目录 CONTENT

Investment in India: legal information reference

印度投资法律信息参考

编者按：本刊除序文外分为政策法规、媒体报道、期刊、图书四个栏目，摘录并分类整理多种类型资料，旨在提供印度投资法律方面的参考信息。法规栏目按部门法呈现的法律文本是重要的一次法律资源，体现文本权威性；媒体报道包括中国企业近期在印投资的报道和印度外资政策动态，体现新闻时效性；期刊与图书则收录研究成果，体现学术性。本刊立足中国视角、聚焦印度实际、信息来源可靠，资源描述准确，希望满足相关人士对参考信息的要求。

Investment Opportunities and Risks in India

印度投资的风险与机会

On August 17, 2014, India's Independence Day, Prime Minister Modi announced his Make in India initiative—a branded campaign to attract international capital to the country's struggling manufacturing sector. As the government appeared slow to propose economic reforms that matched its rhetoric, and struggled to pass through Parliament many of the reforms it did propose, investors have begun to wonder about the government's strategy.

Part of the problem arises from the decentralized nature of India's political system. Investors in India should be prepared to face varied political and economic conditions across India's twenty-nine states and seven union territories. There are differences in the quality of governance, regulation, taxation, labor relations, and education levels. Although India prides itself on its rule of law, the country ranks 186 out of 189 in the World Bank's, Ease of Doing Business Report in the category of Enforcing Contracts. Its courts have cases backlogged for years, and by some accounts more than 30 million cases could be pending at various levels of the judiciary.

While the government has managed to push through a number of investor-friendly reforms, including an increase in foreign direct investment (FDI) limits in insurance to 49 percent, on others, such as land acquisition, it has failed to muster sufficient political support. On still other long-awaited reforms—the Goods and Services Tax, labor law reforms, and subsidies reform among them—as of April 2015, the government had yet to put a program before Parliament. Thus, while the outlook has improved considerably, objective conditions for doing business in India remain similar to years past.

Opportunities in the current scenario are manifold. Indian conglomerates and high technology companies are generally equal in sophistication and prominence to their international counterparts. Certain industrial sectors, such as information technology, telecommunications, and engineering are globally recognized for their innovation and competitiveness. Foreign companies operating in India highlight that success requires a long-term planning horizon and a state-by-state strategy to adapt to the complexity and diversity of India's markets.

Source:https://www.state.gov/e/eb/rls/othr/ics/2015/241595.htm

LAW & REGULATIONS 法律法规

Treaties 条约

Agreement between the Government of the Republic of India and the Government of the People's Republic of China for the Promotion and Protection of Investments

Source:http://investmentpolicyhub.unctad.org/IIA/mappedContent/treaty/912

http://tradeinservices.mofcom.gov.cn/b/2006-11-21/29749.shtml

BRICS Trade and Investment Cooperation Framework

Source:http://www.brics.utoronto.ca/docs/130326-trade-investment-framework.pdf

The Framework intends to promote cooperation among the BRICS countries in trade, investment and economy. It will also encourage the BRICS to develop intra-bloc trade and investment connections to foster complementary economic systems.

- The cooperation focuses specifically on the following areas:
- Cooperation and coordination on multilateral developments;
- Promotion and convenience in trade and investment;
- Cooperation in technological innovation;
- Cooperation on developing small and medium enterprises;

- Cooperation on intellectual property; and
- Cooperation on infrastructure and industrial development.

Model Text for the Indian Bilateral Investment Treaty

The model BIT will be used for re-negotiation of existing BITs and negotiation of future BITs and investment chapters in Comprehensive Economic Cooperation Agreements (CECAs)/ Comprehensive Economic Partnership Agreements (CEPAs) / Free Trade Agreements (FTAs).

The Model BIT text will provide appropriate protection to foreign investors in India and Indian investors in the foreign country, in the light of relevant international precedents and practices, while maintaining a balance between the investor's rights and the Government obligations.

A BIT increases the comfort level and boosts the confidence of investors by assuring a level playing field and non-discrimination in all matters while providing for an independent forum for dispute settlement by arbitration. In turn, BITs help project India as a preferred foreign direct investment (FDI) destination as well as protect outbound Indian FDI.

The essential features of the model BIT include an "enterprise" based definition of investment, non-discriminatory treatment through due process, national treatment, protections against expropriation, a refined Investor State Dispute Settlement (ISDS) provision requiring investors to exhaust local remedies before commencing international arbitration, and limiting the power of the tribunal to awarding monetary compensation alone. The model excludes matters such as government procurement, taxation, subsidies, compulsory licenses and national security to preserve the regulatory authority for the Government.

Source:https://www.mygov.in/sites/default/files/master_image/Model%20Text%20for%20the%20Indian%20Bilateral%20Investment%20Treaty.pdf

Annex Model Text for the Indian Bilateral Investment Treaty

Source:http://indiainbusiness.nic.in/newdesign/upload/Model_BIT.pdf

Reference:

- Grant Hanessian Kabir Duggal, The Final 2015 Indian Model BIT: Is This the Change the World Wishes to See? ICSID Review (2017) 32 (1): 216-226.
- Analysis of the 2015 Draft Model Indian Bilateral Investment Treaty

The report submitted by Law Commission of India on the “Analysis of the 2015 Draft Model Indian Bilateral Investment Treaty” is presented with a view to assist the Government of India in achieving a balanced negotiating text that takes into consideration the protection of Indian investors investing abroad, as well as safeguarding the regulatory powers of the State.

Source:http://lawcommissionofindia.nic.in/reports/Report260.pdf#page=1&zoom=auto,-158,848

National Laws and Regulations 部门法规

Investment Policy 投资政策

Consolidated FDI Policy Circular of 2016 is a policy framework on Foreign Direct Investment, which consolidates all Press Notes, Press Releases, Clarifications, Circulars issued by DIPP, which are in force.

Source:http://dipp.nic.in/English/Policies/FDI_Circular_2016.pdf

The Government announced its Foreign Trade Policy for 2015-2020 on April 1, 2015.

Source:http://dgft.gov.in/exim/2000/ftp2015-20E.pdf

In 2011, the Government of India underwent an investment policy review in the context of a Trade Policy Review by the WTO.

Sourcehttps://www.wto.org/english/tratop_e/tpr_e/tp349_e.htm

Foreign Exchange 外汇规定

Foreign Exchange Management Act

The legal framework for administration of foreign exchange transactions in India is provided by the Foreign Exchange Management Act, 1999. Under the Foreign Exchange Management Act, 1999 (FEMA), which came into force with effect from June 1, 2000, all transactions involving foreign exchange have been classified either as capital or current account transactions. All transactions undertaken by a resident that do not alter his / her assets or liabilities, including contingent liabilities, outside India are current account transactions.

Source:https://rbi.org.in/Scripts/Fema.aspx

8 Company Law 公司法

Indian company law regulates the corporations formed under the Indian Companies Act 2013, which is an Act of the Parliament of India which regulates incorporation of a company, responsibilities of a company, directors, dissolution of a company. The 2013 Act is divided into 29 chapters containing 470 sections as against 658 Sections in the Companies Act.

The Companies Act, 2013 (No. 18 of 2013)2015

Source:http://www.wipo.int/wipolex/en/text.jsp?file_id=390100

The Companies (Amendment) Act, 2015

Source:http://www.indiacode.nic.in/acts-in-pdf/2015/201521.pdf

The Companies (Amendment) Bill, 2016

Source:http://www.taxlawsonline.com/news/compbill2016LS.pdf

Key Highlights of the Companies (Amendment) Bill, 2016

Source:http://www.companiesact.in/Companies-Act-2013/News-Details/20712/Key%20Highlights%20of%20The%20Companies%20(Amendment)%20Bill,%202016

Bankruptcy 破产规则

Insolvency and Bankruptcy Code

The Insolvency and Bankruptcy Code, 2016is the bankruptcy law of India which seeks to consolidate the existing framework by creating a single law for insolvency and bankruptcy.

Source:www.indiacode.nic.in/acts-in-pdf/2016/201631.pdf

Insolvency and Bankruptcy Code,2016(Code) provides for a specialised forum to oversee all insolvency and liquidation proceedings for individuals, SMEs and corporates. It empowers all classes of creditors(secured and unsecured lenders, employees, trade creditors, regulatory authorities) to trigger a resolution process in case of non-payment of a valid claim.

- Providers for immediate suspension of the Board of Directors and promoters' powers.

- Providers for an insolvency professional to take control of the Corporate debtor.
- Enables a 'stand-still period' which providers stakeholders time to facilitate discussions and arrive at a common resolution rather than running independent processes.
- Offers a finite time limit within which the debtor's viability can be assessed and a resolution process agreed. The power of commercial decision to revive or liquidate the Company is on the creditors rather than the courts.
- Providers for a balanced approach between rehabilitation and recovery and providers for compulsory liquidation of corporate debtors in the event the resolution has not been agreed within 180 days of the resolution process.
- Aims to develop a detailed and accessible information asymmetry between the various participants of the insolvency process.
- Providers for a clearly-defined waterfall mechanism for payment of debt in the event of a liquidation.

Competition Law 竞争法

The Competition Act, 2002 was passed by the Parliament in the year 2002, to which the President accorded assent in January, 2003. It was subsequently amended by the Competition (Amendment) Act, 2007.

The Act is in consonance with international standards, prohibiting anti-competitive agreements and abuse of dominant position by enterprises. The Act regulates combinations (acquisition, acquiring of control, and mergers and acquisition) that cause or are likely to cause an appreciable adverse effect on competition.

The Competition Act, 2002

Source: http://www.cci.gov.in/competition-act

The Competition (Amendment) Act, 2007

Source:http://dpal.kar.nic.in/Central%20Acts&Ordinance%20PDF/Act%2039%20of%202007%20PR-90.pdf

Labour Law 劳动法

The law relating to labour and employment in India is primarily known under the broad category of "Industrial Law". The prevailing social and economic conditions have been largely influential in shaping the Indian labour legislation, which regulate various aspects of work such as the number of hours of work, wages, social security and facilities provided.

Under the Constitution of India, Labour is a subject in the concurrent list where both the Central and State Governments are competent to enact legislations. As a result , a large number of labour laws have been enacted catering to different aspects of labour namely, occupational health, safety, employment, training of apprentices, fixation, review and revision of minimum wages, mode of payment of wages, payment of compensation to workmen who suffer injuries as a result of accidents or causing death or disablement, bonded labour, contract labour, women labour and child labour, resolution and adjudication of industrial disputes, provision of social security such as provident fund, employees' state insurance, gratuity, provision for payment of bonus, regulating the working conditions of certain specific categories of workmen such as plantation labour, beediworkers etc.

The legislations can be categorized as follows:

- Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement ,such as Employees' State Insurance Act, 1948;The Mines Act, 1952;Cine Workers Welfare Fund Act, 1981
- Labour laws enacted by Central Government and enforced both by Central and State Governments, such as Child Labour (Prohibition and Regulation)

Act, 1986; Contract Labour (Regulation and Abolition) Act, 1970; Industrial Disputes Act, 1947.

- Labour laws enacted by Central Government and enforced by the State Governments, such as The Weekly Holidays Act, 1942;The Employers' Liability Act, 1938;The Workmen's Compensation Act, 1923
- Labour laws enacted and enforced by the various State Governments which apply tore spective States.

Source:http://www.labour.nic.in/wagess

Source: http://ncib.in/pdf/ncib_pdf/Labour%20Act.pdf

Environment (Protection) Act 环境法

The Environment (Protection) Act was enacted in 1986 with the objective of providing for the protection and improvement of the environment. It empowers the Central Government to establish authorities [under section 3(3)] charged with the mandate of preventing environmental pollution in all its forms and to tackle specific environmental problems that are peculiar to different parts of the country. The Act was last amended in 1991.

Source: http://envfor.nic.in/division/environment-protection

Securities Law 证券法

Securities Laws (Amendment) Act, 2014 is a legislation in India which provided the securities market regulator Securities and Exchange Board of India (SEBI) with new powers to effectively pursue fraudulent investment schemes, especially ponzi schemes.

Source: http://www.indiacode.nic.in/acts2014/27_of_2014.pdf

Source: http://www.egazette.nic.in/WriteReadData/2014/158896.pdf

Tax Laws & Rules 税务法令

Taxes in India can broadly be classified into direct and indirect. Direct Taxes include Income tax, Wealth tax and Interest Tax. The most significant of direct taxes is income tax. The levy of income tax is governed by the Income-Tax Act, 1961. This is an enormously complex legislation running into over 300 Sections with several subsections. The Act undergoes changes every year with additions and deletions brought out through a Finance Act passed by the Parliament. Indirect Taxes include excise duty which is an indirect tax levied on a 'manufacturer' on the manufacture of dutiable goods; Customs Duty regulated by the Customs Act, 1962; Sales Tax and Services Tax.

Tax Laws & Rules Texts

Source: http://www.incometaxindia.gov.in/pages/tax-laws-rules.aspx

Intellectual Property Rights 知识产权

India offers basic protections to copyright holders. However, enforcement is weak and piracy of copyrighted materials is widespread. India is a party to the Berne Convention, UNESCO, and the World Intellectual Property Organization (WIPO). In 2012, India amended its copyright laws and signed WIPO's Beijing Treaty on the Protection of Audiovisual Performances. However, the copyright law still contains several broad exceptions for personal use and fair dealing, and has weak protection against unlawful circumvention of technological protection measures. It also lacks an effective notice and take-down system for infringing materials posted online.

India updated its trademark law in recent years to approach international standards for filing and granting trademarks. It is worth noting that India acceded to and has implemented the Madrid Protocol as of July 2013. WIPO has been recognized as an International Search Authority/International Preliminary Examination Authority (ISA/IPEA) under the Patent Cooperation Treaty and began accepting applications in October 2013.

Indian law provides no statutory protection of trade secrets. The Designs Act allows for the registration of industrial designs. The Designs Rules, which detail classification of design, conform to the international system and are intended to take care of the proliferation of design-related activities in various fields. India's Semiconductor Integrated Circuits Layout Designs Act is based on standards developed by WIPO; however, this law remains inactive due to the lack of implementing regulations.

Customs officers have ex-officio authority to seize and destroy counterfeit goods, though rights holders must pay for storage and destruction of counterfeit materials. India offers all types of counterfeit goods for sale; the seven most vulnerable sectors for IPR crime include automotive parts, alcohol, computer hardware, fast-moving commercial goods (FMCG) for personal use, FMCG packaged foods, mobile phones, and tobacco products. India is slowly experiencing a marginal improvement in its IP protections, both in the ease of registering IP and in the ease of enforcement.

In multilateral negotiations and the WTO TRIPS Council, India, together with other countries, presses demands for unlimited technology transfer that could lead to coercion of private rights holders, weakening their property rights. These outcomes could undermine innovation, trade, and investment in IP-intensive products and services that are critical parts of the response to climate change, sustainable economic development, and other challenges. By advancing such positions, the Indian government is creating uncertainty with respect to its commitment to create a domestic environment that will encourage innovation and investment in high technology industries.

Source: http://www.wipo.int/wipolex/en/profile.jsp?code=IN

Source: India Investment Climate Statement 2015byUSDepartment of State

Dispute Settlement 争端解决

In an attempt to align its adjudication of commercial contract disputes with the rest of the world, India enacted the Arbitration and Conciliation Act based on the United Nations Commission on International Trade Law model in 1996. Judgments of foreign courts are enforceable under multilateral conventions like the Geneva Convention. The government established the International Center for Alternative Dispute Resolution (ICADR) as an autonomous organization under the Ministry of Law and Justice to promote the settlement of domestic and international disputes through alternate dispute resolution. The World Bank has also funded ICADR to conduct training for mediators in commercial disputes settlement.

Source: http://www.wipo.int/wipolex/en/text.jsp?file_id=207822

Special Economic Zones 经济特区

The Special Economic Zones Act, 2005, was passed by Parliament in May, 2005 which received Presidential assent on the 23rd of June, 2005. After extensive consultations, the SEZ Act, 2005, supported by SEZ Rules, came into effect on 10th February, 2006, providing for drastic simplification of procedures and for single window clearance on matters relating to central as well as state governments. The main objectives of the SEZ Act are:

(a) generation of additional economic activity

(b) promotion of exports of goods and services;

(c) promotion of investment from domestic and foreign sources;

(d) creation of employment opportunities;

(e) development of infrastructure facilities;

It is expected that this will trigger a large flow of foreign and domestic investment in SEZs, in infrastructure and productive capacity, leading to generation of additional economic activity and creation of employment opportunities.

The SEZ Rules provide for:

- Simplified procedures for development, operation, and maintenance of the

Special Economic Zones and for setting up units and conducting business in SEZs;

- Single window clearance for setting up of an SEZ;
- Single window clearance for setting up a unit in a Special Economic Zone;
- Single Window clearance on matters relating to Central as well as State Governments;
- Simplified compliance procedures and documentation with an emphasis on self certification

Source: http://www.sezindia.nic.in/index.asp

Source:http://www.legalservicesindia.com/article/article/special-economic-zones-act-2005-430-1.html

Media 媒体报道

Chinese Investment News 中国投资报道

Dalian Wanda plans to invest $10 billion in India

Press Trust of India| New Delhi| February 15, 2017

Representatives of Chinese real estate giant Dalian Wanda, which plans to invest $10 billion in India, met DIPP officials here on Wednesday to press for certain concessions as well as relaxation in some regulatory norms.

According to sources, the world's largest property developer wants to bring $10 billion into India as external commercial borrowings (ECBs) as against the $750 million limit permitted by RBI.

Source:http://www.business-standard.com/article/companies/dalian-wanda-plans-to-invest-10-billion-in-india-117021500783_1.html

Why Chinese Phone Makers Find India a Good Call

By Indrajit Basu |19 DEC 2016

Back in September when Huawei announced plans to manufacture 3 million smartphones a year at a plant in India, it sparked fears in the Chinese media that a new phase of competition between India and China was on the horizon – and along with it, large scale job cuts in the latter.

Huawei, one of China's biggest telecom companies, was just the latest in a wave of Chinese smartphone vendors to set up production facilities in the country – one of the most promising mobile markets in the world.

India attracted investment from 37 mobile manufacturers in the past year, more than half a dozen of which were Chinese handset makers, according to industry sources. Just prior to Huawei's announcement, Xiaomi had revealed plans to set up two manufacturing plants in the country, while upstart brands like Gionee, LeEco, Oppo, Vivo, Meizu, OnePlus, and Coolpad have also announced they will be setting up facilities. Meanwhile, a slew of Chinese handset component makers – including Holitech, Wingtech and Camera King – are also reported to be weighing their options in India.

Source:http://www.scmp.com/week-asia/business/article/2055234/why-chinese-phone-makers-find-india-good-call

Indian Entrepreneur's Ad Tech Startup Acquired by Chinese Investors for $900 Million

Reuters, 23 August 2016

Advertising technology startup Media.net, founded by tech entrepreneur Divyank Turakhia, said on Monday it had been acquired for about $900 million by a group of Chinese investors (Beijing Miteno Communication Technology Co.).

The deal would represent the third-largest in the ad tech industry, after Alphabet unit Google's acquisition of Double Click and Microsoft's deal for a Quantive.

Source:http://gadgets.ndtv.com/internet/news/indian-entrepreneurs-ad-tech-startup-acquired-by-chinese-investors-for-900-million-875944

Biggest Indian acquisition by a Chinese company: Fosun to buy Gland Pharma for $1.26 billion

AFP | Friday, July 29, 2016

The pharmaceutical arm of Chinese conglomerate Fosun plans to buy a majority stake in India`s Gland Pharma Ltd. for as much as $1.26 billion, in what is being touted as the biggest Indian acquisition by a Chinese company.

Source:http://zeenews.india.com/business/news/companies/biggest-indian-acquisition-by-a-chinese-company-fosun-to-buy-gland-pharma-for-1-26-billion_1912860.html

China's Sany group to invest $ 4 billion in India; aims top spot in

construction gear market

By Rachita Prasad, ET Bureau | Feb 15, 2016

China's heavy equipment major Sany group has committed to invest $ 4 billion for setting up manufacturing units and wind farms in India and has its eyes set on the number one position in construction equipment space in the country.

Source:http://economictimes.indiatimes.com/industry/indl-goods/svs/engineering/chinas-sany-group-to-invest-4-billion-in-india-aims-top-spot-in-construction-gear-market/articleshow/50987481.cms

Press Release on FDI 直接投资动态发布

Allowing FDI in LLPs to help ease of doing business: Deloitte

http://economictimes.indiatimes.com/news/economy/policy/allowing-fdi-in-llps-to-help-ease-of-doing-business-deloitte/articleshow/57619531.cms

By Sachin Dave, ET Bureau | Updated: Mar 13, 2017

MUMBAI: The government’s recent decision to allow foreign direct investment (FDI) in limited liability partnerships (LLP) is set to improve ease of doing business, according to a research report by Deloitte.

Reserve Bank of India (RBI) has, on 3 March 2017, notified Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India)

(Second Amendment) Regulations, 2017 (FEMA Amendment Regulations), the report said.

"The amendments would facilitate ease of doing business in India. It gives much clarity on conversion of a company with FDI into a LLP under automatic route. LLP can now access ECBs subject to further amendments being made in ECB framework," it added.

The amendments takes into account the changes earlier introduced by the Government of India in FDI Policy for investment in LLP by person resident outside India. "FEMA Amendment Regulations have substituted Schedule 9 to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2000 (FEMA Regulations) titled FDI in LLPs formed and registered under the Limited Liability Partnership Act, 2008," according to the report.

Government likely to ease FDI rules for retail

http://economictimes.indiatimes.com/news/economy/policy/government-likely-to-ease-fdi-rules-for-retail/articleshow/57615285.cms

By Sidhartha, TNN | Updated: Mar 13, 2017

NEW DELHI: The government is expected to move swiftly to ease foreign investment rules for the tightly-policed multibrand retail sector after BJP's resounding win in the Uttar Pradesh assembly elections.

In his budget speech, finance minister Arun Jaitley had announced the government's intent to ease foreign direct investment (FDI) rules further but had refrained from naming any sectors in the wake of assembly elections in five states.

Sources, however, told TOI that the broad contours of the FDI package have been prepared at the level of bureaucrats and there are two options for the retail sector, which is seen to be a key element of the Narendra Modi government's job creation plan as it heads into the last two years of its five-year term.

One option is a limited opening up by allowing food retailers to generate around 20-25% of their sales from non-food items such as kitchen-use products or basic household requirements like toothpaste. The current policy allows 100% FDI in stores that sell only Made-in-India food products or locally produced farm goods. There have been no takers for the food retail business so far as several retailers are waiting for a further opening up.

The ministry of food processing was lobbying hard for letting these retailers sell everyday-use products but other government agencies were not on board.

Later, however, the department of industrial policy and promotion, the agency that drives FDI policy, agreed to the proposal and has already communicated its backing.

The second option is more radical and is seen as an option that will translate into “real opening up” of the multibrand retail business. Sources said the government may look to allow FDI in retail with the rider that only India-made goods would be sold in these stores.

This proposal, they said, would be more palatable to retailers as it would give them greater operational flexibility besides providing an arrangement where the entire canvas is available.

FDI in retail has been a contentious sector with UPA’s move to open up the sector facing stiff resistance from BJP before 2014. In fact, BJP-ruled states had said that they would not allow foreign-owned companies to open stores under the shops and Establishments Act, preventing a rollout of the policy.

Since coming to power in 2014, the Modi administration has not reversed the UPA decision but has not endorsed it earlier as none of the global players have sought permission.

While Carrefour and Auchan have exited India, Tesco has a tie up with the Tata Group. Walmart is studying its model in some of the Latin American markets to see if it can enter the food retail space but it would be more comfortable if given greater policy elbowroom.

Government to soon announce relaxations in the Foreign Direct Investment

http://economictimes.indiatimes.com/news/economy/policy/government-to-soon-announce-relaxations-in-the-foreign-direct-investment/articleshow/57426172.cms

By PTI | Updated: Mar 02, 2017

NEW DELHI: The government is expected to soon announce relaxations in the foreign direct investment (FDI) policy in certain sectors, including single brand retail.

The further liberalisation in the FDI policy is aimed at providing better business environment by removing impediments, an official said.

The easing of the policy will be on the lines of the announcements made by Finance Minister Arun Jaitley in the Budget for 2017-18.

The government last year relaxed FDI norms in over a dozen sectors, including defence, civil aviation, construction and development, private security agencies, real estate and news broadcasting.

Union Minister Harsimrat Kaur Badal recently stated that the government will consider the demands made by foreign retailers for allowing non-food items such as homecare products under the policy.

The government is also considering a proposal to increase FDI limit in print media to 49 per cent from 26 per cent.

Besides, a proposal to allow 100 per cent FDI through the automatic route in single brand retail is also under consideration with a view to attracting more global players in the sector.

Foreign investments are considered crucial for India, which needs around $1 trillion to overhaul its infrastructure such as ports, airports and highways to boost growth.

Foreign investments will help improve the country's balance of payments situation and strengthen the value of the rupee against global currencies, especially the US dollar.

FDI inflows into India firmed up by 22 per cent to $35.85 billion during April-December 2016.

Government looking at more FDI reforms; relief for investors in defence, telecom and broadcasting

http://economictimes.indiatimes.com/news/economy/policy/government-looking-at-more-fdi-reforms-relief-for-investors-in-defence-telecom-and-broadcasting/articleshow/57438393.cms

By Deepshikha Sikarwar , ET Bureau | Mar 03, 2017

NEW DELHI: India is set to make further changes in its overseas investment regime, scrapping the need for approvals in sectors where licences are also required, such as defence, telecom and broadcasting, eliminating one layer completely from the process.

"Clearance for FDI (foreign direct investment) separately after securing a licence adds another layer of approval from same authorities," said a senior government official. "Anyone who has gone through one level of scrutiny for licence from the authorities concerned should not need to go through the same checks again."

Conditions related to FDI can be examined by the licensing authority, the person said. A big-ticket defence order expected to be floated soon should make quick progress once these changes are effected.

Under current rules, investors have to apply for licences in many sectors besides clearances from multiple ministries, including security from home affairs. After securing licences, they are required to apply for approval of foreign investment, if any, which again goes through an inter-ministerial clearance process.

Defence investment, for instance, is subject to industrial licensing under the

Industries (Development & Regulation) Act, 1951. The licence is given by Department of Industrial Policy and Promotion in consultation with the ministries of defence, external affairs and home, a process that takes time.

"Why should there be a need for another level of clearance from same authorities?" said the official cited above.

Up to 100% FDI is allowed in defence on a case-to-case basis. India is the world's biggest importer of defence goods, accounting for 13% of global purchases during 2012-16.

The government is looking to give a push to domestic manufacturing of defence equipment to reduce imports and also create more local jobs. Since 2000, the defence sector has attracted just over $5 million in FDI.

In the case of telecom too, 100% FDI is allowed but subject to licensing by the Department of Telecommunications. Similarly, broadcasting is subject to rules and conditions framed by the ministry of information and broadcasting.

Telecom has been among the biggest recipients of FDI with $24 billion in inflows since 2000, 7.4% of the total.

The government has already announced its intent to scrap the Foreign Investment Promotion Board (FIPB) and leave FDI clearance to the relevant ministries or departments in sectors where government approval is needed. The official cited above said removing the additional clearance could be taken up at the same time.

"Abolition of FIPB will be truly be impactful if government approval is done away with in FDI policy across sectors," said Akash Gupt, partner, PwC.

"If a licensor would grant FDI approval under licensing requirement but RBI would eventually be monitoring the compliance of same under FEMA (Foreign Exchange Management Act), it would need some consistency and connecting of dots."

A transition framework for replacing the FIPB process should be in place before the end of the financial year. The departments of industrial policy and promotion and economic affairs have begun consultations on the process.

Keen to attract foreign funds in the country, the government has put a number of sectors on the automatic route.

RBI to frame standard procedure for FDI approvals post FIPB

http://economictimes.indiatimes.com/news/economy/policy/rbi-to-frame-standard-procedure-for-fdi-approvals-post-fipb/articleshow/57355300.cms

By PTI | Updated: Feb 26, 2017

NEW DELHI: The Reserve Bank is expected to formulate standard operating procedure (SOP) for approval of FDI proposals by ministries following the government decision to phase out FIPB.

The proposal for setting up norms for foreign direct investment (FDI) approvals in sensitive sectors, which are currently under government approval of the FDI policy, was discussed at a recent inter-ministerial meeting.

According to sources, several options came up for discussions at the meeting.

In order to further improve ease of doing business, the government has decided to abolish Foreign Investment Promotion Board and form a new mechanism for expeditious clearance of foreign investment proposals.

Once the FIPB is abolished, the onus of approving FDI proposals would be on the ministries and regulatory authorities concerned.

The inter-ministerial committee has also discussed the possibility of approving the FDI proposals along with grant of licences, sources said.

In the sensitive sectors like defence and telecom, companies having licences can only seek foreign investments.

Citing example of the telecom ministry, they said, the government may extend the power to approve the FDI proposals to the same ministry.

"For every ministry, the RBI can be requested to prepare the standard operating procedure," they said, adding that the Home Ministry could be asked to vet the FDI proposals from Pakistan and Bangladesh.

These issues are under discussions of the committee formed by the government. It includes representatives from the RBI, Finance Ministry, the Department of Industrial Policy and Promotion, and the Home Affairs Ministry.

RBI is the nodal agency for administration of foreign investments and foreign exchange.

The committee is expected to submit its report within two months which will give guidelines on FDI approval procedures in the sensitive sectors.

India's simplified laws attracting FDI from China

https://in.news.yahoo.com/indias-simplified-laws-attracting-fdi-china-112804031.html

India Private LimitedIndo Asian News Service|22 February 2017

New Delhi, Feb 22 (IANS) The simplification of Indian laws and regulations towards ease of doing business has drawn "significant" interest from Chinese companies to make investments in the country, China's former Vice Foreign Minister Lu Xinhua said on Wednesday.

"The interest of Chinese companies in investing in India has enhanced significantly following the simplification of laws and regulations and the Indian government's determined stance to attract foreign direct investment (FDI)," Lu Xinhua said.

He was addressing the China-India business meeting for investment and trade organised by industry lobby Federation of Indian Chambers of Commerce and Industry (Ficci) in association with the Embassy of China in India.

"With globalisation, China and India have emerged as two attractive destinations for FDI. So, it is imperative for the two nations to grab the emerging opportunities," he said.

Lu is leading to India a high-powered business delegation from the Council for Promoting South-South Cooperation (CPSSC).

The delegation comprises representatives from diverse sectors such as finance, investment, railway construction, power generation, electronic products, project coordination, real estate, waste management, commerce, medical equipment, lighting, industrial cable, culture and education.

The aim of the delegation members is to forge beneficial partnerships with their Indian counterparts, the former minister said.

Lu said he hopes that the business to business sessions organised between Indian and Chinese industry leaders would yield fruitful partnerships.

Liu Jinsong, Minister Counsellor and Deputy Chief of Mission in the Chinese Embassy, said the issue of trade deficit between India and China needs to be addressed and therefore, promoting business, trade and investment is necessary between the two countries.

The bilateral trade between India and China crossed $70 billion during 2015-16, while India's trade deficit with China stood at $53 billion.

Of the total $288.51 billion FDI equity inflows that India received during April 2000-March 2016, China contributed $1.36 billion.

Two Chinese companies hit roadblock with Indian investments

http://economictimes.indiatimes.com/news/economy/foreign-trade/two-chinese-companies-hit-roadblock-with-indian-investments/articleshow/56363534.cms

Jan 6, 2017NEW DELHI: Big-ticket investment plans of two Chinese firms appear to have hit the Great Wall of India’s home ministry over apparent security concerns.

Shanghai Fosun Pharmaceutical (Group) Co’s $1.4-billion deal struck about six months ago to acquire 86% stake in Hyderabad’s Gland Pharma Limited is yet to fructify, as is the Bank of China’s move announced in 2015 to open its first branch in India.

The ministry is yet to give its assent in both cases, according to people aware of the matter, triggering concerns that this may deter potential investors who had expressed interest in the country as part of Chinese President Xi Jinping's announcement in 2014 to invest $20 billion in India in five years.

"Fosun Pharma's proposal, marking the first billion dollar takeover of an Indian company by a Chinese firm, is among the biggest Chinese investments in India, that too in a sector which does not pose any security concerns," said one of the persons, who did not wish to be identified. "Yet, the ministry of home affairs is not clearing the Chinese company's investment proposal."

Such an approach is detrimental to plans of other Chinese investors at a time when India is actively seeking investments from the neighbouring country to boost its economy and create jobs, the person said.

In the case of Bank of China, a second person said, the ministry is not granting permission due to the roadblocks that the State Bank of India BSE 0.62 % is facing in China. "The refusal to give permission to Bank of China to open its India chapter beats all logic," the person said, citing the launch of Indian operations by the Industrial and Commercial Bank of China (ICBC), the world's largest bank in terms of market capitalisation, in 2011 by opening a branch in Mumbai.

Although India does not encourage Chinese investments in sensitive sectors such as ports and areas such as bordering states owing to security concerns, the government last year liberalised business visas in non-sensitive areas and removed China from the list of countries requiring prior referral. In June 2016, India allowed automatic approval for foreign investments up to 74% in pharmaceutical manufacturing.

A senior home ministry official said on condition of anonymity that the ministry has received Shanghai Fosun Pharma's proposal recently and it will be processed. The Bank of China's proposal is, however, not pending with the ministry, the official said.

The delay on the part of the ministry is inexplicable, another person said, because India wants to attract Chinese investments across non-sensitive sectors to build confidence to tide over political differences as much as strengthen bilateral trade.

The Minister of State for External Affairs VK Singh, at a press meet on Wednesday, outlined India's interest in attracting Chinese investments and highlighted progress in the industrial parks that China is setting up in Gujarat and Maharashtra.

China is the 17th biggest investor in India, lagging smaller economies such as Italy and Spain. Between April 2000 and September 2016, India received

$1.587 billion from China as foreign direct investment, according to the Department of Industrial Policy & Promotion.

‘SELF-DEFEATING EXERCISE’

Shanghai Fosun Pharma is part of Fosun International, headed by Guo Guangchang, which has been active in mergers and acquisitions across the globe in sectors ranging from property to finance. The company wants to integrate Gland Pharma with its current business to tap into markets in India, Europe and the US, besides expanding its manufacturing network in India.

Maharashtra Chief Minister Devendra Fadnavis had on his visit to China in 2015 announced the Bank of China’s plan to open a branch in Mumbai, its first in India.

“ Erecting hurdles in granting permission in sectors allowed by the government is a self-defeating exercise in terms of not only economy but also goodwill with a neighbour that is aggressive than ever before,” said an expert, who did not wish to be identified.

Chinese real estate firm Wanda is hoping to make progress with its projects in India, though, having finally acquired land in Gujarat for the industrial park that was announced during Xi’s visit in 2014.

India has said that it wants to increase Chinese investment in the proposed coastal manufacturing zones, high-speed rail networks, clean energy and urban development while ensuring greater access to Indian IT firms in China.

ET View

Don't Dither

Having committed to allowing China to invest in nonsensitive sectors, such regulatory roadblocks or delays are unacceptable. If there are any substantive concerns, these need to be taken up in a systematic and speedy way.

If the reasons for the delay are not conveyed to investors or developers, it would be seen as bureaucratic dither. None of this would help India attract investments it badly needs. The situation must be remedied to improve the ease of doing business

DIPP working on aligning sectoral regulations with FDI policy

http://economictimes.indiatimes.com/news/economy/policy/dipp-working-on-aligning-sectoral-regulations-with-fdi-policy/articleshow/56026705.cms

By PTI | Dec 16, 2016 ISTNEW

DELHI: The government is working to remove all anomalies which are restricting foreign direct investment (FDI) into the country, a top official today said.

Secretary in the Department of Industrial Policy and Promotion (DIPP)

Ramesh Abhishek said that there are certain "sectoral regulations which are not in conformity" with the FDI policy.

"So, we are working on that," he said here at FICCI function.

He also said that the department is working with ministries of health and pharmaceuticals on amending the Drugs and Cosmetics Act, 1940.

Talking about the FDI figures, he said that in the last two and a half years, India has attracted about USD 130 billion, which is a "record".

"We are seeking huge amount of interest in FDI," he added.

When asked about proposals in FDI in food processing, he said that companies are making plans, "so, we are seeing a lot of interest".

On improving India's ranking next year in the ease of doing business report of the World Bank, Abhishek said the DIPP is working on several steps.

"For next year, we are focusing on public feedback because that is important," he said, adding in 2017 improving India's rank is a challenge.

Speaking at the event, Health Secretary C K Mishra said that the "roadmap is ready" for the amendment in the Drugs and Cosmetics Act.

Talking about the road sector, Road Transport and Highways Secretary Sanjay Mitra said that meeting the "stiff target" of 25,000 km is a challenge in the new year.

Minister of Road Transport & Highways Nitin Gadkari has set a target of 25,000 km of National Highways to be awarded in 2016-17 as against the 10,000 km awarded in 2015-16.

"We intend to continue our simplification of our model concession agreement for PPP. We have already taken a large number of steps...But the Finance Ministry is working on a overall umbrella programme for the PPP renegotiation framework. The work is at fairly advance (stage). It will enable us to unlock a larger number of stalled projects," Mitra added.

Government weighs further FDI relaxation in select sectors

http://economictimes.indiatimes.com/news/economy/policy/government-weighs-further-fdi-relaxation-in-select-sectors/articleshow/55114007.cms

By PTI | Updated: Oct 28, 2016

NEW DELHI: Government is considering further relaxing foreign direct investment (FDI) norms in several areas, including trading, with an eye on more inflows.

The commerce and industry ministry is already on the job in this direction, sources said. They said there are certain sticking points in single brand retail trading that need to be reviewed.

In this segment, a big retailer has made a plea to the Department of Industrial Policy and Promotion (DIPP) to look into the issue of putting the maximum retail price labels and re-labeling of goods.

The government may also consider easing certain norms in the information and broadcasting sector, among others, they added.

It had relaxed the FDI policy in November last year. In June this year, it lifted certain restrictions in over a dozen sectors, including civil aviation, food processing, defence and pharmaceuticals.

DIPP Secretary Ramesh Abhishek has recently stated that the government is trying to address specific policy issues in various sectors.

"We are also trying to address specific policy issues in various sectors. We have identified a number of them that remain despite liberalisation in FDI (policy). There could be issues in various sectors," he had said.

FDI in 2015-16 grew 29 per cent to $40 billion.

Agreements signed to increase Chinese investments in India

By: ENS Economic Bureau | New Delhi | Published: October 11, 2016 http://indianexpress.com/article/business/economy/agreements-signed-to-increase-chinese-investments-in-india-3076063/

India has been concerned that it ran close to $53 billion trade deficit with

China in FY16, as cheaper Chinese goods stunted India's manufacturing industry.

With India making it clear that it cannot forever just be a market for Chinese goods without broader economic ties, the government think-tanks of both countries have signed several initial pacts to increase Chinese investment in India's proposed coastal manufacturing zones, high speed rail networks, clean energy, urban development as well as ensure greater access to Indian IT firms in China.

The cooperation agreements were signed between NITI Aayog and its Chinese counterpart National Development and Reform Commission during the 4th India-China strategic economic dialogue held during October 6-7 in New Delhi.

India has been concerned that it ran close to $53 billion trade deficit with China in FY16, as cheaper Chinese goods stunted India's manufacturing industry. Despite getting such a huge Indian market, Chinese investment in India was a paltry $1.3 billion in 15 years through 2015.

Aayog vice-chairman Arvind Panagariya said India needs to learn from China and develop coastal economic zones as China has done in Shenzhen. He wants India to replicate the Chinese model of port-led manufacturing to transform Indian economy from $ 2 trillion in FY16 to possibly $10 trillion in next one-and-half a decade.

With China promoting out-bound investment and India seeking foreign capital and technology, it could enable India to take advantage of the synergies and put in place a vigorous framework to strengthen bilateral investment relationships.

“Both sides agreed to adopt new theme of closer cooperation on coastal manufacturing zone development between the two sides during the next one year and encouraged enterprises of the two sides to grasp opportunities and seek early harvest projects in manufacturing and industrial area like infrastructure, automobile, energy and electronics,” Panagariya said.

With India aiming to increase share of manufacturing in GDP from 16 per cent now to 25 per cent by 2025, it is giving special stress on Chinese companies to set up manufacturing units in the country as it is not feasible for India to remain only a client country. Recently, some Chinese firms such as Huawei and Xiaomi have set up smart phone manufacturing units in India.

In the field of railways, China Railway Eryuan Engineering Group has officially delivered the interim final feasibility study report on the Chennai-Bangalore-Mysore railway upgrade project to Indian High-speed Railway company.

The two sides would now discuss about implementing the project. China Railway Siyuan Survey and Design Company has also submitted a report on the feasibility in Delhi-Nagpur high-speed railways.

In IT, a China-India technology park is being set up in Hainan province that has the potential opportunities for about 2,000 high-skilled Indian professionals, Panagariya said. Both sides will explore greater cooperation in digital India and internet plus programme. The next strategic economic dialogue would happen in Beijing next year. FE

Modi government wants to sign foreign investment pacts with states to create good business environment

http://economictimes.indiatimes.com/news/politics-and-nation/modi-government-wants-to-sign-foreign-investment-pacts-with-states-to-create-good-business-environment/articleshow/53441063.cms

By Dipanjan Roy Chaudhury, ET Bureau | Jul 29, 2016

NEW DELHI: An investment agreement between the Centre and states to ensure that big-capex FDI projects get fair treatment and do not get caught in red tape and disputes - that's the path-breaking policy proposal being discussed at the highest levels of the Narendra Modi government.

ET spoke to key officials familiar with this matter. These officials spoke on the condition they not be identified.

The Centre-state investment agreement, essentially a tool to commit states to creating a good business environment, is being seen as a follow-up measure to India signing a number of Bilateral Investment Treaties (BITs).

There are 73 such treaties, mostly modelled on the 2003 Bilateral Investment Protection Agreements (BIPAs). The current government is replacing BIPAs with BITs. These treaties are aimed at giving fair treatment to major foreign investors. India and the US are negotiating a BIT.

Officials said the draft of the policy proposes that states sign an agreement with the Centre that commits the following: that a foreign investor project will get non-discriminatory treatment, that it will be protected against expropriation, that Investor State Dispute Settlement (ISDS) mechanisms will be set up, and that power of tribunals on awarding of monetary compensation against investors will be limited.

"The central government is selling India globally. However, investment happens in states. Therefore it is incumbent upon the states to deliver," an official said.

Signing such a treaty will not be obligatory for a state, and all states, irrespective of the party in power in a state, will be equally encouraged to sign such a treaty, officials said. Discussions with state governments have also started. Officials pointed out that states that sign such treaties with the Centre may appear to be more attractive destinations for foreign investors.

The Centre-state investment treaty can become a factor in investment competition between states. Many bigticket foreign investment projects have got mired in state-level disputes, most notably Posco's investment in Odisha. Officials said the treaty will provide a signal to foreign investors that all governments in India are serious about creating an investor-friendly environment.

The Modi government has been pushing the idea of creating a better business environment and has started an exercise in ranking states according to investor friendliness. Officials said the Centre-state investment agreement is a logical step in this broad policy.

Data from the Department of Industrial Policy and Promotion shows FDI jumped by 24.5 per cent to $44.9 billion during 2014-15; the figure for 2013-14 was $36 billion.

India wants new foreign investment pacts to limit lawsuits

http://economictimes.indiatimes.com/news/economy/foreign-trade/india-wants-new-foreign-investment-pacts-to-limit-lawsuits/articleshow/53149743.cms

By AP | Updated: Jul 11, 2016

NEW DELHI: India has triggered the escape clause on dozens of bilateral investment treaties, aiming to renegotiate toward securing better protection from foreign litigation.

The notifications, issued earlier this year, effectively let governments know they have 12 months to broker new treaties before the old ones expire. The changes India seeks could make it harder for foreign investors to legally challenge government decisions that negatively affect their businesses in India.

But observers say the move could potentially backfire by spooking investors and ultimately jeopardizing Prime Minister Narendra Modi's top priority bringing in new business from abroad.

Already some have voiced concern.

In a letter to India's commerce and finance ministers, the European commissioner for trade warned that India's notifying "a significant number" of European Union nations could "have serious consequences" if Brussels cannot negotiate a replacement by next April.

"It would create a gap in investment protection and consequently discourage EU enterprises from further investing in India," Commissioner Cecilia Malmstrom said in the letter, dated May 25. Some investors "may perceive the investment climate as deteriorating," while some may be unable to secure financing without treaty protections in place.

"Such an outcome would run contrary to the efforts of attracting more investment to India," the letter said. "I truly hope that India will not opt for such a radical policy shift with regard to investment from the EU."

Investment protection treaties have long been considered a prerequisite to doing business abroad. More than 3,400 such treaties have been brokered worldwide since the first U.S. investment treaties in the 1980s, according to the U.N. Conference on Trade and Development. These treaties generally lay out rules protecting foreign investment and assets. They codify how disputes should be handled, and often guarantee that a government will offer investors the best possible deal.

India may have surprised its investment partners in seeking to revise business relationships, but it is not the first to do so and it is not alone.

Since 2012, according to UNCTAD, at least 60 countries have begun revising investment agreements, including South Africa, Brazil and Indonesia _ all large, developing economies like India.

"Foreign investors are always coming from advanced economies, so they already have the upper hand," said economist and trade expert Biswajit Dhar, a professor at Jawaharlal Nehru University in New Delhi. "The countries that need more investment are the ones worried about giving too much away."

The trend among developing countries stems from a growing feeling that investment treaties, as initially designed by Western nations, give too much protection to investors without safeguarding a country's ability to manage policy or regulations. That puts countries like India _ still working out how to exploit natural resources or farm out telecom licenses _ at a disadvantage in working out their policies, analysts say.

Failing to negotiate replacements before old treaties expire wouldn't necessarily affect all business; existing investments would be covered by the old treaty for a period of about 10-15 years.

But new investments would not be protected, and for a job-hungry nation like India, that could be a problem.

India has been aggressively courting foreign investment and manufacturing to boost its economy. Since taking office in 2014, Prime Minister Modi has spent much of his time visiting foreign capitals and touting his "Make in India" campaign showcasing the country as a manufacturing destination _ with its large labor force, young population and investor-friendly tax regimes.

Yet, India remains at the low end of the World Bank's ease of doing business ranking, currently placing 130th out of 189 countries surveyed. While foreign investment shot up to more than $44 billion in 2015 _ a 65 percent jump from when Modi took office _ the manufacturing drive so far has had lackluster results. The sector accounts for about 15 percent of India's gross domestic product, while employing about 12 percent of the work force.

India entered into its first bilateral investment treaties as it was liberalizing its markets and courting foreign investment in the 1990s. Its first bilateral investment treaty, with Britain, went into effect in 1995, and was followed by more than 80 others.

The idea for renegotiating quickly took hold about five years ago, as it was hit by a series of lawsuits. In 2011, India lost the first case in international arbitration to Australia's White Industries, a manufacturer of metal components that argued that the cancellation of a contract with Coal India violated the terms of Australia's 2000 bilateral investment treaty with India.

Since then, more than a dozen cases have been filed against India, over issues such as retroactive taxation or canceled licenses. Britain-based Vodafone has a case pending with the International Court of Justice for arbitration over a bill for $2.5 billion that India's tax authorities say the company owes for a 2007 asset purchase, based on legislation passed only in 2012. And last month, an arbitration panel based in The Hague began adjudicating a similar dispute over retroactive taxation imposed on Cairn Energy, an oil and gas exploration company based in Scotland.

"India is understandably worried about being held hostage by investors," said Dhar, the New Delhi professor. "It is very bad publicity to get caught up in disputes where the government looks helpless."

Still, India's sudden move to renegotiate 47 treaties, by some reports, was jarring.

"It's a huge number," Dhar said. "I'm worried about how it's going to play out in the next year."

Modi's government had signaled its plans to renegotiate the treaties in 2015, when it adopted a new "model" pact by which it said all future bilateral investment treaties should be drafted.

"Our Cabinet has approved a bilateral model _ the new terms," Finance Minister Arun Jaitley told The Associated Press recently in Beijing. "We are entitled to ask for a renegotiation, in terms of the new terms, of the changed agreement that we have drafted. And these will all be subject to negotiation with our foreign partners."

But in notifying dozens of governments this year, India's timing couldn't be worse. With the world economy reeling after Britain's vote to exit the European Union, governments may decide that negotiating new investment treaties with India is not a priority, analysts said.

Jaitley assured that the "structural changes" would not hurt business prospects. "These remain investor friendly," he said. The changes were being sought from "some governments," he said, but declined to say which or how many.

But the changes India seeks could mean negotiations take longer than India expects. India's treaty template deviates from others worldwide in a number of ways that will give investors pause, including removing the possibility of international arbitration over disputes relating to taxation or licensing.

Even in non-tax cases, under the new model treaty terms, foreign investors would have to exhaust all Indian judicial avenues for resolving a dispute before appealing for international arbitration. Given the notorious backlog in Indian courts, with some cases languishing for decades, this could prove an obstacle for investment.

It also does not include a most favored nation clause _ a standard provision designed to ensure that investors are being given the best terms available.

Still, the new terms may not matter to investors if they can still envision profits through investing abroad.

"Some of these changes are inevitable, and this is not just India," said Sachin Chaturvedi, head of the Research and Information System for Developing Countries think tank in New Delhi. "What governments are doing are insulating the system from any kind of legal tangle they may end up in. And once the rules and regulations are streamlined, there will be more predictability for investors.

Even if India does manage to reach dozens of new bilateral investment agreements within a few months, analysts say it may do damage just by reneging on past agreements and forcing new negotiations with little time to spare.

"India doesn't really have the bandwidth to address all of the countries wanting to work in the country now," said Dipen Rughani, the immediate former chairman of the Australia India Business Council. "Modi's done a fantastic job of traveling around the world and garnering interest. But there are risks that have to be addressed."

Australia _ which recently concluded more-comprehensive free-trade pacts with China, South Korea and Japan _ has seen its talks started with India in 2011 on a comprehensive economic partnership agreement stall, though its $16-18 billion in bilateral business was still covered by an investment treaty in force since 2000.

"If this agreement is going to be revoked, then I think it's going to be very hard to attract the kind of investment" India is looking for, Rughani said.

Relaxation of foreign investment rules credit positive - Moody's

http://economictimes.indiatimes.com/news/economy/finance/relaxation-of-foreign-investment-rules-credit-positive-moodys/articleshow/52934261.cms

By Reuters | Updated: Jun 27, 2016

MUMBAI: India's decision to relax foreign direct investment in sectors including defence, aviation, and retail is a positive development for the country's sovereign ratings, said Moody's Investors Service on Monday.

"The announcement is credit positive because it demonstrates a continuation of reform momentum and paves the way for private investment and a boost in productivity," said Moody's.

India announced last week sweeping reforms to rules on foreign direct investment and easier terms for investors in sectors ranging from civil aviation to pharmaceuticals.

But Moody's warned reforms have stalled in passing a revamped goods and services tax and land acquisition rules.

"We expect that political division will keep the reform process uneven and slow-moving," Moody's said.

Moody's currently rates India at "Baa3", the lowest investment-grade rating, with a "positive" outlook.

SEBI eases foreign investment rules in government bonds

http://economictimes.indiatimes.com/markets/stocks/policy/sebi-eases-foreign-investment-rules-in-government-bonds/articleshow/46864690.cms

By Reuters | Apr 09, 2015

MUMBAI: Market regulator has allowed foreign investors to reinvest in government bonds the same day, according to a emailed circular seen by Reuters, hoping to sustain outside interest in the country's debt market.

India limits the amount of government bonds available to foreign investors, and some 90 per cent of that allocation was filled in September last year, following the election of Prime Minister Narendra Modi's government earlier in 2014.

Levels of foreign investment have since risen, with the Securities and Exchange Board of India (SEBI) auctioning the remaining portion at frequent intervals.

However, foreign investors who bought government bonds before September had been unable to switch those bonds to different tenors - once debt was sold, they could not buy back in without going through the lengthy auction process.

"This will revive foreign investor interest in government bonds and help investors to switch to longer end bonds from shorter end, given a benign interest rate outlook in India," said Ajay Manglunia, head of fixed income markets at Edelweiss Securities.

Allowing foreign investors to reinvest in sovereign paper could also indicate that the government has no intention of relaxing overall limits on their investment anytime soon, Manglunia added.

SEBI, in an email sent late on Wednesday to the custodian banks of foreign investors and seen by Reuters, said the facility to buy and sell government bonds the same day would be applicable on the entire $30 billion ceiling on government debt purchases by foreign investors.

"Upon sale or redemption or maturity of government securities the FPIs (foreign portfolio investors) shall be permitted to buy government securities on the same day," SEBI said in the email, confirmed by four dealers.

Foreign investors have been aggressively buying debt since Modi came to power in May, promising a quicker and stronger economic recovery.

The benchmark 10-year bond yield has fallen by 104 basis points since May last year driven by foreign buying.

Foreign investors have poured in $7.9 billion so far this year into Indian debt, on top of $26.2 billion in 2014.

Cabinet relaxes rules for foreign investment in real estate

http://economictimes.indiatimes.com/news/economy/policy/cabinet-relaxes-rules-for-foreign-investment-in-real-estate/articleshow/47180270.cms

By Reuters | May 06, 2015

NEW DELHI: Cabinet on Wednesday relaxed rules to allow foreign funds to invest in real estate investment trusts (REITs), a move designed to revive the country's capital-starved property sector.

New Delhi introduced REITs last year to pool in capital from overseas and help developers reduce their debt.

But provisions in the country's Foreign Exchange Management Act (FEMA) have, thus far, prevented actual investment flows.

The FEMA governs cross-border transactions.

"The approval is expected to enable foreign investment inflows into the completed rent-yielding real estate projects, which is, as of now, prohibited," the government said in a statement.

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Dissertations 学位论文

India's International Investment Agreements and India's Regulatory Power as a Host Nation

PrabhashRanjan/ PhD Thesis, King's College London, 2012

Abstract: There has been an exponential growth in International Investment Agreements (IIAs), signed by countries to protect foreign investments, in last two decades. These agreements provide broad standards of treatment and give

private investors the right to challenge allegedly treaty-inconsistent regulatory actions of sovereign countries at international arbitration. Over the last decade or so, such investor-state disputes have increased manifold where all sorts of regulatory actions, like urban policy; health policy; monetary measures; taxation, property rules, environmental policy, have been challenged by private investors. These developments have not only brought the investor-state dispute settlement system under the scanner but have also made it imperative to critically review the substantive law the investor-state tribunals apply i.e. the IIAs. In this light, this thesis will critically analyse Indian IIAs, which have not been subjected to detailed research yet, despite India's gigantic IIA programme and India's increasing integration with the global economy. This thesis will analyse the provisions on fair and equitable treatment; expropriation; monetary transfer; and non precluded measures (NPM) in 73 Indian IIAs from the perspective of India's regulatory power as a host nation. The thesis hypothesises that the present formulations of these four provisions, in Indian IIAs, are capable of being interpreted in a manner that gives precedence to investment protection over India's regulatory power to adopt policies and measures directed at achieving legitimate policy objectives. Hence, the thesis concludes that these provisions in Indian IIAs should be reformulated in a manner that balances investment protection with India's regulatory power.

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2308853

Books 专题著作

India: The Business Opportunity: A Practical Legal and Regulatory Handbook

ByLinda S. Spedding

Publisher: Beck/Hart; Har/Psc edition (August 11, 2016)

ISBN-13: 978-1509909926

Abstract: As India begins its second generation reforms and further opens up its economy and integrates it with the rest of the world, it has changed and overhauled many of its laws and regulations. For any foreign investor planning to invest in India, either in partnership with an existing Indian corporation or business or on their own, it is important to be aware of and have the information of the legal and regulatory framework that will govern entry into India. This book broadly covers almost all the legal and regulatory aspects that a foreign investor expects to face in the journey into India. The book has been divided into eighteen chapters. It covers the legal and regulatory aspects of the following: an overview of India; entry strategies and foreign investment regulations; a note on responsible business; reputation risk management; mergers and acquisitions;

capital markets; debt financing; corporate governance; labour and employment; intellectual property; competition and unfair trade practices; infrastructure; direct taxation; indirect taxation, including a note on the proposed unified goods and services tax which will subsume all current indirect taxes and levies; arbitration; environment; cyber framework; and a final chapter on India as the choice to do business in. All these chapters have been authored by experts in their respective fields and they are managing partners, partners or heads of divisions in their respective firms, and organizations based out of India and abroad.

Introduction to Arbitration in India: The Role of the Judiciary

By Tushar Kumar Biswas

Publisher: Wolters Kluwer Law & Business (January 20, 2014)

ISBN-13: 978-9041147653

Abstract: Courts in different national systems vary with respect to how interventionist they are in the arbitral process. In recent decades, as India has entered the ranks of the world's major trading nations, the role of its judiciary in the matter of arbitration has increasingly been the subject of debate, as a result of a number of controversial decisions given by the courts. Is the role that has been played by the judiciary justified? That is the central issue of this distinctive book, the first to investigate and analyse the efficacy of international commercial

arbitration in the Indian legal context.

The author's thoroughly researched interpretation of the role of the Indian judiciary draws on the scheme and the scale of the Arbitration and Conciliation Act, 1966 (based largely on the UNCITRAL Model Law) and the relevant provisions of the Code of Civil Procedure Amendment Act, 1999. Although the purpose of these legislative initiatives was expressly to forestall the all-too-common resort to intervention by a court during the arbitral proceedings as a delaying tactic--more often a source of abuse of the arbitral proceedings than a protection against abuse--proceedings under the Act have, with very few exceptions, been challenged in the courts, thus surrendering them to the already superabundant arrears of pending cases at various levels of the judicial system and discrediting the arbitral process.

Analysis of the role of the Indian Judiciary focuses on the followings areas:

- matters relating to appointment of arbitrator;
- availability and applicability of interim measures;
- the doctrine of competence competence;
- challenging the arbitrator in respect of independence and impartiality;
- anti-suit injunctions;
- setting aside of arbitral awards or refusal to enforce foreign awards;

- right to appeal in arbitration under Indian laws; and
- judicial delay and denial of justice.

The upshot of this very detailed analysis is to provide inputs of possible reforms that will bring India more efficiently into line with trends in global commerce. As a study of the "judicialization" of the arbitral process, this book is of much wider value than merely the context of India would suggest. Moreover, as a contribution to the debate over the "denationalizing" of international commercial arbitration--or detaching it from the fetters of national legal systems--this book is of prime importance to businesses and their counsel worldwide.

Foreign Investments in BRIC Countries: Empirical Evidence from Multinational Corporations

By Thomas Poplat

Publisher: Peter Lang GmbH, Internationaler Verlag der Wissenschaften; 1st New edition edition (November 25, 2013)

ISBN-13: 978-3631648872

Abstract: Investments in BRIC countries have been a main driver of the significant increase of cross-border investment activity in recent years. But investments in these emerging economies entail significant risks as institutional

voids, host governments and national champions dictate the local business conditions for multinationals. This study investigates decision processes underlying cross-border investments in BRIC countries and discusses their critical success factors. The empirical results show how internal and external forces influence corporate decision-making efficiency. Moreover, the study highlights country-specific challenges for corporations which consider investing in BRIC countries.

The BRIC States and Outward Foreign Direct Investment

By David Collins

Publisher: Oxford University Press (May 10, 2013)

ISBN-13: 978-0199652716

Abstract: This book examines the relatively recent and under-explored phenomenon of outward foreign direct investment (FDI) from the large emerging market countries, focusing on the four BRIC states (Brazil, Russia, India, and China) and on the services sector meaning primarily telecommunications, finance, and transport. It considers the international legal framework governing FDI, discussing the nature and extent of the bilateral and regional investment treaty commitments undertaken by each of the BRIC states, including their commitments under the WTO General Agreement on Trade in Services, as well as their obligations as members of the International Monetary Fund and the World

Bank.

Drawing on trends observed in the regulatory approach of these countries to FDI in services, including the observed flow of FDI both to and now from the developing world, the book proposes a multilateral investment treaty aimed at the liberalization and protection of FDI in services. The treaty will capture the emerging equilibrium in global FDI patterns signifying a unified approach to the regulation of foreign investment in the growing services economy by developing and developed economies alike. The treaty will strengthen the legitimacy of investor-state dispute settlement and recognize public interest norms such as environmental protection and human rights as well as allow signatories to retain sovereignty over matters relating to national security and economic stability.

Capital Market in India: Reforms and Regulations

By Deepak R. Raste

Publisher: New Century Publications (July 31, 2011)

ISBN-13: 978-8177082869

Abstract: Prior to the onset of reforms in 1991, the capital market structure in India was subject to several controls and opaque procedures. The trading and settlement system was outdated and not in tune with international practices. The raising of capital from the securities market was regulated by India's Capital

Issues (Control) Act, 1947. Under it, companies were required to obtain approval from the Controller of Capital Issues for raising funds in the market. In 1992, the Act was repealed and, with this, ended all controls relating to raising of funds from the market. Issuers of capital, however, are required to meet the guidelines of the Securities and Exchange Board of India (SEBI) on disclosures and protection of investors. As part of the capital market reforms, the regulatory authorities in India have been quite active in governing and watching matters related to capital issues. Companies have also tapped new sources of domestic and international equity/debt to redesign and strengthen their capital structure. This book gives a vivid account of capital market reforms in India. More importantly, it analyzes the impact of regulatory policy changes on the capital structure of Indian companies.

Foreign Direct Investment inflows in India-Policies and Practices

By Singh Yoginder

Publisher: LAP Lambert Academic Publishing (April 13, 2015)

ISBN-13: 978-3848437085

Abstract: Foreign Direct Investment is playing a prominant role globally in the economic growth and development of the nation. The Concept of Foreign Direct Investment is now a part of India's economic future but the term remains vague

to many, despite the profound effects on the economy. FDI is allowed up to 51% investment in single brand retail but government is going to open the doors for Multi Brand investment. India is the second most attractive destination for FDI globallyfrom among thirty emergent markets so foreign investors are curious to invest in India in so many sectors. It has made India the cynosure of many foreign eyes. FDI in multi brand can effect our economy by so many way. Government of India is now easing the entry norms for the foreign players to participate in the mission of make in India.