CHAPTER III

HISTORICAL ORIGIN AND GROWTH OF TRANSNATIONAL CORPORATIONS

Early History

The history of the modern multinational corporations is supposed to have its roots in the companies of merchant traders of mediaeval Venice, and the English, Dutch and French trading companies of the seventeenth and eighteenth centuries.¹ But it is important to recall that in the ancient civilizations, the first travelling merchants emerged and such travelling merchants were private individuals who traded across the frontiers of their lands in products produced by the skills and resources of the people of the home country. It is not customary to recognize in contexts such as these, the historical evolutions of institutions in the East. It must be set down for record, however, that there existed in the countries immediately before the Christian era and in the early century of the Christian era flourishing sea-faring trade with permanent

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establishments between India and Malaysia, between India and Indonesia, and also between India and Rome. An early Jataka story tells of ships sailing from the port of Bhrgukachcha to a place called "Baveru" which must be Babylon.3 "The Pali Questions of Milendra", probably of the first century A.D. mentions the possibility of a merchant sailing to Alexandria, Burma, Malaya and perhaps to China. With the decline and fall of Rome, the trade with the West declined and the trade between India and China increased, particularly between South India and China.4 The ports of Tamralipta, Musiri, Korki and Kaveripattinam are well-known in ancient history as ports from which transnational trade operated. However, the main distinction between these early transnational traders and the modern multinational corporations lies in the fact that the early trading activities never indulged in exploitation nor did they bring the home country and host country into conflicts.

Till the industrial revolution, the East dominated the international trade. There was no question of international investment those days. It was industrial revolution which brought a reversal in the pattern of trade and revolution in the patterns of production. As Mathew J. Kust remarks:

4 n. 2, op. cit., p. 226.
At certain periods of history, mankind achieved major break-throughs in its accumulation of productive technology. The industrial revolution was such a major break-through when man learnt to harness the foremost of mechanics and chemistry after centuries of dependence on human and animal power. As long as technology was dependent on the latter, India was the foremost manufacturer in the world because she had evolved a suitable socio-economic organisation and performed the human skills and techniques for the purpose. (5)

The industrial revolution is a product of the later half of the eighteenth century and the first half of the nineteenth century. 6 Within a period of twenty years, i.e. between 1765 and 1785, several inventions appeared, particularly in the textile fields and these inventions set a chain of further changes in the industrial techniques of production. Industrial revolution was not confined only to Great Britain though it was certainly a pioneer in the matter of inventions. In France, attempts were made at the time of Nepolean Bonaparte to introduce mechanization of industry and developments in this direction were completed during the time of Nepolean III. Germans followed in the eighties of the nineteenth century and Russia also received the benefits of industrial revolution in the last decade of the last century. 7

5 Mathew J. Kust, Foreign Enterprises in India - Laws and Policies

6 The term "industrial revolution" was first coined by Arnold Toynbee in 1884. However, Southgate states that it was used earlier by a French writer Blanqui, as early as 1837, and later by Engels and Karl Marx. C.W. Southgate, English Economic History (London, 1954), p. 115.

7 Ibid., p. 121.
An important result of the industrial revolution was the emergence of industrial organizations and a commanding position taken by capital in the new economic order. The new pattern of production greatly increased the variety and volume of manufactured goods coming out of the factories, widening in this process the scope for employment and increased demand for goods. Technology was, for the first time, recognized as necessary and engineers were used in the construction of machinery. The increased output from the factories was more and therefore a necessity arose for development of exports.

Fillip to export trade already existed in the Charters issued to the great companies, such as "The Muskovi Co." (1553), "The Turkey Co." (1581), "The East India Co." (1600), "The Hudson Bay Co." (1670), "The Royal African Co." (1672), and "The South Sea Co." (1711). These companies had trade establishments in several parts of the world and had some of the features of the modern multinational enterprises.

Early US Corporations

In any historical account of the multinational corporations, the activities of US based corporations must form an important chapter for the reason that the impact of US enterprises operating in foreign countries is great and
still growing and, although there may be pauses in this process, there is every reason to suppose that the impact will grow still. The joint stock corporation in the USA started to take shape following the Civil War and the stability that followed it. Ironically, however, the growth of this combination in corporate form was not so much with the motive to make profits as to arrest the declining profits as a result of competition among the various business firms. It was stated before the Industrial Commission (1889) that the chief motivating force for business combinations was competition, which was so vigorous that "profits of nearly all competing establishments were destroyed".

Once the process of combination started growing, it led to monopolistic integration, as illustrated in the case of The Standard Oil Co. Initially, the business integration was in the form of pools - a loose organization of members, which, to get rid of competition, allocated the business among themselves. These pools became unattractive after 1887 when the inter-state Commerce Act declared "Rail-Road Pools" illegal. Then, these pools were succeeded by "trusts", under the terms

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of which stock-holders deposited with the Board of Trusts all their stocks and received trust-certificate for their holdings entitling them to a share of the profit, but without any voting rights. A formal trust of this type was set up in 1882 in the case of The Standard Oil Company, whose management was entrusted to a Board of nine men. Soon this form of business caught the imagination of other trade and it spread to commodities like sugar, cotton, steel, oil and whisky. When these combinations suddenly became strong and tended to operate on monopolistic lines, they became unpopular. Public anger manifested itself in the formulation of "Anti-Trust Laws" by a few individual States and by the Federal government in 1890. Court actions were started and after three years many of the trusts were dissolved and were succeeded by a new form of business organization known as "the holding company". 10

The holding company was the dominant form of business organization in the US till 1907. Most of the great US corporations had taken on this new garb; the leading example of the holding company was the US Steel Corporation which combined eleven constituents controlling 170 concerns. When the holding companies began to consolidate further by amalgamations and mergers, the Roosevelt administration countered the move with vigorous application of 'Anti-Trust Laws' and secured conviction

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10 A holding company is a company which holds the entire share capital or a major portion of the share capital of other companies.
in many cases. This produced a new form of combination in which several units, instead of formally uniting, had a common Board of Directors under a system of inter-locking directorates. This can be said to be the germ of central management and control, which is one of the techniques adopted by the modern multinational corporations.

There has thus been a continuing war between the administration and business, the former trying to curb monopolistic combines and the latter trying to use all its ingenuity in taking on new incarnations for maximising business efficiency and profits. The armoury used by the administration in this regard were in the main the Sherman Act and the Clayton Act. Though the initial intention was to use the provisions of these Acts for curbing activities which restricted competition within the US, a gradual development of extra-territorial application of the provisions of these two Acts has led to serious conflicts between the US and the other countries when the activities of US subsidiaries were sought to be brought within the jurisdiction of US courts under what was known as "effects" doctrine of jurisdiction. According to this USA may "impose liabilities, even upon persons not within its allegiance, for conduct outside its borders that has consequences within its borders that the state represents." 11 This will be examined in greater detail in

greater detail in subsequent chapters and it would suffice to know that some of the notable victories gained over the emerging economic giants were in the case of North Securities Co., The American Tobacco Co., and the Standard Oil Co.

For administration of the provisions of the Anti-Trust Laws, a federal trade commission was appointed under the Federal Trade Commission Act, with powers to investigate any corporation engaged in commerce, except banks and common carriers, and to require from them annual and special reports and other information. Even during President Wilson's administration, this Federal Commission received 2,000 complaints of unfair competition, bribery and false advertisement.

Soon after 1914, however, there was a relaxation in the application of these laws and the US Government deliberately allowed the combines to grow in and across the frontiers of US, having become aware of the advantages of large scale production and the pent up demand for goods abroad in countries ravaged by the First World War.

As big industrial business emerged in the 1880s and 1890s, their activities became subject of wide-spread criticism. Thus, Henry Demarest Lloyd became one of the most popular of an increasing number of critics. The Standard Oil Company and its virtual monopoly of refining was the target of attack in Lloyd's widely read book of 1894, Wealth Against Commonwealth, Pre-1924 and later Multinational Corporations.
Before the First World War, various multinational corporations had emerged. It is claimed that William Lever of Britain founded the first real multinational firm when he established manufacturing and distributing agencies in many foreign countries controlled by a strong organization exhibiting the characteristics of a modern multinational. However, Christopher Tugendhat thinks that the Singer Sewing Corporation has the strongest claim to be regarded as the first multinational corporation because it was the first company to manufacture and mass market a product in basically in and under the same printed name all over the world.

Be that as it may, among the pioneers, the names of Friedrich Bayer, a German who took a share in an aniline plant in Albany in New York in 1865; Alfred Nobel, the famous Swede, who set up an explosive plant in Hamburg; Singer which established its first overseas factory at Glasgow; and Jurgens, a Dutch margarine manufacture which built a factory in Germany, may be mentioned.

When US started going abroad, it did so in the characteristic US way - in a big way. In 1901 the American-owned Westinghouse in England was the biggest industrial plant in the whole of English soil. Rockefeller's Standard Oil was

the largest oil company in Europe, and by 1914 Ford was producing a quarter of the cars produced in Britain. National Cash Register, Eastman Kodak and General Electric had all established their overseas plants. The Committee of Finance of the US Senate (hereinafter referred to as Tariff Commission Report, 1973) has illustrated the following corporations as having become multinationals prior to the second world war:

(1) Caterpillar Tractor
(2) Chrysler Corporation
(3) Firestone Tyre & Rubber Co.
(4) Ford Motors
(5) General Electrical
(6) General Motors
(7) I.B.M.
(8) International Harvester
(9) Singer
(10) Coca Cola
(11) Eastman Kodak
(12) National Register
(13) Quaker Oats.

In certain cases the initial suggestions to establish a subsidiary by an American company came from a foreign national.

15 Ibid.
company which wanted to utilize the American technology and capital. An early expansion of Ford Motor Company came this way. It was Gordon MacGregor who approached Henry Ford in 1903 for establishing Ford in Canada, and it was Perceval Perry of Britain who initiated the scheme for the British Ford at Dearborn. It was not as if America had started economically invading Europe. There were reverse incursions also. The British Courtolds acquired control over the US Rayon industry through its subsidiary, American Viscose Corporation, and the binational Royal Dutch Shell became a force in the oil industry in US. In dyes and chemicals US producers were beaten by the Germans and Swiss. But in spite of this European inroads into the American market, it was insignificant compared to the American dominance of the European market. As early as in 1902, a book by Mackenzie, The American Invaders, cried:

America has invaded Europe, not with armed men, but with manufactured goods. Its leaders have been captains of industry and skilled financiers whose conquests are having a profound effect on the lives of the masses from Madrid to St. Petersburg. Our aristocracy marry American wives, and their coachmen are giving place to American-trained drivers of American-built automobiles.... Our babies are fed on American foods and our dead are buried in American coffins. (16)

16 Tugendhat, n. 13, p. 16.
Much the same outburst was to be heard 65 years later when Jean Jacques Servan Schneiber's *Le Defi American* came out.

**Cartelization by MNCs**

The next stage in the evolution of multinational corporations is for the industries in the same product line operating in different countries to agree on cartelization. Such agreements restricted international competition and made it possible for the giant industries to grow in strength with advanced knowledge of technology and power provided by easy finance by multinational banks operating side by side with manufacturing industries.

It may be of interest in this connection to know how Du Pont and ICI came together for a multinational integration. George W. Stocking and W. Watkins* pointed out that Dupont and ICI combination illustrated how cartelization of a particular industry within a country was merely regarded as a first step towards an agreement with similar concerns abroad. This combination spread out to capture chemical manufacture of the world. Three major groups, viz. Imperial Chemical Industries (ICI), Du Pont, Allied Chemical & Dye Corporation Inc., IG Farbenindustrie AG dominate the field. A Chart showing the organizational chain of ICI group with its overseas affiliates is at Annexure III. This chart reflects the position as in 1952 and is only indicative of the spread.

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According to the latest figure - the 'sales' of ICI comes to 7.46 billion in US dollars. 17

Present Trend and the US Supremacy

In the years between the two world wars and the period immediately following it, while Europe lay ravaged by war and was suffering under economic crises the US economy prospered. The internal economic structure in the US economy had responded quickly to the growth demanded by not only the vast domestic demands but also demands for establishing consumer and capital industries in Europe and several parts of Asia. It may be mentioned in this connection that the extension of multinational enterprises based in the US had already started in the 30s of this century in the Latin American countries after the US industrial empire had spread to Canada in the north and Mexico in the south. While the geographical proximity and the vast demand, existing and potential, could explain to some degree the American industries' domination of the Western Hemisphere, the spread of the US enterprises into Europe and Asia was facilitated by certain peculiar factors:

(1) Between the years 1880 and 1890, the US went through a period of industrial concentration and over 5,000 companies

17 See Fortune, August 1977, p. 225; and also Tugendhat, n. 13, p. 20.
were consolidated into 300 trusts. This combination made it necessary to plan and operate on a scale which brought surpluses far beyond the capacity of the home market to absorb and, therefore, forced the giant combinations to seek export markets. The huge profits earned in the home market were adequate inducements to establish subsidiaries abroad, even if it meant incurring loss in the initial period, which could be absorbed. Further, the tax policy of the US, in not taxing the income of the foreign subsidiary unless repatriated, encouraged the starting of subsidiaries.

After the Second World War, the Marshall Plan generated a flow of $17 billion of foreign aid to Europe during 1948-52. In the next two decades, the Europe's per capita income rose dramatically and effective consumer demand for American goods also rose sharply. This helped the US industries to move quickly to take opportunities in the European market and, as Raymond Vernon remarks: "The Marshall Plan may have been principally a political vehicle by which expansionist U.S. business were helped by US government to gain foothold in the weakened European economy." 19

(ii) Immediately after the war, many of the countries in Europe and Asia, both developed and underdeveloped, had been competing with each other to get the US enterprises invest in their countries for the purpose of development. In the countries which had experienced colonial rule of the British, the Dutch and the Portuguese, the preference was for the US enterprises because of the psychological dislike of enterprises associated with the erstwhile colonial masters. This competition among nations enabled the US enterprises to bargain for fiscal and trade concessions enabling them to establish branches and subsidiaries and reap high profits.

(iii) For many years the European governments were short of foreign exchange and hence they could not invest abroad.

(iv) Immediately after the Second World War, the Pound Sterling lost its preeminent position as an international currency to the Dollar, but there was an acute shortage of Dollars in Europe till 1960. The US companies were ready to invest abroad and this was encouraged by the US Government itself. The US Government did not wish to come out openly for financial assistance and guarantees needed to launch Europe on the road to economic recovery. Since a direct aid by government agencies had many obstacles to tide over, the administration felt that the US companies could be a convenient tool to achieve this objective. "It exhorted
companies to go overseas and took practical steps to help them by negotiating double taxation agreements with a large number of governments and by guaranteeing their investments against restraints on the repatriation of profits. 20

(v) The tariff and quota restrictions imposed as a precautionary methods by many governments impelled many US enterprises to jump over the wall, as it were, by establishing local plants, thereby circumventing tariff quota and exchange controls.

(vi) The Anti-trust legislation viz., the Sherman and the Clayton Acts, also proved another factor for driving the US companies abroad, because basically till the extra-territorial arms of the Anti-trust laws began to reach the foreign combines, 21 it was found safer to establish companies abroad, rather than integrate them at home. 22


21 Note: In the case of United States vs Aluminium Company of America (Alcoa) 148 F.2d 416 (1945), 91 F. Supp. 97 (S.D.N.Y. 1950) forced to divert themselves of the fifty-one per cent stake they held in the Canadian Aluminium Ltd. after the court had decided that the Canadian Company's involvement in the pre-war aluminium cartel had affected the U.S. import trade. As a result of the case of United States vs. Imperial Chemical Industries 100 F. Supp. 504 (SDNY 1951), that Company and Du Pont were forced to break up a joint company in Canada, and to dissolve a long-standing agreement for exchanging patents and technical information and allocating markets.

22 Note: Between July 1960 and December 1966 - according to one survey - 2,507 U.S. manufacturing companies established about 3,000 new overseas manufacturing facilities and expanded about 1,000 old ones. See New Foreign Business Activities of U.S. Firms, Thirteenth Report by Booz Allen & Hamilton, n.d., and also see Tugendhat, n. 13, pp. 33-40.
When the European Economic Community and the European Economic Market came into being, far from shutting out American companies, it created a climate for these companies to locate their plants within the community. Instead of competing in every one of the countries in Europe, a whole market was available within the community with fiscal and other incentives. A stable market with political and economic stability of the organization attracted US investors more to this European Economic Community.

The comparatively low cost of production in the underdeveloped countries, particularly the low wage levels, was another reason why US firms found it feasible to establish branches or subsidiaries abroad. In his book, Sovereignty at Bay, Raymond Vernon lists the Colt, the Singer, the ITT, the Westinghouse, the Eastman Kodak, Parke-Davies and the United Shoe Machinery as some of the companies which located their foreign plants on account of lower costs of production and little local competition threat.

The tremendous advance made in the field of science and technology by the US between 1950-1970 was one of the foremost reasons for American leadership in world business. As Raymond Vernon remarks:

One new force that was widely thought to have altered the post-war balance between

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23 Vernon, n. 19, p. 79, tables 3-5.
the U.S. and Europe was the existence of extensive research and development programmes, sponsored and financed by various agencies and the U.S. government. According to this view, the stimulus provided by military based research widened the development lead of US enterprises well beyond anything previously encountered in modern industrial history. (24)

Between 1951 and 1969, the US took twenty-one of the thirty-one Nobel prizes in physics, nine out of 37 in chemistry, and 23 out of 40 in medicine and physiology.

The gross expenditure on Research and Development (R&D) by the US in the middle of 1960s was fifteen times that of Germany, ten times that of UK and three times that of all western Europe combined. An idea of the magnitude of expenditure incurred on R&D by individual concerns, apart from amounts spent by the US Government itself, can be had if one looks at the balance sheet of the International Business Machines (IBM) for the year 1974. The total amount spent by the IBM in 1974 on R&D was $890 million. (25) Apart from spending huge amounts on R&D, the Americans were quick to apply the technology for commercial purpose. Many European and Japanese businessmen who were aware of the latest technology were slow to apply it. The difference between the U.S. industries and the industry of Europe and Japan therefore lay not so much in the

24 Ibid., p. 94.
state of industrial knowledge as in the development and application of that knowledge. 26

By the beginning of this decade (1971), therefore, there was an inevitable lead of US multinational enterprises over multinational enterprises of other countries. The UN document on "The Multinational Corporations in World Development" 27 has listed 650 industrial corporations, of which 358 are US corporations, followed by 74 belonging to Japan, 61 belonging to UK and 45 belonging to the Federal Republic of Germany. Of these 650 corporations, 4 corporations alone accounted for a total combined sale of $ 76,131 million, and of these, three were from US. Twelve corporations, of which nine were from US, had a total sale of $ 77,807 million. 295 corporations, of which 115 were from US, had a total sale exceeding $ 380,000 million.

It may be seen that out of 211 corporations with an annual sale exceeding $ one billion (the standard taken by the UN document on "Multinational Corporations" for the purpose of identifying the problems of multinational corporations), 127 corporations belong to the US. "The very size of these corporations as compared with other entities including the economies of many nations, suggests an important source of power." 28

26 Vernon, n. 19, p. 92.
27 UN Doc. ST/EGA/190, p. 127.
28 Ibid., p. 6.
The lead gained by the United States Corporations was maintained in 1973 when, out of 9,451 firms with one or more foreign affiliates, 2,567 belonged to the United States. Of this, 113 corporations had affiliates in more than 20 host countries. This lead was ahead of all the other countries (other than European Economic Community) which accounted for only 2,382 firms. 29

The size of transactions was also highest in the case of United States. Out of 4,530 firms reported for the year 1973, 1,199 corporations with sales amounting to $80.135 billion dollars belonged to the United States. 30 The number of United States manufacturing companies having affiliates with a total sale exceeding one billion dollars rose to 210 in 1975, from 127 reported earlier. 31 Apart from US being the leading home country of transnationals, the transnational companies as a whole have continued to forge ahead and the world-wide direct investment stock (if taken as index of expansion) rose to 259 billion dollars in 1975, from 152 billion in 1971, and preliminary data for 1976-77 places it at 287 billion. 32

29 See UN Doc. E/C.10/38, "Transnational Corporations in World Development: A Re-examination", Table III-8, p. 211.
30 This formed 46.7 per cent of total sales of all multinationals amounting to 1455 billions.
31 n. 29; Table III-9, p. 212, and Table III-18, p. 222.
32 Ibid., Table III-32, p. 236.
The transnational corporations mostly come from developed nations and, except Japan, they have their origin from industrialized West. It is pertinent to note that these firms emerging from the developed countries have tended to concentrate their foreign direct investment within other developed countries closely resembling the home markets for which they first developed their products and processes. A cultural affinity, a developed economy unafraid of economic arm-twisting by these firms, political stability and proximity to home countries or production centres would explain this preference for concentration in developed countries of the West. Three-fourth of the total direct investment from USA, UK, Canada and Germany have gone to the developed countries and only one-fourth to the developing countries. However, more than half of Japan's direct investment went to developing countries. It will, however, not be correct to assume that the activities of multinational corporations in developing countries are proportionately less, because recently, as will be shown in the following paragraphs, there has been a diversification of the forms of transnational corporations' thrust, viz. resort to licensing, franchising, sub-contracting and various forms of technological transfers which extract more money than dividend on equity. Secondly, even the comparatively small amount of 66 billion dollars invested in the developing countries is, considering the sectors in which it stands invested, it has a dominant position in these countries' economies holding the economies to ransom as it
were, such as it has happened in the tea plantations, cigarette manufacture, explosives and drug industry in India.

**Recent Trends in Operations of TNCs**

Some recent trends in the operations of TNCs may be noted at this stage, as any control mechanism that may have to be thought of should have relevance to these trends.

The first trend that has occurred during the past decade is increasing forage of MNCs in the services sector, viz. Banking, insurance, advertising agencies and consultancy services. The advantages here are greater standardization of services on a world scale, and greater scope for centralized control and direction from the headquarters without attracting undue publicity and attention. Between 1971 and 1976, 50 largest banks had increased their foreign affiliates to 3,000. Of the so 50 largest banks, 10 belonged to USA and they operated in 1,065 affiliates, of which 646 were in developing countries. Their total assets were 348 billion dollars. The existence of these powerful allies to industrial and commercial transnationals gives

33 Ibid., Annex III, pp. 204-85.
34 Ibid., Table III-13, p. 216.
greater economic power to the transnational corporations. Similarly, twenty-five leading international advertising agencies are in the hands of transnational firms and of these, except 4, all are US-based. Their annual receipts are nearly 13 billion dollars. In the cases of 7 advertising corporations, more than 50 per cent of earnings come from foreign billings. The products of transnational corporations are pushed in to host countries by high pressure salesmanship of which advertising is a leading instrument. By building up this powerful arm, the MNCs are in a position to beat down national rivals as has been happening in many developing countries. In a survey conducted by the author of selected middle-class families, Colgate tooth paste was found preferred to 'Vicco Vajrandanti', a local product, because it has been traditionally preferred and is 'quite well-known'.

Greater integration leading to economic concentration is yet another recent characteristic of MNCs which may be noticed. Between 1966 and 1975, 180 largest US-based transnational corporations had added 7,624 affiliates, of which 2,378 were in developing countries. 35 There have been

35 Note: Though on page 39 of the UN Document E.C/10/38 the figure given is 4,700 for 1967-75, the actual total on p. 223 giving the break-up in Table III-19 is 7,624.
eliminations of some companies from the network due to nationalization or other causes, but still the growth of integration was higher indicating a strong pull of centralization. That this should have occurred in spite of the far-reaching arm of Anti-Trust laws of United States and similar legislation prohibiting or limiting concentration is a matter that needs to be investigated.

Product diversification to an increasing extent has also been taking place. To preserve its economic strength and power and pushed ahead by growing profit reserves in the foreign affiliates operating in jurisdictions which often impose restrictions on the repatriation of full profits, the transnational firms are seeking fresh avenues for investment. Ford companies have entered the chemical industries and chemical companies diversified into food and engineering. This leads to problems of taking decision of allocation of reserves, which the local board of a 'legally' independent subsidiary cannot take and has to look to 'Home Headquarters' for orders. "Giant multi-industry, multi-country transnational corporations can be considered to operate in internal capital market for allocating resources at the level of the parent Company."36 This phenomenon has been increasingly evident in India, where such giants as Union Carbide (India), Tobacco Ltd., Hindustan Lever, and Wimco

36 n. 29, para 167, p. 50.
have gone into industries unconnected with their basic manufacturing activities.

Global companies are bringing with their growth and spread global cities where they choose to have their headquarters. Coral Gahles in Latin America, Paris in Europe, Honolulu in the Pacific, Manila and Singapore in the Far East, and Bombay in India, are attracting an increasing number of affiliates of the transnational firms. With the induction of these corporations these cities get drawn to a supra-national extra-territorial business and financial network, besides importing a culture and way of life adopted by the well-paid corporate officials and alien to the national culture. The advantages of higher tax revenues, greater consumer expenditure and employment opportunities are certainly there but these should be weighed carefully against economic and environmental disturbances introduced. 37

The other development in recent years is the emergence of some developing countries as the homes of transnational firms. In this, Malaysia, Hong Kong, Philippines, India, Korea, Brazil, Thailand, Mexico, and Japan could be listed, though the investment from these countries is insignificant as compared to the giant corporations of the West and, it is important to note, the investment is mostly intra-regional. The following figures (see Annex IV) give the

share of these countries in the intra-regional investment. It would be seen that India comes poorest in this list.
Possibility of foreign content in these investments cannot be ruled out since most of the firms in Philippines investing abroad were firms operating with American capital and technology.

The Socialist countries also have started penetrating the developing countries through inter-government agreements. Their activities are generally within the framework of economic co-operation agreements in the technical, scientific and industrial fields. They favour joint ventures and export agencies for sale of products originating in the Socialist countries, which are jointly financed by Western enterprise and the Socialist enterprise. It is estimated that in 1976, the USSR and Socialist countries of Eastern Europe had over 700 trading and manufacturing concerns in the developed market economies and the developing economies. About two-third of them were located in the developed market economies and one-third in the developing countries. The special types of agreements they enter into with the Governments of host countries exclude generally profits and dividends, but effectively get the same return through technical costs, sale of plant and machinery at special rates, technical fees for transferring technological know-how etc. The legal problems relating to these state commercial enterprises are posing a problem since they resolutely deny
they are multinational firms. It should also be added that these Socialist countries have opened the doors for Western companies to operate within their jurisdictions through such forms as non-equity joint ventures in production sectors (Bulgaria), joint ventures in commercial and service activities (Hungary), and establishment by foreign companies of representative offices in the USSR. In 1976, the total value of East-West trade grew to $44 billion. "On the heels of the 1972 Nixon-Brezhnev summit conference, a US-Soviet trade agreement was signed. Export-Import Bank facilities became available, US-export controls were streamlined and the Commerce Department set up an East-West Trade Bureau. The inter-governmental US-USSR Commercial Commission was established, while American corporations inaugurated their own bilateral trade and economic council to promote business with Russia." A significant development in this regard is the resort to "compensation arrangements" with Western business. There are many variations to this, but a common form is that the Western collaborator supplies licenses, equipment, machineries

38 There is no provision in the Soviet Constitution for participation of foreign companies in the equity of Public Organization or State enterprises.

and materials and establish a plant in the USSR. The company
agrees to purchase over a long period part or all of the
plants production to a value equalling the finance cost of
the project, plus at least 20 per cent (occasionally 100 per
cent or more) of the costs. Another variation is what is
known as a co-production contract, under which the Soviet
c Bloc country produces under license component parts which
the Western partner receives "at a price which is often
modest to offset (partly)" the cost of Western equipment,
sophisticated components, materials and know-how, which the
Eastern partner requires for production of the component.40

An increasing preference is shown by the trans-
national corporations to licensing and sale of technology in
the developing countries, partly because of high returns
yielded by such licensing or sale, and also because of the
growing articulation of hostility in the developing nations
to direct foreign investment resulting in outflow of profits
and dividends. Technology transfers avoid problems of
nationalization by host countries of foreign assets. Inter-
national trade in technology has, therefore, risen rapidly
during the years from 2,700 million dollars in 1965 to over

40 Note: A typical instance is Steiger Tractor's Hungarian
project. Steiger, a subsidiary of International
Harvester (USA) supplies the Raha Railway and Machine
Works with technology and components for the assembly
of 300 h.p. gears and counter purchase tractor axles
produced by Raha. See Harvard Business Review, ibid.,
p. 98.
11,000 million dollars in 1975. The growth rate exceeded by a wide margin that of direct investment. The developing countries taken as a whole had paid nearly 2 billion dollars to firms based in the developing countries. Of this, 845 million dollars went to US firms.\(^4\)

Transfer of technology, therefore, poses problems quite different from problems relating to equity investment. Apparently, technology transfer does not bring in conflicts of parent-subsidiary controls and the jurisdictions in which they operate, but the controls exercised in such transfers are more subtle and in some cases stronger because they fall outside the scope of conventional legal framework. A seller of technology could induce the buyer to behave exactly as though the seller possessed equity control by integrating the licensee into his world-wide network and imposing restrictions on production, utilization of fruits of invention, and sales to export markets. As Walter Hamilton puts it, "the relationship between the patent owner and licensee will fall into a kind of feudal formation of lord and vassal".

Some of the transnational corporations employ the method of franchising which is a new form of business organization, where the control is partly legal and partly of practicability. Franchising has been defined as a "continuing relationship in which a franchiser provides a licensed

\(^4\) UN Doc., n. 29, p. 70.
privilege to do business plus assistance in organizing training, merchandising and management in return for a consideration from the franchisee". Franchising is common in international hotel industry. Recently, the Indian Tobacco Company, which runs several Five Star hotels, has come up with a proposal to the Government of India to enter into a franchising arrangement with the Sheratons. The Coca Cola and Pepsi Cola franchise agreements usually included quality control agreement, tying of intermediate inputs and even export restrictions. The UNCTAD report commented that the franchisors' main interest was in the setting up of an outlet which would use their branded inputs. Thus, the franchise arrangement is one which secures to the franchisor all the advantages of control which he would otherwise have in both equity and licensing of technology.

To sum up, the transnational corporations are growing and have shown tremendous flexibility in adjusting themselves in their responses to the increasing reactions, particularly to the challenge offered from the developing countries, to their growing presence and enslavement of the economy. They have begun to change the forms of penetration from the conventional establishment of manufacturing units to the highly sophisticated forms of technology transfer,

42 Ibid., p. 72.
franchising arrangements, sub-contracting and co-production arrangements. But the core objective still remains maximising their growth and profits on a worldwide basis, paying little regard to national interests within the jurisdiction where they and their affiliates operate.

INDIA

Multinationals in India

The main thrust of foreign private investment through multinational corporations in so far as India is concerned had been from the UK, mainly because of the colonial past. As pointed out by J. Ade Oyelabi, the distinctive feature of foreign investment in underdeveloped countries has been that "the former control of politico-economic life of these countries by the governments of Western countries has not ended, but merely been passed on to the multinational investors". It is, therefore, not surprising that right from the pre-independence days to the present day the predominance of foreign corporations operating in India has been held by enterprises belonging to the United Kingdom. It is only after the two world wars that the corporations belonging to the United States made their entry into India. Mention has already been made of the operation

of the East India Company and it remains only to analyse the position of the British commercial capital in India in the decade preceding the world war and in the years after independence.

Initially, the British companies were dominating the public utility and mineral industries (extractive industries) and those areas of agricultural sectors which provided raw materials for British industries, such as jute, tea, and rubber. Among public utilities, the railways provided the most important of the British monopoly capital in colonial India. The total capital investment in 1938-39, according to the Statistical Abstract for the British India (published in London in 1942), was Rs.8,478.2 million, on which the return was Rs.359.6 million. In 1943-44, the capital investment was Rs.8,585.3 million and the profit was doubled to Rs.852.1 million.

Investments in other British companies operating in India totalled £300 million in 1929. Among the manufacturing concerns, the Indian Iron & Steel Co., and the Steel Corporation of Bengal, were the two big metallurgical plants under British ownership and control.

On 30 June 1948, according to Reserve Bank of India figures, the value of total foreign business investment

44 S. Melman, "Foreign Investments in India in 1929", British Monopoly in the Economy of Colonial India (Delhi, 1963), p. 19.
in India in manufacturing, mining, utilities, transport, trading, financial plantation and other industries, was Rs.3,204 million, of which Rs.2,301 million (71.9%) were accounted for British business investments alone, followed by US i.e. Rs.179.7 million (5.7%). The investment was both direct, i.e. financial as well as portfolios, i.e. shares. Over the period 1948-55, the British investment had increased and the main increases were in manufacturing and plantation industries. The relevant figures are given below:

<table>
<thead>
<tr>
<th>British Investments in India</th>
</tr>
</thead>
<tbody>
<tr>
<td>1948-1955</td>
</tr>
<tr>
<td>(Rs. in million)</td>
</tr>
<tr>
<td>---------------------------</td>
</tr>
<tr>
<td>Trade Classification</td>
</tr>
<tr>
<td>As on</td>
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<tr>
<td>---------</td>
</tr>
<tr>
<td>Manufacturing</td>
</tr>
<tr>
<td>Mining</td>
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<tr>
<td>Trading</td>
</tr>
<tr>
<td>Plantations</td>
</tr>
<tr>
<td>Financial</td>
</tr>
<tr>
<td>Utilities and Transport</td>
</tr>
<tr>
<td>Others</td>
</tr>
</tbody>
</table>

| Total | 2,099.5 | 3,472.3 | 3,919.9 | +1,820.4 |

46 Ibid., p. 82.
The vast market, the low production cost and cheap labour tended to attract the British investment in manufacturing and plantation industries. The manufacturing and plantation industries centered around cigarette, tobacco, food products, jute, coir goods, electrical goods, medicines, and pharmaceuticals.

By the end of March 1970, branches of foreign companies and subsidiaries of foreign controlled companies held a direct foreign investment of Rs.7,350 million.\(^{47}\)

By the end of 1972-73, there were 740 foreign companies operating in India, of which 538 operated as branches and 202 as subsidiaries of transnationals. Of these, companies belonging to the UK had 320 branches and 140 subsidiaries, closely followed by US with 83 branches and 28 subsidiaries. Switzerland, Japan, West Germany and Sweden had 21, 18, 17 and 14 affiliates, i.e. both branches and subsidiaries, respectively. The total assets of these branches and subsidiaries aggregated to Rs.29,220 million, of which UK companies (subsidiaries and branches) accounted for Rs. 18,180 million and that of US Rs. 5,420 million.\(^{48}\) It would thus be seen that the dominant position held by British capital has continued right up to the present day though the American companies are making a steady headway. The increase in the

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\(^{48}\) See Gaauri Shankar, V., "The Performance of Transnational in India", India Quarterly (New Delhi), April-June 1977, contd...
total assets of UK companies (subsi­diaries) over the period 1967-69 to 1972-73 was of the order of Rs. 200 million whereas for the USA the corresponding figure was Rs. 150 million. If this increase is taken as percentage of the total assets, the increase of USA is significant and would point to a direction that not in the distant future it would overtake the British capital.

As regards the branches, the assets of 351 branches in 1969-70 was Rs. 823 million which increased to Rs. 10,840 million in 1972-73, despite a fall in the number of branches from 351 to 320. For USA, the branches had increased from 84 in 1969-70 to 88 in 1972-73, and the total assets rose from Rs. 2,370 million to Rs. 3,500 million. Here again, the lead of USA is significant. As regards distribution of investment in industry, a factor which is relevant to judge whether the foreign capital has been operating in sectors needing development and fitting in with the national objective, it is seen

Note: Multinational/Transnational corporations operate in India in two ways: (a) through branches established in the country, and (b) through Indian companies which are subsidiaries of companies incorporated abroad, i.e. Indian companies in which the majority of the paid-up share capital is held by a foreign body corporate. As on 31.3.1977, 482 branches of multinational companies were operating in India. In the case of Indian subsidiaries of multinational companies, the number was 171 as on 31.3.1976. Out of 482 branches, 276 were branches of UK, based companies followed by 81 branches of US based companies in India. Similarly, out of 171 subsidiaries, the holding companies of 116 subsidiaries were incorporated in UK and of 25 in USA. (See "Unstarred question no. 1882: Answered on 29 November 1977"; Company News & Notes, vol. 16, no. 1, January 1978, p. 48.)
that the maximum investment is still in processing and manufacturing sectors (Rs. 13,480 million) in which cigarettes, petroleum refineries, medical and pharmaceutical preparations take the lead. Next comes trade and finance, accounting for Rs. 11,580 million of which wholesale trade and insurance company account for Rs. 1,830 million. It may be seen that investment of foreign capital is primarily confined to those sectors where little capital is needed and exploitation of local labour and availability of skills and raw material is easy.

A peculiar feature of the multinational enterprise operations in India is under what is known as the Managing Agency System, a device created by British business, and a system of getting control over the industries without risking capital. The managing agency system gives to the managing agents - a private limited company or a firm or a group of individuals - a complete grip over a large number of companies and concerns by offering managerial and administrative control and financial assistance without in any way suffering the business risk of the enterprises they control, a risk which falls on the shareholders. Vera Anstey writes about the managing agency system as follows:

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...in practice, the managing agents direct the
directors, administer all the concerns of the
company and in some cases they have been
actually known to take power in the Articules of
Association, to dispense with the Directors
altogether. (50)

According to a survey conducted in 1952, there were
701 companies under the control of British managing agents
and 32 companies under a joint British-Indian managing
agency. Some of the most prominent of the British Managing
agents were:

1. Andrew Yule and Co.
3. Martin & Co.
4. Burn & Co.
5. Duncan Brothers & Co.
6. Octavious Steel & Co.
7. Gillanders Arbuthnot & Co. Ltd.
8. Shaw Wallace & Co. Ltd.

Of these, Andrew Yule & Co. Ltd. was and remained
the largest. It was established as an 'unincorporated trading
company' by Andrew and George in 1853, and was converted into
a joint stock company in 1919 when one Catto joined it. Till
the mid-1940s, Andrew Yule had the largest number of companies,
about 55, under a single managing agency and the group remains

50 Vera Anstey, The Economic Development of India (London,
1957).
one of the largest though it has lost or given up control over several companies since then. 51

Till the Second World War, owing to the British dominance, the impact of US companies in India was not substantial. On the eve of the War, the American investment in India, which then included Burma and Ceylon, was of the order of $40 million. However, after the war, the American investment increased at first in the traditional pattern viz., import and export operations, the most important of these operations being in oil products by Standard Vacuum and Caltex. After 1945, American investment in India came in the automobile field, with General Motors and Ford taking the lead and some investments were made in jute, and manufacture of tyres. Firestone started a tyre factory in Bombay, and in the office equipment field, Remington set up a typewriter factory in Calcutta. Some of the American companies entered India through their Canadian subsidiaries. The Mellon controlled Aluminium Co. of Canada owned half of the capital of the Indian Aluminium Co. This was actually an Indo-American company.

Since 1951, when the new policy was announced inviting foreign capital in the industrial development of India, American business showed keen interest and Standard Vacuum Oil Co. entered into an agreement with the Government of India on

30 November 1951, for the construction of an oil refinery in Bombay. A similar agreement was also entered by Caltex for a refinery in Vizag. The Cyanamid Company established a factory to manufacture sulpha, and Parke-Davies opened a factory in Bombay for the manufacture of chloromycitin.

**New Avenues**

A new form of entry into Indian economy being utilized by foreign companies is through financial and technical collaborations. Such collaborations have been found to be advantageous by the foreign companies because: (i) a higher profit through royalties and technical fees can be drawn on a lower rate of taxation; (ii) a fixed rate of interest on loans and credits for import of machinery and plant is assured free of tax under certain provisions of the Indian Income Tax Act, subject to the approval of the Central Government; (iii) preferential access is gained to improvements made by the local licence on the processes licensed; (iv) licences can be tied up to the purchases of raw materials, machinery and plant, and spares, from the foreign company or its associate at high cost; and (v) exports can be restricted to certain specified areas and companies so as to maintain the world-wide hold that the foreign company has. In fact, unless the Indian collaborator is vigilant and exercises proper care in accepting the terms
of the foreign collaborator, as Walter Hamilton said, the "relationship between the patent owner and licence will fall into a kind of feudal formula of lord and vassal." 52

Up to the end of June 1977, there were 5,498 foreign collaborators in Indian industry (see Annex V) - the bulk of which were in chemicals and drugs (662), electrical equipment, apparatus and component (705), industrial machinery (other than textiles) (759), and transport equipment (382). In several cases, foreign collaborations have been entered into by a foreign company with its Indian subsidiary, so that the foreign company obtains both dividends and technical fees from the Indian subsidiary, apart from exercising other controls over the activities of the subsidiary as a result of the overall decision-making power that it possesses. An illustrative list of such companies is given in Annexure (see Annex VI).

*Fortune* (August 1976) has listed 50 largest transnationals of the world. Of these, 23 operate in India directly through branch, or subsidiary, or indirectly through foreign collaboration. The companies so operating in India in 1974-75 were the following:

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52 Walter Hamilton, *Cartels, Patents and Politics* (n.d.)
## Transnational Companies Operating in India in 1974-75

<table>
<thead>
<tr>
<th>Name of the MNC</th>
<th>World Sales (in billion dollars)</th>
<th>Operation - branch/collaboration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 EXXON</td>
<td>44.86</td>
<td>Branch</td>
</tr>
<tr>
<td>2 General Motors</td>
<td>35.72</td>
<td>Collaboration</td>
</tr>
<tr>
<td>3 British Petroleum</td>
<td>17.28</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>4 Unilever</td>
<td>15.01</td>
<td>Subsidiary and Collaboration</td>
</tr>
<tr>
<td>5 IBM</td>
<td>14.43</td>
<td>Branch</td>
</tr>
<tr>
<td>6 Gulf Oil</td>
<td>14.26</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>7 I.T.T.</td>
<td>11.36</td>
<td>Branch</td>
</tr>
<tr>
<td>8 Phillips</td>
<td>10.74</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>9 Hoechst</td>
<td>8.46</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>10 E.N.I.</td>
<td>8.33</td>
<td>Branch</td>
</tr>
<tr>
<td>11 BENZ</td>
<td>8.19</td>
<td>Collaboration</td>
</tr>
<tr>
<td>12 BASF</td>
<td>8.15</td>
<td>Collaboration</td>
</tr>
<tr>
<td>13 Bayer</td>
<td>7.72</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>14 Nestle</td>
<td>7.08</td>
<td>Branch and Subsidiary</td>
</tr>
<tr>
<td>15 I.C.I.</td>
<td>6.88</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>16 British American Tobacco</td>
<td>6.14</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>17 Hitachi</td>
<td>5.91</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>18 Union Carbide</td>
<td>5.66</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>19 Goodyear Tyre and Rubber</td>
<td>5.45</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>20 General Electric</td>
<td>13.39</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>21 Siemens</td>
<td>7.75</td>
<td>Subsidiary</td>
</tr>
<tr>
<td>22 Westinghouse</td>
<td>5.86</td>
<td>Branch</td>
</tr>
<tr>
<td>23 Mitsubishi</td>
<td>5.69</td>
<td>Collaboration</td>
</tr>
</tbody>
</table>

(Note: In some cases, like Unilever, British American Tobacco, there has been more than one subsidiary.)
Thus, nearly half of the 50 World Corporate giants are in India. If one takes into account the fact that total sales of each one of these transnational corporations are higher than the annual budget of the Government of India, one can gauge the power and strength of these companies in any bargain that they may choose to make for extending or curtailing their activities in India. It may be mentioned that these are not the only foreign companies in India. As already stated, there are other companies operating in India which are, under the UN classification, multinational giants (with a turnover of one billion dollars), and companies which, though not yet qualifying as giants on the basis of the aforesaid criterion, are nevertheless operating in significant sectors of our economy.

The impact of the transnational firms' products on the daily life of the average middle class town-dweller is so pervasive that one hardly notices the degree of his enslavement to the foreign brand products. His entire life is caught in the web of foreign products, though they are manufactured in this country under licence from the foreign companies. It is difficult to get away from the style of life so well-regulated and aided by these transnational company products. This is also a measure of the influence that these big transnational companies have exerted on the economic and cultural life of this
country. (see note in Annex VII). In such a context, to compare the total sales, total assets and the total paid-up capital of these foreign companies within India, with corresponding figures of other private and public sector undertakings, and say that they form a small percentage is to completely miss the issue - namely, the areas where these transnationals operate and dominate. They have nearly conquered the consumer market which is a vast market requiring little investment and a far higher return. From the analysis made by the Economic Times, it may be seen that for an investment of Rs.16 by these foreign companies, they produce goods worth Rs.21 with an equivalent amount of sales.53 This is the total figure, but if individual industries are taken, the amount invested is very little and the turnover is several hundred times more.

For example, in the case of Colgate, the initial paid up capital was Rs.150,000, whereas the turnover as on 31 December 1973, was Rs.170,050,902. In the services sector, the Grindlays Bank, for an investment of Rs.1 million, came to accumulate total capital and reserves (including loan capital) of £70.4 million. The Hindustan Lever's initial investment was Rs.20 million when it came to India in 1933, but over the years as a private limited company under the name of Lever Brothers (India) Ltd., it has grown in strength by virtue of its tremendous capacity for diversification and marketing and

53 The Economic Times (Bombay), Annual Number, 1975, pp. 21-42, 87-88 and 123-35.
through a sustained combination of trade and manufacture of soaps, detergents, edible oils, milk powder, dehydrated food products etc., and has now built up a capital of Rs. 170 million in 1974-75. The Company has plans for further diversification into tea industry, the production of sulphuric and phosphoric acid at an estimated cost of Rs. 120 million, and granulated fertilizers. Similarly, most of the drug companies, (as has been found by the Hathi Committee), have invested

Note: In April 1975, the report of the Committee on Drugs and Pharmaceutical Industry, familiarly known as Hathi Committee's Report, Government of India, Ministry of Petroleum and Chemicals pointed out the harmful activities of the multinational corporations in the most vital sector of relieving human suffering. The following observations of the said Committee are opposite:

"...pattern of production of domineering units of the private sector which consist predominantly of minor subsidiaries or their branches or their equity partners in India indicates that the primary objective of these units is trade-based, almost entirely in the economically preferable area of formulations from bulk drugs, largely imported from their principals rather than on production of bulk drug themselves...most of the leading multinational drug companies established themselves as trading concerns. Their initial investments were insignificant compared to the turnover...."

"Hathi Committee's Report (New Delhi, 1975), chap. III, p. 6; chap. V, para 3."

54
little, but have been able to build up huge profits on sales. Pfizer, for instance, with a capital of Rs. 2,923,000 (excluding Rs. 2,923,000 added by capitalizing reserves), was able to effect a turnover of Rs. 347,600,000 in 1975, and earning a net profit of Rs. 16,600,000. About 70 per cent of the total sales (Rs. 3,200 million) of medicine belongs to foreign sector. Ten firms, with 100 per cent foreign equity, are operating in the country - six of these being engaged in the manufacture of pure drug formulation. It is significant that most of these drug units have concentrated their activities on the products marketed by their foreign parent companies. Even where Indian drug units in the small-scale sectors produce equivalent formulation, they face difficulties in obtaining the bulk drugs. It may be said that India's needs are not so much for "vitamins" and "pain-killers", but sufficient quantity of quality drugs to fight the menace of malaria, T.B. and leprosy, which claim the largest number of victims. The foreign drug companies have yet to come out with appropriate drugs in this field.

New Controls by the Government in India

In regard to foreign companies, which were in operation as on 1 January 1974, the Government of India has taken wide powers under Section 29 of the Foreign Exchange
Regulation Act 1973 (FERA). Guidelines have been formulated for administration of these companies and these envisage that-

(i) All branches of foreign companies will be required to convert themselves into Indian companies with Indian participation ranging between 26-60 per cent depending on the nature of their activities.

(ii) Companies engaged in industrial activities, covered in Appendix I of the Industrial Licensing Policy 1973, or engaged predominantly in export-oriented industry, or in the manufacturing activities, which need sophisticated technology, would be allowed to continue their existing activities provided the non-resident interest is brought down to 74 per cent.

(iii) Branches and companies engaged in manufacturing activities and accounting for not less than 60 per cent of their turnover by way of sophisticated manufactures and exports would be permitted to retain their non-resident interest at 51 per cent.

(iv) Companies engaged in trading and other non-priority fields are required to reduce their non-resident interest to 40 per cent.

These guidelines are issued in the form of directives which have a statutory force. Any foreign company not fulfilling these directives will not be permitted the facilities of
remittance of profits and other fees, and further action will be taken under Sections 50 and 56 of FERA 1973.55

It is pertinent to note that unwilling or unable to comply with the directions of the Reserve Bank of India to dilution of foreign holding companies, 13 foreign companies, including Coca Cola Export Corporation, Colombia Gramophone Co. Ltd., IBM World Trade Corporation, Vans Rais (India) Ltd. Calcutta, Pneumatic Tool Co. Ltd., Bombay, have decided to wind up their establishments.56

The Foreign Exchange Regulation Act guidelines referred to above apply only to foreign companies which were operating in India, in 1974, when the Foreign Exchange Regulation Act came into force. They do not affect the entry of fresh foreign companies which will be governed by the Industrial policy of the Government of India, the latest of which was laid on the table of the Lok Sabha on 23 December 1977. In this policy, so far as it is relevant to foreign technology and foreign investment, it was declared:

In order to promote technological self-reliance, the Government recognises the necessity for

55 Government of India, Directorate of Enforcement (Foreign Exchange Regulation Act), Manual Containing Foreign Exchange Regulation Act 1973 ... Notification etc. (New Delhi, 1977).

56 India, Lok Sabha, Answer to Unstarred question No. 6073, 7 April 1978.
continued inflow of technology in sophisticated and high priority areas where Indian skills and technology are not adequately developed. In such areas, the Government's preference would be outright purchase of the best available technology and then adapting such technology to the country's needs. Indian firms which are permitted to import foreign technology would be required in appropriate cases to set up adequate Research and Development facilities so that imported technology is properly adapted and assimilated. The Government will also set up a national registry of foreign collaboration in the Secretariat of the Foreign Investment Board so that there is continuous monitoring of these efforts.

The Government would also like to clarify its policy regarding participation of foreign investment and foreign companies in India's industrial development. So far as existing foreign companies are concerned, the provisions of the Foreign Exchange Regulation Act would be strictly enforced. After the process of dilution under this Act has been completed, companies with direct non-resident investment not exceeding 40 per cent will be treated on par with Indian companies, except in cases specifically notified, and their future expansion will be guided by the same principles as those applicable to Indian companies.

Foreign investment and acquisition of technology necessary for India's industrial development would be allowed only on such terms as are determined by the Government of India to be in the national interest. In areas where foreign technological know how is not needed existing collaborations will not be renewed and foreign companies operating in such fields will have to modify their character and activities in conformity with national priorities within the framework of the Foreign Exchange Regulation Act. To guide entrepreneurs, Government will issue a revised illustrative list of industries where no foreign collaboration, financial or technical, is considered necessary since indigenous technology has fully developed in this field.

For all approved foreign investments, there will be complete freedom for remittance of profits,
royalties, dividends as well as repatriation of capital subject, of course, to rules and regulations common to all. As a rule, majority interest in ownership and effective control should be in Indian hands though Government may make exceptions in highly export-oriented and/or sophisticated technology areas. In hundred percent export-oriented cases, Government may consider even a fully owned foreign company.

In another important statement relating to foreign companies containing Government's decisions on the Drugs and Pharmaceuticals Industry, laid on the table of the Lok Sabha on 29 March 1978, by the Minister of Petroleum, Chemicals and Fertilizers, it was said:

Government have further decided that, so far as foreign companies engaged only in the manufacture of formulations of bulk drug not involving high technology or both are concerned, they should be directed to bring down their foreign equity forthwith to 40%, so that 66% of the balanced equity currently in the hands of the foreign share-holders is disinvested in favour of Government financial or public sector institutions and the rest in favour of Indian investors, preference in the latter being given to Indian employees of such companies.

19. Government have also decided that, in respect of foreign drug companies other than those featured in para 15, as a result of reduction of foreign shareholding under FERA guidelines or on expansion, Government financial and public sector institutions should aim to acquire, to the extent possible, 66% of the balance equity, the rest being disinvested in favour of Indian investors, preference in the latter case being given to Indian employees of such companies.
20. Foreign companies engaged in the manufacture of household remediness will not be granted any expansion in capacity nor will they be allowed to take up such activity as additional items hereafter.

21. Foreign companies producing drug formulators based on imported bulk or producing bulk drugs from penultimate stage will have to manufacture, within a period of two years, the bulk drugs concerned from the basic stage.

22. Existing foreign companies will be given formulation licences in future only if they are linked with the production of high technology bulk drugs from the basic stage.

23. The small-scale sector will be a prohibited area for foreign companies.

24. No foreign companies will be given loan licence for operating in the drugs field. The turn-over of the foreign companies based on the existing loan licences will not be treated as Appendix I activity, but purely as trading activity.

25. Application for industrial licences (including expansion of capacity over the level existing on 31.12.1977) by foreign drug companies for the manufacture of high technology lines of bulk drugs will be considered, subject to the overall condition of their supplying 50% of their production of such bulk drugs to non-associated formulators and subject further to their restricting their overall ratio of bulk drug consumption (from own manufacture) to formulation from all sources to 1:5.

These policies would seem to indicate an apparent hardening of attitude on the part of the Government of India towards the foreign companies in the recent years. But it is not so. There is a good deal of pragmatism in the policies announced. For example, classification of tea industry as a
high priority industry justifying 74 per cent retention of foreign holding in spite of the fact that the tea companies are not listed as manufacturing companies in the First Schedule to the Industries (Development And Regulation) Act, 1951 \(\text{\textcopyright} 65\) of 1951: India\(\text{\textcopyright}\), shows the realization on the part of the Government of India on the hold the foreign tea companies have in the world tea market and the need to have their "collaboration and good-will to ensure for Indian tea, an adequate share of the world market". 57

Secondly, in a majority of cases, the reduction in equity has been in form rather than in substance. Under the FERA Guidelines, the required percentage is with reference to total equity base. Most of these companies, which were given more than two years time limit to bring down the equity, had applied for and obtained Government's permission to enlarge the capital base which they did either by capitalising reserves or increasing capital for new activities. For example, Britannia Biscuit Company which was asked to dilute its non-resident activities to a limit not exceeding 40 per cent was given consent to issue fresh equity capital of Rs. 180 million. The result was that the non-resident equity prior to dilution in absolute terms remained in tact and as a prestige fell

57 From unpublished Document relating to policy of Government towards tea industry.
he criticized Mr. George Fernandes' (Minister for Industries and Civil Supplies, Government of India) policy statement on multinationals as one of "sucking and blowing" at the same time. Though the obvious thrust of the statement was to get a categorical assurance of open-handed welcome to foreign companies, the statement nevertheless expresses what exactly is the present approach, i.e. one of pragmatism. As George Fernandes himself pointed out:

Multinationals had been in the country long before he was born and he had not invented them. They had produced soaps, hair oil and just about everything. The only relevant question is how effectively you deal with them. The old multinational corporations are there and new ones are coming but anything that hurt our national interest will not be accepted or tolerated - the new policy will not allow any kind of ideological or political considerations to override the economic and industrial development of the country. (59)

That, these policy statements have remained flexible and have, far from inhibiting foreign capital, encouraged the growth of foreign capital in India is amply illustrated by the figures given in Reserve Bank of India Bulletin of March 1978. According to these figures, the total direct foreign investment stood at Rs.1,973 crores as at the end of March 1974, showing a rise of Rs.95 crores over the period year. (60)

59 Times of India (New Delhi), 11 November 1977.
The total gross foreign assets of the Corporate sector stood by the end of March 1974 at Rs. 3,940 million, showing a rise of 1,160 million during the year. The investments have been in the form not only of increased equity investment, but also through loans supplied as credits etc. The United Kingdom companies retained the lead as an important source of foreign capital accounting for Rs. 6,390 million, i.e. 35 per cent of the total outstanding liabilities of the foreign sector. USA comes next with 5,150 million, followed by Germany with 1,590 million. Japanese investment, through their companies comes to only 510 million; whereas Italy and France have shown higher investment of of 730 and 630 million respectively. The major portion of these investment is in manufacturing industry (Rs. 4,820 million). Plantation mining and petroleum add up to Rs. 3,090.6 million.

61 Ibid.
62 Ibid.