CHAPTER II

FDI POLICY IN INDIA

2.1 Introduction:

The present chapter aims at reviewing the FDI policy in India during 1980's and 1990's. India's policy towards FDI has gone through a number of changes. For several decades after independence, India in pursuit of self reliance, pursued import substitution policies, which enabled India to build a large and diversified industrial base. From independence to the late 1960's was a period of cautious promotion of FDI. The late 1960's to the 1970's was the period when restrictive policies were introduced. In 1973, the Foreign Exchange Regulation Act (FERA), marked the beginning of restrictions on TNCs. FERA with a few exceptions, put a ceiling of 40 percent on foreign equity participation in India. This forced many TNCs to cut equity participation or leave the country and deterred new entrants. The decade of the 1980's started with a gradual loosening of controls on FDI. Accordingly, during the 1980's there had been partial liberalization of FDI policies. This was however short lived and the economy went into deep crisis in 1990. As part of the New Industrial Policy (NIP) starting in 1991, the promotion of foreign direct investment was seen as an important vehicle to globalization, improved competitiveness, and for promoting an optimal utilization of natural and human resources. Thus the New economic Policies of 1991 brought about a substantial and far reaching changes reflecting a quantum shift in the government policies towards FDI. Since then there has been no looking back.

The chapter is divided into four sections. Next section highlights FDI Policy during Pre- Liberalisation period and the third section focuses on FDI Policy during Post - Reform period. The fourth section makes comparison of FDI policy during the two policy periods and also compares FDI policies of India with some Asian countries.
2.2 FDI Policy During Pre-Liberalisation (1981 to 1990)

A more liberal attitude towards Foreign Direct Investment emerged after about 1980 or so. This phase begins with the Industrial Policy Statements of 1980 and 1982 and more importantly, the Technology Policy Statement of 1983. For one, the policy statements began the process of delicensing and to some extent, reversing the negative effects on growth and competition of the Industrial Policy Resolutions of 1948 and 1956.

Foreign participation was normally allowed up to 40 percent equity of a company. If the technology was highly sophisticated or where the project was predominantly export oriented, foreign equity participation even beyond the level of 40 percent was considered on merits. Generally a 40 percent share gives to the foreign investor a controlling interest in the company.

The foreign investment policy was liberalized in the case of investors from oil-exporting developing countries from October 1980. Investment from these countries up to 40 percent was considered in core sector industries like fertilizers, cement, petrochemicals, etc., export oriented industries as well as hotels and hospital projects even without technology transfer. Higher foreign equity participation is likewise permitted in the case of units set up in Free Trade Zones and 100 percent Export oriented Units. More specific to FDI, it was proposed to set up four new EPZ's. There was also a relaxation of the equity restriction under FERA for 100 percent export oriented firms (R.N. Malhotra, 1990)

Within the overall policy framework the approach during the 1980's and particularly since 1984-85, has been towards liberalization. Foreign Investment and technical collaborations were being actively welcomed in a wide range of activities and there was continuous effort at streamlining of procedures and removal of bottlenecks to facilitate smoother investment flows.

During 1985, greater emphasis on encouragement for increased inflow of technology from abroad and for more equity participation by foreign companies was laid.
A 'fast track for disposal of applications received for various proposals from investors of some countries was introduced. This was an arrangement for fast disposal of applications received for various purposes in different ministries, Government Departments, Reserve Bank of India, etc. Government took various measures to remove difficulties faced by foreigners with regard to visas and residential permits. Remedial measures taken by the fast track group have helped to ease procedures. Non FERA companies were allowed to increase the foreign equity from 40 per cent to 51 percent provided the company guarantees to achieve an export target exceeding 40 per cent of its annual production within two years (RBI, 1990)

Investments and collaborations were also permitted on selective basis even in the non-manufacturing sector and in existing companies. In the tourism sector 51 per cent foreign equity participation was permitted as a norm. It was also possible for foreign investors to make direct applications and obtain principle approvals pending the establishment of a local company. New foreign investments in existing company was made possible if justified on grounds of technology or exports. However, a ban was imposed by the government on financial and Technical collaborations in 22 categories of industries such as paper, cement, consumer goods and other industries, where indigenous technology was sufficiently developed.

Thus there was a gradual liberalization of FDI policies in the eighties. As a result of these measures, the investment climate in the country gradually improved.

2.3 FDI Policy during Post-Reform Period (1991 to 2003)

The New Industrial Policy of 1991 may be the starting point of a new phase in FDI. The policy states for the first time ‘Direct Foreign Investment has always been preferred to loans and other forms of assistance’ (IPR 1991).

Reserve Bank of India’s Report on Currency and Finance (1998-99) maintained “The Government is committed to prompting increased flow of Foreign Direct Investment for better technology, modernization, exports, and for providing services
and products of international standards. Therefore, the policy of the Government has been aimed at encouraging foreign investment, particularly in core infrastructure sectors so as to supplement national effort.”

Two routes are available to the foreign investors for obtaining approval:

1) **Automatic Route** and 2) **Government Approval**

Automatic route covers Automatic approval procedures granted by the Reserve Bank of India (RBI), under which FDI is automatically approved and doesn’t require any government approval, provided specified parameters are met.

The second route covers all other cases, which are dealt with by the Foreign Investment Promotion Board (FIPB) and the Secretariat for Industrial Approvals (SIA) on a case by case basis.

Automatic approval from the Reserve Bank of India is granted to foreign investors if the FDI equity of the company does not exceed a specified percentage. That figure is 74 per cent in several areas in nine industry groups:

- mining services;
- basic metals and alloys industries;
- manufacturing medical and laboratory equipment and photography;
- electric generation and transmission;
- non-conventional energy generation and distribution;
- construction;
- pipeline transport excluding crude oil, petroleum products and natural gas pipelines;
- water transport;
- storage and warehousing services.

For other industries the figure is 51 percent, such as metallurgical, boilers and steam generating plants, prime movers, electrical equipment, transportation, industrial machinery and equipment, agricultural machinery, drugs, printing machinery, food products, cotton textile (cotton spinning integrated mills), the manufacture of wool and silk, basic chemical products (except products of petroleum and coal); the manufacture
of metal products and parts except machinery and equipment, health and medical services; and land and water transport (support services). In industries such as the mining of iron and other metal ores and non-metallic minerals with the exception of the Uranium group the figure is 50 percent.

Most of the approvals in the post reform period have come from the FIPB route. The FIPB is the nodal agency for consideration of all proposals requiring prior Government approval. The FIPB is a high-level single window agency to clear all proposals relating to foreign direct investment (with or without technology transfer) which are not eligible for automatic approval. It makes a recommendation on each proposal which is approved by the Government and its decisions are communicated within six weeks by the Secretariat for Industrial Assistance, which functions as its secretariat. The FIPB's clearance is based on the totality of the package including such factors as the industry involved, the type of technology, foreign exchange inflows and outflows and employment generation. The SIA is part of the Department of Industrial Policy and Promotion of the Government, which provides a single window for entrepreneurial assistance and processes all applications, which require Government approval. The SIA acts as the Secretariat for all applications for:

- Foreign direct investment [FDI]
- NRI Investments
- Foreign technology transfer
- Setting up 100 percent export-oriented units [EOUs]
- Industrial licenses

FOREIGN INVESTMENT PROMOTION COUNCIL (FIPC):

Foreign Investment Promotion Council (FIPC) has been set up in the Department of Industrial Policy & Promotion (DIPP) to undertake promotional measures to attract Foreign Direct Investment into the country. The FIPC comprises of professionals from Industry and Commerce. The basic functions of the Council are to identify the sector / projects within the country requiring Foreign Direct Investment and target specific
regions/ countries of the world from where FDI could be brought through special efforts. The Council may also prepare sectoral profiles and project proposals for such industries for presentation to the selected international companies and foreign investors.

FOREIGN INVESTMENT IMPLEMENTATION AUTHORITY (FIIA):

Foreign Investment Implementation Authority (FIIA) was established in the Department of Industrial Policy and Promotion, Ministry of Commerce & Industry to facilitate quick translation of FDI approvals into implementation, provide a pro-active one stop after care service to foreign investors by helping them obtain necessary approvals, sort out operational problems and meet with various Government agencies to find solution to problems of the investors. For conducting meetings of FIIA, the Country has been divided into Northern, Western, Southern and Eastern Regions (SIA, 2002)

FDI Policy at State level:

The focal point for each State Government or Union Territory (UT) is normally its Ministry of Industry. Many State Governments have announced attractive incentives in the form of capital subsidies, sales tax concessions, concessional power tariffs and exemption from certain other charges or taxes among others. The State Industrial Development Corporations help foreign investors by providing information and guidance in selecting projects and their location, arrangement of infrastructure facilities through concerned Government agencies and also follow up with the State and Central Government Departments and Corporations. Single Window System is now in existence in most of the States for granting approval for setting up industrial units.

Chronological listing of FDI Policy reform and related areas.

1991-92

As against the previous policy of considering all foreign investment on a case by case basis and that too within a normal ceiling of 40 percent of total equity investment, new policy provides for automatic approval of FDI up to 51 percent of equity in a specified list of 34 specified high-priority, capital intensive, hi-technology industries, provided the foreign equity covers the foreign exchange involved in importing capital
goods and outflows on account of dividend payments are balanced by export earnings over a period of 7 years from the commencement of production. Foreign technology agreements are also liberalized for the 34 industries with firms left free to negotiate the terms of technology transfer based on their own commercial judgement and without the need for government approval for hiring of foreign technicians and foreign testing of indigenously developed technologies. This is only subject to a registration procedure with the Reserve Bank of India.

Investment above 51 percent equity is also permitted on the basis of case by case approvals given by a specifically constituted Foreign Investment Promotion Board (FIPB) charged with expeditious processing of governmental approvals.

The Foreign Exchange Regulation Act (FERA) was amended to remove a number of constraints earlier applicable to firms with foreign equity operating in India.

India signed the Multilateral Investment Guarantee Agency (MIGA) Convention and became a member of MIGA along with many other developing countries interested in promotion of foreign investment.

Earlier prohibition against use of foreign brand name or trademark in goods sold in the domestic market withdrawn.

1992-93

Competition was promoted by the opening up of many areas previously reserved for the public sector to private and foreign investment. Policies put in place to attract FDI are:

The list of high-priority industries was rationalized and revised including new industries and adding software.

Existing companies with foreign equity can raise it to 51 percent subject to certain prescribed guidelines. FDI is also allowed in exploration, production and refining of oil and marketing of gas.

NRIIs and overseas corporate bodies (OCBs) predominately owned by them are also permitted to invest up to 100 percent of equity in high-priority industries. NRI investment up to 100 percent of equity is also allowed in export houses, trading houses, star trading houses, hospitals, EOUs, sick industries, hotels and tourism-related industries.

Provisions of the Foreign Exchange Regulation Act (FERA) are liberalized through ordinance dated January 9, 1993 as a result of which companies with more than 40 percent of foreign equity are now also treated on par with fully owned Indian companies.

1993-94

During 1993-94, an Electronic Hardware Technology Park (EHTP) scheme was set-up and allowed 100 percent equity participation, duty free import of capital goods and a tax holiday.

The ceiling on foreign equity participation in Indian companies engaged in mining activity was hiked to 50 percent.

States began exercising the initiative given to them by the Center's 1991 reforms. States in the vanguard of reform included Gujarat, Kerala, Maharashtra, Uttar Pradesh and Andhra Pradesh. Liberalization efforts undertaken include:

Private participation in development of ports, power stations and desalination of water supplies, etc.

Private and foreign participation encouraged in power projects

Committee set up under State Chief Secretary for expeditious decision on NRI and FDI District and Division level Authorized Committees with substantial decision-making powers set up to strengthen single-window clearance system.

Special facilities to NRIs and foreign industrialists.

1994-95

RBI based automatic approval policy for foreign investment made applicable to mining (except atomic materials and mineral fuels), subject to a limit of 50 percent on foreign equity.

The new power sector policy framework attracted 138 private proposals for creating 58,745 megawatts of capacity with an investment of Rs. 219,927 crore. Of these, 41 proposals were from foreign investors or joint ventures with foreign partners. Thirteen were cleared at the end of 94-95 fiscal year.

National Telecom Policy of 1994 allows for private provision of basic telecom services.
For value added services, government permits a maximum of 51 percent equity. Basic services, cellular mobile and radio paging limit is 49 percent.

Automatic approval of foreign investment up to 51 percent and foreign technology agreements permitted for all bulk drugs and formulations, barring only a few.

Foreign Investment allowed for NRIs and persons of Indian origin in a wide range of construction and real estate related activities. Foreign investment also allowed in constructing and operating highways, expressways and bridges, generating electricity on Build-Operate Own (BOO) basis, basic telephone services and certain operations in railways on Build-Operate-Lease-Transfer (BOLT) basis. Without prior approvals, foreign investors can now own up to 24 percent equity in any Indian firm and up to 20 percent in new private banks (GOI, 1994-95).

1995-96

Several reforms in the Industrial sector relating to FDI include:

Automatic approval of foreign investment up to 51 percent and foreign technology agreements permitted for 35 priority industries, which account for 50 percent value added in the manufacturing sector.

Foreign investment has also been liberalized in many sectors, including:

a) 35 high-priority industries
b) Export/Trading/Star trading houses
c) Hotels & Tourism related industry
d) 100 percent EOUs and units in FTZ and EPZ
f) Mining
g) Telecommunications
h) Power
k) Housing, real estate, business centers & infrastructure facilities. (GOI, 1995-96)
The Foreign Investment Promotion Council is set up in 1996.

The Foreign Investment Promotion Board (FIPB) is streamlined and made more transparent.

First ever guidelines are announced by the government for consideration of foreign direct investment proposals by the FIPB which are not covered under the automatic route in January of 1997. Priority areas addressed in the guidelines include infrastructure, industries having export potential, large scale employment potential particularly for rural areas, items with linkages to the farm sector, social sector projects like hospitals, health care and medicines, and proposals that lead to introduction of technology and infusion of capital.

FDI approvals, are however subject to sectoral caps; 20 percent (40 percent for NRIs) in banking; 51 percent in non-banking financial companies without any special conditions (100 percent with specified minimum levels of foreign investment); 100 percent in power, roads, ports, tourism and venture capital funds; 49 percent (not to be offset against the FDI in an investment holding/ company where there is a cap of 49 percent) in telecommunications (basic, cellular, paging services); 40 percent (100 percent for NRIs) in domestic air-taxi operations/airlines; 24 percent in small scale industries; 51 percent in drugs/pharma industry for bulk drugs; 100 percent in petroleum; and 50 percent in mining except for gold, silver, diamonds and precious stones.

The FIPB allows 100 percent foreign equity in cases where the foreign company cannot find a suitable Indian joint-venture partner, subject to the condition that the foreign investor divests at least 26 percent of its equity within three to five years.

New guidelines also allow foreign companies to set up 100 percent companies on the basis of these criteria:

(a) where only holding operation is involved and all downstream investments to be carried out need prior approval;

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

(c) where at least 50 percent of production is exported;
(d) consultancy proposals; and
(e) projects in power, roads, ports and industrial towns and estates.

The list of industries eligible for automatic approval of up to 51 percent foreign equity is expanded, including three industries relating to mining activity for foreign equity up to 50 percent. An additional 13 industries for foreign equity of up to 51 percent are included. These 13 industries include a wide range of industrial activities in the capital goods and metallurgical industries, entertainment electronics, food processing, and the service sectors having significant export potential.

In December, 1996, the government allowed automatic approval of FDI up to 74 percent by the RBI in nine categories of industries, including electricity generation and transmission, non-conventional energy generation and distribution, construction and maintenance of roads, bridges, ports, harbors, runways, waterways, tunnels, pipelines, industrial and power plants, pipeline transport except gas, water transport, cold storage and warehousing for agricultural products, mining services except for gold, silver and precious stones and exploration and production of gas, manufacture of iron ore pellets, pig iron, semi-finished iron and steel and manufacture of navigational, meteorological, geophysical, oceanographic, hydrological and ultrasonic sounding instruments and items based on solar energy. (GOI, 1996-97)

1997-98

During 1997-98 foreign direct investment was allowed into sixteen non-banking financial services through the foreign Investment Promotion Board. Expanding the scope of “automatic route” for foreign direct investments, the Government of India approved 13 additional categories of Industries/items under services sector for foreign equity participation up to 51 percent of the equity. There were 3 items relating to mining activity up to 74 percent foreign equity participation.

As a part of the liberalized policy the RBI had decided to permit foreign banks operating in India to remit their profits or surplus to their head offices without the approval of the Reserve Bank. The list of industries eligible for foreign direct equity investment under the automatic approval route by the RBI increased in 1997-98. Equity investment up to 100% by NRIs/OCBs has been permitted in high priority industries in metallurgical and infrastructure sectors. (GOI, 1997-98)
1998-99

Projects for electricity generation, transmission and distribution and construction and maintenance of roads, highways, vehicular tunnels and vehicular bridges, ports and arbors are permitted foreign equity participation up to 100 percent under the automatic route. Automatic route is subject to a ceiling of Rs. 1500 crore on foreign equity.

FDI permissible under Non-banking Financial Services now includes "Credit Card Business" and "Money Changing Business".

FDI up to 49 percent equity is allowed subject to license, in the companies providing Global Mobile Personal Communication by Satellite (GMPCS) services.

In August 1999, Foreign Investment Implementation Authority (FIIA) was established within the Ministry of Industry in order to ensure that approvals for foreign investments (including NRI investments) were quickly translated into actual investment inflows and that proposals fructify into projects. In particular, in cases where FIPB clearance was needed, approval time was reduced to 30 days.

Foreign owned Indian holding companies were hitherto required to obtain prior approval of the FIPB for downstream investment. They had been permitted to make such investments within permissible equity limits through the automatic route provided such holding companies bring in the requisite funds from abroad. Also, the need to obtain prior approval of the FIPB for increasing foreign equity within already approved limits had been dispensed with in all cases where the original project cost was up to Rs.600 crore.

Considering the enhanced opportunities of Indian software companies for expanding globally, operational norms governing their overseas investments and mode of financing acquisition of overseas software companies had been liberalized. In December 1999 a notification was issued by the Ministry of Finance permitting Indian software companies, which are listed in foreign exchanges and have already floated ADR /GDR issues, to acquire foreign software companies and issue ADRs / GDRs without reference to the Government of India or the Reserve Bank of India up to the value limit of US $ 100 million. For acquisitions beyond US $ 100 million, proposals would require examination by a Special Composite Committee in the RBI.
An Insurance Regulatory and Development Act (IRDA) was passed by Parliament in December 1999. The Act, which seeks to promote private sector participation in the insurance sector permits foreign equity stake in domestic private insurance companies up to a maximum 26 per cent of the total paid up capital. (GOI, 1998-99)

1999-2000

In February 2000, the government took a major decision to place all items under the automatic route for FDI/NRI/OCB investment except for a small negative list. The negative list included the following:

i) items requiring an industrial license under the Industries (Development and Regulation) act, 1951;

ii) foreign investment being more than 24 percent in the equity capital of units manufacturing items reserved for small scale industries.

iii) all items requiring industrial license in terms of the location policy notified under the New Industry Policy of 1991.

iv) proposals having previous venture/tie-up in India with foreign collaborator;

v) proposals relating to acquisition of shares in existing Indian company by foreign/NRI/OCB investor.

vi) proposals falling outside notified sectoral policy/caps or under sectors in which FDI is not permitted and / or applications chosen to be submitted through FIPB rather than automatic route by the investors. This is an important step to dispense with case-by-case approval procedure and to impart greater transparency in the process of foreign investment.

Furthermore, subject to sectoral policies and sectoral caps the automatic route would be available to all foreign and NRI investors with the facility to bring in 100 percent FDI/NRI/OCB investment. (GOI, 1999-2000)

2000-2001

During the year 2000-2001, FDI up to 100 percent has been permitted in e-commerce subject to specific conditions. The upper limit of Rs.1500 crores for FDI in project involving electricity generation, transmission and distribution has been dispensed with. The ceiling for FDI under the automatic route in oil refining has been...
liberalized to 100 percent from 49 percent. The limit has been raised to 100 percent for all manufacturing activities in Special Economic Zones also. Foreign equity participation up to 26 percent has been allowed in the insurance sector subject to the issue of necessary license by the Insurance Regulatory and Development authority. 100 percent FDI has also been allowed in the telecommunications sector for Internet Service Providers (ISPs) not providing gateways, infrastructure providers providing dark fiber, electronic mail and Voice mail.

FDI up to 100 percent is permitted in airports with FDI above 74 percent requiring prior approval of the Government. The defence industry sector is also opened up to 100 percent for Indian private sector participation with FDI permitted up to 26 percent, both subject to licensing. FDI up to 100 percent is permitted with prior approval of the Government in courier services. FDI up to 100 percent is permitted on the automatic route for Mass Rapid Transport System in all metropolitan cities, including associated commercial development of real estate. FDI up to 100 percent is placed on the automatic route in drugs and pharmaceuticals. Institutions like International Finance Corporation, Common Wealth Development Corporation, German Investment and Development Company (DEG), etc., are allowed to invest in domestic companies through the automatic route subject to SEBI/RBI guidelines and sector specific caps on FDI.

2001-2002

Significant changes made during 2001-2002 include allowing payment of royalty up to 20 percent on exports and 1 percent on domestic sales under automatic route on use of trademarks and brand name of the foreign collaborator without technology transfer. Payment of royalty up to 8 percent on exports and 5 percent on domestic sales by wholly owned subsidiaries to off share parent companies is allowed under the automatic route without any restriction on duration of royalty payments.

FDI up to 49 per cent from all sources permitted in the private banking sector.

Non-Banking Financial Companies (NBFCs) permitted to hold foreign equity up to 100 per cent in holding companies.

FDI up to 100 percent permitted with prior approval of the Government for development of integrated township.
As part of the ongoing process of liberalizing FDI policies, the Planning Commission had set up a Steering Committee on FDI in August 2001, for suggesting measures for enhancing FDI inflows in India. The Steering Committee on FDI submitted its report, which is currently being considered by the Government. The main recommendations of the Committee are:

- Enactment of a Foreign Investment Promotion Law incorporating and integrating relevant aspects for promoting FDI.
- Urge States to enact a special investment law relating to infrastructure for expediting investment in infrastructure and removing hurdles to production in infrastructure.
- Empower the Foreign Investment Promotion Board (FIPB) for granting initial Central-level registrations and approvals wherever possible, for speeding up the implementation process.
- Empower Foreign Investment Implementation authority (FIIA) for expediting administrative and policy approvals.
- Disaggregating FDI targets for the tenth Plan in terms of sectors, and relevant administrative ministries/departments, for increasing accountability.
- Reduction of sectoral FDI caps to the minimum and elimination of entry barriers. Caps can be taken off for all manufacturing and mining activities (except defence), eliminated in advertising, private banks, and real estate, and hiked in telecom, civil aviation, broadcasting, insurance and plantations (other than tea).
- Overhauling the existing FDI strategy by shifting from a broader macro-emphasis to a targeted sector specific approach.
- Informational aspects of the FDI strategy require refinement in the light of India’s strengths and weaknesses as an investment destination and should use information technology and modern marketing techniques.
- The Special Economic Zones (SEZs) should be developed as internationally competitive destinations for export-oriented FDI, by simplifying laws, rules, and procedures, and reducing bureaucratic rigmarole on the lines of China.
- Domestic policy reforms in power, urban infrastructure, and real estate, and de-control/de-licensing should be expedited for attracting more FDI (GOI, 2001-02)
Continuing with its policy to further liberalize FDI, the government announced another set of sector specific initiatives to attract larger volumes of FDI. Some of them are:

FDI upto 100 percent permitted under the automatic route in advertising sector.

FDI in print media is allowed upto 26 percent of paid-up equity capital of Indian entities publishing periodicals and newspapers dealing with news and current affairs.

FDI upto 100 percent permitted with prior approval of the government for development of integrated township, including housing, commercial premises, hotels, resorts and regional level urban infrastructure facilities such as roads and bridges and mass rapid transit system, subject to the guidelines of Government of India.

Automatic route of FDI upto 100 percent allowed in all manufacturing activities such as arms and ammunitions, explosives and allied items of defence equipment, defence aircraft and warships, narcotics, distillation and brewing of alcoholic drinks and cigarettes and cigars.

100 percent FDI is permissible in the sector on the automatic route in Hotel and Tourism. The term hotels include restaurants, beach resorts, and other tourist complexes providing accommodation and/or catering and food facilities to tourists. Tourism related industry include travel agencies, tour operating agencies and tourist transport operating agencies, units providing facilities for cultural, adventure and wild life experience to tourists, surface, air and water transport facilities to tourists, leisure, entertainment, amusement, sports, and health units for tourists and Convention/Seminar units and organizations.

The radical recommendations have been made by the N.K. Singh Committee on FDI on September 7, 2002. These include hiking the Sectoral Caps for FDI as given in Table 2.1. The Committee has also suggested that Special Economic Zones should be developed as the most competitive destinations for export related FDI by simplifying laws, rules, administrative procedures and reducing red tape to the levels found in China. The main reason stated by the Committee for the low level of FDI was the absence of a credible regulating framework in several sectors. To work towards the Tenth Plan (2002-2007) target of attracting more than $8 billion of FDI per year, the Committee has
suggested enactment of Foreign Investment Promotion Law that incorporates and integrates aspects relevant to promotion of FDI. Recognising inadequate infrastructure in the country as a primary hurdle to FDI growth, the Committee urged states to enact a special investment law relating to infrastructure to expedite investment in infrastructure sectors and remove obstacles to production in the sector. The Committee has favoured enhancing FDI limits in telecom, insurance, civil aviation, plantation, and others.

Table 2.1 Recommendations of N.K. Singh Committee Report on Sectoral Caps to boost Foreign Direct Investment

<table>
<thead>
<tr>
<th>Sector</th>
<th>Existing Limit</th>
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<tbody>
<tr>
<td>A. Recommended for 100% FDI</td>
<td></td>
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<tr>
<td>1. Drugs</td>
<td>100</td>
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<tr>
<td>2. Petroleum refining</td>
<td>26</td>
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<tr>
<td>3. Oil marketing</td>
<td>74</td>
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<tr>
<td>4. Diamond, precious stones</td>
<td>74</td>
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<tr>
<td>5. Petroleum exploration</td>
<td>51-100</td>
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<tr>
<td>6. Coal and lignite</td>
<td>50</td>
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<tr>
<td>7. Coal washery</td>
<td>50</td>
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<tr>
<td>8. Airports</td>
<td>74</td>
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<tr>
<td>9. Telecom gateway</td>
<td>74</td>
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<tr>
<td>10. Pipelines for gas and oil</td>
<td>51</td>
</tr>
<tr>
<td>11. Banking</td>
<td>49</td>
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<tr>
<td>12. Investment companies</td>
<td>49</td>
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<tr>
<td>13. Internet service providers</td>
<td>100</td>
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<tr>
<td>14. E-mail and Voice mail</td>
<td>100</td>
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<tr>
<td>15. Radio paging</td>
<td>74</td>
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<td>16. Advertising</td>
<td>74</td>
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<tr>
<td>17. Trading</td>
<td>51</td>
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<tr>
<td>18. Courier service</td>
<td>100</td>
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<tr>
<td>19. Commercial complexes</td>
<td>0</td>
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<tr>
<td>20. Individual housing/building</td>
<td>0</td>
</tr>
<tr>
<td>B. Recommended for 74% FDI</td>
<td></td>
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<tr>
<td>1. Basic mobile telecom services</td>
<td>49</td>
</tr>
<tr>
<td>C. Recommended for 49% FDI</td>
<td></td>
</tr>
<tr>
<td>1. Small scale industries</td>
<td>24</td>
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<tr>
<td>2. Civil aviation</td>
<td>40</td>
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<tr>
<td>3. Insurance</td>
<td>26</td>
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<tr>
<td>4. Broadcasting (DTH, kV)</td>
<td>20</td>
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<tr>
<td>5. Plantation</td>
<td>0</td>
</tr>
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</table>

Source: India Today September 30 2002.

The reforms in FDI are still going on to suit the changing economic conditions.
2.4 Observation, Conclusion and comparison of FDI policies of India with some Asian countries:

In this chapter, it is seen that the policy framework in India in the decade of eighties, towards FDI was partial liberalization with many regulations. Liberal investment climate has been created only since 1991. The period from 1991 till date is characterized by transparency and openness and is intended to seek more foreign investment inflows. Thus the sweeping changes introduced since 1991 mark a radical departure from the past and reflect a positive approach towards foreign capital. The sectors opened to FDI now are much larger as compared to the earlier policy. One clear feature of FDI policy in India is in the pre liberalization period, foreign ownership exceeding 40 percent equity was granted only in exceptional cases. In the post liberalization period, FDI is given automatic approval upto 51 percent foreign equity in priority sectors like power, Telecommunications, hotel and tourism.

There is wide recognition of the critical importance of infrastructure development to sustain India’s growth objectives. The Government has recognize its limitations in being a provider of infrastructure services, which entail huge investment outlays, long gestation periods, project risk and long pay -back periods. In India, FDI has been primarily targeted towards infrastructural development, with almost one third of the approvals being directed towards the power and telecommunications sector alone. Up to 100% FDI allowed in respect of projects relating to electricity generation, transmission and distribution, other than atomic reactor power plants. There is no limit on the project cost and quantum of foreign direct investment.

India has opened its telecom sector to foreign investors up to 100 percent holding in manufacturing of telecom equipment, internet services, and infrastructure providers (e-mail and voice mail), 74 percent in radio-paging services, internet (international gateways) and 49 percent in national long distance, basic telephone, cellular mobile, and other value added services (FICCI, 2003). Since 1991, FDI in the telecom sector is second only to power and oil. Indian policy-makers also increasingly recognized the need for reforms and investment in telecommunication infrastructure in order to realize the forecasted economic and social growth rate of the country. It has been shown that
investment in telecommunications infrastructure leads to economic growth in various ways. While telecommunication investment itself leads to growth by creating a demand for the goods and services used in their production, the economic returns on this investment are far greater than the returns from the investment alone. The multiplier effect of telecom investment on GDP is likely to be higher because of both the direct and indirect effect that this investment has on production. Information technology is seen as a capability-enhancing activity (Sudeshna Ghosh et al., 2002). Infrastructure FDI is at once the riskiest for the investor and probably the most promising and sensitive for the country receiving the FDI. The benefits are clear. Without reliable power, telephone, and transport networks—and now information technology networks—a country cannot hope to increase its industrial production and economic growth. This is especially true with increased globalization. Without foreign involvement, it is highly unlikely the country can ever build the infrastructure it needs and still take care of other important objectives, such as education and health. (Jeffrey D. Sachs and Nirupam Bajpai, 2000)

Only one-fourth of total approvals were directed towards major exporting sectors like textiles, chemicals and pharmaceuticals, leather goods, transport, metallurgical industries and food processing industries. The idea is that once infrastructure is developed, "attracting FDI in to export-oriented industries will become demand driven based on the competitiveness of the individual industries. We need to wait and see how the FDI flow into infrastructure industries drives the growth of FDI into other manufacturing sector. Recent evidence seems to indicate that, although telecommunications and airlines have attracted FDI flows (example to India and Pakistan), other more basic infrastructure such as road building remains unattractive, reflecting both the low returns and high risks of such investments. FDI up to 100 percent under automatic route is permitted in projects for construction and maintenance of roads, highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours.

If we compare the openness in Indian policy in terms of the sphere of operation with the policies of major competing countries we find that in China FDI is encouraged in most manufacturing and agricultural activities. Another country that has opened agriculture to FDI is Thailand. Generally, however, FDI is not permitted in agriculture and mining in most other competing Asian countries. Generally manufacturing industries
are open to FDI in all the countries. In case of service industries there are wide variations. In China, all service industries (except hotels) are closed to foreign investment. On the other hand in Thailand, FDI is permitted in almost all service industries. India, like most other Asian countries, stays in between the two extreme policy stances. The most striking feature of the present liberalization policy in India is the freedom provided to the level of foreign equity participation. In the earlier policy phases, the attitude was quite rigid with respect to foreign equity ownership and control. It was insisted that FDI should be accompanied by technology transfer agreements. And, foreign ownership exceeding 40 percent of equity was granted only in exceptional cases. In striking contrast, under the liberalization policy, it is not necessary that FDI is accompanied by foreign technology agreements. And FDI is given automatic approval up to 51 percent foreign equity in the listed priority industries, which cover most manufacturing activities including software development and those related to hotel and tourism. Besides, there is no upper bound for foreign equity, even 100 percent foreign equity is permitted with prior approval permission is given freely to 100 percent foreign equity in the power sector and wholly export-oriented industries, all manufacturing activities in special Economic Zone in the telecommunication Sector for Internet Service Providers, infrastructure providers and electronic mail and voice mail. Thus Indian Policy compares perhaps better than those of her major competitors do like China and Malaysia to the extent that in a large number of manufacturing industries (including some service industries) foreign majority ownership is freely allowed without any restriction. India's automatic approval of equity up to 51 percent is a unique process, which goes a long way in making Indian Policy on FDI transparent.
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India Today September 30, 2002 p-23


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