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Framework For FDI in India

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Abstract: India's regulatory framework has gradually become more enabling than restricting for investors since the LPG Policy in 1991. With the implementation of liberalization, privatization and globalization (LPG) reforms, India has certainly emerged as a gorgeous destination for foreign investments. However, investment remains insufficient to satisfy India's massive needs. Certain factors as bureaucratic delays in business approvals, multiplicity of procedures and laws, policy and legal constraints, structural constraints, are existing that do not allow us to utilize the true potential of FDI. An investor still has got to undergo plenty of time consuming and sophisticated procedures that act as a disincentive for him to invest in Indian markets. The paper will make a comprehensive review of the regulations and procedures required for an investment in India and lengthen the lacuna of this system. It'll also suggest steps for improving its performance in problematic areas which in turn will benefit India in fetching more and more of FDI as this policy framework of Foreign Direct Investment Outflows in India revealed the government's intentions to nurture and support the event of Indian companies" investments abroad by creation of Foreign Investment Facilitation Portal to minimize the hurdles and maximizing the benefits of FDI.

INTRODUCTION

Foreign Investment in Asian nation and in other developing nations like India has been the direct results of policies undertaken and enforced by consecutive governments and of the liberal trade practices which countries are adopting. The relaxation programs of the government have results in a harmonious integration with the world economy besides effecting a fast and substantial growth of the country's economy. In India, foreign investments have several positive impacts on the country in terms of employment generation and up the essential infrastructure along with the technology up gradation of the country [1]. There are also some uncertainties yet that the investors may face; but native governments now provide a wonderful chance for international players to speculate within the market and invest in them1. Most of them have already endowed in India and others are looking to invest in our market. In today's world businesses and economic process is currently gaining a notable momentum worldwide and rather using terms domestic or global separately the companies and world has come up with a new term which is Glocal – which is a perfect combination of world and native. The wave of privatization and globalization has reached and penetrated at such grade within the world that creating business go globally and benefit each other. According to the recent UNCTAD World Investment Report 2018, the world foreign direct investment (FDI) flows fell by twenty-three per cent in 2017 compared to 2016. FDI that accounted for $1.87 trillion in 2016 fell to $1.43 trillion in 2017. However, the opposite political economy indicators like GDP and trade, showed an improved image of growth [2]. India stood at the eleventh position among the highest twenty FDI recipient economies. The factsheet additionally highlights that the sectors concerned in most ODI are the Manufacturing sector.

An analysis of the recent trends2 in FDI flows at the world level and across regions/countries suggests that Asian nations / India has usually attracted higher FDI flows and continuing to stay among the top attractive destinations for international investors in line with its gradual liberalization of the FDI policy as part of the cautious capital account liberalization process. In 2017-18, the inflows surpassed $60 billion[3] and therefore the Department of Promotion of business and Internal Trade (DPIIT) place FDI growth at 14 percent in 2019-20, the highest in four years. In 2021, the total FDI inflow in 2020-21 was

$81.7 billion, up 10% over the previous fiscal. The FDI within the FY 2021-22 has touched a "highest ever" figure of $83.57 billion[4]. Corporate giants like Silver Lake, Google, and Face book, Foxconn, Saudi Arabia's PIF, General Atlantic Singapore, Hitachi, Walmart and Catterton are expected to invest billions of dollars in the Indian economy after seeing the potential of it. Looking into varied researches from past and present, the main factors for India's OFDI selections may be assumed to be scope of growth, huge market availability, and acquisition of recent technical ability, regulatory frame work changes, ease of doing business policies and such other initiatives by governments which enhance the interest of a foreign investor to invest in Indian Market.

MARKET POTENTIAL FOR FDI IN INDIA

India is world's fifth-largest economy and is among the few markets within the world that provides a high prospect of growth and earning in all sectors of the economy. One issue that ensures a decent come back on the investments of foreign investors in any economy is the availability of skilled workforce. Foreign investors always estimate and calculate the opportunities[5] and as well as the risks that the Indian markets offer and the ease of doing business environment along with the policy frame work of that host country before they invest in that particular market. If all these fundamentals are strong then India is going to attract more and more FDI in near future which will have many fold benefits for India in numerous fields.

EVOLUTION OF FDI REGULATION IN INDIA OVER A PERIOD OF TIME

Foreign Direct Investment (FDI) is taken into account as a serious supply of non-debt money resource for the economic development. FDI flows into India have grown[6]systematically since LPG reforms measures were taken as a crucial element of foreign capital since FDI infuses a long-term capital and economic benefits within the economy and contributes towards technology transfer, development of strategic sectors, larger innovation, competition and employment creation amongst different edges. Therefore, it's the intent and objective of the Government of India to draw in and promote FDI so as to supplement domestic capital, technology and skills for accelerated economic process and development. FDI, as distinguished from Foreign Portfolio Investment, has the connotation of creating a 'lasting interest' and long-term investment in any country, therefore it needs to be cater in a efficient way.

Policy regime is one in every FDI seeking country is one of the key factors driving investment flow. So, FDI primarily depends upon the policy regime that a nation follows which will determine whether it promotes or restrains the foreign investment flows. This section undertakes a review of India's FDI policy framework and its evolution over the period of time. We will try to divide this evolution in two parts one is before 1991 LPG reform and other is post 1991 era.

1. Pre 1991 reform Era

After being ruled by foreign power for so many years, historically our country had followed a very careful and selective approach whereas formulating policies concerning any field and same is the case with FDI policy as well and advancements in this fields were made time to time by enacting different policies and act. The regulative framework was consolidated through the enactment of Foreign Exchange Regulation Act (FERA), 1973 whereby foreign equity holding in a joint venture was allowed solely up to 40 % and then after numerous exemptions were extended to foreign firms who were inclined toward export businesses, high end technology along with some high priority areas allowing equity holdings of over forty per cent. Moreover, drawing from successes of many other countries around the world country and their experiences, Government of India not solely established special economic zones (SEZs) only however additionally designed liberal policy and provided incentives for promoting FDI in these zones with a vision of increasing exports. Thereafter, the announcements of Industrial Policy (1980 and 1982) and Technology Policy (1983) provided for a liberal perspective towards foreign investments in terms of changes in policy directions.

The policy was characterized by de-licensing of a number of the industrial rules and promotion of Indian producing exports as well as emphasizing on improvement of industries through liberalized imports of goods and technology. This was supported by trade liberalization which was tariff reduction and shifting of large range of things from import licensing to Open General Licensing (OGL). Even after doing such advancement, we witness the BOP crises of 1991 and thereafter the need was felt for LPG reform which increased our connection with outside world in real and broader terms and hence paved the way for more FDI and foreign investments in India .

2. Post 1991 reform Era

As discussed earlier a major shift occurred in our country once our nation embarked upon economic alleviation and reforms program in 1991 which was aiming to lift its growth potential and integration with the world economy. Industrial policy reforms slowly but surely removed restrictions on investment and business enlargement[7] on the one hand and allowed increased access to foreign technology and funding on the opposite. Several actions taken to encourage the liberalization of foreign investment included:

1) Introduction of twin route of approval of FDI in our country which are –RBI‟s automatic route and Government's approval route.

2) Automatic permission for technology agreements in high priority industries and removal of restriction of FDI in low technology areas similarly as liberalization of technology imports.

3) Permission to Non-resident Indians (NRIs) and Overseas company Bodies (OCBs) to speculate up to 100 per cent in high priorities sectors.

4) Hike within the foreign equity participation limits to 51 per cent for existing firms and liberalization of the utilization of foreign brands name.

5) Last but not the least, signing the Convention to protect the foreign investments under MIGA i.e. multilateral investment guaranty agency.

These efforts were boosted by the enactment of Foreign Exchange Management Act (FEMA), 1999 which was more forward in its approach then the FERA act of 1973. In 1997, Indian Government allowed 100 percent FDI in money and carry wholesale and FDI in single brand merchandising was allowed fifty one percent in 2006. After an extended discussion, additional change was created in December, 2012 that rectified the FDI to 100 percent in single brand retailing and fifty one percent in multiple brand merchandising. An Indian company might receive Foreign Direct Investment beneath the 2 routes explained below:

Automatic Route/ RBI route

FDI beneath the automated route does not need any previous approval either by the Government or the central bank i.e. RBI. The investors solely needed to notify the involved regional office of RBI within a time frame of thirty days of receipt of inward remittances and file the required documents there within 30 days of issuance of shares to foreign investors.

Government Route

Beneath this Route[8], FDI approval is formed by 3 establishments, viz., the Foreign Investment Implementation Authority (FIIA), the Foreign Investment Promotion Board (FIPB), and the Secretariat for Industrial Assistance (SIA) (FIIA). The FIPB considers the proposals under the approval route in a highly time-bound and open manner. On the basis of the FIPB's recommendations, composite applications including foreign technical assistance and foreign investment are approved.

Different rules/policies to regulate FDI in India are:

1. Companies Act of 2013
2. Securities and Exchange Board of India Act, 1992 and SEBI Regulation
3. Foreign Trade (Development And Regulation) Act,1992
4. FEMA act (Foreign Exchange Management Act), 1999
5. Civil Procedure Code, 1908
6. Indian Contract Act,1872
7. Arbitration and Conciliation Act, 1996
8. Competition Act 2002
9. Income Tax Act,1961
10. Foreign Investment Policy (Current Policy 2020-2021)

SOME RECENT ADVANCEMENTS IN THE LAWS CONCERNING FDI

Though there exists multiple laws which regulate FDI in India in different prospects, however government time to time make some changes as well in order to look after its national interest first. Therefore, government has introduced its new FDI policy in 2020-2021. According the policy following changes would be made in FDI sector.

Insurance Sector: In new FDI policy under the automated technique, the government inflated the allowable FDI ceiling in insurance corporations from 49% 74%, permitting foreign possession and management with protections which will facilitate India's insurance sector flourish by facilitating the flow of long term capital, a world class technology, processes, and international best practices.

Foreign investment up to 100% through the automated route in circumstances wherever the government has given "in-principle" clearance for strategic sectors which is petroleum and natural gas sector.

Foreign investment within the telecommunication services sector is also allowed up to 100% beneath the automated route. These all measures will surly help India in increasing its economy and creation of more job opportunities as well.

According to the new FDI policy , an entity from a nation that shares a land border with India, or if the concerned owner of investment in India was a subject of such a country, will solely invest through the government route only. Government permission is additionally needed for a transfer of possession in an FDI agreement that put to use benefit any country that shares a border with India. Rather than requesting previous authorization from the relevant section, investors from countries not mentioned by the new policy[9] should merely inform the RBI. In all industries, the previous FDI policy solely allowed Bangladesh and Pakistan to take a position through the government route/ technique but now corporations from as well subject to the government's route filter as a result of the amended rule so as to protect our national interests.

ANOTHER MEASURE TO PROMOTE FDI IN INDIA

Apart from the rules and regulation to ease FDI in India government has taken different steps and new trends in FDI in India which directly or indirectly attract more FDI. To tempt foreign investment, government initiatives like the production-linked incentive (PLI) theme for electronics production 2020 have been proclaimed.

In 2019, the govt. amended its FDI Policy 2017 to permit 100% FDI underneath the automated technique in coal mining activities to increase FDI flow.

In addition, the govt. has allowed 26% FDI within the digital sector of India so as to decrease the digital divide and increase the digital connectivity across nation. The Foreign Investment Facilitation Portal (FIFP) is government of India's on-line single purpose of contact with investors to facilitate FDI and is managed by the Ministry of Commerce and Industry's Department for Internal Trade and Industry Promotion. Foreign investors have expressed interest within the government's plans which surly will increase the FDI inflows in India . In addition to this, valuable sectors like manufacturing of defense items, government have increased the automated route FDI ceiling from forty ninth to seventy-four percentages in 2020, this area unit projected to draw huge investments within the future.

CONCLUSION OR SUGGESTIONS

It is rational to conclude that foreign direct investment is solution for any country's economic desolations and therefore it is necessary to take multiple market-oriented measures to boost our economy. Moreover, the Indian economy has recently been set to vie within the international market, wherever foreign investors acknowledge the chance for vital returns, as seen by the foreign direct investment success stories that have already been achieved. In rising countries, FDI has become more and more necessary. FDI is actually smart for overall growth of any country. The economy gains vastly from FDI, and also the correct FDI method identifies important economic areas that deliver the most effective come back on investment. By transferrable superior merchandise and services to plug, this investment will increase firm aggressiveness, stimulates innovation and potency, and raises the standard of living of the people in that particular country. Currently, a number of the highest recipients of the FDI flow just like the America and China are reeling underneath the various pressures like trade tensions and COVID like natural events. Taking advantage of this case, other Asian nation or specifically India can attract a lot of FDI inflows by addressing the problems of land acquisitions, taxation and other problems associated with FDI.

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