



Foreign Direct Investment

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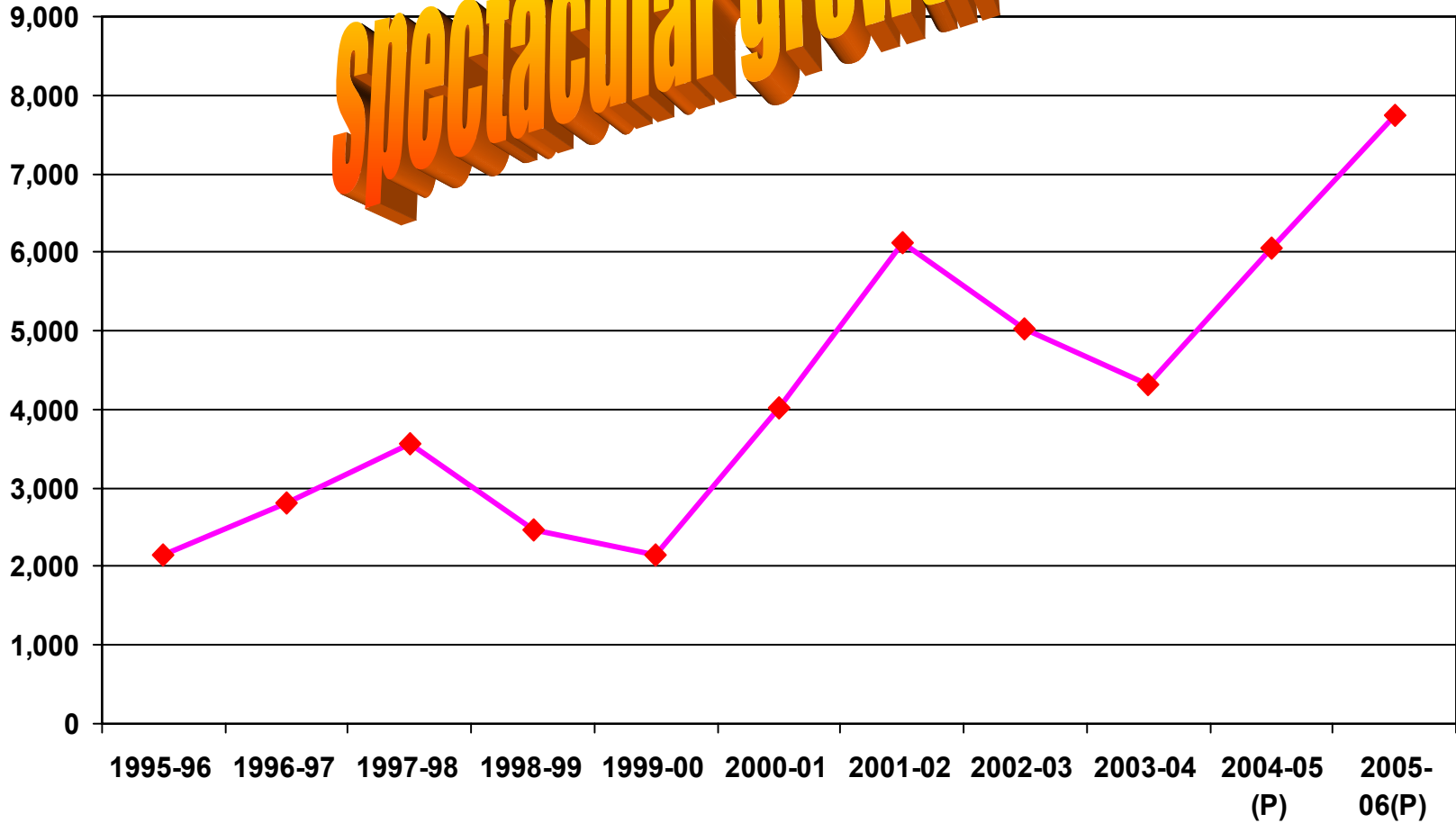
- FDI is soaring high in recent years.
- Developing countries have shared in the growth in the FDI inflows, and quite a few of them have become a source of outflows.
- Foreign investment in form of loan or equity has been an important source of capital for growth in developing countries.
- Equity investment can be either indirect (portfolio) or direct known as “**Foreign Direct Investment**”

WHY INDIA?

- 7th Largest Country, 2nd Most Populous Country
- Easy access to the entire south-east Asia region
- 4th Largest Economy in terms of PPP
- One of the most exciting emerging markets in the world (300 million consumers)
- Free and vibrant press
- A well established judiciary
- A sophisticated legal and accounting system
- A user friendly intellectual infrastructure
- India's dynamic and highly competitive private sector has long been the backbone of its economic activity and offers considerable scope for foreign direct investment, joint ventures and collaborations.

Foreign Direct Investment in India(US\$ Million)

Spectacular growth



MODES

- EQUITY SHARES
- PREFERENCE SHARES
- CONVERTIBLE DEBENTURES
- The Indian companies also have general permission to issue partly convertible debentures/partly convertible preference shares subject to certain conditions. Companies can issue NCDs only to NRIs/PIO by means of a public issue only. The coupon rate on partly convertible preference shares/partly convertible debentures should not exceed SBI's prime lending rate plus 300 basis points.

PATH FOR FDI

AUTOMATIC

APPROVAL

APPROVAL ROUTE [Government of India, the Secretariat for Industrial Assistance/Foreign Investment Promotion Board (SIA/FIPB)]

- 1. Activities Mentioned in ANNEXURE A(ex-Defence and Strategic Industries)**
- 2. Any Investment beyond the sectoral cap as specified in ANNEXURE B**
- 3.If the issuer company requires an INDUSTRIAL LICENSE under the provisions of the IDRA or under the locational policy notified by Government of India under the Industrial Policy Resolution 1991**
- 4.Non-resident investors who have/had a previous financial/technical/trademark collaboration in an existing domestic company engaged in the SAME OR ALLIED ACTIVITY**

Prohibition on Investment into India

Investments into India is not permissible in the following cases

- (i) Business of chit fund, or
- (ii) Nidhi Company , or
- (iii) Agricultural or plantation activities or
- (iv) Real estate business, or construction of farm houses
- (v) Trading in Transferable Development Rights (TDRs).
- (vi) **Retail Trading**
- (vii) Atomic Energy
- (viii) Lottery Business
- (ix) Gambling and Betting
- (x) **Housing and Real Estate business**
- (xi) Agriculture (excluding Floriculture, Horticulture, Development of Seeds, Animal Husbandry, Pisciculture and Cultivation of Vegetables, Mushrooms etc. under controlled conditions and services related to agro and allied sectors) and Plantations (other than Tea plantations)

REAL ESTATE

- Investment in the Indian real estate sector is now permitted through the "automatic route", i.e. without requiring the additional approval of the Foreign Investment Promotion Board.
- Real Estate includes construction and project development related to both residential and commercial development in (i) housing townships; (ii) commercial office space; (iii) hotels and resorts; (iv) hospitals; (v) educational institutions; (vi) recreational facilities; and (vii) city and state level infrastructure.
- 100% FDI is permitted under the automatic route subject to some conditions.

REAL ESTATE

Project Conditions

- * In residential development, the minimum land area must be 10 hectares (approximately 25 acres)
- * In commercial development, the minimum land area must be 50,000 square meters (approximately 540,000 square feet)
- * If the project combines residential and commercial development, either one of the above conditions may be satisfied
- * At least 50% of the project must be completed within five years from the date of obtaining all statutory clearances
- * The project must comply with all local land use guidelines
- * The sale of undeveloped land is not permitted, i.e. the developer may purchase undeveloped land but must develop the land before selling it further

Financial Conditions

- * Minimum capitalization requirement of US\$10 million for wholly-owned subsidiaries of foreign companies and US\$5 million for joint ventures with an Indian partner
- * Capital must be brought into India within six months of incorporation of the subsidiary or joint venture
- * Holding period of three years on repatriation of any of the initial investment unless with the prior approval of the Foreign Investment Promotion Board.

TRADING COMPANIES

- 51% foreign equity under Automatic route provided trading companies carry export activities and the undertaking concerned is an export house/trading house/ super trading house/star trading house
- OPENING up the retail sector
 - With FDI expected to cross \$12 billion this financial year, the imperative to re-define parameters is being felt in the government
 - Beneficial for India in terms of price and availability of products, according to the World Bank.
 - Reliance Industries Ltd entering the retail business in a big way, Bharti group has also tied-up with Wal-Mart to play a significant role in this growing sector.
 - Many other Indian business group have been in close consultation with overseas players such as Carrefour and Tesco to grab the opportunity that organised retail business offers in India.

ADR/GDR

- *Issued in accordance with the Scheme for issue of Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 and guidelines issued by the Central Government thereunder from time to time.*
- *The Indian company issuing such shares has an approval from the Ministry of Finance, Government of India to issue such ADRs and/or GDRs or is eligible to issue ADRs/ GDRs in terms of the relevant scheme in force or notification issued by the Ministry of Finance, and*
- *Is not otherwise ineligible to issue shares to persons resident outside India in terms of these Regulations.*
- *These instruments are issued by a Depository abroad and listed in the overseas stock exchanges like NASDAQ.*
- *The ADR/GDR can be issued on the basis of the ratio worked out by the Indian company in consultation with the Lead Manager of the issue.*
- *A limited Two-way Fungibility scheme*

APPLICATION AND PENALTY

- **Application for all FDI cases,
Except Non-Resident Indian (NRI)-FIPB
Unit, Department of Economic
Affairs, Ministry of Finance.
NRI investments-SIA, Department of
Industrial Policy and
Promotion.**
- **Penalty**
 - **Thrice the sum involved in the transaction,
or Rs. 2 lacs, if the amount is not
quantifiable.**
 - **The adjudicating authority deciding any
contravention can also confiscate any
currency security or any other property.**

REGULATING BODIES

- **SECRETARIAT FOR INDUSTRIAL ASSISTANCE (SIA)**
- **FOREIGN INVESTMENT PROMOTION BOARD**

The present constitution of FIPB is

- (i) Secretary, Department of Economic Affairs - Chairman
 - (ii) Secretary , Department of Industrial Policy & Promotion - Member
 - (iii) Commerce Secretary – Member
 - (iv) Secretary (Economic Relations), Ministry of External Affairs – Member
- **FOREIGN INVESTMENT IMPLEMENTATION AUTHORITY (FIIA)**

FUTURE INDIA

- ❖ Changing from a restrictive regime to a liberal one
- ❖ Increasing FDI inflow in the country.
- ❖ Potential for absorbing greater flow of FDI in the coming years.