scale unit to undertake minimum export obligation of 50 per cent. This will not apply to non-small scale EOUs that are engaged in the manufacture of items reserved for the SSI sector, as they already have a minimum export obligation of 66 per cent of their production. In addition, if the equity holding from another company (including foreign equity) exceeds 24 per cent, even if the investment in plant and machinery in the unit does not exceed Rs. 10 million, the unit loses its small scale status. An IEM is required to be filed in such a case for de-licensed industries, and an industrial license is to be obtained in the case of items of manufacture covered under compulsory licensing. A small scale unit manufacturing small scale reserved item(s), on exceeding the small scale investment ceiling in plant and machinery by virtue of natural growth, needs to apply for and obtain a Carry-on-Business (COB) License. No export obligation is fixed on the capacity for which the COB license is granted. However, if the unit expands its capacity for the small scale reserved item(s) further, it needs to apply for and obtain a separate industrial license. (For procedure to obtain COB licence, refer to para 7.2(d)). It is possible that a chemical or a by-product recoverable through pollution control measures is reserved for the small scale sector. With a view to adopting pollution control measures, Government have decided that an application needs to be made for grant of an Industrial License for such reserved items which would be considered for approval without necessarily imposing the mandatory export obligation.

Environmental Clearances

Entrepreneurs are required to obtain Statutory clearances relating to Pollution Control and Environment for setting up an industrial project. A Notification (SO 60(E) dated 27.1.94) issued under The Environment Protection Act 1986 has listed 29 projects in respect of which environmental clearance needs to be obtained from the Ministry of Environment, Government of India. This list includes industries like petro-chemical complexes, petroleum refineries, cement, thermal power plants, bulk drugs, fertilisers, dyes, paper etc. However if investment is less than Rs. 500 million, such clearance is not necessary, unless it is for pesticides, bulk drugs and pharmaceuticals, asbestos and asbestos products, integrated paint complexes, mining projects, tourism projects of certain parameters, tarred roads in Himalayan areas, distilleries, dyes, foundries and electroplating industries. Further, any item reserved for the small scale sector with investment of less than Rs. 10 million is also exempt from obtaining environmental clearance from the Central Government under the Notification. Powers have been delegated to the State Governments for grant of environmental clearance for certain categories of thermal power plants. Setting up industries in certain locations considered ecologically fragile (eg Aravalli Range, coastal areas, Doon valley, Dahanu, etc.) are guided by separate guidelines issued by the Ministry of Environment of the Government of India.

2. India in Global Competitiveness Index

During 2007, India has fallen five notches in the latest annual rankings of the Global Competitiveness Report released by the World Economic Forum. India was placed 48 in the list of 131 economies covered under the Global Competitiveness Index (GCI) which tracks twelve parameters to come out with the rankings. Among the top emerging markets, India is second this year behind China. In 2006, India ranked 43 (for more details on GCI, BCI and global S&T competitiveness ranking for 2005, refer Table 1 and 2 where the rankings are based on 2004 and 2003 data) and was ahead of other BRIC markets. This year China, at 34, is the top ranked BRIC market. Russia at 58 and Brazil at 72 are behind India. Among the three sub-indices under GCI, India improved its ranking from 41 to 31 in 'efficiency enhancers' but dropped from 60 to 74 in 'basic requirements'. It's ranking on 'innovation factors' remained unchanged this year at 26.

The United States tops the overall ranking followed by Switzerland, Denmark, Sweden and Germany in that order. Last year Switzerland topped the charts followed by Finland, Sweden, Denmark and Singapore.

Chile is the highest ranked country from Latin America this year, followed by Mexico and Costa Rica. Several countries from the Middle East and the North Africa region are in the upper half of the rankings, led by Israel, Kuwait, Qatar, Tunisia, Saudi Arabia and the UAE. In Sub-Saharan Africa, only South Africa and Mauritius feature in the top half of the rankings. Nine Asia-Pacific countries are among the top 30 in the GCI rankings, led by Singapore, Japan, Korea and Hong Kong SAR.

"The quality of the business environment in India has improved tangibly in recent years, with increased efficiency of goods, labour and financial markets and greater innovation and sophistication of firm operations. However, a number of weaknesses persist that need to be addressed especially in the area of infrastructure quality. Moreover, dealing with shortcomings in the provision of health services and education will ensure that the benefits of economic growth are more broadly distributed," said World Economic Forum's head of strategic insight teams, Fiona Paua.

The rankings are based on publicly available data and the executive opinion survey, which is a business leaders' poll, conducted by the World Economic Forum. The survey is designed to capture a broad range of factors affecting the economy's business climate.

Table 1: Global Competitiveness Ranking and Business Competitiveness Index

Countries	*Growth Competitiveness Ranking[7] 2005 (2004, 2003)*	*Business Competitiveness Index[8] 2005 (2004)*
India	**50 (55, 56)**	**31 (30)**
Finland	1 (1, 6)	2 (2)
Korea, Rep. of	17 (29, 18)	24 (24)
Malaysia	24 (31, 29)	23 (23)
Ireland	26 (30, 30)	19 (22)
Thailand	36 (34, 32)	37 (37)
China	49 (46, 44)	57 (47)
Singapore	6 (7, 6)	5 (10)
Philippines	77 (76, 66)	69 (70)

[7] WEF (2005). Global Competitiveness Index. Retrieved October 19, 2005, from

http://www.weforum.org/site/homepublic.nsf/Content/Global+Competitiveness+Programme%5CGlobal+Competitiveness+Report

[8] WEF (2004) Global Competitiveness Index and Business Competitive Index. Retrieved September 5, 2005 from

http://www.weforum.org/pdf/Gcr/Business_Competitiveness_Index_Porter

India is becoming more competitive and ranking better than Brazil, Russian Federation, China and the neighbouring countries. The World Economic

Forum has released the Global Competitiveness Report 2006-2007 based on nine factors.

Here is the list of competitive countries based on global competitiveness index (GCI):

Switzerland- 1 (out of 125 countries)
Sweden- 3
United States- 6
India- 43
China- 54
Russia Federation- 62
Brazil- 66
Sri Lanka- 79
Pakistan- 91
Bangladesh- 99
Nepal- 110
Angola- 121
Burundi- 122
Chad- 123
Timor-Leste- 124
Mozambique- 125

India is at good place in **Innovation factor** (26) and in **Business Sophistication category** (25). However, in the Basic Requirements category, India is ranked at 60 while China is at 44^{th} place and the US is at 27^{th} place.

The **factors responsible for driving productivity and competitiveness** are listed below**.** It describes India's performance on different categories on which the final list has been come out:

Market Efficiency- 21
Business Sophistication category- 25
Innovation factor- 26
Institutions Factors- 34
Efficiency Enhancers- 41
Higher Education and Training- 49

Technological Readiness- 55

Infrastructure category- 60

Macroeconomy- 88

Health and Primary Education- 93

Table 2: Global S&T Competitiveness Ranking (2007)

India:	**27**
USA:	01
UK:	20
China:	15
Brazil:	49

3. GDP Growth Rate in India

The Indian economy is passing through a difficult phase caused by several unfavourable domestic and external developments; Domestic output and Demand conditions were adversely affected by poor performance in agriculture in the past two years. The global economy experienced an overall deceleration and recorded an output growth of 2.4% during the past year growth in real GDP in 2001-02 was 5.4% as per the Economic Survey in 2000-01. The performance in the first quarter of the financial year is 5.8% and second quarter is 6.1%. India's R & D share as percentage to its total GDP has ranged between 0.78 to 0.85 during 1998 to 2003 (ref. Table 3)

Table 3: R&D % of GDP

Country	***1996***	***1998***	***2000***	***2002***
India	------	0.82	0.85	0.80
China	0.60	0.70	1.00	1.20
Japan	2.78	2.95	2.99	3.12
Korea	2.42	2.34	2.39	2.53
Malaysia	0.21	0.40	0.49	0.69
Singapore	1.38	1.82	1.91	2.15
Thailand	0.12	0.22	0.25	0.24

Source: WDI Online

Note: 1998-data for Thailand not available. Replaced with 1999 figure. 2003-04 data for India was 0.78

4. Balance of Payment in India

The Reserve Bank of India (RBI) is responsible for compiling the balance of payments data for India. The RBI obtains data on the balance of payments primarily as a by-product of the administration of the exchange control. In accordance with the Foreign Exchange Management Act (FEMA) of 1999, all foreign exchange transactions must be channelled through the banking system, and the banks that undertake foreign exchange transactions must submit various periodical returns and supporting documents prescribed under the FEMA. In respect of the transactions that are not routed through banking channels, information is obtained directly from the relevant government agencies, other concerned agencies, and other departments within the RBI. The information is also supplemented by data collected through various surveys conducted by the RBI. Data are prepared on a quarterly basis and are published in the Reserve Bank of India Bulletin. The data are compiled in Crores of Rupees (one Crore = 10 million) and are broadly in conformity with the recommendations of the BPM5. The data are also expressed in millions of U.S. dollars.

4.1 Current Account

Goods

The RBI compiles data on merchandise transactions mainly as a by-product of the administration of exchange control. Data on exports are based on export transactions and the collection of export proceeds as reported by the banks. In the case of imports, exchange control records cover only those imports for which payments have been effected through banking channels in India. Information on payments for imports not passing through the banking channels is obtained from other sources, primarily government records and borrowing entities in respect of their external commercial borrowing. Since 1992-93, the value of gold and silver brought to India by returning travellers has been added to the imports data with a contra-entry under current transfers, other sectors. Exports are recorded on an f.o.b. basis, whereas imports are recorded c.i.f. The IMF adjusts imports, for publication, to an f.o.b. basis by assuming freight and insurance to be 10 percent of the c.i.f. value.

Services

Under the exchange control rules, authorized dealers (i.e., banks authorized to deal in foreign exchange) are required to report details in respect of transactions, other than exports, when the individual remittances exceed a stipulated amount. For receipts below this amount, the banks report only aggregate amounts without indicating the purpose of the incoming remittance. The balance of payments classification of these receipts is made on the basis of the Survey of Unclassified Receipts conducted by the RBI. This sample survey is conducted on a biweekly basis.

Transportation

This category covers all modes of transport and port services; the data are based mainly on the receipts and payments reported by the banks in respect of transportation items. In addition to the exchange control records, the survey of unclassified receipts is also used as a source. These sources are supplemented by information collected from major airline and shipping companies in respect of payments from foreign accounts. A benchmark Survey of Freight and Insurance on Exports is also used to estimate freight receipts on account of exports.

Travel

Travel data are obtained from exchange control records, supplemented by information from the surveys of unclassified receipts. The estimates of travel receipts also use the information on foreign tourist arrivals and expenditure, received from the Ministry of Tourism as a cross-check of the exchange control and survey data.

Other Services

The insurance category covers all types of insurance (i.e., life, non-life, and reinsurance transactions). Thus, the entries include all receipts and payments reported by the banks in respect of insurance transactions. In addition to information available from exchange control records, information in the survey of unclassified receipts is also used. The benchmark survey of freight and insurance is used to estimate insurance receipts on account of exports. Other services also cover a variety of service transactions on account of software development, technical know-how, communication services, management fees, professional services, royalties, and financial services. Since 1997-98, the value of software exports for onsite development, expenditure on employees, and office maintenance expenses has been included in other services. Transactions in other services are captured through exchange control records and the survey of unclassified receipts, supplemented by data from other sources. For example, information on issue expenses in connection with the issue of global depository receipts and foreign currency convertible bonds abroad is obtained from the details filed by the concerned companies with the Foreign Exchange Department, RBI.

Income

Investment income

Information on investment income transactions is obtained from exchange control records and foreign investment surveys, supplemented by information available from various departments of the RBI. Interest payments on foreign commercial loans are also reported under the RBI Foreign Currency Loan reporting system. The data on reinvested earnings of foreign direct investment companies are based on the annual Survey of Foreign Liabilities and Assets, conducted by the RBI. Details of investment income receipts on account of official reserves are obtained from the RBI's internal records. Interest accrued during the year and credited to non-resident Indian deposits is also included under this category.

Current Transfers

General Government

The data are obtained from the Controller of Aid Accounts and Audit, government of India, whereas data on PL-480 grants are obtained from the U.S. Embassy in India.

Other Sectors

Transactions relating to workers' remittances are based on the information furnished by authorized dealers regarding remittances received under this category, supplemented by the data collected in the survey of unclassified receipts regularly conducted by the RBI. Redemption, in India, of non-resident dollar account schemes and withdrawals from non-resident rupee account schemes has been included as current transfers, other sectors since 1996-97.

4.2 Financial Account

Direct investment

Basic data are obtained from the exchange control records, but information on non-cash inflows and reinvested earnings is taken from the Survey of Foreign Liabilities and Assets, supplemented by other information on direct investment flows. Up to 1999/2000, direct investment in India and direct investment abroad comprised mainly equity flows. From 2000/2001 onward, the coverage has been expanded to include, in addition to equity, reinvested earnings, and debt transactions between related entities. The data on equity capital include equity in both unincorporated business (mainly branches of foreign banks in India and branches of Indian banks abroad) and incorporated entities. Because there is a lag of one year for reinvested earnings, data for the most recent year (2003/2004) are estimated as the average of the previous two years. Because of this change in methodology, data for years before 2000/2001 are not comparable with those for data since then. However, as inter-company debt transactions were previously measured as part of other investment, the change in methodology does not make any impact on India's net errors and omissions.

Portfolio Investment

Basic data are obtained from the exchange control records. These are supplemented with information from the Survey of Foreign Liabilities and Assets. In addition, the details of the issue of global depository receipts and stock market operations by foreign institutional investors are received from the Foreign Exchange Department, RBI.

Other investment

Most of the information on transactions in other investment assets and liabilities is obtained from the exchange control records, supplemented by information received from the departments of the RBI and various government agencies. Entries for transactions in external assets and liabilities of commercial banks are obtained from their periodic returns on foreign currency assets and rupee liabilities. Data on non-resident deposits with resident banks are obtained from exchange control records, the survey of unclassified receipts, and information submitted by the relevant banks to the RBI.

Reserve Assets

Transactions under reserve assets are obtained from the records of the RBI. They comprise changes in its foreign currency assets and gold, net of estimated valuation changes arising from exchange rate movement and revaluations owing to changes in international prices of bonds/securities/gold. They also comprise changes in SDR balances held by the government and a reserve tranche position at the IMF, also net of revaluations owing to exchange rate movement.

4.3 Current Balance of Payment Situation in India

Widening Trade Deficit

India's trade deficit on a balance of payments (BoP) basis has widened significantly by 52.04 percent to $105.33 26 billion in the nine months (April-December) of fiscal year***** 2008-09 from $68.28 billion in the comparable period in previous fiscal. The widening trade deficit is attributed to significant growth in imports. During the nine-month period (April-December, 2008) imports were up 30.60 percent to $238.86 billion from $182.89 percent in the comparable period in fiscal 2007-08.This is revealed in a report of the country's central banking authority Reserve Bank of India (RBI) on ***India's Balance of Payments Developments during the Third Quarter (April-December 2008) of fiscal 2008-09.***

The key features of India’s BoP that emerged at the end of Q3 of fiscal 2008-09 were: the key features of India’s BoP that emerged in April-December 2008 were: (i) widening of trade deficit led by high growth in imports and slowdown in exports, (ii) increase in invisibles surplus, led by remittances from overseas Indians and software services exports, which financed about 65 per cent of trade deficit, (iii) higher current account deficit due to large trade deficit, (iv) lower net capital flows mainly led by large net outflows under portfolio investment and large repayments under short-term trade credit, and (v) sharp decline in reserves. (Ref. Table 4)

Table 4: Major Items of India's balance of Payments

Major Items of India's balance of Payments (April-December 2008) (In $million)		
	April-December (2008-09) (P)	**April-December (2007-08) (PR)**
Exports	133,527	113,614
Imports	238,864	182,894
Trade Balance	-105,337	-69280
Invisibles, net	68,868	53772
Current Account Balance	-36,469	-15508
Capital Account*	16,089	82,682
Change in Reserves# (+ indicates increase;- indicates decrease)	20,380	-67,174
Including errors & omissions; # On BoP basis excluding valuation; P: Preliminary, PR: Partially revised. R: revised		

Source: Reserve Bank of India Report

Invisibles

(i) Both invisibles receipts and payments recorded negative growth, though marginal, during Q3 of 2008-09 reflecting the impact of global economic slowdown.

(ii) Invisibles receipts registered a marginal decline of 0.6 per cent in Q3 of 2008-09 (as against an increase of 33.2 per cent in Q3 of 2007-08) on account of a decline in travel, transportation and insurance receipts in the services category and private transfers and investment income receipts. Overall services exports, however, witnessed a marginal increase of 0.5 per cent during the quarter (compared with a higher growth of 33.4 per cent in Q3 of 2007-08) due to increase in software exports.

(iii) Private transfer receipts declined marginally during Q3 of 2008-09. Software services receipts, on the other hand, increased by 11.8 per cent during the quarter.

(iv) Invisibles payments also recorded a marginal negative growth of 2.1 per cent during Q3 of 2008-09 mainly led by sharp decline in payments under travel, software and business services account. There was also a marginal decline in payments under investment income in the form of interest payments and dividends.

(v) With the decline in invisibles payments higher than the receipts, the net invisibles (invisibles receipts minus invisibles payments) rose moderately to US$21.7 billion in Q3 of 2008-09. At this level, net invisibles surplus financed 59.7 per cent of trade deficit in Q3 of 2008-09 (82.6 per cent in Q3 of 2007-08).

Current Account Deficit

On account of large trade deficit and with moderate increase in net invisibles, the current account deficit rose sharply to US$14.6 billion in Q3 of 2008-09 (US$4.5 billion in Q3 of 2007-08). This level of CAD was the highest quarterly deficit since 1990.

Capital Account and Reserves

(i) Capital account balance turned negative showing outflows of US$3.7 billion during the Q3 of 2008-09 (net inflows at US$31.0 billion during Q3 of 2007-08) for the first time since Q1 of 1998-99 mainly due to net outflows under portfolio investment, banking capital and short-term trade credit.

(ii) The gross capital inflows to India during Q3 of 2008-09 amounted to US$70.0 billion (US$127.3 billion in Q3 of 2007-08) as against gross outflows from India at US$73.6 billion (US$96.3 billion in Q3 of 2007-08). Other components of the capital account which recorded a fall during the quarter were inflows and outflows under foreign direct investment and external commercial borrowings, while inflows under short-term trade credit also declined during the quarter.

(iii) Net FDI flows (net inward FDI minus net outward FDI) amounted to US$0.8 billion in Q3 of 2008-09 (US$2.0 billion in Q3 of 2007-08). Net inward FDI stood at US$6.7 billion during Q3 of 2008-09 (US$7.9 billion in Q3 of 2007-08). Net outward FDI remained buoyant at US$5.9 billion in Q3 of 2008-09 (US$5.8 billion in Q3 of 2007-08).

(iv) Portfolio investment primarily comprising foreign institutional investors' (FIIs) investments and American Depository Receipts (ADRs)/Global Depository Receipts (GDRs) continued to witness net outflows at US$5.8 billion in Q3 of 2008-09 (as against net inflows of US$14.9 billion in Q3 of 2007-08). Outflows under portfolio investment were led by large sales of equities by FIIs in the Indian stock market and slowdown in net inflows under ADRs/GDRs due to drying-up of liquidity in the overseas market. Another feature observed in the context of portfolio flows was that not only net flows remained negative but both inflows as well as outflows reduced sharply during the quarter.

(v) Net External Commercial Borrowings (ECBs) remained lower at US$3.9 billion in Q3 of 2008-09 (US$6.2 billion in Q3 of 2007-08) due to drying up of liquidity abroad and increased cost of borrowings.

(vi) Short-term trade credit to India witnessed a net outflow of US$3.1 billion (as against inflows of US$4.1 billion in Q3 of 2007-08) mainly due to lower disbursements reflecting tightness in the overseas market and increased repayments as roll over was difficult.

(vii) There was a turnaround in the inflows under the non-resident Indian (NRI) deposits to US$1.0 billion during Q3 of 2008-09 (outflow of US$0.9 billion during Q3 of 2007-08) responding to the hike in ceiling interest rates on NRI deposits.

(viii) The foreign exchange reserves on BoP basis (*i.e.,* excluding valuation) declined sharply by US$17.9 billion in Q3 of 2008-09 as against an accretion of reserves of US$26.7 billion in Q3 of 2007-08. The decline in the reserves was due to widening of current account deficit combined with outflows under the capital account. The largest decline in reserves on a BoP basis during any one quarter in earlier years at US$4.7 billion was observed in the Q3 of 2005-06. Even during the balance of payments crisis of the early 1990s, a decline of US$1.5 billion was seen in the third quarter (October-December 1990), while a decline of US$1.1 billion was observed during April-June 1991.

Balance of Payments (BoP) for April- December, 2008

Merchandise Trade (April-December 2008)

(i) On a BoP basis, India's merchandise exports posted a growth of 17.5 percent during April-December 2008 (21.9 percent in the corresponding period of the previous year).

(ii) According to the commodity-wise data available for April-November 2008 from the DGCI&S, the exports of engineering goods and petroleum products showed high growth, while growth in textile products, ores and minerals, and gems and jewellery registered sharp slowdown. The exports of marine products, raw cotton, iron ore and handicrafts declined during the period.

(iii) Import payments, on a BoP basis, remained higher and recorded a growth of 30.6 percent during April-December 2008 as compared with 28.3 percent in the corresponding period of the previous year.

(iv) According to the DGCI&S data, while oil imports recorded a significant growth of 43.3 percent in April-December 2008 (24 percent in the corresponding period of the previous year), growth in non-oil imports slowed down to 25 percent from 29.3 percent in the corresponding period of the previous year. In absolute terms, oil imports accounted for about 34.7 percent of total imports during April-December 2008 (31.7 percent in the corresponding period of the previous year).

(v) According to the DGCI&S data, out of the total increase in imports of $52.8 billion in April-December 2008 over the corresponding period of the previous year, oil imports contributed an increase of $23.6 billion (44.6 percent as against 28.4 percent in April-December 2007), while non-oil imports contributed an increase of $29.2 billion (55.4 percent as against 71.6 percent in April-December 2007).

(vi) According to the commodity-wise DGCI&S data available for April-November 2008, the items under non-oil imports which showed a high growth were fertilizers, paper and paper products, manufactures of metals, project goods, export related items like pearls, precious and semi-precious stones, chemicals, and coal, coke and briquettes, while imports of items like pulses, electronic goods, and gold and silver declined.

(vii) The sharp increase in oil imports reflected the impact of the increase in oil price of the Indian basket of international crude (a mix of Oman, Dubai and Brent varieties), which had increased to an average of $132.5 per barrel in July 2008, but came down subsequently to an average of $40.6 per barrel in December 2008. The average oil prices were higher at $95.5 per barrel in April-December 2008 as compared with an average of $74.7 per barrel in the corresponding period of the previous year

India's Cumulative value of exports for the period April- February, 2009 stood at $156597 million (Rs.705231 crore) as against $145878 million (Rs.586233 crore) registering a growth of 7.3 percent in Dollar terms and 20.3 percent in Rupee terms over the same period last year. Imports during April-February 2009 were valued at $271687 million registering the growth of 19.1 percent and in Rupee terms it stood at Rs. 1223213 signifying a growth of 33.4 percent. The trade deficit for April- February, 2009 was estimated at $115090 million which was higher than the deficit at $82203 million during comparable period of fiscal 2007-08. [*Source: Federal Ministry of Commerce, Government of India]*

Trade Deficit

On a BoP basis, the merchandise trade deficit widened sharply to US$105.3 billion during April-December 2008 from US$69.3 billion in April-December 2007 on account of higher growth in imports coupled with the slowdown in exports.

Invisibles

Invisible Receipts

i) Invisibles receipts witnessed a lower growth of 18.8 percent during April-December 2008 (30.1 percent in the corresponding period of the previous year) mainly due to slow pace of growth in travel, business services and investment income receipts.

(ii) Travel receipts at $8.2 billion during April-December 2008 rose moderately by 6.2 percent (26.2 percent in April-December 2007) reflecting slowdown in tourist arrivals in the country.

iii) Private transfers are mainly in the form of (i) Inward remittances from Indian workers abroad for family maintenance, (ii) Local withdrawal from NRI Rupee deposits, (iii) Gold and silver brought through passenger baggage, and personal gifts/donations to charitable/religious institutions.

(iv) Private transfer receipts, comprising mainly remittances from Indians working overseas, increased to $36.9 billion in April-December 2008 from $29.3 billion in the corresponding period of the previous year. Private transfer receipts constituted 14.4 percent of current receipts in April-December 2008 (13.5 percent in the corresponding period of the previous year).

(v) Under Private transfers, the inward remittances for family maintenance accounted for about 50.4 percent of the total private transfer receipts, while local withdrawals accounted for about 44 percent in April-December 2008 as against 49.7 per cent and 43.3 per cent, respectively, in April-December 2007.

(vi) Software receipts at US$34.6 billion showed a steady growth of 26 per cent in April-December 2008. The NASSCOM has projected a growth rate of 16-17 per cent during 2008-09 with a target of software services export revenues at around $47 billion for the financial year.

(vii) Miscellaneous receipts, excluding software exports, stood at $22.4 billion in April-December 2008 ($20.6 billion in April-December 2007).

(viii) The key components of the business services receipts and payments were mainly the trade related services, business and management consultancy services, architectural, engineering and other technical services, and services relating to maintenance of offices abroad. These reflect the underlying momentum in trade of professional and technology related services. While receipts under trade related and business and management consultancy services increased, the receipts under architectural, engineering, and other technical services declined during April-December 2008.

(xi) Investment income receipts amounted to $10.3 billion in April-December 2008 as compared with $9.3 billion in April-December 2007.

Invisible Payments

(i) Like invisibles receipts, invisibles payments also showed a lower growth of 8.7 percent in April-December 2008 (13.2 percent in April-December 2007) mainly on account of slowdown in payments relating to travel, software services and a number of business and professional services.

(ii) Travel payments growth remained lower at 5.9 percent during April-December 2008 (31.1 percent in April-December 2007) reflecting a sharp reduction in outbound travels. According to the International Transport Association, international passenger volumes increased marginally by 1.6 percent in 2008 led by a 1.5 percent decline for Asia-Pacific region.

(iii) Investment income payments, reflecting mainly the interest payments on commercial borrowings, external assistance and non-resident deposits, and reinvested earnings of the foreign direct investment (FDI) enterprises operating in

India declined marginally to $13.3 billion in April-December 2008 ($13.5 billion in the corresponding period of the previous year) mainly due to decline in interest payments on NRI deposits and reinvested earnings of FDI companies in India

Invisibles Balance

(i) Net invisibles (invisibles receipts minus invisibles payments) stood higher at $68.9 billion during April-December 2008 ($53.8 billion during April-December 2007) mainly led by receipts under private transfers and software services. At this level, the invisibles surplus financed about 65.4 percent of trade deficit during April-December 2008 as against 77.6 percent during April-December 2007.

Current Account Deficit

(i) Despite higher net invisibles surplus, the large trade deficit mainly on account of higher growth in imports coupled with slowdown in export growth in the third quarter led to higher current account deficit at $36.5 billion in April-December 2008 ($15.5 billion during April-December 2007)

Capital Account

(i)The gross capital inflows to India during April-December 2008 decreased to $246.4 billion ($291.8 billion in April-December 2007) as against an increase in outflows to $231.1 billion ($209.8 billion in April-December 2007).

(ii) Net capital flows, however, at $15.3 billion in April-December 2008 remained much lower as compared with $82.0 billion in April-December 2007. Under net capital flows, all the major components except FDI and NRI deposits, showed decline during April-December 2008 from their level in the corresponding period of the previous year. The decline was sharp in the case of portfolio flows and short-term trade credits to India.

(iii) Net inward FDI into India remained buoyant at $27.4 billion during April-December 2008 ($20.0 billion in April-December 2007) reflecting relatively better investment climate in India and the continuing liberalization measures to attract FDI. During April-December 2008, FDI was channelled mainly into manufacturing (21.4 percent) followed by financial services (14.1 percent) and communication services (12 percent).

(iv) Net outward FDI from India continued to remain high at $12.0 billion during April-December 2008 even in the current economic situation. However, it was marginally lower than that of $13.1 billion invested during April-December 2007. Due to large inward FDI, the net FDI (inward FDI minus outward FDI) was higher at $15.4 billion in April-December 2008 as compared with $6.9 billion in April-December 2007.

(v) Portfolio investment comprising mainly foreign institutional investors (FIIs) investments and American depository receipts (ADRs)/global depository receipts (GDRs) witnessed large net outflows of $11.3 billion during April-December 2008 (net inflows of $33.3 billion in April-December 2007) due to large sales of equities by FIIs in the Indian stock market reflecting bearish market conditions and slowdown in the global economy. The inflows under ADRs/ GDRs slowed down to $1.1 billion in April-December 2008 ($8.4 billion in April-December 2007).

(vi) Net external commercial borrowings (ECBs) inflow slowed down to $7.1 billion in April-December 2008 ($17.4 billion in April-December 2007) mainly due to tight liquidity conditions in the overseas markets.

(vii) Banking capital (net), including NRI deposits, turned marginally negative to $0.1 billion during April-December 2008 as against net inflows of $5.9 billion during April-December 2007. Among the components of banking capital, NRI deposits witnessed a net inflow of $2.1 billion in April-December 2008, a turnaround from net outflow of $0.9 billion in April-December 2007.

(viii) Gross disbursement of short-term trade credit stood at $31.4 billion during April-December 2008 ($32.2 billion in April-December 2007). Repayments of short-term trade credit were high at $30.8 billion during April-December 2008 (as compared with $21.5 billion during April-December 2007) due to some problems in rollover observed during the third quarter. Net short-term trade credit stood at $0.5 billion (inclusive of suppliers' credit up to 180 days) during April-

December 2008 as compared with $10.7 billion during the same period of the previous year.

(ix) Other capital includes leads and lags in exports, funds held abroad, advances received pending for issue of shares under FDI and other capital not included elsewhere. Other capital recorded net inflows of $1.9 billion in April-December 2008.

Variation in Reserves

(i) The decline in foreign exchange reserves on BoP basis (*i.e.*, excluding valuation) was $20.4 billion in April-December 2008 (as against accretion to reserves of $67.2 billion in April-December 2007). Taking into account the valuation loss, foreign exchange reserves recorded a decline of $53.8 billion during April-December 2008 (as against an accretion to reserves of $76.1 billion in April-December 2007).

(ii) At the end of December 2008, outstanding foreign exchange reserves stood at $256.0 billion.

Reconciliation of Import Data

(i) During April-December 2008, based on the records of the DGCI&S imports data and the BoP merchandise imports, the difference between the two data sets works out to about $14.4 billion.

5. Trade – Export & Import in India

5.1 Export and Import in India

India's Export and Import in the year 2001-02 was to the extent of 32,572 and 38,362 million respectively. Many Indian companies have started becoming respectable players in the International scene. Agriculture exports account for about 13 to 18% of total annual of annual export of the country. In 2000-01 Agricultural products valued at more than US $6million were exported from the country 23% of which was contributed by the marine products alone. Marine products in recent years have emerged as the single largest contributor to the total agricultural export from the country accounting for over one fifth of the total agricultural exports. Cereals (mostly basmati rice and non-basmati rice), oil seeds, tea and coffee are the other prominent products each of which accounts from nearly 5 to 10% of the countries total agricultural exports. (Ref. Table 5)

Table 5: Exports and Imports (April-February, FY 2008-09)

	In $Million	In Rs Crore
Exports including re-exports		
2007-2008	145878	586233
2008-09	156597	705231
Growth 2008-09/2007-2008 (percent)	7.3	20.3
Imports		
2007-08	228081	917179
2008-09	271687	1223213
Growth 2008-09/2007-2008 (percent)	19.1	33.4
Trade Balance		
2007-08	-82203	-330946
2008-09	-115090	-517982

Note: Figures for 2007-08 are the latest revised whereas figures for 2008-09 are provisional.

6. FDI and Financial Flows in India, Role of MNCs and NRIs

6.1 Foreign Direct Investment in India

Government wishes to facilitate foreign direct investment (FDI) and investment from Non-Resident Indians (NRIs) including Overseas Corporate Bodies (OCBs), which are predominantly owned by them, to complement and supplement domestic investment. Investment and returns are freely repatriable, except where the approval is subject to specific conditions such as lock in period on original investment, dividend cap, foreign exchange neutrality, etc. as per the notified sectoral policy. The condition of dividend balancing that was applicable to FDI in 22 specified consumer goods industries stands withdrawn for dividends declared after 14th July 200, the date on which Press Note. No. 7 of 2000 Series was issued. Foreign direct investment is freely allowed in all sectors including the services sector, except where the existing and notified sectoral policy does not permit FDI beyond a ceiling. FDI for virtually all items/activities can be brought in through the automatic route under powers delegated to the Reserve Bank of India (RBI), and for the remaining items/activities through Government Approval. Government approvals are accorded on the recommendation of the Foreign Investment Promotion Board (FIPB), chaired by the Secretary, Department of Industrial Policy and Promotion (Ministry of Commerce and Industry) with the Union Finance Secretary, Commerce Secretary, and other key Secretaries of the Government as its members.

Automatic Route

New Ventures: All items/activities for FDI/NRI/OCB investment up to 100% fall under the Automatic Route except those covered under (i) to (iv) of Para 2.9. Whenever any investor chooses to make an application to the FIPB and not to avail of the automatic route, he or she may do so**.** Investment in Public Sector Units as also for EOU/EPZ/SEZ/EHTP/STP units would also qualify for the Automatic Route. Investment under the Automatic Route shall continue to be governed by the notified sectoral policy and equity caps and RBI will ensure compliance of the same. The National Industrial Classification (NIC) 1987 shall remain applicable for description of activities and classification for all matters relating to FDI/NRI/OCB investment:

Areas/Sectors/Activities hitherto not open to FDI/NRI/OCB investment shall continue to be so unless otherwise decided and notified by Government. Henceforth any change in sectoral policy / sectoral equity cap shall be notified by the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion.

Existing Companies: Besides new companies, automatic route for FDI/NRI/OCB investment is also available to the existing companies to induct foreign equity. For existing companies with an expansion programme, the additional requirement are that (I) the increase in equity level must result from the expansion of the equity base of the existing company without acquisition of existing shares by NRI/OCB/foreign investors, (ii) the money to be remitted should be in the sector(s) under the automatic route. Otherwise the proposal would need Government approval through the FIPB. For this, the proposal must be supported by a Board Resolution of the existing Indian company. For existing companies without an expansion programme, the additional requirements for eligibility for automatic route are (I) that they are engaged in the industries under automatic route (including additional activities covered under the automatic route regardless of whether the original activities were undertaken with Government approval or by accessing the automatic route), (ii) the increase in equity level must be from expansion of the equity base and (iii) the foreign equity must be in foreign currency. The earlier SEBI requirement, applicable to public limited companies, that shares allotted on preferential basis shall not be transferable in any manner for a period of 5 years from the date of their allotment has now been modified to the extent that not more than 20 per cent of the entire contribution brought in by promoter cumulatively in public or preferential issue shall be locked in. The automatic route for FDI and/or technology collaboration would not be available to those who have or had any previous joint venture or technology transfer/trade mark agreement in the same or allied field in India. Equity participation by international financial institutions such as ADB, IFC, CDC, DEG, etc. in domestic companies is permitted through automatic route subject to SEBI/RBI regulations and sector specific caps on FDI. In a major drive to simplify procedures for foreign direct investment under the "automatic route", RBI has given permission to Indian Companies to accept investment under this route without obtaining prior approval from RBI. Investors are required to notify the Regional Office concerned of the RBI of receipt of inward remittances within 30 days of such receipt and file required documentation within 30 days of issue of shares to Foreign Investors. This facility is available to NRI/OCB investment also.

Government Approval

For the following categories, Government approval for FDI/NRI/OCB through the FIPB shall be necessary:-

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

- All proposals in which the foreign collaborator has a previous venture/tie-up in India. The modalities prescribed in Press Note No. 18 dated 14.12.98 of 1998 series shall apply in such cases. However, this shall not apply to investment made by multilateral financial institutions such as ADB, IFC, CDC, DEG, etc. as also investment made in IT sector.

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

- All proposals falling outside notified sectoral policy/caps or under sectors in which FDI is not permitted.

Whenever any investor chooses to make an application to the FIPB and not to avail of the automatic route, he or she may do so.

Areas/Sectors/Activities hitherto not open to FDI/NRI/OCB investment shall continue to be so unless otherwise decided and notified by Government. Henceforth any change in sectoral policy/sectoral equity cap shall be notified by the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. RBI has granted general permission under Foreign Exchange Management Act (FEMA) in respect of proposals approved by the Government. Indian companies getting foreign investment approval through FIPB route do not require any further clearance from RBI for the purpose of receiving inward remittance and issue of shares to the foreign investors. Such companies are, however, required to notify the Regional Office concerned of the RBI of receipt of inward remittances within 30 days of such receipt and to file the required document with the concerned Regional Offices of the RBI within 30 days after issue of shares to the foreign investors. For greater transparency in the approval process, Government has announced guidelines for consideration of FDI proposals by the FIPB.

6.2 Issue and Valuation of Shares in Case of Existing Companies

Allotment of shares on preferential basis shall be as per the requirements of the Companies Act, 1956, which will require special resolution in case of a public limited company. In case of listed companies, valuation shall be as per the RBI/SEBI guidelines. The issue price shall be either at:

a) The average of the weekly high and low of the closing prices of the related shares quoted on the Stock Exchange during the six months preceding the relevant date or

b) The average of the weekly high and low of the closing prices of the related shares quoted on the Stock Exchange during the two weeks preceding the relevant date.

The stock exchange referred to is the one at which the highest trading volume in respect of the share of the company has been recorded during the preceding six months prior to the relevant date. The relevant date is the date thirty days prior to the date on which the meeting of the General Body of the shareholder is convened. In all other cases a company may issue shares as per the RBI regulation in accordance with the guidelines issued by the erstwhile Controller of Capital Issues. Other relevant guidelines of Securities and Exchange Board of India (SEBI)/ (RBI) including the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997, wherever applicable, would need to be followed.

6.3 Foreign Investment in the Small Scale Sector

Under the small scale policy, equity holding by other units including foreign equity in a small scale undertaking is permissible up to 24 per cent. However there is no bar on higher equity holding for foreign investment if the unit is willing to give up its small scale status. In case of foreign investment beyond 24 per cent in a small scale unit which manufactures small scale reserved item(s), an industrial license carrying a mandatory export obligation of 50 per cent would need to be obtained.

6.4 Foreign Investment Policy for Trading Activities

Foreign investment for trading can be approved through the automatic route up to 51% foreign equity, and beyond this by the Government through FIPB. For approval through the automatic route, the requirement would be that it is primarily export activities and the undertaking concerned is an export house/trading house/ super trading house/star trading house registered under the provisions of the Export and Import policy in force. Both in the case of automatic and Government approvals, the valuation and pricing of shares would be governed by the provisions stated in paragraph 2.11 above. Closely held companies would also be governed, mutatis mutandis, by the same guidelines.

6.5 Other Modes of Foreign Direct Investments

Global Depository Receipts (GDR)/American Deposit Receipts (ADR)/Foreign Currency Convertible Bonds (FCCB): Foreign Investment through GDRs/ADRs, Foreign Currency Convertible Bonds (FCCBs) is treated as Foreign Direct Investment. Indian companies are allowed to raise equity capital in the international market through the issue of GDR/ADRs/FCCBs. These are not subject to any ceilings on investment. An applicant company seeking Government's approval in this regard should have a consistent track record for good performance (financial or otherwise) for a minimum period of 3 years. This condition can be relaxed for infrastructure projects such as power generation, telecommunication, petroleum exploration and refining, ports, airports and roads. There is no restriction on the number of GDRs/ADRs/FCCBs to be floated by a company or a group of companies in a financial year. A company engaged in the manufacture of items covered under Automatic Route is likely to exceed the percentage limits under the Automatic Route, whose direct foreign investment after a proposed GDR/ADR/FCCBs issue is likely to exceed 50 per cent/51 per cent/74 per cent as the case may be, or which is implementing a project not contained in project falling under Government Approval route, would need to obtain prior Government clearance through FIPB before seeking final approval from the Ministry of Finance. There are no end-use restrictions on GDR/ADR issue proceeds, except for an express ban on investment in real estate and stock markets. The FCCB issue proceeds need to conform to external commercial borrowing end use requirements; in addition, 25 per cent of the FCCB proceeds can be used for general corporate restructuring.

6.6 Investment by Non Resident Indians (NRIs) and Overseas Corporate Bodies (OCBs)

Investment by the NRIs and OCBs in which the NRIs hold at least 60 per cent equity is treated as foreign direct investment. For all sectors excluding those falling under Government Approval, NRIs and OCBs are eligible to bring investment through the Automatic Route of RBI. All other proposals which do not fulfil any or all of the criteria for automatic approval are considered by the Government through the FIPB. The NRIs and OCBs are allowed to invest in housing and real estate development sector, in which foreign direct investment is not permitted. They are allowed to hold even100 per cent equity in civil aviation sector in which otherwise foreign equity only up to 40 per cent is permitted. Similarly for the banking sector, NRIs/ OCBs can hold 40 per cent equity inclusive of foreign direct investment. Equity participation by foreign banking companies, foreign financial companies, and multilateral institutions as co-promoter and/or technical collaborator is also permitted up to 20 per cent. Multilateral institutions have a special dispensation to invest beyond 20 per cent to the extent of shortfall in NRI contributions, subject to the overall limit of 40 per cent. Investment made by the NRIs and OCBs are fully repatriable except in the case of real estate, which has a 3 year lock-in period on original investment and 16 per cent cap on dividend repatriation. (Ref. Table 6)

Table 6: Inflows and Outflows from NRI Deposits and Local Withdrawals (In $million)

	Inflows	Outflows	Local Withdrawals
2006-07 (R)	**19914**	**15593**	**13208**
2007-08 (PR)	**29401**	**29222**	**18919**
April-December 2007 (PR)	**18,683**	**19614**	**12669**

April-December 2007 (PR)	**27760**	**25645**	**16236**
P: Preliminary, PR: Partially revised. R: Revised			

Source: Reserve Bank of India Report, 2009

6.7 Preference Shares

Foreign investment through preference shares is treated as foreign direct investment. Proposals are processed either through the automatic route or FIPB as the case may be. The following guidelines apply to issue of such shares:

(i) Foreign investment in preference share are considered as part of share capital and fall outside the External Commercial Borrowing (ECB) guidelines/cap

(ii) Preference shares to be treated as foreign direct equity for purpose of sectoral caps on foreign equity, where such caps are prescribed, provided they carry a conversion option. If the preference shares are structured without such conversion option, they would fall outside the foreign direct equity cap.

(iii) Duration for conversion shall be as per the maximum limit prescribed under the Companies Act or what has been agreed to in the shareholders agreement whichever is less.

(iv) The dividend rate would not exceed the limit prescribed by the Ministry of Finance.

(v) Issue of Preference Shares should conform to guidelines prescribed by the SEBI and RBI and other statutory requirements.

6.8 Procedure for Automatic Route

The proposals for approval under the automatic route are to be made to the Reserve Bank of India in the FC (RBI) form. In a major drive to simplify procedures for foreign direct investment under the "automatic route", RBI has given permission to Indian Companies to accept investment under this route without obtaining prior approval from Reserve Bank of India. However, investors will have to file the required documents with the concerned Regional Office of the RBI within 30 days after issue of shares to foreign investors. This facility is available to NRI/OCB investment also.

6.9 Procedure for Government Approval

FIPB

(a) All other proposals for foreign investment, including NRI/OCB investment and foreign investment in EOU/EPZ/STP/EHTP units, which do not fulfil any or all of the parameters prescribed for automatic approval, as given in paragraph 2.8, 3.1, and 3.2 are considered for approval on merits by the Government. All such proposals are considered for approval by the Foreign Investment Promotion Board (FIPB). The FIPB also grants composite approvals involving foreign technical collaborations and setting up of Export Oriented Units involving foreign investment/foreign technical collaboration.

(b) Applications to FIPB for approval of foreign investment should be submitted in Form FC-IL (Annexure-VIII). Plain paper applications carrying all relevant details are also accepted. No fee is payable. The following information should form part of the proposal submitted to FIPB:

i. Whether the applicant has had or has any previous financial/technical collaboration or trade mark agreement in India in the same or allied field for which approval has been sought?; and

ii. If so, details thereof and the justification for proposing the new venture/technical collaboration (including trade marks).

(c) The application can be submitted with the EAU of the SIA, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Udyog Bhavan, New Delhi - 110011. Applications can also be submitted with Indian Missions abroad who will forward them to the SIA for further processing.

(d) Foreign investment proposals received in the SIA are placed before the Foreign Investment Promotion Board (FIPB) within 15 days of its receipt. The

Board has the flexibility of purposeful negotiation with the investors and considers project proposals in totality in order to ensure optimum foreign direct investment into the country. The recommendations of FIPB in respect of project proposals involving a total investment of up to Rs. 6 billion are considered and approved by the Industry Minister. Projects with a total investment exceeding Rs. 6 billion are submitted to the Cabinet Committee on Foreign Investment (CCFI) for decision.

(e) The decision of the Government in all cases is conveyed by the SIA normally within 30 days.

(f) RBI has granted general permission under Foreign Exchange Management Act (FEMA) in respect of proposals approved by the Government. Indian companies getting foreign investment approval through FIPB route do not require any further clearance from RBI for the purpose of receiving inward remittance and issue of shares to the foreign investors. Such companies are, however, required to file the required document with the concerned Regional Offices of the RBI within 30 days after issue of shares to the foreign investors.

(g) Similarly, for inward remittance and issue of shares to NRI/OCB up to 100 per cent equity also, prior permission of RBI is not required. These companies have to file the required documents with the concerned Regional Offices of RBI within 30 days after the issue of shares to NRIs/OCBs.

7. Global R&D and India’s GERD

7.1 Global R&D

India’s global R&D spending during 2004-2006 is represented in Table 7; India’s global expenditure on research and development by sector during 2004-2005 is represented in Table 8; and India’s global research and development spending in comparison to other select countries is represented in Table 9.

.

.

Table 7: Global R&D Spending 2004-2006

Continent	*GDP 2004 Billion US$*	*R&D as % of GDP*	*R&D 2004 Billion US$*	*R&D 2005 Billion US$*	**R&D 2006 Billion US$**
Americas	**14671.00**	**2.38**	**348.89**	**366.47**	**379.96**
Asia	***18161.10***	***1.91***	***347.20***	***377.56***	**404.34**
Europe	**12333.10**	**1.84**	**226.49**	**232.71**	**239.23**
Total	**45165.20**		**922.58**	**976.74**	**1023.53**
Country					
India	***3319***	**.82**	***46.47***	***52.88***	**57.64**
United States	**11200**	**2.7**	**301.5**	**312.2**	**320.7**
China	**7262**	**1.5**	**108.93**	**125.49**	**139.63**
Japan	**3745**	**3.2**	**119.84**	**123.33**	**126.4**
France	**1981.1**	**2.2**	**43.58**	**44.46**	**45.43**
Germany	**2362**	**2.2**	**51.96**	**52.84**	**53.64**
United Kingdom	**1782**	**2**	**35.64**	**36.78**	**37.88**
Malaysia	**229.3**	**1.3**	**2.98**	**3.19**	**3.38**

Source: Reed Business Information (2005). Global R&D Report: Changes in R&D Community. R&D Magazine September, G1-G17

Table 8: Indian Expenditure on Research and Development by Sector in 2004-05

Rs. In Crores	**(10 Millions)**
Central:	14443.36
State Sector:	1851.58
State Sector:	1851.58
Private Sector:	4287.84
Higher Education Sector:	1056.80

Table 9: Industrial R&D Spending

	Government Sector (%)	**Private Sector (%)**
Japan	21.0	79.0
USA	30.5	69.5
France	42.0	58.0
Germany	37.0	63.0
UK	33.3	66.7
India	**73.0**	**27.0**

Note: Planned FDI R&D investment totals US$4.65bn mostly US & Germany.

8. Innovation & Technological Capacity

India's global ranking in terms of innovation and its innovation capacity index in 2004 is represented in Table 10.

Table10: Innovation Capacity Index and Global Ranking

Economy	***Innovation Capability Index***	***Position***
India	**0.285**	**83rd**
Malaysia	0.467	60th
China	0.358	74th
Indonesia	0.261	87th
Japan	0.885	11th
Korea	0.839	19th
Singapore	0.748	26th
Taiwan	0.865	15th
Thailand	0.488	54th

Source: UNCTAD 2005:114.

India's global position w.r.t. technological capacity and human capital in 2004 is represented in Table 11.

Table11: Technological Capacity & Human Capital

Economy	Innovation Capability Index	Position
India	**0.323**	**0.247**
Malaysia	0.466	0.448
China	0.317	0.298
India	0.323	0.247
Indonesia	0.175	0.347
Japan	0.935	0.835
Korea	0.875	0.866
Singapore	0.812	0.621
Taiwan	0.902	0.829
Thailand	0.361	0.615

Source: UNCTAD 2005: 290-291

9. India's Technology Imports & Foreign Technology Agreements

With a view to injecting the desired level of technological dynamism in Indian industry and for promoting an industrial environment where the acquisition of technological capability receives priority, foreign technology induction is encouraged both through FDI and through foreign technology collaboration agreements. Foreign technology collaborations are permitted either through the automatic route under delegated powers exercised by the RBI, or by the Government. However, cases involving industrial licenses/small scale reserved items do not qualify for automatic approval and would require consideration and approval by the Government. Automatic route for technology collaboration would also not be available to those who have, or had any previous technology transfer/trade-mark agreement in the same or allied field in India.

9.1 Automatic Approval

The Reserve Bank of India, through its regional offices, accords automatic approval to all industries for foreign technology collaboration agreements subject to (i) the lump sum payments not exceeding US $2 Million; (ii) royalty payable being limited to 5 per cent for domestic sales and 8 per cent for exports, subject to a total payment of 8 per cent on sales over a 10 year period; and (iii) the period for payment of royalty not exceeding 7 years from the date of commencement of commercial production, or 10 years from the date of agreement, whichever is earlier.

9.2 Government Approval

For the following categories, Government approval would be necessary:

(a) Proposals attracting compulsory licensing

(b) Items of manufacture reserved for the small scale sector

(c) Proposals involving any previous joint venture or technology transfer/trademark agreement in the same or allied field in India. The definition of "same" and "allied" field would be as per 4 digits NIC 1987 Code and 3 digits NIC 1987 Code.

(d) Extension of foreign technology collaboration agreements (including those cases which may have received automatic approval in the first instance)

(e) Proposals not meeting any or all of the parameters for automatic approval as given in para 4.2.

The items of foreign technology collaboration which are eligible for approval through the automatic route, and by the Government are technical know how fees, payment for design and drawing, payment for engineering service and royalty. Exclusive payment for use of brand names and trademarks are not allowed, although such payments may be subsumed in the other fee payable.

Payments for hiring of foreign technicians, deputation of Indian technicians abroad, and testing of indigenous raw material, products, indigenously developed technology in foreign countries are governed by separate RBI procedures and rules and are not covered by the foreign technology collaboration approval. Similarly, payments for imports of plant and machinery and raw material are also not covered by the foreign technology collaboration approval. For any of these items, entrepreneurs may contact the RBI.

10. Foreign Technology Collaboration

10.1 Procedure for Automatic Approval

Applications for automatic approval for such foreign technology agreements should be submitted in Form FT (RBI) with the concerned Regional Offices of Reserve Bank of India. No fee is payable. Approvals are available within 2 weeks.

10.2 Procedure for Government Approval

(a) All other proposals for foreign technology agreement, not meeting any or all of the parameters for automatic approval, and all cases of extension of existing foreign technical collaboration agreement, are considered for approval, on merits, by the Government. Application in respect of such proposals should be submitted in Form FC-IL to the Secretariat for Industrial Assistance, Department of Industrial Policy & Promotion, Ministry of Industry, Udyog Bhavan, New Delhi. No fee is payable.

The following information should form part of the proposal submitted to SIA:

i. Whether the applicant has had or has any previous financial/technical collaboration or trade mark agreement in India in the same or allied field for which approval has been sought?; and

ii. If so, details thereof and the justification for proposing the new venture/technical collaboration (including trade marks).

Approvals are normally available within 4 to 6 weeks of filing the application.

11. Electronic Hardware Technology Park and Software Technology Park Schemes

In order to provide impetus to the electronics industry, to enhance its export potential and to develop an efficient electronic component industry, Electronic Hardware Technology Park (EHTP) and Software Technology Park

(STP) schemes offer a package of incentives and facilities like duty free imports on the lines of the EOU Scheme, deemed exports benefits and tax holidays.

11.1 Automatic Approval

The Directors of STPs in respect of STP proposals; and the Designated Officers in respect of EHTP proposals accord automatic approval if - (a) the items do not attract compulsory licensing; (b) the location is in conformity with the prescribed parameters; (c) the export obligation laid down in the respective EHTP scheme or STP scheme is fulfilled; (d) the CIF value of the imported capital goods required for the project does not exceed Rs. 100 million; (e) foreign technology proposals envisaged, if any, do not involve lump sum know how fee exceeding US$2 million, 8 per cent royalty on export and 5 per cent royalty on domestic sales (all net of taxes) over a period of 5 years from the date of commencement of commercial production; (f) the exports are to general currency/hard currency area; (g) the unit is amenable to bonding by the Customs, and all the manufacturing operations are carried out in the same premises and the proposal does not envisage sending out of the bonded area any raw material or intermediate products for any other manufacturing or processing activity. All proposals for FDI/NRI/OCB investments in EHTP/STP units are eligible for approval through Automatic Route subject to parameters listed under para 2.8.

11.2 Government Approval

All proposals which do not meet any or all of the parameters for automatic approval need to be considered and approved by the Government. Also, Government approval for FDI/NRI/OCB investments under EHTP/ STP need to be obtained through the FIPB in respect of proposals covered under para 2.8.

12. Industrial Approval Procedures in India

The description of activities seeking all industrial approvals including foreign direct investment are required to be given as per the National Industrial Classification of All Economic Activities (NIC), 1987, published by the Central Statistical Organisation, Ministry of Planning, New Delhi.

12.1 General Procedures

IEM:

(a) All industrial undertakings exempt from the requirements of industrial licensing, including existing units undertaking substantial expansion, need to file information in the prescribed Industrial Entrepreneurs Memorandum, i.e. Form IEM (Annexure-VII)

(b) The Memorandum (IEM) should be submitted to the EAU of the SIA in person or by post. A computer acknowledgement containing the SIA Registration Number (for future reference) will be issued across the counter immediately if delivered in person or sent by post if received through post. No further approval from SIA is required.

(c) The IEM should be submitted along with a crossed demand draft of Rs.1000/- drawn in favour of "The Pay & Accounts Officer, Department of Industrial Development, Ministry of Industry", payable at the State Bank of India, Nirman Bhawan Branch, New Delhi up to 10 items proposed to be manufactured in the same unit. For more than 10 items, an additional fee of Rs. 250 up to 10 additional items needs to be paid through crossed demand draft.

(d) All Industrial undertakings also need to file information in Part 'B' of the Memorandum at the time of commencement of commercial production. The prescribed form is appended to Form IEM. This second Memorandum has also to be filed with the EAU in SIA, but no fee is required.

(e) No amendment/modifications are made to any IEM filed before 30th June 1998 except for clerical errors. Where any amendment/modification is sought to be made in such IEMs, a fresh memorandum in Form IEM, along with the prescribed fee has to be filed for which a fresh acknowledgement will be issued. An IEM would be cancelled / deleted from the SIA records if, on scrutiny, it is found that the proposal contained in the IEM is licensable.

(f) In respect of IEMs filed in the new form made effective from 1st July, 1998, amendments/modifications will be made on the request of the entrepreneur, as per the notified procedure.

12.2 Procedural Requirements for Licensed Sectors

Industrial License

(a) All industrial undertakings subject to compulsory industrial licensing are required to submit an application in the prescribed format, i.e. Form FC-IL (Annexure-VIII). Licenses are granted under the provisions of the Industries (Development and Regulation) Act, 1951. Applications for the manufacture of chlorine and caustic soda, along with associated products should include information regarding the chlorine utilisation programme.

(b) Application in Form FC-IL should be submitted to the EAU of the SIA, Department of Industrial Policy & Promotion, Ministry of Commerce & Industry, Udyog Bhawan, New Delhi - 110011. Approvals will normally be available within 4- 6 weeks of filling the application.

(c) The application, in Form FC-IL, should be submitted along with a crossed demand draft of Rs.2500/- drawn in favour of the Pay & Accounts Officer, Department of Industrial Development, Ministry of Industry, payable at the State Bank of India, Nirman Bhawan, New Delhi.

Carry on Business (COB) License

(d) A COB license is required when a small scale unit exceeds the prescribed small scale limit of investment in plant and machinery by way of natural growth and continues to manufacture small scale reserved item(s). Also, if exemption from Industrial licensing granted for any item is withdrawn, the industrial undertakings who are manufacturing such item(s) require COB license. The application for COB license should be submitted in prescribed form "EE" to the SIA, Department of Industrial Policy and Promotion, along with a crossed demand draft of Rs.2500/- drawn in favour of the Pay & Accounts Officer, Department of Industrial Development, Ministry of Industry, payable at the State Bank of India, Nirman Bhawan, New Delhi.

13. 100% Export Oriented Units / Export Processing Zones

100 per cent Export Oriented Units (EOUs) and units in the Export Processing Zones (EPZs), enjoy a package of incentives and facilities, which include duty free imports of all types of capital goods, raw material, and consumables in addition to tax holidays against export.

13.1 Automatic Approval

The Development Commissioners (DCs) of Export Processing Zones (EPZs) /Free Trade Zones (FTZS) accord automatic approval to projects where

(a) items do not attract compulsory licensing;

(b) where the location is in conformity with the prescribed parameters;

(c) the units undertake to achieve exports and value addition norms as prescribed in the Export and Import Policy in force;

(d) the CIF value of imported capital goods is financed through foreign equity, or foreign exchange required for import of plant and equipment (net of taxes) is within Rs. 100 Million, and in the case of import of second-hand capital goods if an Import Licence is not required;

(e) Where the foreign technology agreement if any, envisages a lump sum payment not exceeding US $2.00 Million and royalty payment up to 8% on exports and 5% on DTA sales (net of taxes) over a period of 5 years from the date of commencement of commercial production.

(f) where the exports are to general currency/hard currency areas;

(g) where the unit is amenable to bonding by customs authorities; and

(h) the unit has projected the minimum export turnover, as specified in the Handbook of Procedures. All proposals for FDI/NRI/OCB investments in

EOU/EPZ units qualify for approval through Automatic Route subject to parameters listed under Paragraph 2.8.

Conversion of existing Domestic Tariff Area (DTA) units into EOU is also permitted under automatic route, if the DTA unit satisfies the parameters mentioned above and there is no outstanding export obligation under any other Export Oriented scheme of the Government of India.

13.2 Government Approval

All proposals which do not meet any or all of the parameters for automatic approval need to be considered and approved by the Government. All proposals falling under paragraph 2.8 for FDI in E0Us and units located in EPZ/FTZ need to obtain Government approval.

14. 100% Export Oriented Units and Units Set up in EPZ/FTZ

14.1 Procedure for Approval for EOUs

Applications in the prescribed form for 100 per cent E0Us should be submitted to the Development Commissioners (DCs) of the Export Processing Zones (EPZS) concerned for automatic approval and to the SIA for Government approval. The Form is printed in the Handbook of Procedures for Export and Import, 1997-2002 published by the Ministry of Commerce and is also available at all outlets dealing in Government Publications. The application should be submitted along with a crossed demand draft of Rs.2500/- (licensed items) or Rs. 1000 (non-licensed items) drawn in favour of the "Pay & Accounts Officer, Department of Industrial Development, Ministry of Industry", payable at the State Bank of India, Nirman Bhavan Branch, New Delhi.

Procedure for Automatic Approval for E0Us

Applications in the prescribed form for 100 per cent E0Us should be submitted to the DCs of the EPZs. Wherever, the proposals meet the criteria for automatic approval, as given in paragraph 5.2, the DC of the EPZ would issue approval letters within 2 weeks. All other proposals shall be forwarded by the DC to the Board of Approvals for E0Us for consideration.

Procedure for Government Approval for E0Us

Applications in the Prescribed Form should be submitted to the EAU of the SIA in the Department of Industrial Policy & Promotion, Udyog Bhawan, New Delhi. On consideration of the proposal by the Board of Approvals, a decision would be normally conveyed in 6 weeks.

Procedure for foreign direct investment/NRI investment

All proposals for FDI/NRI/OCB investment in 100% EOUs are eligible for approvals under Automatic Route subject to parameters listed in para 2.8. All proposals not covered under Automatic Route the applicant should seek separate approval of the FIPB as per the procedure contained in Para 8.2 above.

14.2 Procedure for Approval for Units Located In EPZ/FTZ

Applications for setting up units in EPZs need to be submitted to the concerned DC of the EPZ. The Form is printed in the Handbook of Procedures for Export and Import, 1997-2002 published by the Ministry of Commerce and is also available at all outlets dealing in Government Publications. The application should be submitted along with a crossed demand draft of Rs.2500/- (licensed items) or Rs. 1000 (non-licensed items) drawn in favour of the "Pay & Accounts Officer, Department of Industrial Development, Ministry of Industry", payable at the State Bank of India, Nirman Bhavan Branch, New Delhi.

Procedure for Automatic Approval for units located in EPZ/FTZ

Applications in the prescribed form for 100 per cent E0Us should be submitted to the DCs of the EPZs. Wherever, the proposals meet the criteria for automatic approval, as given in paragraph 5.2 the DC of the EPZ would issue approval letters within 2 weeks. All other proposals shall be forwarded by DC to the Board of Approvals for EPZ for consideration

Procedure for Government Approval for units located in EPZ/FTZ

Applications in the Prescribed Form should be submitted to the EAU of the Secretariat for Industrial Assistance, in the Department of Industrial Policy &

Promotion, Udyog Bhawan, New Delhi. On consideration of the proposal by the Board of Approvals, a decision would be conveyed normally within 6 weeks.

Procedure for Foreign Direct Investment / NRI Investment

All proposals for FDI/NRI/OCB investment in EPZ units are eligible for approvals under Automatic Route subject to parameters listed in para 2.8. All proposals not covered under Automatic Route the applicant should seek separate approval of the FIPB as per the procedure contained in Para 8.2 above.

15. EHTP/STP Units

15.1 Procedure for Approval for EHTP/STP

Application, in the prescribed form, should be submitted to the concerned Directors of STPs or the Designated Officers of EHTPs for automatic approval, and to the SIA for Government approval. The application should be submitted along with a crossed demand draft for Rs. 1000/- drawn in favour of the "Pay & Accounts Offer, Department of Industrial Development, Ministry of Industry", payable at State Bank of India, Nirman Bhawan, New Delhi.

Procedure for Automatic Approval for EHTP/STP

Application, in the prescribed form, should be submitted to the concerned Directors of STPs or the Designated Officers of EHTPs for automatic approval Wherever, the proposals meet the criteria for automatic approval, as given in paragraph 6.2, the approval letters are issued within 2 weeks. All other proposals shall be forwarded to the Inter Ministerial Standing Committee for consideration.

Procedure for Government Approval for EHTP/STP

Application, in the prescribed form, should be submitted to the EAU of the SIA for Government approval. On consideration by the Inter Ministerial Standing Committee, a decision would be normally conveyed within 6 weeks.

15.2 Procedure for Foreign Direct Investment / NRI Investment

All proposals for FDI/NRI/OCB investment in EHTP/STP units are eligible for approvals under Automatic Route subject to parameters listed in para 2.8. All proposals not covered under Automatic Route the applicant should seek separate approval of the FIPB as per the procedure contained in Para 8.2 above.

16. Investment Promotion and Facilitation in India

16.1 Foreign Investment Promotion Board (FIPB)

The Government has revamped the FIPB and transferred it to the Industry Ministry. The FIPB is the nodal, single window agency for all matters relating to FDI as well as promoting investment into the country. It is chaired by Secretary, Industry (Department of Industrial Policy and Promotion). Its objective is to promote FDI into India:-

[i] by undertaking investment promotion activities in India and abroad,

[ii] facilitating investment in the country by international companies, non-resident Indians and other foreign investors,

[iii] through purposeful negotiation/discussion with potential investors,

[iv] early clearance of proposals submitted to it, and

[v] review policy and put in place appropriate institutional arrangements, transparent rules and procedures and guidelines for investment promotion and approvals.

After its revamping, the FIPB has played a proactive role in promoting and attracting FDI into the country and further facilitating expeditious clearance to the proposals submitted to it. The FIPB has also decided to monitor implementation of mega projects to further facilitate investment and remove bottlenecks and as part of this exercise, to get studies commissioned through professional bodies and undertake other promotional measures.

Mailbox facility for filing of proposals for FIPB is available on the SIA website in the name of siaapplication@ub.nic.in

17. Foreign Investment Implementation Authority (FIIA)

Government has set up the Foreign Investment Implementation Authority (FIIA) in the Ministry of Commerce & Industry. The FIIA will facilitate quick translation of Foreign Director Investment (FDI) approvals and implementations provide a pro-active one stop after care service to foreign investors by helping them obtain necessary approvals, sort out operational problems and meet with various Government Agencies to find solutions to problems and maximising opportunities through a partnership approach.

17.1 Role

The FIIA shall take steps to:

- Understand and address concerns of investors;
- Understand and address concerns of approving authorities;
- Initiate multi agency consultations; and
- Refer matters not resolved at the FIIA level to high levels on a quarterly basis, including cases of projects slippage on account of implementation bottlenecks.

17.2 Functions

The functions of the FIIA shall be as under:

- Expediting various approvals/permissions;
- Fostering partnership between investors and government agencies concerned;
- Resolve difference in perceptions;
- Enhance overall credibility;

- Review policy framework; and
- Liaise with the Ministry of External Affairs for keeping India's diplomatic 11missions abroad informed about translation of FDI approvals into actual investment and implementation.

The modalities of functioning of FIIA shall be as under:

i. The FIIA shall set up a Fast Track Committee (FTC) to review and monitor mega projects. It will nominate members of the FTC from representatives of various Ministries/agencies/State Governments at the working level. The representative of the AM concerned shall act as the project coordinator and shall head the FTC. The FTC shall prescribe the time frame within which various approvals/permissions are to be given on a project to project basis. FTC shall also flag issues that need to be resolved by FIIA. Based on the inputs provided by FTC, the FIIA will give its recommendations on each project on the basis of which Administrative Ministries/State Government shall take action under their own laws and regulations.

ii. The FIIA will initiate inter Ministerial consultations and make appropriate recommendations to the competent authority, i.e. Ministry/Department concerned at the Central Government level and the State Government, as the case may be, on issues requiring policy intervention.

iii. The FIIA will act as a single point interface between the investor and Government agencies including Administrative Ministries / State Governments / Pollution Control Board / DGFT / Regulatory Authorities / Tax Authorities / Company Law Board, etc.

iv. The FIIA shall meet once every month to review cases involving investment of Rs. 100 crore or more, consider references received from the FTC, and monitor the functioning of various FTCs. It would also entertain any complaint regarding implementation bottlenecks from FDI approval holders regardless of the quantum of investment.

v. The FIIA shall also make recommendations from time to time on any issue relating to the speedy implementation of FDI projects and also to provide transparency in government functioning with respect to FDI projects.

The Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion shall function as the Secretariat of the FIIA. Approval holders are requested to send their suggestions and problems, if any to any of the following officers in SIA or at FIIA's e-mail address at fiia@ub.nic.in:

a. Joint Secretary, SIA

b. Director (Foreign Collaboration/Foreign Direct Investment/FIPB)

c. Deputy Secretary (IP&ID Cell)

18. Foreign Investment Promotion Council (FIPC)

Apart from making the policy framework investor-friendly and transparent, promotional measures are also taken to attract Foreign Direct Investment into the country. The Government has constituted a Foreign Investment Promotion Council (FIPC) in the Ministry of Industry. This comprises professionals from Industry and Commerce. It has been set up to have a more target oriented approach toward Foreign Direct Investment promotion. The basic function of the Council is to identify specific sectors/projects within the country that require Foreign Direct Investment and target specific regions/countries of the world for its mobilisation.

19. Secretariat for Industrial Assistance (SIA)

SIA has been set up by the Government of India in the Department of Industrial Policy and Promotion in the Ministry of Commerce & Industry to provide a single window for entrepreneurial assistance, investor facilitation, receiving and processing all applications which require Government approval, conveying Government decisions on applications filed, assisting entrepreneurs and investors in setting up projects, (including liaison with other organisations and State Governments) and in monitoring implementation of projects. It also notifies all Government Policy relating to investment and technology, and collects and publishes monthly production data for 213 select industry groups.

19.1 SIA's Promotional Activities

As an investor friendly agency, it provides information and assistance to Indian and foreign companies in setting up industry and making investments. It guides prospective entrepreneurs and disseminates information and data on a regular basis through its two monthly newsletters the "SIA Newsletter" and the "SIA Statistics" as also through its Website address, i.e. http://indmin.nic.in/. It also assists potential investors in finding joint venture partners and provides complete information on relevant policies and procedures, including those, which are specific to sectors and the State Governments.

19.2 Entrepreneurial Assistance Unit (EAU) of the SIA

The Entrepreneurial Assistance Unit functioning under the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion provides assistance to entrepreneurs on various subjects concerning investment decisions. The unit receives all papers/applications related to industrial approvals and immediately issues a computerised acknowledgement which also has an identity/reference number. All correspondence with the SIA should quote this number. In case of papers filed by post, the acknowledgement will be sent by post. The Unit extends this facility to all papers/applications relating to IEMs, Industrial Licences, Foreign Investment, Foreign Technology Agreements, 100 per cent EOUs, EHTP, STP Schemes, etc. The Unit also attends to enquiries from entrepreneurs relating to a wide range of subjects concerning investment decisions. It furnishes clarifications and arranges meetings with nodal officers in concerned Ministries/Organisations. The Unit also provides information regarding the current status of applications filled for various industrial approvals.

19.3 Investment Promotion and Infrastructure Development (IP & ID) Cell

In order to give further impetus to facilitation and monitoring of investment, as well as for better coordination of infrastructural requirements for industry, a new cell called the "Investment Promotion and Infrastructure Development Cell" has been created. The functions of the Cell include:-

[a] Dissemination of information about investment climate in India;

[b] Investment facilitation;

[c] Developing and distributing multimedia presentation material and other publications;

[d] Organising Symposiums, Seminars, etc. on investment promotion;

[e] Liaison with State Governments regarding investment promotion;

[f] Documentation of single window systems followed by various States;

[g] Match-making service for investment promotion;

[h] Coordination of progress of infrastructure sectors approved for investment/technology transfer, power, telecom, ports, roads, etc;

[i] Facilitating Industrial Model Town Projects, and Industrial Parks, etc;

[j] Promotion of Private Investment including Foreign Investment in the infrastructure sector;

[k] Compilation of sectoral policies, strategies and guidelines of infrastructure sectors, both in India and abroad; and

[l] Facilitating preparation of a perspective plan on infrastructure requirements for industry.

19.4 Project Monitoring Wing

With a view to monitoring the implementation of projects approved, and for facilitating solution to investor problems, a Project Monitoring Wing has been created within the IP&ID Cell. The functions of the Project Monitoring Wing are as follows:

(i) Coordination with Central and State level Ministries/Departments concerned and related agencies for tracking and monitoring approved projects, and compilation and analyses such information;

(ii) Direct contact, wherever necessary, with entrepreneurs and updating of the information on projects, and provision of necessary assistance.

20. India's Position in Terms of Global Integration

Fact and data related studies suggest that India clearly lags in globalisation. Numbers of countries have a clear lead among them China, large part of east and far East Asia and Eastern Europe. Let's look at a few indicators how much we lag.

- Over the past decade FDI flows into India have averaged around 0.5% of GDP against 5% for China 5.5% for Brazil. Whereas FDI inflows into China now exceeds US $50 billion annually. It is only US $4billion in the case of India.
- Consider global trade - India's share of world merchandise exports increased from .05% to .07% over the pat 20 years. Over the same period China's share has tripled to almost 4%.
- India's share of global trade is similar to that of the Philippines, an economy 6 times smaller according to IMF estimates. India under trades by 70-80% given its size, proximity to markets and labour cost advantages.
- It is interesting to note the remark made last year by Mr. Bimal Jalan, Governor of RBI. Despite all the talk, we are now where ever close being globalize in terms of any commonly used indicator of globalisation. In fact we are one of the least globalised among the major countries - however we look at it.
- As Amartya Sen and many other have pointed out that India, as a geographical, politico-cultural entity has been interacting with the outside world throughout history and still continues to do so. It has to

adapt, assimilate and contribute. This goes without saying even as we move into what is called a globalised world which is distinguished from previous eras from by faster travel and communication, greater trade linkages, denting of political and economic sovereignty and greater acceptance of democracy as a way of life.

21. Globalization and Consequences for India

The implications of globalisation for a national economy are many. Globalisation has intensified interdependence and competition between economies in the world market. This is reflected in Interdependence in regard to trading in goods and services and in movement of capital. As a result domestic economic developments are not determined entirely by domestic policies and market conditions. Rather, they are influenced by both domestic and international policies and economic conditions. It is thus clear that a globalising economy, while formulating and evaluating its domestic policy cannot afford to ignore the possible actions and reactions of policies and developments in the rest of the world. This constrained the policy option available to the government which implies loss of policy autonomy to some extent, in decision-making at the national level.

Before we look at our opportunities and challenges from globalization, it is good to be certain of facts – where exactly India is in terms of globalization. If we look at some of our own debate, it would seem as if we were already well on the way to globalization, which was shaking up our economy. A most common measure of globalization is openness to trade and a country's participation in trade. By this measure, the extent of India's globalization is insignificant – it is one of the lowest in the world. India's share in world trade is a meagre 0.7 per cent or so. If a map of the world were drawn on the scale of a country's participation in trade, India with a population of more than 1,000 million will occupy a smaller area than Singapore with a population of only 3 million. You would need a magnifying glass to locate India on that map.

A second commonly used measure of globalization is a country's participation in international capital flows, particularly Foreign Direct Investment

(FDI). As you know, annual flow of FDI across the globe is more than $1 trillion, *i.e.*, $1,000 billion. Annual FDI inflows into India is $3 – 4 billion only or 0.3 – 0.4 per cent of the total – that is all. Same is true of Foreign Institutional Investment (FII).

Therefore, the first point that one would like to emphasize is that despite all the talk, we are nowhere even close to being globalised in terms of any commonly used indicator of globalization. In fact, we are still one of the least globalised among major countries – however we look at it. An equally important point is that whether the so-called globalization is considered to be good or bad for a country depends crucially on the sense in which the word is used. The word may be used in a purely descriptive sense to describe “shrinkage" of distance among nation states due to technological changes in transport and communication and closer integration of product and financial markets across the world. Another sense in which the word may be used is the effect of such changes on different countries or groups of countries, such as, developed and developing. In yet another sense, the word may also represent a "globalization of ideas or ideology" and may be used as a synonym for triumph of capitalism or dominance of unfettered markets.

In discussing the issue of globalization in the Indian context, one may propose to confine oneself largely to the factual and descriptive sense in which the word is used, *i.e.* the technological changes, and associated policy changes, that have brought the world economies closer and made them more integrated with each other. In this particular sense, one may believe that the changes that have occurred in the patterns of trade and capital flows in recent years are to India’s advantage – although, unfortunately, so far we have not made much use of it. Today, in terms of the potential benefits of globalization, India is in a very different position than would have been the case 50 or even 20 years ago. This is because the sources of what economists call "comparative advantage" have changed dramatically in India’s favour in the 1990s because of the technological revolution. In the old days, comparative advantage was largely determined by "factor endowments", *i.e.* land, labour and capital. Geographical location and early starts in industry also conferred greater advantages.

Thus, at one time, a country's trade pattern was determined by its natural resources and the productivity of its land. Leaving aside political and institutional factors, a country's level of income was also largely determined by the global demand for its natural resources and its relative efficiency in exploiting them. The importance of land as a source of comparative advantage, however, changed dramatically after the industrial revolution. Today, it is almost insignificant. Thus, except for the United States, countries accounting for a predominant share of the world GDP have a relatively small share of global land area. After the industrial revolution, the availability of "capital" or investible resources became the most dominant source of comparative advantage. One hardly needs to elaborate on the importance that was attached to domestic capital accumulation in early development economics. In fact, scarcity of capital and low domestic savings were considered to be, and rightly so, as principal causes of a country's underdevelopment. Today, availability of capital and productivity are still crucial in determining a country's growth rate. However, there has been a dramatic change in the global mobility of capital, and national boundaries are no longer important determinants of sources and uses of capital. A dramatic illustration of this is the fact that the most developed country in the world, which enjoyed unprecedented growth during the 1990s, is actually a capital-importing country, *i.e.* the United States. Similarly, the fastest growing developing country, *i.e.* China, is one of the largest recipients of capital from outside. Similarly, labour is no longer an important element in cost of production and in determining a country's comparative advantage. In most manufacturing industries in the world, it is no higher than 1/8th of total costs. In India, it may be somewhat higher because of our domestic laws, but the important fact to note is that India no longer needs to specialize only in the production of labour-intensive plantation crops or primary commodities. A related development which is linked to the above changes is the "Services Revolution". The focus of attention in conventional economics was on production of goods – manufactured products and agricultural commodities. It was, of course, recognized that the services sector (which includes transport, communication, trade, banking, construction and public administration, *etc.*) was an important source of income and employment in most economies. However, overall, the growth of services was perceived at best as a by-product of developments in the primary and secondary sectors, and at worst as a drag on the prospects for long-term economic growth.

In the last few years, there has been a phenomenal change in the conventional view of services and their role in the economy. This change has been facilitated by unprecedented and unforeseen advances in computer and communication technology. As a result, the development of certain services is now regarded as one of the preconditions of economic growth, and not as one of its consequences. The boundary between goods and services is also disappearing. Many industrial products are not only manufactured, but they are also researched, designed, marketed, advertised, distributed, leased and serviced. An important aspect of the "services revolution" is that geography and levels of industrialization are no longer the primary determinants of the location of facilities for production of services. As a result, the traditional role of developing countries is also changing – from mere recipients to important providers of long-distance and high value services.

From India’s point of view, these developments provide opportunities for substantial growth. For example:

- The fastest growing segment of services is the rapid expansion of knowledge-based services, such as, professional and technical services. India has a tremendous advantage in the supply of such services because of a developed structure of technological and educational institutions, such as this one, and lower labour costs.

- Unlike most other prices, world prices of transport and communication services have fallen dramatically. By 1960, sea transport costs were less than a third of their 1920 level, and they have continued to fall. The cost of a telephone call fell more than ten-fold between 1970 and 2000. Moreover, the cost of communication is also becoming independent of distance. The most dramatic example in this area is, of course, provided by the "Internet". India’s geographical distance from several important industrial markets (for instance, North America) is no longer an important element in the cost structure of skill-based services.

- It is now feasible to "unbundled" production of different types of goods and services. India does not necessarily have to be a low-cost producer of certain types of goods (*e.g.*, computers or discs) before it can become an efficient supplier of services embodied in them (*e.g.*, software or music).

At the same time, it must be recognized that the "death of distance" and the growing integration of global product, services and financial markets in recent years have also presented new challenges for management of the national economy – not only in India but all over the world. The trend towards integration of markets, particularly financial markets, is by no means an unmixed blessing. Unlike the old days, a heavy price may have to be paid by national economies for somnolence, sloth and non-conformity to generally accepted international norms and standards of macro-economic management, disclosure, transparency and financial accountability.

Another consequence of recent global trends is the greater vulnerability of national economies to developments outside their own borders. A crisis in any one or a group of countries can be transmitted to other countries – including countries which may not have any strong economic linkages with crisis-affected countries. Thus, the ’nineties have been marked by a large number of currency crises (for example, in Mexico, Russia, East Asia and Brazil – and currently Argentina and Turkey); substantial swings in exchange rates (including the exchange rate of three leading currencies – the dollar, the Euro and the Yen); and run ups in asset prices followed by sharp collapse (for example in Japan and East Asia earlier and the United States last year). While the crises initially occur in one or two specific countries, their adverse effects are felt across the world.

While we must be careful, on the whole, in my view, – the death of distance, the services revolution, and the mobility of capital – which characterize globalization – present unprecedented opportunities for India? The primary sources of comparative advantages today are: skills and ability to adapt and change. And, India has the advantage – of skills, of entrepreneurship and of managerial competence in taking advantage of these changes. If what one has said is correct, then, why are we not jumping with joy and optimism? Why are we so "unglobalized" in terms of our share in trade, investment or communication?

Transition from a closed to a vibrant, open and a more globally dominant economy will certainly take time and will not be painless. As of now, we also have much greater tolerance for waste, non-work and survival of the inefficient, and the self-seeking than other fast growing countries. Somehow to make this transition – from a less productive and less challenging economy to a more work-oriented and competitive economy – is the real challenge of globalization. If India continues in old ways, one may see real social problems and inequalities emerging in our society. We will have islands of prosperity and excellence – IT, beauty parades and media entertainment amidst growing disparity, rising unemployment and immiserisation. And as has happened in several countries in the 1990s, including Turkey and Argentina - just now, those who are with us today will be the first to leave. The principal lesson of recent economic and technological developments, and growing tensions and inequalities within and across countries, is that our fate is in our hands. Our public policies have to respond to our own requirements rather than to any fixed global ideology or a pre-determined and internationally prescribed model of economic progress. In my view, this is the real lesson of the 1990s. My fervent hope is that as you – the best and the brightest of our country – go out and face a "globalizing" world, you will keep India's interest, its integrity, its indivisibility and its future potential close to your hearts and your minds. I have no doubt that, with your help, India of 2025 will be a very different place, and a much more dominant force in the world economy, than was the case twenty five years ago or at the beginning of the new millennium.

22. Some Lessons from India's Experience & Summing Up

It is a leap forward for India clocking 23.02 percent growth in exports to stand at over $155 billion in fiscal 2007-08. India's total economic engagement with the world today, as pointed out by country's Commerce Minister Kamal Nath, stands at US $525 billion including trade in services, which reflects India's growing significance in international trade. India’s total merchandise trade (both exports and imports) will be about US $400 billion during 2007-08, accounting for nearly 1.5 percent of world trade. If trade in services is added, India’s commercial engagement with the world would be to the tune of US $525 billion.

India’s first ever long term Foreign Trade Policy (2004-09) is considered as a roadmap for the development of country’s foreign trade. India’s Foreign Trade Policy initiatives in the last four years have resulted in increased trade activity and have generated additional employment of 13.6 million. Exports are not just about earning foreign exchange, but about boosting manufacturing sector, creating large scale economic activities and generating employment opportunities. The new Foreign Trade Policy (2004-09) has more than doubled India’s exports in four years. The country’s exports in 2007-08 has exceeded US $155 billion from US $63 billion in 2004, registering a cumulative annual growth rate (CAGR) of 23 percent, year on year, way ahead of the average growth rate of international trade, country’s Commerce and Industry minister Kamal Nath while releasing the Annual Supplement to Foreign Trade Policy on April 11, 2008.

India achieved the marked growth in exports despite appreciation of rupee, high interest rates, spiralling oil prices, slow down in major trade markets, and withdrawal of some GSP benefits to India by other countries. India should achieve 5 percent share of world trade by 2020. “As a means to achieve this, an export target of US $200 billion has been set for 2008-09”, the minister said. A slew of innovative steps in the final annual supplement to FTP 2004-09 have been initiated. These include extension of DEPB scheme till May 2009; interest at 6 percent for delayed refunds; reduction of customs duty payable under EPCG scheme from 5 percent to 3 percent; lowering of average export obligation under EPCG scheme; extension of income tax exemption to 100 percent EOUs beyond 2009; additional duty-free credit of 2.5 percent under VKGUY; additional credit of 5 percent for sports and goods industries under Focus Product Scheme; special focus initiative for IT sector; ensuring zero-rating of exports as far as domestic taxes are concerned; enhanced incentive of 2.5 percent under Focus Product Scheme; addition of 10 more countries in the Focus Market Scheme; inclusion of IT and ITES and R&D in natural sciences under the Industrial Park Scheme;

establishment of EPC for Telecom; extension of re-import of branded jewellery to one year.

The transaction costs for exporters in India are very high. To minimize the impact, certain additional measures have been taken up such as bringing of Advance Authorization Scheme and EPCG Scheme under the EDI from 1st July, 2008; treating of all EDI ports as single port where there is no requirement of TRA under the Advanced Authorisation Scheme; payment of duty under EPCG scheme through debit of duty credit from 1st January 2009; reduction of application fee for duty credit scraps and EPCG authorization from Rs.5 per thousand to Rs.2 per thousand; reduction of application fee for importer and exporter code from Rs.1000 to Rs.250; reduction of fee for supplementary claims from 10 percent to 2 percent.

A Joint Task Force (JTF) is being set up to plan an integrated strategy to tackle these issues. The JTF comprising of representatives of the federal and state governments, local bodies, industry and exporters will evolve a detailed action plan to achieve this objective. The JTF will look at (1) development of world-class infrastructure to facilitate trade involving an investment of over $800 billion; (2) measures to ensure trade facilitation through EDI to match world-class standards; (3) development of global manufacturing hubs in selected sectors such as auto-components, gems & jewellery, textiles, petro-products etc.; (4) development of global services hubs in IT, KPO, industrial design, R&D and product testing; (5) development of a chain of sector-specific skill-development institutes; and (6) encouraging e-commerce through e-governance.

The Indian government views Special Economic Zones (SEZs) as vehicles of industrialization and employment generation. Underling that SEZs currently provide employment to more than 2.8 lakh people and the projected exports from SEZs would reach Rs.1,25,000 crore by this year, the Minister emphasized the validity of the basic policy relating to SEZs.

In his speech at General Debate of the UNCTAD XII Ministerial Conference held at Accra (Ghana) recently, Indian Commerce and Industry minister said that India is willing to strengthen trade and investment linkages with its trading partners through its knowledge advantage, its pool of skilled resources, its young population, its potential of being a manufacturing hub and a base for high-end R&D. India's regional and inter-regional trading agreements, partnerships and economic ties with other countries of the South also form an important element in India's development diplomacy. "To further promote the South-South trade, we are committed to work towards exploring the full potential of the GSTP. We are looking forward for a successful conclusion of the third round of negotiations which takes into account the views of all its members", the he said.

India recognizes that for the LDCs, especially those in the Africa region need market access for ensuring the development dimensions of international trade. The government's decision to implement a Duty Free Tariff Preference Scheme for all the LDCs on a non-reciprocal basis is a pointer to that. On 85 percent of the total items India will be bringing India's duties to zero in a time frame of five years and on additional 9 percent items there will be fixed tariff preferences. This Scheme is effective from1st May, 2008.

On the multilateral trade front the "Doha Development Agenda" is one of the most ambitious attempts at ensuring that the issue of development is firmly at the core of the multilateral trading system. The fundamental principles of the multilateral trading system, namely, non-discrimination, predictability, stability and transparency are fully supportive of development. Since development issues lie at the heart of the current Round of Negotiations, the key to the Negotiations, therefore, should be, firstly, to ensure that this Round delivers for development and secondly, helps developing countries to integrate into the world trading system and take advantage of opportunities since many developing countries also need assistance in building up their capacity to make use of multilateral trade liberalization. Given the present interface that exists between national development strategies and international process and disciplines, we firmly believe that there is a need for creating an international enabling environment that is conducive to the growth of developing countries in a manner that best suits their circumstances and national priorities. Therefore, within the framework of international disciplines, each country must have the policy space to choose what is most appropriate for its circumstances and for the overall welfare of its people" Indian Commerce and Industry minister said adding that FDI policies in India have been further liberalized and many new sectors have been opened recently and added that infrastructure sector in India is an opportunity for investment.

Exports (including re-exports)

Exports during March, 2008 were valued at US $16282.79 million which was 26.59 per cent higher than the level of US $12862.40 million during March, 2007. In rupee terms, exports touched Rs. 65710.71 crore, which was 16.04 per cent higher than the value of exports during March, 2007. Cumulative value of exports for the period April- March, 2008 was US$155512.49 million (Rs. 625471.22 crore) as against US$126413.99 million (Rs. 571779 crore) registering a growth of 23.02 per cent in Dollar terms and 9.39 per cent in Rupee terms over the same period last year.

Imports

Imports during March, 2008 were valued at US $23174.94 million representing an increase of 35.24 per cent over the level of imports valued at US $17136.46 million in March, 2007. In Rupee terms, imports increased by 23.96 per cent. Cumulative value of imports for the period April- March, 2008 was US$235910.73 million (Rs. 949133.82 crore) as against US$185735.17 million (Rs. 840506 crore) registering a growth of 27.01 per cent in Dollar terms and 12.92 per cent in Rupee terms over the same period last year.

Crude Oil and Non-Oil Imports

Oil imports during March, 2008 were valued at US $8633.14 million which was 76.6 per cent higher than oil imports valued at US $4888.47 million in the corresponding period last year. Oil imports during April- March, 2008 were valued at US$77033.57 million which was 35.28 per cent higher than the oil imports of US$56945.25 million in the corresponding period last year.

Non-oil imports during March, 2008 were estimated at US $14541.79 million which was 18.73 per cent higher than non-oil imports of US$12247.99

million in March, 2007. Non-oil imports during April- March, 2008 were valued at US$158877.15 million which was 23.36 per cent higher than the level of such imports valued at US$128789.74 million in April- March, 2007.

Trade Balance

The trade deficit for April- March, 2008 was estimated at US $80398.24 million which was higher than the deficit at US $59321.18 million during April- March, 2007. (Ref. Table 12)

Table 12: India's Foreign Trade (2007-08) (In US$million)

	April 2007 - March 2008
EXPORTS	
2006-07	126413.99
2007-08	155512.49
Year-on change over 2006-07	23.02
IMPORTS	
2006-07	185735.17
2007-08	235910.73
Year-on change over 2006-07	27.01
TRADE BALANCE	
2006-07	-59321.18
2007-08	-80398.24

Source: DGCI&S Federal ministry of Commerce, India

In the past two decades, India has been making sustained progress on a scale, size and pace that is unprecedented in its own history. A low-income country with mass poverty at the time of Independence in 1947, India now has a diminishing pool of very poor people and is poised to cross the threshold to join the ranks of the world's middle-income countries. Over these past 62 years, the country has been successful on a number of fronts:

- It has maintained electoral democracy

- Reduced absolute poverty by more than half*
- Dramatically improved literacy
- Vastly improved health conditions
- Become one of the world's fastest growing economies with average growth rates of 9% over the past four years
- Emerged as a global player in information technology, business process outsourcing, telecommunications, and pharmaceuticals

** based on the official poverty line*

22.1 Impact of Global Financial Crisis

The global financial crisis has, however, not left the country unscathed. Over the last seven months, growth has slipped dramatically - to 5.3% in the last quarter of calendar year 2008 - from over 9% in the previous four years. The slowdown is likely to have a large and immediate impact on employment and poverty. Informal surveys suggest significant job losses. Job creation is likely to remain a key concern as new entrants to the labour force - relatively better educated and with higher aspirations - continue to put pressure on the job market. The country has the option of turning the crisis into an opportunity. The most binding constraints to growth and inclusion will need to be addressed: improving infrastructure, developing the small and medium enterprises sector, building skills, and targeting social spending at the poor. Systemic improvements in the design and governance of public programs are crucial to get results from public spending. Improving the effectiveness of these programs - that account for upto 8-10 percent of GDP - will therefore be an important part of the challenge.

23. Annexure

23 .1 Annexure-I

LIST OF INDUSTRIES RESERVED FOR THE PUBLIC SECTOR

1. Arms and ammunition and allied items of defence equipment, defence aircraft and warships.
2. Atomic Energy
3. Railway transport.

23.2 Annexure-II

LIST OF INDUSTRIES FOR WHICH INDUSTRIAL LICENSING IS COMPULSORY

1. Distillation and brewing of alcoholic drinks.
2. Cigars and cigarettes of tobacco and manufactured tobacco substitutes.
3. Electronic Aerospace and defence equipment: all types.
4. Industrial explosives including detonating fuses, safety fuses, gun powder, nitrocellulose and matches.
5. Hazardous chemicals.
6. Drugs and Pharmaceuticals (according to modified Drug Policy issued in September, 1994).

   Note: The compulsory licensing provisions would not apply in respect of the small scale units taking up the manufacture of any of the above items reserved for exclusive manufacture in small-scale sector.

23.3 Annexure-III

GUIDELINES FOR THE CONSIDERATION OF FOREIGN DIRECT INVESTMENT (FDI) PROPOSAL BY THE FOREIGN INVESTMENT PROMOTION BOARD (FIPB)

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

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

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

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

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

5. FIPB would 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 would relate only to the approval for foreign financial and technical collaboration and the foreign investor will need to take other prescribed clearances separately.

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

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

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

(iii) Whether the proposal involves any mandatory requirement for exports and if so whether the applicant is prepared to undertake such obligation (this is for items reserved for 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 concurrent commitment under other schemes such as EPCG Scheme etc.

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

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

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

(ix) Whether the proposal has any previous joint venture or technology transfer/trademark agreement in the same or allied field in India, the detailed circumstance in which it is considered necessary to set-up a new joint venture/enter into new technology transfer (including trade mark), and proof that the new proposal would not in any way jeopardize the interest of the existing joint venture or technology/trade mark partner or other stake holders.

7. While considering proposals the following may be prioritised.

   (a) Items/Activities covered under Automatic Route (i.e. those which do not qualify for automatic approval).

   (b) Items falling in infrastructure sector.

   (c) Items which have an export potential

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

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

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

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

8. The following should be especially considered during the 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, 40% for air taxi/airlines operators, 49% in basic/cellular/paging, etc. in Telecom sector).

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

   (c) Extent of equity from the point of view whether the proposed project would amount to a holding company/wholly owned subsidiary/a company with dominant foreign investment (i.e. 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 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 the existing Indian companies and/or enlargement of foreign equity in existing Indian companies, the reason why the proposal has been made and the modality for induction/enhancement [i.e. whether by increase of paid up capital/authorised capital, transfer of shares (hostile or otherwise) whether by rights issue, or by what modality].

Cases pertaining to FIPB approvals, which involve increase in the non-resident equity within the approved percentage of non-resident equity in a joint venture company and enhancement of paid-up capital in a wholly owned subsidiary do not require FIPB approval provided the intent for increase in the amount of foreign equity is duly notified to SIA and formal documentation by way of intimation is made to SIA within 30 days of receipt of funds and allotment of shares (to non-resident shareholders).

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

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

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

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

(k) Whether the item involves only trading activity and if so whether if 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 environment (e.g. import of plastic scrap or recycled plastics).

9. In respect of activities to which equity caps apply, 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.

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

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

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

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

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

(d) proposals for consultancy; and

(e) proposals for industrial model towns/industrial parks or estates.

12 In special cases, where the foreign investor is unable initially to identify an Indian joint venture partner, the Board may consider and recommend

proposals permitting 100 per cent foreign equity on a temporary basis on the condition that the foreign investor would divest to the Indian parties (either individual, joint venture partners or general public or both) at least 26 per cent of its equity within a period of 3-5 years.

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

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

    (i) exports;

    (ii) bulk imports with export/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.

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

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

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

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

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

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

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