FOREIGN INVESTMENT AND FOREIGN TRADE

Foreign District Investment (FDI)-

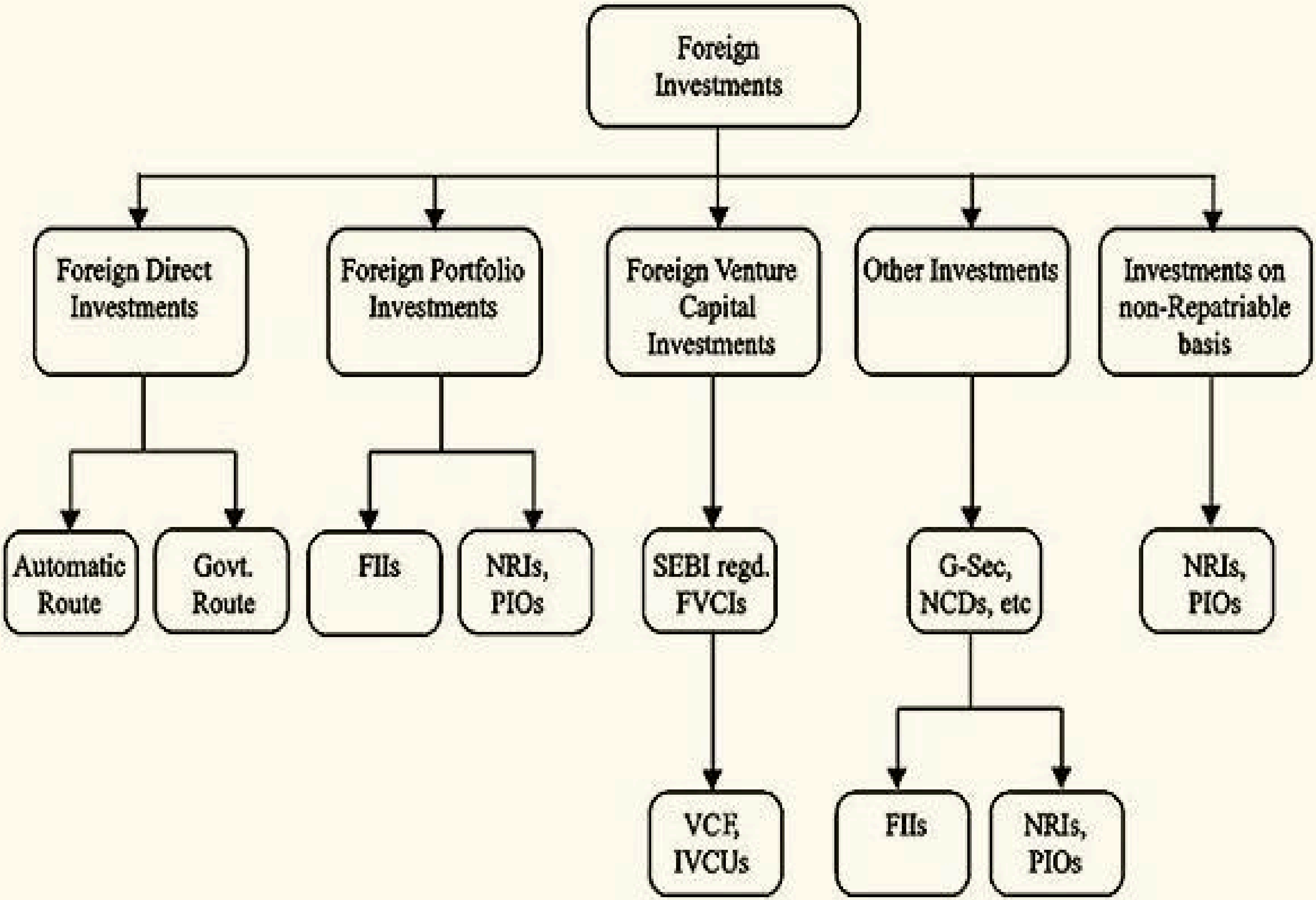
Under FDI, a foreign investor establishes/ acquires the business entity in the host country along with management rights.

An investment through which an investor acquires lasting and substantial management control (at least 10% equity or voting rights as international agreed) in the foreign affiliate.

Foreign Portfolio Investment - The investment through which investor purchases security from foreign financial markets. Such investors do not have management rights or substantial voting rights in the company. Under this investors maintain anonymous relation with the company.

Part - I

Foreign Investments in India-Schematic representation :



key differences between FDI & FPI:

Basis of Difference	FDI	FPI
Definition	Foreign Direct Investment (FDI) refers to either direct investments made in a foreign country to expand a firm, build new infrastructure, or make long-term investments in that country's economy.	Foreign Portfolio Investment (FPI) is an investment in a foreign country's financial assets, either stocks or bonds. It is mainly done to generate significant returns from the stock markets.
Type of Investors	Active	Passive
Type of Investment	Direct Investment	Indirect Investment
Degree of Control	High control	Very low control
Investment Term	Long Term	Short Term

Involvement	**Long term interest in the company, therefore, involved in management and ownership control.**	**Looking for short term gains, therefore no active involvement in the managerial activities.**
Project Management	**Projects are managed efficiently.**	**Less efficiency in project management.**
Type of Assets	**Physical assets and stakes in the foreign companies. (Financial and also Non-Financial Assets).**	**Financial assets of the foreign country like stocks, bonds and also ETFs.**
Entry and Exit	**Difficult**	**Relatively easy**
Motive	**Business expansion.**	**Generating returns to the investor.**
Leads to	**Transfer of technology, funds and also resources to the foreign country.**	**Capital inflow to the foreign countries.**
Volatility	**Stable**	**Volatile**

Mayavaram Committee was constituted to Rationalize definition of FDI & Portfolio Investments (FPI), 2013

- **defined FDI as Equity investment of 10% or more in listed Companies.**
- **Or Any amount of equity investment in unlisted cos.**

- **defined Portfolio investment (FPI) as the equity investment of less than 10% in listed companies.**

COMPONENTS OF FDI as per IMF

1. Equity Investment.

2. Retained/ Reinvested earnings of foreign companies.

3. Intra-company Debt Transfers (Sub-ordinated debt) or other capital

Source of FDI

- **MNCs through Branches, Subsidiaries and Joint Venture**
- **MNCs through mergers and acquisitions, building new facilities, reinvesting profits earned from overseas operations, and intra company loans"**
- **Foreign Residents or Foreign Governments when engaged in overseas commercial venture through Equity Investment (at least 10%)**

FDI Policy / Policy towards MNC - FDI Policy comes under Ministry of Commerce & Industry (Dept. for Promotion Industry & Internal Trade- DPIIT)

With a view to attracting Foreign Direct Investment (FDI), Government of India has put in place a liberal policy under which FDI up to 100% is permitted under the automatic route in most sectors/activities. Significant changes have been made in the FDI policy regime in recent times to ensure that India remains an increasingly attractive investment destination.

The Department for Promotion of Industry and Internal Trade (DPIIT) under the Ministry of Commerce and Industry, is the nodal department for the formulation of the Government's policy on Foreign Direct Investment (FDI). It is also responsible for the maintenance and management of data on inward FDI into India, based on the remittance reported by the Reserve Bank of India.

Steps taken by Government to boost FDI

1. New Industrial Policy, 1991- FDI Ceiling was increased, FIPB (Foreign Investment Promotion Board) was formed (now abolished)

2. Liberalization of Exchange Rate System- In 1993 merged floating was introduced, earlier to this exchange rate was largely fixed.

3. Introduction of partial Capital Account Convertibility.

4. FERA (Foreign Exchange Regulation Act) was amended to FEMA (Foreign Exchange Mangement Act), 1999.

FERA/FEMA: All forex dealings should be as per the provisions of FERA & FEMA. Nobody can deal in forex other than RBI & its authorized agents. It empowers RBI to regulate convertibility norms. Violations of foreign exchange transaction to be investigated by Enforcement Directorate (ED).

853 FDI proposals have been disposed off through the Foreign Investment Facilitation Portal (FIF) since abolishment of Foreign Investment Promotion Board (FIPB). The proposal for abolition of FIPB was approved by the Union Cabinet in its meeting on 24th May, 2017. Subsequent to abolition of the Foreign Investment Promotion Board (FIPB), granting of government approval for foreign investment under the extant FDI Policy and FEMA Regulations was entrusted to the concerned Administrative Ministries/Departments and Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce & Industry, was made the nodal Department.

The FDI proposals were, thereafter, required to be filed only on Foreign Investment Facilitation Portal (FIF Portal) at https://fifp.gov.in, which is managed by DPIIT. The proposals filed on FIF Portal are forwarded to the concerned Administrative Ministry and are also simultaneously marked to Ministry of External Affairs (MEA) and Reserve Bank of India (RBI) for comments and to Ministry of Home Affairs (MHA) for necessary security clearance, wherever required as per the FDI Policy/ FEM Regulations

5. Press Note 18 was abolished in 2005- Under PN 18 the foreign investor having prior joint ventures in India needed No Objection Certificate from the government (kind of govt approval) for undertaking any new business/ new project in India.

6. Make in India- ease of doing business; Labour Reforms; Bankrupting and Insolvency bill 2015; Companies Act, 2013.

The FDI Policy framework is embodied in the Consolidated FDI Policy Circular, as amended from time to time. The currently effective Consolidated FDI Policy Circular was issued by DPIIT on October 15, 2020.

ENTRY ROUTES FOR INVESTMENT

FDI is permitted either through the Automatic Route or the Government Route.

Automatic Route

No prior approval is required for FDI under the automatic route, only information to the Reserve Bank of India (RBI) within 30 days of inward remittances or issue of shares to non-residents is required.

Government Route

Foreign investment proposals not covered under the 'Automatic Route' are considered for Governmental Approval by the respective competent authority / Administrative Ministry/Department.

DPIIT oversees the applications filed on the Foreign Investment Facilitation Portal and forwards them to the concerned administrative ministry (competent authority)

FDI proposals involving total foreign equity inflow of more than Rs 50 billion, are referred to Cabinet Committee on Economic Affairs (CCEA).

SECTOR WISE FDI LIMITS AS PER FDI POLICY 2020.

Sector	FDI Limit	Entry Route & Remarks
Agriculture & Animal Husbandry • Floriculture, Horticulture, Apiculture and Cultivation of Vegetables & Mushrooms under controlled conditions • Development and Production of seeds and planting material • Animal Husbandry(including breeding of dogs), Pisciculture, Aquaculture • Services related to agro and allied sectors	100%	Automatic
Plantation Sector • Tea sector including tea plantations • Coffee plantations • Rubber plantations • Cardamom plantations • Palm oil tree plantations • Olive oil tree plantations	100%	Automatic
Mining Mining and Exploration of metal and non-metal ores	100%	Automatic

Sector	FDI Limit	Entry Route & Remarks
including diamond, gold, silver and precious ores but excluding titanium bearing minerals and its ores		
Mining (Coal & Lignite)	100%	Automatic
Mining Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities	100%	Government
Petroleum & Natural Gas Exploration activities of oil and natural gas fields, infrastructure related to marketing of petroleum products and natural gas, marketing of natural gas and petroleum products etc	100%	Automatic
Petroleum & Natural Gas Petroleum refining by the Public Sector Undertakings (PSU), without any disinvestment or dilution of domestic equity in the existing PSUs.	49%	Automatic
Defence Manufacturing	100%	Automatic up to 49% Above 49% under Government route in cases resulting in access to modern technology in the country

Sector	FDI Limit	Entry Route & Remarks
Broadcasting • Teleports(setting up of up-linking HUBs/Teleports) • Direct to Home (DTH) • Cable Networks (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability • Mobile TV • Head end-in-the Sky Broadcasting Service(HITS)	100%	Automatic
Broadcasting Cable Networks (Other MSOs not undertaking up gradation of networks towards digitalization and addressability and Local Cable Operators (LCOs))	100%	Automatic
Broadcasting Content Services • Terrestrial Broadcasting FM(FM Radio) • Up-linking of ‘News & Current Affairs’ TV Channels	49%	Government
Up-linking of Non-‘News & Current Affairs’ TV Channels/ Down-linking of TV Channels	100%	Automatic
Print Media • Publishing of newspaper and periodicals dealing with news and current affairs • Publication of Indian editions of foreign magazines dealing with news and current affairs	26%	Government

Sector	FDI Limit	Entry Route & Remarks
Publishing/printing of scientific and technical magazines/specialty journals/ periodicals, subject to compliance with the legal framework as applicable and guidelines issued in this regard from time to time by Ministry of Information and Broadcasting.	100%	Government
Publication of facsimile edition of foreign newspapers	100%	Government
Civil Aviation – Airports Green Field Projects & Existing Projects	100%	Automatic
Civil Aviation – Air Transport Services • Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline • Regional Air Transport Service (Foreign Airlines are barred from Investing in Air India)	100%	Automatic up to 49% Above 49% under Government route 100% Automatic for NRIs
Civil Aviation • Non-Scheduled Air Transport Service • Helicopter services/seaplane services requiring DGCA approval • Ground Handling Services subject to sectoral regulations and security clearance	100%	Automatic

Sector	FDI Limit	Entry Route & Remarks
• Maintenance and Repair organizations; flying training institutes; and technical training institutions		
Construction Development: Townships, Housing, Built-up Infrastructure	100%	Automatic
Industrial Parks (new & existing)	100%	Automatic
Satellites- establishment and operation, subject to the sectoral guidelines of Department of Space/ISRO	100%	Government
Private Security Agencies	74%	Automatic up to 49% Above 49% & up to 74% under Government route
Telecom Services	100%	Automatic up to 49% Above 49% under Government route
Cash & Carry Wholesale Trading	100%	Automatic
E-commerce activities (e-commerce entities would engage only in Business to Business (B2B) e-commerce and not in Business to Consumer (B2C) e-commerce.)	100%	Automatic
Single Brand retail trading Local sourcing norms will be relaxed up to three years and a relaxed sourcing regime for another five	100%	Automatic up to 49% Above 49% under Government route

Sector	FDI Limit	Entry Route & Remarks
years for entities undertaking Single Brand Retail Trading of products having 'state-of-art' and 'cutting edge' technology.		
Multi Brand Retail Trading	51%	Government
Duty Free Shops	100%	Automatic
Railway Infrastructure Construction, operation and maintenance of the following • Suburban corridor projects through PPP • High speed train projects • Dedicated freight lines • Rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities • Railway Electrification • Signaling systems • Freight terminals • Passenger terminals • Infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivities to main railway line • Mass Rapid Transport Systems.	100%	Automatic
Asset Reconstruction Companies	100%	Automatic

Sector	FDI Limit	Entry Route & Remarks
Banking- Private Sector	74%	Automatic up to 49% Above 49% & up to 74% under Government route
Banking- Public Sector	20%	Government
Credit Information Companies (CIC)	100%	Automatic
Infrastructure Company in the Securities Market	49%	Automatic
Insurance • Insurance Company • Insurance Brokers • Third Party Administrators • Surveyors and Loss Assessors • Other Insurance Intermediaries Parliament on March 22 passed the Insurance Amendment Bill 2021 to increase the foreign direct investment (FDI) limit in the insurance sector to 74% from 49%. Insurance penetration in India is currently at 3.7% of the gross domestic product (GDP) compared to the world average of 6.31%.	49% 74%now	Automatic
Pension Sector	49%	Automatic
Power Exchanges	49%	Automatic
White Label ATM Operations	100%	Automatic

Sector	FDI Limit	Entry Route & Remarks
Financial services activities regulated by RBI, SEBI, IRDA or any other regulator	100%	Automatic
Pharmaceuticals(Green Field)	100%	Automatic
Pharmaceuticals(Brown Field)	100%	Automatic up to 74% Above 74% under Government route
Food products manufactured or produced in India Trading, including through e-commerce, in respect of food products manufactured or produced in India.	100%	Government

Prohibited Sectors

FDI in India is PROHIBITED in the following sectors:

- **Lottery Business, which includes Government/private lottery, online lotteries, etc.**
- **Gambling, Betting as well as casinos etc.**
- **Chit funds**
- **Nidhi company**
- **Trading in Transferable Development Rights (TDRs)**
- **Real Estate Business**
- **Construction of Farm Houses (Real estate business does not include development of townships, construction of residential /commercial premises, roads or bridges)**
- **Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes**

Activities/sectors not open to private sector investment e.g.

Atomic Energy and Railway operations (other than permitted activities)

FDI Limit in INDIA- 49%, 74%, 100%.........Why ?

100% FDI Limit implies that the foreigner can be the sole head in investing and decision making too, he doesn't need an Indian investor to setup the business.

51% FDI Limit implies the foreigner has the major stake in Economic terms but he solely can't impact the decision making.

49% FDI Limit implies the foreigner doesn't have the majority stake in Economic terms and also can't solely impact the decision making.

Decision Making perspective:
In the process of decision making there are 2 types of resolutions

Simple resolution (declaration of dividend, appointment of Directors or auditors etc.) need more than 50% voting rights to pass (51%)

Special Resolution (for amalgamation, winding up, appointment of MD etc.) need more than 75% voting rights to pass (76%)
Therefore if a foreigner has 26% stake ,it is enough for him to veto a special resolution, means Indian cannot pass special resolution without consent of foreign partner.
If a foreigner has 49% he can veto a special resolution but Indian partner (51%) will have power to pass simple resolution. If a foreigner has 51%, He can pass simple resolutions
If a foreigner has 100% he is the supreme of the Business.

FDI in Multibrand Retail

Conditions - Miminum Investment- 100 million $ out of which 50% should be invested in backend infrastructure like cold storage, collection centers, transfers;

Fresh agricultural produce, including fruits, vegetables, flowers, grains, pulses, fresh poultry,fishery and meat products, may be unbranded.

At least 30% purchase from SSI;

Stores should be in cities that have more than 10 Lakh population

Advantages - Reforms in Supply chain Management; Reduction in Wastage; Control on Hoarding and Middlemen; Infrastructure Development; Reduction in food inflation; Prices decreased and Standard of Living increased. Higher Prices to farmers with assured market (Contract forming).

Disadvantages – Unemployment would increases (Middlemen moves out of market); General Stores would be affected; Trader's profit margin would be affected; Monopoly of MNCs; Drain of Resources; Repatriation

FDI in e-COMMERCE

e-Commerce - Inventory model (IM) and Market Place Model (MP).

Inventory model (IM) - e-Commerce Cos. purchase products from manufacturers/wholesalers and sell it to consumer (B2C- Not Permitted).

Market Place Model (MP) - e-Commerce Cos. provide a platform to manufacturer to sell their product to consumer against payment of commission (B2C- Permitted).

Issue: Government policy allows 100 per cent FDI in MarketPlace e-commerce platforms and prohibits the FDI in inventory-based models of e-commerce.

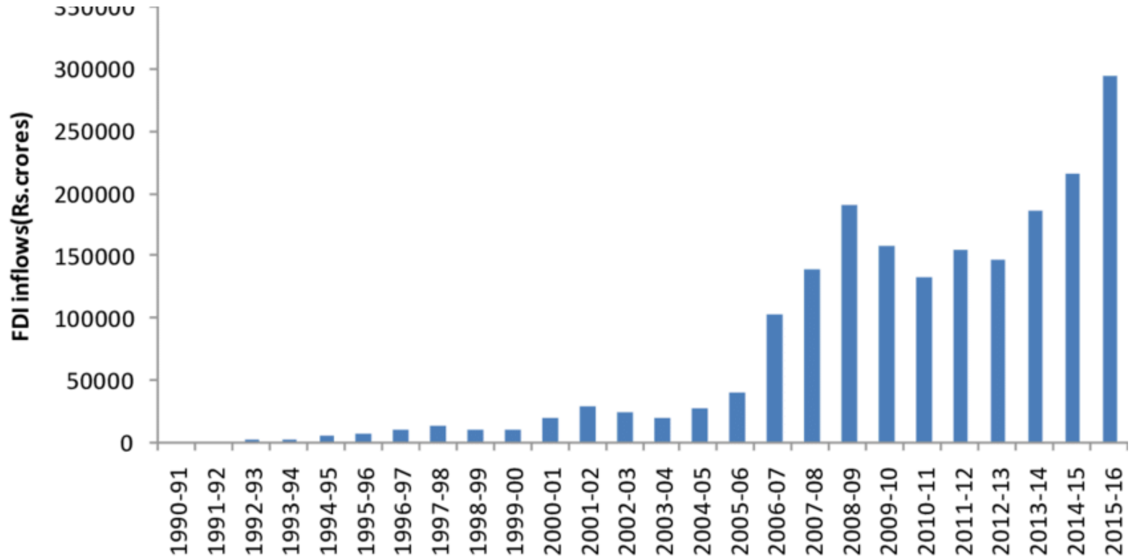
To protect the small merchants/kirana, FDI in inventory based models of e-commerce has been banned and the companies with FDI are supposed to operate the marketplace based e-commerce platform only. However, due to creative interpretations about the relationship between marketplace and sellers, these companies are controlling either the sellers on their platform or their inventory.
The control of foreign marketplace platform entities, over the sellers on their platform, enables them to do anti-competitive practices such as predatory pricing and deep discounting through capital dumping that has led to closure of a large number of small merchants/kiranas leading to job loss for lakhs of people every month.

The Confederation of All India Traders (CAIT) sought a regulator to monitor e-commerce business in India. The regulator can then take immediate action against violations such as deep discounting, preferential arrangements with sellers, among others.

FDI in DEFENCE

Advantages – Technological Development; Defence capability will increase; Defence Import will decrease & Defence export will increase (strategic significance)

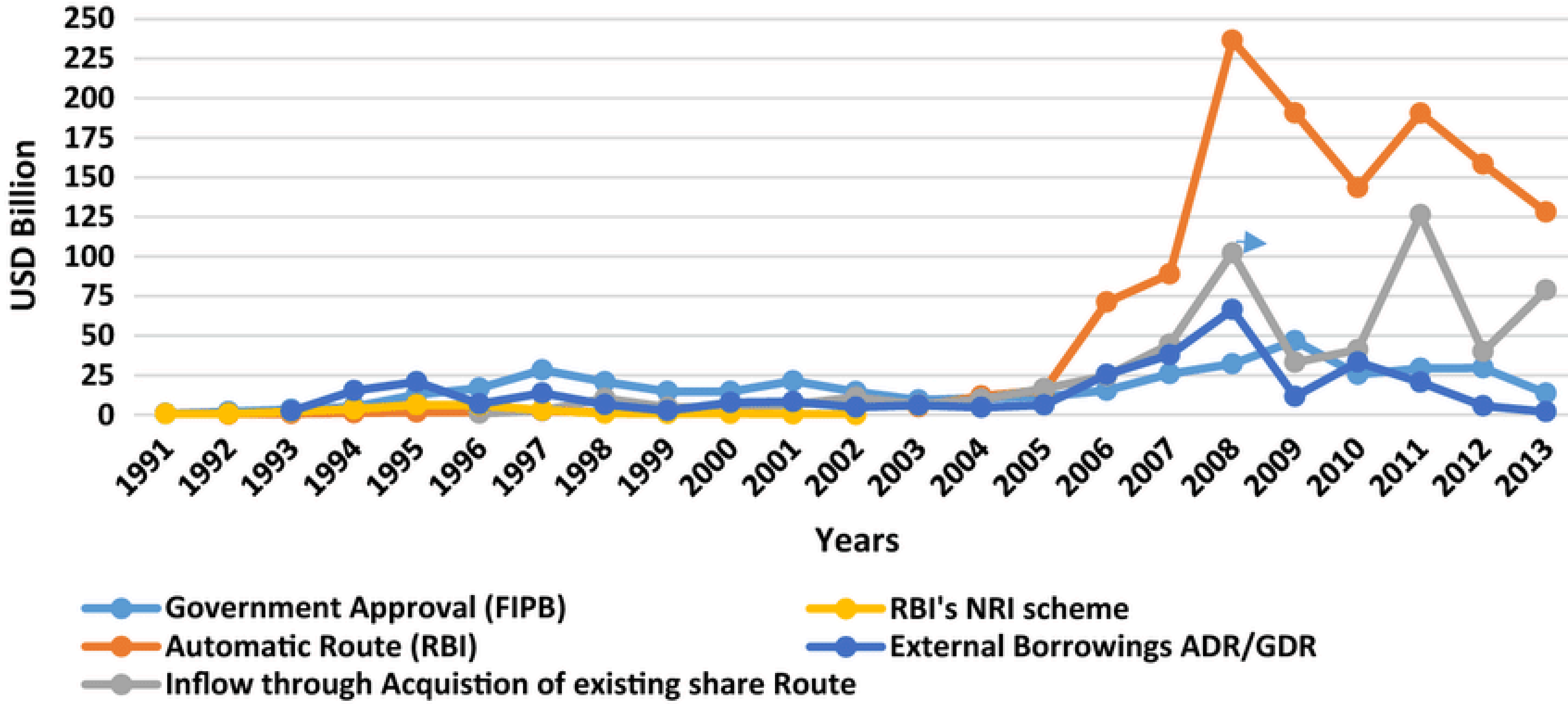
Disadvantages - Security repercussions i.e. FDI increment from 26% to 49% in Defence through Automtic route in selected state-of-the-art Technologies and Equipments.



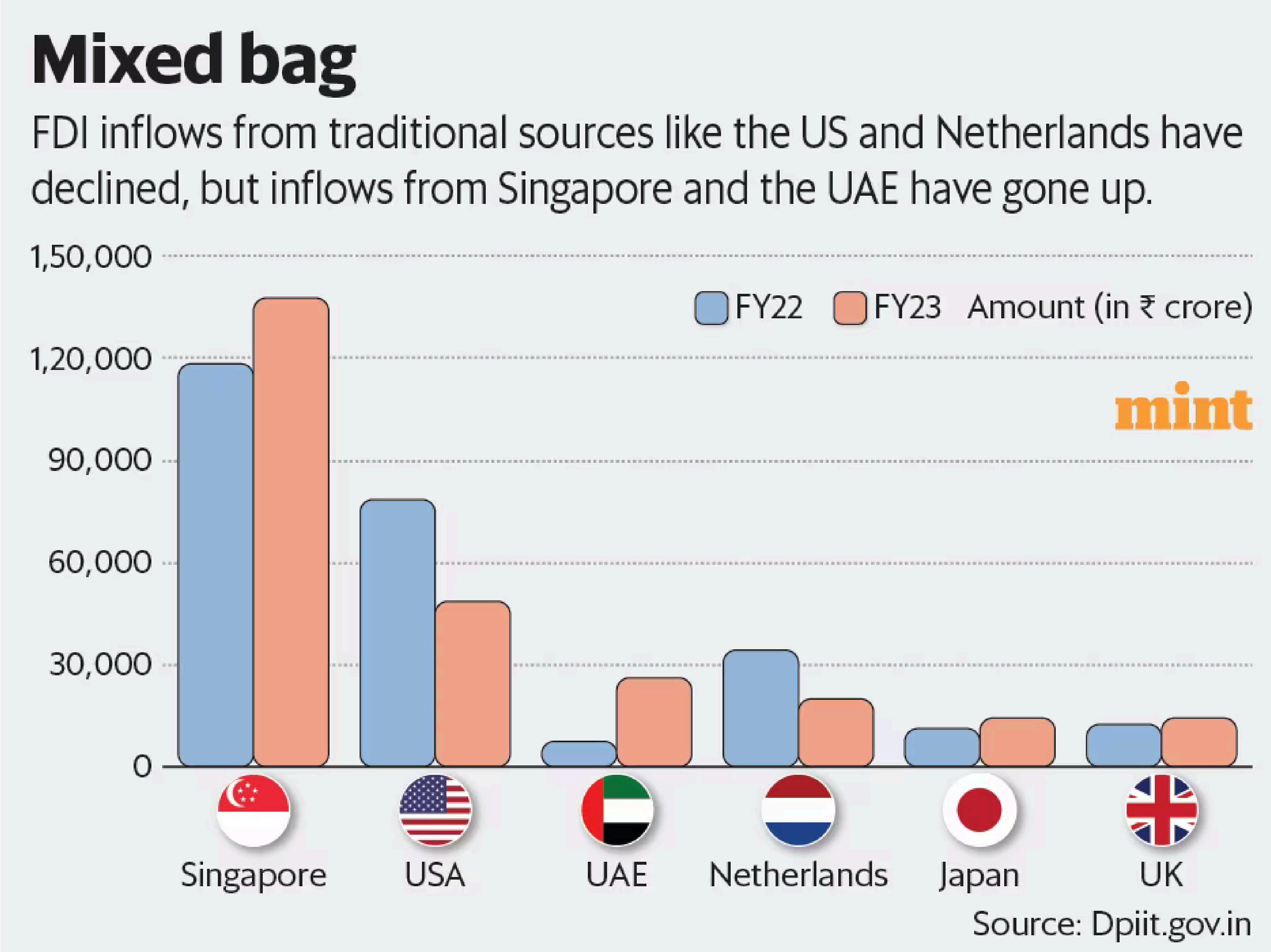
FDI Inflows to India ($ bn)

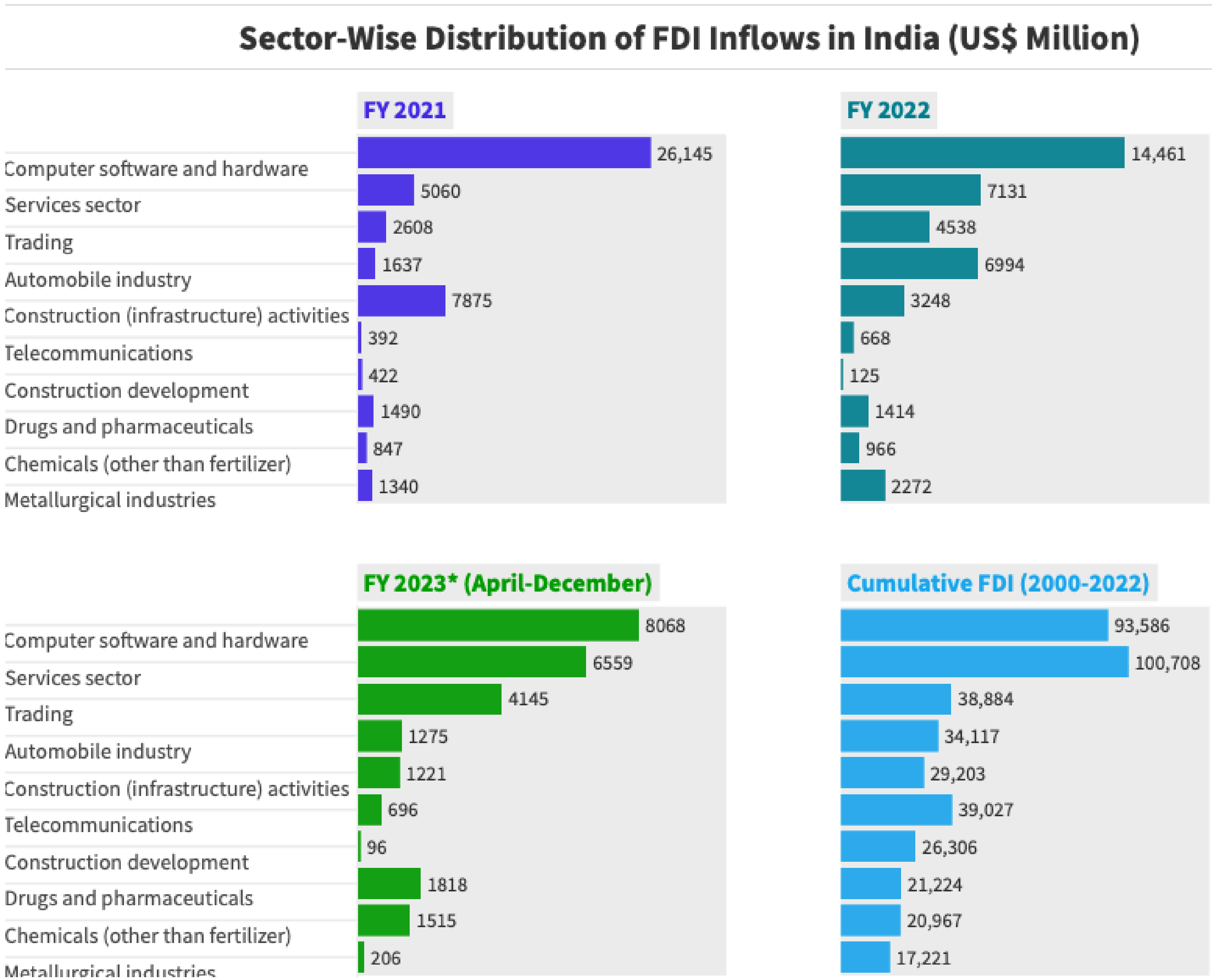
Year	FDI Inflow	% Growth (y-o-y)
2011-12	46.5	34
2012-13	34.2	(-) 26
2013-14	36	5
2014-15	45.1	25
2015-16	55.5	23
2016-17	60.2	8
2017-18	60.9	1
2018-19	62	2
2019-20	74.3	20
2020-21	81.9	10
2021-22	83.5	2

Note: Figures for 2020-21 and 2021-22 are provisional
Source: RBI



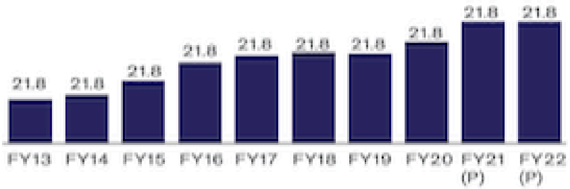
USD Billion
250
225
200
175
150
125
100
75
50
25
0
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
Years
Government Approval (FIPB)
RBI's NRI scheme
Automatic Route (RBI)
External Borrowings ADR/GDR
Inflow through Acquistion of existing share Route


Mixed bag
FDI inflows from traditional sources like the US and Netherlands have declined, but inflows from Singapore and the UAE have gone up.
FY22
FY23
Amount (in ₹ crore)
1,50,000
1,20,000
90,000
60,000
30,000
0
Singapore
USA
UAE
Netherlands
Japan
UK
Source: Dpiit.gov.in

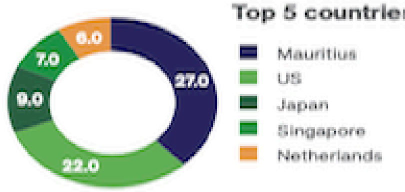

Sector-Wise Distribution of FDI Inflows in India (US$ Million)
FY 2021
FY 2022
FY 2023* (April-December)
Cumulative FDI (2000-2022)
Computer software and hardware
Services sector
Trading
Automobile industry
Construction (infrastructure) activities
Telecommunications
Construction development
Drugs and pharmaceuticals
Chemicals (other than fertilizer)
Metallurgical industries
26,145
5060
2608
1637
7875
392
422
1490
847
1340
14,461
7131
4538
6994
3248
668
125
1414
966
2272
8068
6559
4145
1275
1221
696
96
1818
1515
206
93,586
100,708
38,884
34,117
29,203
39,027
26,306
21,224
20,967
17,221

Overview of India's Investment Landscape

FDI Equity inflows (US$ billion)



Top 5 countries investing (% share)

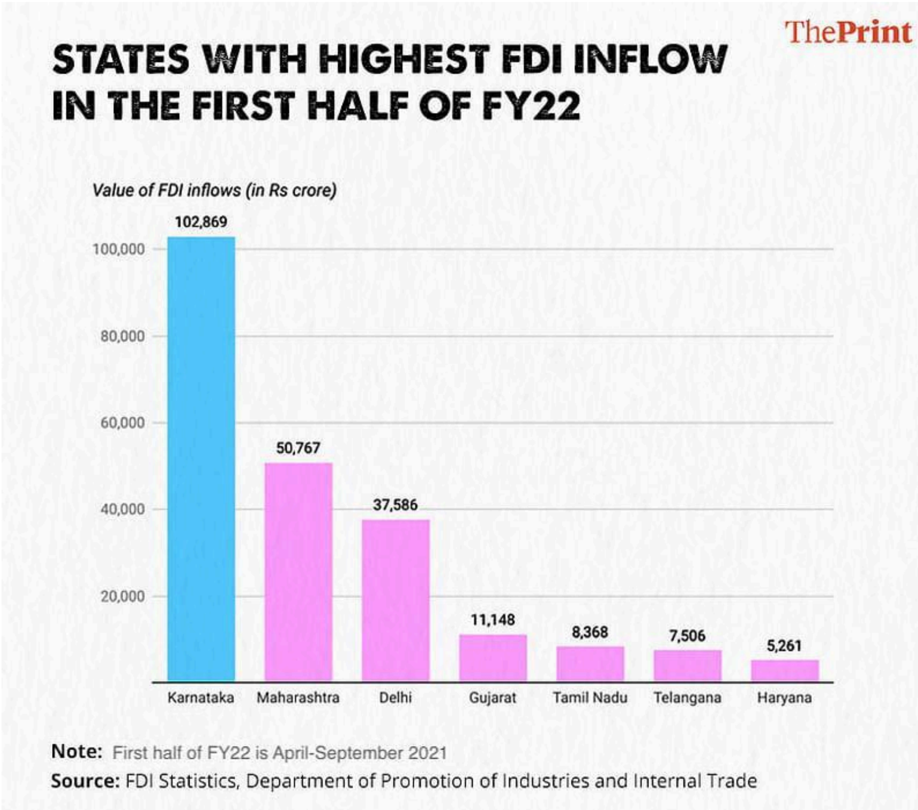


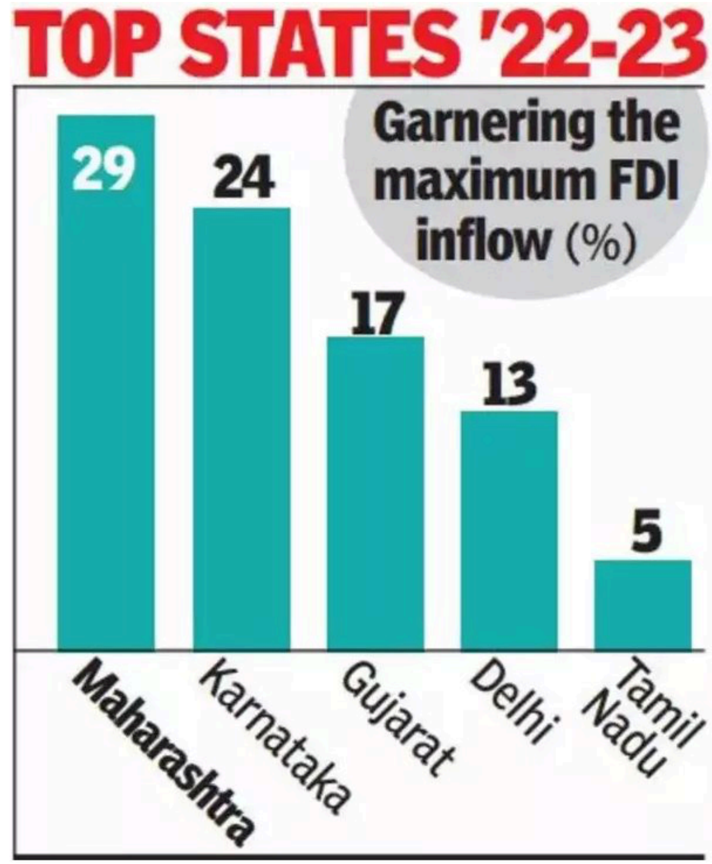
Top 5 Sectors (% of total FDI)'

FDI Approval Process

1. Proposal submission and document uploading on foreign investment facilitation portal.
2. Case assigned to relevant ministry by Department for Promotion of Industry and Internal Trade (DPIIT) within two working days.
3. Proposal shared online with the Reserve Bank of India (RBI) for review from Foreign Exchange Management Act (FEMA) perspective within two days.
4. Competent authority gives its decision in next two weeks.
5. Proposal scrutinized and communication for additional information/ clarification, if required, is done within one week.
6. All proposals shared with Ministry of External Affairs (MEA) and Department of Revenue (DoR).

100% automatic route	Up to 100% automatic route	Up to 100% government and automatic route	Up to 100% under government route
Agriculture, automotive, biotechnology (greenfield), broadcast content services, chemicals, education, ecommerce activities, construction of hospitals, food processing, healthcare (greenfield), IT/BPM, among others.	Infrastructure company in the securities market, Insurance, medical devices, pension, petroleum refining (by PSUs), power exchanges	Banking (private sector), biotechnology (brownfield), defense, healthcare (brownfield), pharmaceuticals (brownfield), private security agencies, telecom services.	Banking (public sector), food products retail trading, core investment company, investment by foreign airlines, multi-brand retail trading, satellite, among others.


ThePrint
STATES WITH HIGHEST FDI INFLOW IN THE FIRST HALF OF FY22
Value of FDI inflows (in Rs crore)
102,869
100,000
80,000
60,000
50,767
40,000
37,586
20,000
11,148
8,368
7,506
5,261
Karnataka
Maharashtra
Delhi
Gujarat
Tamil Nadu
Telangana
Haryana
Note: First half of FY22 is April-September 2021
Source: FDI Statistics, Department of Promotion of Industries and Internal Trade


TOP STATES '22-23
Garnering the maximum FDI inflow (%)
29
24
17
13
5
Maharashtra
Karnataka
Gujarat
Delhi
Tamil Nadu

Unfolding FDI

Top recipients of FDI ($b) in 2021

Country	FDI ($b)
US	367
China	181
HK	141
Singapore	99
Canada	60
Brazil	50
India	45

India's performance

Year	FDI inflow ($bln)	Rank
2020	64	8
2021	45	7

108 international finance deals of which 23 in renewables

Arcelormittal Nippon Steel (Japan) **$13.5 bln** cement & steel plant

Japan's Suzuki Motor's $2.4 bln car manufacturing facility

India got 50% of R&D investment in developing economies

Digital deals

80% of US' digital cos' deals in India

American cos buy minority stakes in Indian firms for market access

4 Chinese cos invest equally in India & SE Asia

BCCL

MASALA BOND

Masala Bonds are **rupee-denominated bonds issued outside India by Indian entities.** They are **debt instruments** which help to raise money in local currency from foreign investors. **Both the government and private entities** can issue these bonds. Investors outside India who would like to invest in assets in India can subscribe to these bonds. Any resident of that country can subscribe to these bonds which are members of the **Financial Action Task Force.** The investors who subscribe should be whose securities market regulator is a member of the **International Organisation of Securities Commission.**
Multilateral and Regional Financial Institutions which India is a member country can also subscribe to these bonds.

According to RBI, the maturity period is **three years** for the bonds raised to the rupee equivalent of 50 million dollars in a financial year. The maturity period is **five years** for the bonds raised above the rupee equivalent of 50 million dollars in a financial year. The conversion of these bonds happens at market rate on the date of settlement of transactions undertaken for issue and servicing of interest of the bonds.

Such bonds are popularly known as “Masala Bonds” after the International Financial Corporation (IFC) first issued rupee denominated bond under the name “Masala Bonds”, linking the name to the Indian spices, which have been popular across the world. Similar offerings from other countries are named after the food or culture of that country like "Dim Sum" for Chinese offshore issues or "Samurai" for Japanese offshore issues

Where Can The Proceeds From Masala Bonds Be Used

The proceeds raised from these bonds can be used

- In refinancing of rupee loan and non-convertible debentures.
- For the development of integrated townships and affordable housing projects.
- Working capital to corporate.

RBI mandates the proceeds raised from these bonds cannot be used:

- In real estate activities, not including the development of integrated townships and affordable housing projects.
- Activities prohibited according to Foreign Direct Investment guidelines.
- Investing in capital markets and usage of the proceeds for equity investment domestically.
- Purchase of land.
- On-lending to other entities for any of the above purposes.

Benefits Of Masala Bonds

- It offers higher interest rates and thus benefits the investor.
- It helps in building up foreign investors' confidence in the Indian economy.
- It helps strengthen the foreign investments in the country as it facilitates foreign investors' confidence in Indian currency.
- The capital gains arising from rupee denomination are exempted from tax.
- If the rupee appreciates at the time of maturity, it benefits the investor.

The benefits for the borrowers are:

- It benefits the borrower as there is no currency risk. It saves the borrower from currency fluctuations.
- Borrowers need not worry about rupee depreciation as the issuance of these bonds is in Indian currency rather than foreign currency.
- The borrower can mobilise a huge amount of funds.
- It helps the Indian entity issuing these bonds to diversify their portfolio.
- It aids borrowers to cut down their cost as they are issued outside India below 7% interest rate on an average.
- As these bonds issuing are in the offshore market, it helps borrowers to tap a large number of investors.

The Rupee denominated bonds can only be issued in a country and can only be subscribed by a resident of a country:

- that is a member of Financial Action Task Force (FATF) or a member of a FATF- Style Regional Body; and
- whose securities market regulator is a signatory to the International Organization of Securities Commission's (IOSCO's) Multilateral Memorandum of Understanding or a signatory to bilateral Memorandum of Understanding with the Securities and Exchange Board of India (SEBI) for information sharing arrangements;

Limitations of Masala bonds - RBI has been making periodical rate cuts in repo rate, which reduces interest rate on masala Bond, making it a bit less appealing to the investors. The money raised through these bonds cannot be used in every field.
There are fixed fields where the money can be invested.
As per Moody's, financing sustainability via Masala bonds is a challenge as the investors are expected to be cautious in taking on currency risks from emerging markets. The onus of loss due depreciating Rupees is on Investors.

ELEPHANT BOND - proposed

The Government of India constituted a Committee called the High Level Advisory Group (HLAG) headed by Surjit S Bhalla in September 2018 for recommendations regarding bringing back the black money held overseas by tax evaders and contribute to the progress of the nation. (In 2012, CBI estimated that Indians have USD 500 billion of illegal funds in foreign tax havens, more than any other country. As per the report of the Global Financial Integrity, a think tank, USD 213.2 billion was shifted out of the India over 61 years through illegal means.)

The HLAG recommended the **issuance of 'Elephant Bonds'.** Basically, the "Elephant Bond" is **an amnesty scheme (official Pardon)** for bringing the unaccounted wealth or black money back to India. The amount disclosed under this scheme will be applied as follows:

The amount invested in such bonds will be used by the government for the **purpose of the Infrastructure development in India**. This scheme can be availed by any person having undisclosed income and willing to disclose it. The person disclosing his income under this scheme **will get immunity from penalty & prosecutions under various laws including foreign exchange act, black money laws and taxation laws**.

These bonds will be issued for long-term and will have **maturity period ranging from 20-30 years**. Further, Interest on these bonds will be available at **the coupon rate of 5%** and the same will be **chargeable to tax at the rate of 75%.**

FOREIGN TRADE

Composition of Trade

EXPORT - India's export basket has included diverse products and is gaining competitiveness in many new categories over time. For the past five years i.e. from 2014-2018, the following ten products have sustained in the basket:

- Mineral fuels, mineral oils and products of their distillation
- Natural or cultured pearls, precious or semi-precious stones, precious metals
- Machinery, mechanical appliances, nuclear reactors, boilers
- Vehicles other than railway or tramway rolling stock, and parts and accessories
- Organic chemicals
- Pharmaceutical products
- Electrical machinery and equipment
- Iron and steel, cotton
- Articles of apparel and clothing accessories, not knitted or crocheted.

The top five products exported are mineral **fuels and oils, natural or cultured pearls, machinery and mechanical appliances and vehicles and organic chemicals.**

The **main export markets** are **USA, UAE, China, Hong Kong, Singapore, Netherlands, Germany, Mexico and Bangladesh.**

IMPORT- The structure of the import goods basket is quite distinct from that of export products as **mineral fuels and oils (i.e. crude oil)** has occupied a significant position from the past few years. The other products in the basket are:

- Natural or cultured pearls, precious or semi-precious stones, precious metals
- Machinery, mechanical appliances, nuclear reactors, boilers
- Organic chemicals
- Plastic and articles
- Electrical machinery and equipment
- Iron and steel
- Animal and vegetable fats or oils
- Optical photographic and cinematographic equipment
- Inorganic chemicals

The top 5 major import products of India are mineral fuels and oils, natural or cultured pearls, electrical machinery and equipment, organic chemicals, machinery and mechanical appliances.

The major source countries for India's imports are:

- **China**
- **US**
- **Saudi Arabia**
- **UAE**
- **Iraq**
- Iran
- Switzerland, Belgium
- Hong Kong
- Vietnam
- Korea
- Singapore
- Germany
- Japan

India's merchandise exports soared to a record high of US$417.81 billion during FY 2021-22, surpassing the government's target of US$400 billion. The export growth was mainly driven by a surge in demand for products like petroleum, cotton yarn, textiles, chemicals, and engineering goods. At the same time, Indian goods imports also surged at US$610.22 billion, mainly driven by increase in imports of crude, coal, gold, and electronics.

This is the first time India has achieved its ambitious target of crossing the US$400 billion mark in merchandise exports. Driving the surge in exports is pent up unmet demand during major waves of the COVID-19 pandemic as well as the expansionary monetary policy adopted by developed countries to deal with the impact of the pandemic.

India's import of merchandise goods has surged even higher than its export target during FY 2021-22**,** resulting in a high trade deficit at 87.5 percent. Major factors contributing to this soaring import bill include sharp growth in imports of crude oil, coal, gold, electronics, and chemicals as the economy reopened and business and consumption activity stabilized. Rising prices of commodities, including crude oil and coal, have played a significant role in adding to India's import valuation.

India's Total Trade in Merchandise Goods in FY 2021-22					
Value in billion US$				Growth in percentage	
	FY 2021-22	**FY 2020-21**	**FY 2019-20**	**FY 2021-22 over FY 2020-21**	**FY 2020-21 over FY 2019-20**
Exports	417.81	291.81	313.36	43.18	33.33
Imports	610.22	394.44	474.71	54.71	28.55
Deficit	192.41	102.63	161.35	87.49	19.25

Foreign Trade Policy

1. Free Trade Policy (Outward Oriented Policy) - Least restrictions on trade, investment, technology transfer etc.

2. Protectionist Trade Policy (Inward Oriented Policy) - Trade is restricted through various trade barriers (Tariff & Non Tariff). (Trader Barriers refers to Govt. Policy measurers that restricts trade to protect domestic producers)

TARIFFS BARRIERS- **Custom duty** (Tax on import/export of goods & service).

Anti Dumping Duties - Additional custom duties/ import duties which are imposed to chock dumping. Dumping - It refers to export of a commodity by a company at a price lower than a domestic market price (called predatory price);

Objectives of dumping - To eliminate competition ; To clear surplus stock;

Counter Veiling Duty (CVD) - It is an additional import duty which is imposed to counter/offset the impact of tax differentials/ subsidies provided by the government of the exporting countries.

NON TARIFF BARRIERS (NTB)-

Quota (or) Quantitative Restriction (QR) - Government fixes a ceiling on quantity of a commodity that can be imported or exported during specified time period. Tariff Rate Quota/ Tariff Quota - Government imposes a concessional custom duty on trade of a commodity up to a certain quantity and higher custom duty is imposed beyond that quantity.

Sanitary & Phyto Sanitary (SPS) Measures - Under this the Government imposes restrictions on import of those commodities that are harmful for healthy life of human beings, animals/plants.

Canalization (Management through specified channels of communication) - Canalized items could be exported/imported only through public sector agencies.

Import Licensing - Permission required for import.

Trade Policy Reforms (1991 onwards)

- **Custom duties were reduced in a phased manner;**

Peak rate of custom duty on non-Agricultural items has been reduced to 10%;

Peak rate of custody duty - It is the highest rate of custom duty which is imposed on the items under the Open General License (OGL) list;

As per WTO, every country has to maintain 2 lists namely OGI & Negative list. On the items of Negative list Government can impose recitations.

- **Negative list has been pruned down i.e. items transferred from Negative list to OGL.**
- **Quantitative Restriction on items of OGL were abolished in 2001. (In 1991 USA sued India in WTO)**
- **The Scope of Import Licensing has been reduced.**
- **Liberalization of Exchange Rate.**
- **Introduction of Current A/c Convertibility in 1994.**
- **Export Promotion Schemes have been expanded.**

The Negative list consists of goods; the import or export of which is prohibited, restricted through licensing or otherwise canalized.

- **Part I: Prohibited Items:** These items cannot be exported or imported. These items include wildlife products, exotic birds, Narcotic Drugs, Psychotropics substances, Obscene material, Antiquities, wildlife
- **Part II: Restricted Items:** These are the goods that can be exported/imported only with a licence, in accordance with regulations governing in this behalf. Example , firearms and ammunition, animals, live birds,
- **Part III: Canalized Items:** Goods, which are canalized, can be imported or exported through the canalizing agency, specified in the Negative List. The main canalized items are currently petroleum products, bulk agricultural products, such as grains and vegetable oils, and some pharmaceutical products.
- The Director General of Foreign Trade, may, issue licence to any other person to import or export items which are included in the Negative List.
- It is evident from the above, barring prohibited items, other goods can be imported or exported by licence or through the designated canalizing agency or others under special conditions.

Export Promotion Schemes –

The Merchandise Exports from India Scheme (MEIS) was launched by the Government of India to boost the export of notified goods that are produced or manufactured in the country. The scheme has been introduced through the Foreign Trade Policy (FTP) and came into effect on 1 April 2015. The MEIS replaced the below 5 incentive schemes that were earlier available schemes

- Market Linked Focus Product Scheme (MLFPS)
- Focus Product Scheme (FPS)
- Agriculture Infrastructure Incentive Scrip (AIIS)
- Focus Market Scheme (FMS)
- Vishesh Krishi Gramin Upaj Yojana (VKGUY)

Under MEIS, a percentage of realised FOB (Free on Board) value (2,3, or 5%) of the exports are payable as incentives. The rewards are paid in the form of the MEIS duty credit scrip that can be used to pay for a number of taxes/duties including excise duty/customs duty/service tax. Imported inputs and duty scrips can be transferred (to other importers who need to pay import duty) fully offering flexibility to exporters.

Scrips/Duty-free scrips are paper authorisations that allow the holder to import inputs which are used to manufacture products that are exported, or to manufacture machinery used for producing such goods, without paying duty equivalent to the printed value of the scrip.

MEIS has since been withdrawn w.e.f. 1st January, 2021. A new Scheme called Remission of Duties and Taxes on Exported Products (RoDTEP) has been introduced which shall refund the embedded duties suffered in export goods.

1. Duty Drawback Schemes - Under this custom/excise duty paid by exporters of selected products is partially or wholly reimbursed (available for around 4000 commodities).

2. Export Promotion Capital Goods (EPCG) -Under this scheme exporters can import capital goods at zero or concessional customs duty subject to an export obligation.

3. Focus Market Scheme - Exporters who are exporting to selected destinations/countries are provided incentives in terms of duty credit scripts equivalent to 2 to 5% of value of exports. (used for payment of custom duty)

4. Focus Product Scheme - Under this, exporters of selected labour intensive product (example Handicrafts Industry) are provided incentives in terms of duty credit scripts equivalent to 2% of value of export.

5. Market Linked Focus Product Scheme (MLFPS) - The MLFPS is an export promotion incentive for the export of specific products to specific markets, incentive @ 2% on the FOB value of the total export was allowed.

6. Vishesh Krishi Gramin Upaj Yojana (VKGUY) - Exporters of products notified shall be entitled for duty credit scrip equivalent to 5% of FOB value of exports. However, exports made for flowers, fruits, vegetables and other products shall be entitled to an additional duty credit scrip equivalent to 2% of FOB value of exports, over and above the 5% or 3%. (FOB- Free on Board i.e. value of goods at the time of Board, not including freight and Insurance.)

7. Agriculture Infrastructure Incentive Scrip (AIIS) - The scheme offers a duty credit script equivalent to 10% of FOB value of agricultural exports for a particular year with certain condition. Under this scheme agricultural exporter can import specified capital goods

Remission of Duties and Taxes on Export Products

RoDTEP stands for Remission of Duties and Taxes on Export Products. It is a new scheme that is applicable with effect from January 1st, 2021, formed to replace the existing MEIS (Merchandise Exports from India Scheme). The scheme will ensure that the exporters receive the refunds on the embedded taxes and duties previously non-recoverable. The scheme was brought about with the intention to boost exports which were relatively poor in volume previously.

Need for the RoDTEP Scheme

The US had challenged India's key export subsidy schemes in the WTO (World Trade Organisation), claiming them to harm the American workers. A dispute panel in the WTO ruled against India, stating that the export subsidy programmes that were provided by the Government of India violated the provisions of the trade body's norms. The panel further recommended that the export subsidy programmes be withdrawn. This led to the birth of the RoDTEP Scheme, so as to ensure that India stays WTO-compliant.

The following were some of the export subsidy programmes recommended to be withdrawn:-

Merchandise Exports from India Scheme; Export Oriented Units Scheme; Electronics Hardware Technology Parks Scheme; Bio-Technology Parks Scheme; Export Promotion Capital Goods Scheme; Special Economic Zones (SEZ) Scheme; Duty-Free Imports for Exporters Scheme

Features of the RoDTEP Scheme

Refund of the previously non-refundable duties and taxes - Mandi tax, VAT, Coal cess, Central Excise duty on fuel etc. will now be refunded under this particular scheme. All the items under the MEIS and the RoSTCL (Rebate of State and Central Taxes and Levies) are now under the purview of the RoDTEP Scheme.

Automated system of credit- The refund will be issued in the form of transferable electronic scrips. These duty credits will be maintained and tracked through an electronic ledger.

Quick verification through digitization- Through the introduction of the digital platform, the clearance happens at a much faster rate. Verification of the records of the exporters will be done with the help of an IT-based risk management system to ensure speed and accuracy of transaction processing.

Multi-sector scheme- Under RoDTEP, all sectors, including the textiles sector, are covered, so as to ensure uniformity across all areas. Additionally, a dedicated committee will be set up to decide regarding the sequence of introduction of the scheme across the various sectors, what degree of benefit is to be extended to each sector, and such related matters.

Eligibility to obtain benefits of the RoDTEP Scheme

All sectors, including the textiles sector, may enjoy the benefits of the RoDTEP Scheme. Labor-intensive sectors that enjoy benefits under the MEIS Scheme will be given a priority.

Manufacturer exporters and merchant exporters (traders) are both eligible for the benefits of this scheme.

There is no particular turnover threshold to claim the RoDTEP.

Re-exported products are not eligible under this scheme. (Re-exports consist of foreign goods exported in the same state as previously imported)

To be eligible to avail the benefits of this scheme, the exported products need to have the country of origin as India.

Special Economic Zone Units and Export Oriented Units are also eligible to claim the benefits under this scheme.

Where goods have been exported via courier through e-commerce platforms, RoDTEP scheme applies to them as well.

Availing benefits under RoDTEP Scheme

The ICEGATE portal (Indian Customs Electronic Gateway) will contain the details regarding the credits availed by the exporter. At the port, the exporter must indicate in the shipping bill the details regarding the claim of the RoDTEP benefit with regard to a particular item of export and generate a credit scrip for it. These credit scrips are then used to pay basic customs duties, claim rebates or can be transferred to other importers, as the case may be.

Remission of Duties and Taxes on Exported Products (RoDTEP) is one such reform, based on the globally accepted principle that taxes and duties should not be exported, and taxes and levies borne on the exported products should be either exempted or remitted to exporters.

Scheme's objective is to refund, currently un-refunded- Duties/ taxes/ levies, at the Central, State & local level, borne on the exported product, including prior stage cumulative indirect taxes on goods & services used in production of the exported product, and Such indirect Duties/ taxes/ levies in respect of distribution of exported products.

It may be noted that rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

Once, the scrips are generated, the refund will be credited and reflected in the exporter's ledger account and will be available for utilisation in payment of the eligible duties and during imports or for transfer to any other importers. Currently, the rate of duty of remission for the products under RoDTEP scheme is not yet notified by the Government of India.

MEIS vs RoDTEP

MEIS	RoDTEP
1. Incentives available on the export of goods currently schemes.	1. Refund of duties and taxes that are not being reimbursed by any other
2. Not compliant with the WTO norms.	2. Compliant with the WTO norms.
3. 2%-5% of the FOB (Free On Board) value of exports.	3. The rebate under this scheme would be claimed as a percentage of freight on board (FOB) value of exports. The reimbursement rate of taxes and duties will vary from 0.01% to 4.3% (maximum limit). Items such as gems & jewellery would have a refund rate of 0.01% whereas items such as shirt fabrics are at 4.3%. sectors such as steel, pharma, and chemicals are kept out of the RoDTEP scheme
4. Issued in the form of physical transferable scrips.	4. Issued in the form of transferable duty credit or electronic scrips which will be maintained via an electronic ledger.

Service Exports from India Scheme (SEIS) for Service Export

Service Exports from India Scheme (SEIS) aims to promote export of services from India by providing duty scrip credit for eligible exports. Under the scheme, service providers, located in India, would be rewarded under the SEIS scheme, for all eligible export of services from India. Service Exports from India Scheme was earlier termed as Served from India Scheme (SFIS).

SEIS Scheme Eligibility

Service Providers of notified services, located in India are eligible for the Service Exports from India Scheme. To be eligible, a service provider (Company / LLP / Partnership Firm) should have a minimum net free foreign exchange earnings of USD15000 in the preceding financial year to be eligible for duty credit scrips. For proprietorships or individual service providers, minimum net foreign exchange earnings of USD10,000 in the preceding financial year is required to be eligible for the scheme.

Net foreign exchange earnings for the SEIS scheme is calculated as:

Net Foreign Exchange = Gross Earnings of Foreign Exchange – Total Expenses or payment or remittances of Foreign Exchange.

Duty Credit Scrip - Service providers of eligible services shall be entitled to duty credit scrip at notified rates on the net foreign exchange earned. Duty credit scrips can be used for the payment of custom duties, excise duties, GST on procurement of services, custom duty in case of default in fulfilment of export obligation under Advance Authorization/EPCG, etc., Further, the SEIS scheme has given relaxation to the actual user condition and duty credit scrips and goods imported using duty credit scrips are freely transferable. Duty credit scrip would be valid for a period of 18 months from the date of issue. (increased the validity of Duty Credit Scrips from 18 months to **24 months.)**

Service Export from India Scheme (SEIS) Rate of Reward

Professional Services – 5% Rate of Reward

Research and Development Services – 5% Rate of Reward

Rental/Leasing Services without Operators – 5% Rate of Reward

Audiovisual Services – 5% Rate of Reward

Construction and Related Engineering Services – 5% Rate of Reward

Educational Services – 5% Rate of Reward

Environmental Services – 5% Rate of Reward

Health and Social Services – 5% Rate of Reward

Tourism and Travel Services – 3% or 5% Rate of Reward

Recreational, Cultural and Sporting Services – 5% Rate of Reward

Transport & Auxiliary Services – 5% Rate of Reward

SPECIAL ECONOMIC ZONE

- A special economic zone (SEZ) is an area in a country that is subject to different economic regulations than other regions within the same country.
- Asia's first **Export Processing Zone (EPZ)** was established in 1965 at Kandla, Gujarat state.
- In India, the Special Economic Zones (SEZs) Policy was announced in 2000.
- SEZs in India functioned from 2000 to 2006 under the provisions of the Foreign Trade Policy and fiscal incentives were made effective through the provisions of relevant statutes.
- The Special Economic Zones Act was passed in 2005.
- Objectives
    - generation of additional economic activity
    - promotion of exports of goods and services
    - promotion of investment from domestic and foreign sources
    - creation of employment opportunities
    - development of infrastructure facilities
- Once an SEZ has been approved by the Board of Approval and Central Government has notified the area of the SEZ, units are allowed to be set up in the SEZ.

Benefits for setting up in an Indian SEZ?

- Duty free import and domestic procurement of goods for the development, operation, and maintenance of your company/SEZ unit
- 100% income tax exemption on export income for first five years, 50% for five years thereafter, and 50% of the export profit reinvested in the business for the next five years
- Exemption from GST and levies imposed by state government (supplies to SEZs are zero rated under the IGST Act, 2017, meaning they are not taxed)
- Exemption from Minimum Alternate Tax (MAT)
- Single window clearances for all state and federal government approvals
- Exemption in electricity duty and tax on sale of electricity by certain states in India
- Presence of customs officer in the SEZs to facilitate and expedite the trade processes

- Offering land to SEZ developers at concessional rates by some states.

Current status of SEZs in India

- About 376 SEZs are notified but currently only 270 SEZs are operational in India.
- In the April-December 2021 period, exports from SEZs increased by 25% to 93 billion dollars.
- UNCTAD report suggests that SEZ exports did not rise at a faster rate than overall exports even before the pandemic.
- It appears that SEZs have ceased to be attractive after the tax holiday for units and developers was wound down between 2017 and 2020.
- The proliferation of Free Trade Agreements between 2005-15 robbed SEZs of their advantages, as importers outside SEZs benefited from zero-rated imports without being subject to Domestic Tariff Area (DTA) related restrictions.

  Budget 2022-23- The Budget says that the SEZ Act will be replaced by a new legislation that will enable large existing and new industrial enclaves to optimally utilise available infrastructure and enhance competitiveness of exports.

- It will enable the States to become partners in development of enterprise and service hubs.
- It also says that customs administration in SEZs will be fully IT-driven.
- An infra cluster approach is proposed rather than one based on export subsidies which will be open to WTO challenge.
- The new SEZ legislation will have single window clearance and provide high class infrastructure.
- The new dispensation for SEZ, being considered by the government, could allow domestic units to come up in the unutilised area of SEZs and co-exist with SEZ units with proper monitoring.

- **Criticism** (mainly by communist) - Agriculture land reduced; threat to food security; Rehabilitation issue of villagers; Loss of livelihood for farmers; Relocation of firms; Loss in Tax revenue; fiscal deficit increased; developmental expenditure decreased;

- **Problems/ Issues/Challenges** - **SEZs are faced with numerous challenges**
- **land lying unutilised in these preferential treatment industrial enclaves,**
- **lack of flexibility to utilise land for different sectors,**
- **multiple models of operation -** coastal economic zone, Delhi-Mumbai Industrial Corridor, National Investment and Manufacturing Zone, food park and textile park.
- **domestic sales by the SEZs facing a disadvantage due to payment of full customs duty as they are considered as outside the Domestic Tariff Area**
- **lack of support from state governments for an effective single- window system.**

- **SEZ in China -** Large size of SEZ than Indian SEZ; All are along the coastal area; No issue of Central-State relationship; Cheap labour, Cheap raw material, good liberal policy and no compliance lost.

Finance SEZ (International Finance Service Centers-IFSC) - Special Type of SEZ established under the provisions of Section 18 of SEZ Act, 2005. Under these SEZ, the financial sector and foreign investor policy are very liberal and there is full convertibility of currency.

Objectives – To increase tax revenue- The global activity in Rupee derivative is around $70 Billion/day. As per the report of finance ministry over Rs.21 cr. Annual tax revenues are generating in Rupee derivative trading.

To create high value jobs.

To create an avenue for financial globalization - Gujarat International Finance Tec City (GIFT) has been established as 1st FSEZ of the country.

REVERSE SEZ –

Under this, Indian Chemical & Petro-Chemical Cos. sets up plants in other countries which have abundant and cheap feed stock, for importing back their output.

The Ministry of Chemical and Fertilizers is exploring options to set up R-SEZ in Iran, Myanmar, Mozambique etc.

The 1st R-SEZ is proposed to be established in Chabahar port area of Iran.

Objective -To ensure supply of cheap industrial chemicals for the domestic chemicals, petro-chemical and fertilizer industry in order to enhance its competitiveness and increase its export potential

GLOBALIZATION - It refers to integration of an economy with world economy. It is achieved by removing restrictions on the flow of goods and services, foreign capital, technology transfer and movement of human capital across the nations. It is a multi dimensional concept i.e., it also includes social, cultural, political integration of nations.

Advantages - It enables allocation of resources on the basis of comparative advantage of various nations (Comparative Advantage Theory). i.e. each country specializes in production of those commodities in which it is most efficient. It increases productivity and production at global level. It enables economic entities to specialize and achieve economy of scale (i.e. Benefits of large scale production). All advantages of FDI & CAC.

Disadvantage - It restricts industrial diversification; All disadvantages of FDI & Capital Account Convertibility

Foreign Trade Policy, FTP (2015-20):

Announced on 1st April 2015 by **Ministry of Industry &Commerce**

- It seeks to enhance competitiveness of exports by adopting systemic reforms rather than incentivizing exports through subsidies.
- It seeks to focus on higher value addition and technology in future with a focus on quality and standards.
- It seeks to rectify the inverted duty structure.

Inverted Duty Structure- It is a situation in which higher custom duties are imposed on imports of raw materials/inputs vis-à-vis on imports of finished or final goods.

It was drafted in consonance with other initiatives of the government like Make in India, Ease of Doing Business, Digital India, Skill India etc.

Objective - To increase India's share in world export to 2% - 3.5% by 2020; To double exports of good & services by 2020.

Critical Appraisal of FTP Policy (2015-20) - Subsidies has been reduced; Give more flexibility to exporters and importers; aligned with make in India; More simplified.

Foreign Trade Policy, 2023

SALIENT FEATURES

- Targets **$2 trillion** exports by 2030
- Continuous and responsive framework with no end date
- Making rupee a global currency
- Making India a trade hub
- Digitisation and faster processing of applications
- Amnesty scheme for shortfall in export obligations
- Restructuring of Department of Commerce
- Over 50% reduction in threshold for recognition of star trade houses

BCCL