Country Profile: India

©2008 RENOIRGROUP

COUNTRY PROFILE - INDIA

Contents

Purpose
Country overview & Fast Facts
Why invest or do business in or with India?

Demographics
General Information
Basic Economic Statistics

Foreign Capital Regulations/Repatriation
Foreign Capital Regulations
Repatriation of Investment Capital and Profits earned in India

Education
Levels of Education in India
University Education in India
University Grants Commission
Admission to Various Levels of Higher Studies

Employment, Wage levels, Regulations
Employment & Unemployment Scenario In India
Employment Generation In India
Recent Policy Recommendations
Wage Levels
Visiting Costs
Travel
Airports of Entry
Airport Charges
Currency Declaration, Customs and Baggage Rules
Travel Maps
Travel Agents
Hotels

Opportunities
Potential for Investment in India
Market Research

The RENOIR GROUP
The Renoir Group

COUNTRY PROFILE - INDIA

Establishing a Presence in India
Developing plan for Overseas Markets
A Practical Approach in Product Selection
Developing Sourcing Guide for Products
Identifying key factors for competitive pricing
Identifying Key Markets
How to sell your product in India

Setting up an Operation
Where?
How?
Financial Assistance
Acquisition
Products or Services
Financial Assistance and Sources of Financing
Due Diligence checklist for business acquisition or sale
Joint Ventures
Products or Services
Financial Assistance and Sources of Financing
Due Diligence Check for a Joint Venture Agreement

General Hints

Bibliography

COUNTRY PROFILE - INDIA

Purpose: *This paper is not meant to be the final, authoritative source about operating in India. There are far better sources for that. It is our intention to provide an executive summary based on a little research and 13 years of experience working in the marketplace. We have provided a bibliography of some good resources should you wish to delve further and we are always happy to discuss your plans and offer any help required.*

This is a first in what is hoped to be a series of papers looking at the opportunities available in our markets. As we work with local clients we gain a unique perspective that we can share with others, provided that no confidential client information is revealed.

If you are interested in doing business in or with India, we invite you to contact us. We may be able to help.

Why invest in India? *India, with its consistent growth performance and abundant highly skilled manpower provides enormous opportunities for investments. India is:*

- *the largest democracy and tenth largest economy in the world.*
- *the fourth largest economy in the world in terms of purchasing power parity.*

India strengths have attracted many foreign investors:

- *the democratic framework*
- *stable, compatible and transparent legal and accounting system*
- *the primacy of rule of law*
- *independent judiciary*
- *free press*
- *strong tradition of entrepreneurship.*

India's vast reservoir of knowledge resource - engineers, scientists, technicians, managers and skilled personnel, are among the best in the world. There are promising new horizons for enterprising investors in IT, biotechnology, telecommunications, banking, insurance and financial services, manufacturing, mining, hydrocarbon prospecting and production, transportation, urban development, energy and other areas of infrastructure development, tourism and hospitality, entertainment, healthcare, higher education and other areas in the service sector. Procedures are being continually simplified and streamlined to facilitate business. State Governments are likewise proactive and are providing a competitive environment to the investors.

- *India has a federal system of Government with clear demarcation of powers between the Central Government and the State Governments.*

- *India provides a liberal, attractive, and investor friendly investment climate.*

- *India has the most liberal and transparent policies on foreign direct investment (FDI) among major economies of the world.*

COUNTRY PROFILE - INDIA

- *India has liberalized and simplified foreign exchange controls.*
- *Indian economy has been growing at an average growth rate about 8.6% p.a. over the last three years; the growth rate in 2006 - 07 was 9.4% and the growth rate in the first quarter of 2007 - 08 was 9.3%.*
- *Government of India accords high priority to development of infrastructure in highways, ports, railways, airports, power, telecom, etc. Government is actively seeking domestic and foreign private investment, for infrastructure sector development.*

General_Information:

- *India is a Union of States with parliamentary system of Government.*
- *Land Area : 3.29 million square kilometers*
- *Capital : New Delhi*
- *Climate : mainly tropical with temperature ranging from 10o - 40o C in most parts.*
- *Time Zone : GMT + 5 ½ hours*
- *Population : 1.095 billion (as on July 2006)*
- *Rural Population: 72.2%*
- *Birth Rate : 22.01 births/1,000 population (2006 est.)*
- *Death Rate : 8.18 deaths/1,000 population (2006 est.)*
- *Literacy Rate : 64.8%*
- *Percent of the population under the poverty line : 10%*
- *Unemployment Rate : 9.2%*
- *Net Migration Rate : -0.07 migrant(s)/1,000 population (2006 est.)*
- *Sex Ratio : 1.06 male(s)/female (total population 2006 est.)*
- *Major International Airports : New Delhi, Mumbai, Chennai, Kolkata, Bangalore, Hyderabad, Thiruvananthapuram.*
- *Major ports of entry : Chennai, Ennore, Haldia, Kolkata, Kandla, Kochi, Mormugao, Mumbai, New Mangalore, Paradip and Tuticorin, Vizag.*

Basic_Economic_Statistics:

- *GDP at current prices (2006 - 07) : **$911** billion*
- *GDP (PPP) (2006) : US $4156 (4th largest in the world)*
- *GDP growth rate (2006 - 07) : 9.4%*
- *Exchange Rate : Rs. 39.68/$ (as on November 26, 2007)*
- *Foreign Exchange Reserves: US $271.148 billion (as on 16.11.2007)*
- *Exports (2006 - 07) : US $127 billion, Growth Rate : 20.9%*
- *Imports (2006 - 07) : US $192 billion, Growth Rate : 21.59%*
- *Foreign Direct Investment(2006 - 07) : US $19.5*
- *Portfolio Investment (2006 - 07) : US $7.1 billion*

RENOIR The Renoir Group

Foreign Capital Regulations:

The Reserve Bank of India (RBI) sets India's exchange - control policy and administers foreign exchange regulations in consultation with the GOI. India's foreign exchange control regime is governed by the FEMA (Foreign Exchange Management Act), enacted with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India, and to give effect to the liberalization announced in the economic policies. This Act came into force from June 1, 2000.

FEMA extends to the whole of India. It applies to all branches, offices and agencies outside India owned or controlled by a person resident in India and also to any contravention there under committed outside India by any person to whom this Act applies.

Foreign exchange controls have been substantially relaxed. The Indian Rupee is fully convertible on the current account and convertibility on capital account with unified exchange rate mechanism is foreseen in coming years.

The Indian Foreign Exchange Market is developing fast, with banks offering a variety of instruments to companies to hedge foreign exchange risks. The level of activity in the Indian foreign exchange market is expected to increase once the Rupee becomes fully convertible on the capital account.

Measures initiated by the Reserve Bank to integrate the Indian Foreign Exchange Market with the global financial system include:

** permitting banks to fix their own position limit and aggregate gap limits*

** borrow from and invest abroad up to 15 percent of capital*

** arrange hedge risks for corporate clients through derivative instruments.*

Indian companies are allowed to employ foreign nationals and make payments in foreign currency. Indian companies are allowed to bid in foreign currencies for major projects such as oil exploration contracts and multilateral funded projects.

Repatriation of Investment Capital and Profits earned in India:

One of the biggest concerns for foreign investors is how to get dollars out of India. Historically, it is not a problem to repatriate investments and profits from India. The Overseas Private Investment Corporation ("OPIC"), a U. S. government backed insurer of foreign commercial dealings, has never had to pay a claim due to India's failure to provide foreign exchange. Dividends, capital gains, royalties and fees can be repatriated easily with the permission of the Reserve Bank of India. In a short, specified list of consumer goods industries, dividend balancing is required against export earnings.

In case of an exit decision, the overseas promoter can repatriate his share after discharging tax and other obligations. He can also disinvest his share either to his Indian partner, to another company, or to the public. Even during the so - called worst period no foreign company left India without proper and sue compensation. Problems do arise when people and businesses try to go around the rules or from inexperience.

All foreign investments are freely repatriable, subject to sectoral policies and except for cases where Non Resident Indians choose to invest specifically under non - repatriable schemes. Dividends declared on foreign investments can be remitted freely through an Authorized Dealer.

Non - residents can sell shares on stock exchange without prior approval of RBI and repatriate through a bank the sale proceeds if they hold the shares on repatriation basis if they have necessary NOC/tax clearance certificate issued by Income Tax authorities.

For sale of shares through private arrangements, Regional offices of RBI grant permission for recognized units of foreign equity in Indian company in terms of guidelines indicated in Regulation 10.B of Notification No. FEMA.20/2000 RB dated May `2000. The sale price of shares on recognized units is to be determined in accordance with the guidelines prescribed under Regulation 10B(2) of the above Notification.

Profits, dividends, etc. (which are remittances classified as current account transactions) can be freely repatriated.

Education

For centuries, India has been a major centre for learning and many popular universities existed here. Even today, the country has some of the best Universities in the world. Besides, it is also facing many challenges in its primary education while striving to reach 100% literacy.

Levels of Education in India:

All levels of education, from primary to higher education, are overseen by the ***Department of Higher Education*** *and the* ***Department of School Education and Literacy.*** The Indian Government has also *heavily subsidized the education, although there is an initiative to make the higher education partially self - financing.*

The Indian Education System has many stages such as the Nursery, the Primary, the Secondary, the Higher Secondary, the Graduation, and the Post Graduation. The Preprimary or the Nursery has the Lower Kindergarten and the Upper Kindergarten, where the basic reading and writing skills are developed. The Primary School has the children between the ages of six and eleven. It has organized classes of one to five. The Secondary school children are between the ages of eleven and fifteen and the classes are organized from six to ten. The Higher Secondary School students are between the ages of sixteen and seventeen and the classes are organized as eleven and twelve. In some states, the classes between six and eight are also referred as the Middle schools and those between eight and ten are referred as the High schools. There are many different streams available after secondary education. The Higher Education in India aims at providing education to specialize in a field and includes many technical schools, colleges, and universities. The schools in India are controlled by various boards such as the Central Board of Secondary Education (CBSE) board, the Council for the Indian School Certificate Examinations (CISCE) board, the state government boards, the National Open School and the International Schools.

There are plenty of government - funded schools in each major Indian city catering to the working classes. Even though there are many Government high schools with English as the medium of

instruction, the students are usually taught in the regional language. These institutions are heavily subsidized and the study materials are also subsidized sometimes. The Government schools have the state curriculum. The Secondary education is also provided by a number of private schools and these schools will either follow the national curriculum or the state curriculum.

The Higher Education in India has different and divergent streams each of which is monitored by an apex body. These apex bodies are indirectly controlled by the Ministry of Human Resource Development and are funded by the state governments. There are 18 important universities called as the Central Universities, which are maintained by the Union Government. The accreditation for the universities in India is required by the law unless it was created through an act of Parliament. There are many accreditations for higher learning given by autonomous institutions established by the University Grants Commission. Some of them are given below:

- ★ *All India Council for Technical Education (AICTE)*
- ★ *Distance Education Council (DEC)*
- ★ *Indian Council for Agricultural Research (ICAR)*
- ★ *Bar Council of India (BCI)*
- ★ *National Assessment and Accreditation Council (NACC)*
- ★ *National Council for Teacher Education (NCTE)*
- ★ *Rehabilitation Council of India (RCI)*
- ★ *Medical Council of India (MCI)*
- ★ *Pharmacy Council of India (PCI)*
- ★ *Indian Nursing Council (INC)*
- ★ *Dentist Council of India (DCI)*
- ★ *Central Council of Homeopathy (CCH)*
- ★ *Central Council of Indian Medicine (CCIM)*

The Renoir Group

COUNTRY PROFILE - INDIA

University Education in India:

The universities offer students the skills and knowledge they will need in a large number of different environments. The Indian Universities offer various courses in the following disciplines:

** Engineering and Technology*

** Computer Sciences, Information Technology, Biotechnology and Bio - Informatics*

** Medical, Dental, Nursing, Pharmacy and Paramedical*

** Agriculture/Veterinary Sciences, Dairy Technology and Fisheries*

** Arts & Fine Arts, Humanities, Social Sciences, Commerce, Science and Management*

** Hotel Management & Catering Technology, Travel and Tourism*

** Fashion Design & Technology*

The Universities in India are of various kinds such as single or multi faculty, teaching or affiliating, teaching cum affiliating, and single campus or multi campus. Normally, most of the universities are affiliating universities, which prescribe the instruction of the courses to the affiliated colleges while they hold the responsibility of conducting the examinations and awarding the degrees. The colleges in India are not empowered to award degrees and therefore have to seek affiliation with a university. The universities are set up both by the Central and the State Governments.

University Grants Commission:

The University Grants Commission was established in 1952 in order to evaluate and maintain standards in universities. It was constituted as a statutory body under an Act of Parliament in 1956. The UGC is the only grant - giving agency in the country that has been vested with two responsibilities such as providing funds and coordination, and determining and maintaining of standards in institutions of higher education. The UGC's mandate includes:

- *Promoting and coordinating university education*
- *Determining and maintaining standards of teaching, examination and research in universities.*
- *Framing regulations on minimum standards of education*
- *Monitoring developments in the field of college and university education, and disbursing grants to the universities and colleges.*
- *Serving as a vital link between the Union and State Governments and institutions of higher learning*
- *Advising the Central and the State Governments on the measures necessary for improvement of university education*
- *Conferring autonomous status on selected colleges*
- *Providing detailed guidelines for affiliation of colleges with a university.*

COUNTRY PROFILE - INDIA

Admission to Various Levels of Higher Studies:

There are various admission rules and criteria which differ from college to college. But there are some general rules and regulations for admissions. Admission to any graduation requires the completion of 10+2 and any post graduation requires the completion of graduation.

Employment & Unemployment Scenario In India:

In India, due to the agrarian sector with seasonal operations time disposition and availability for work have been the criteria for measuring employment. The accepted method of measuring employment is the usual status. Reliable estimates of employment/unemployment are generated through National Sample Survey conducted once in five years by National Sample Survey Organization (NSSO). The concept recognizes time utilization only. Quality of work or income does not get reflected in the approach.

As per the results of the National Sample Survey conducted in 1999 - 2000, total workforce as on 1.1.2000, as per Usual Status approach (considering both principal and subsidiary activities) was of the order of 406 million. About 7% of the total workforce is employed in the formal or organized sector (all public sector establishments and all non - agricultural establishments in private sector with 10 or more workers) while remaining 93% work in the informal or unorganized sector. The size of the Organized sector employment is estimated through the Employment Market Information Programme of DGE&T, Ministry of Labour. The capacity of the organized sector to absorb additional accretion to the labour force, taking into account the current accent on modernization and automation, is limited. In other words, an overwhelming proportion of the increase in the labour force will have to be adjusted in the unorganized sector. About 369 million workers are placed today in unorganized/informal sector in India; agriculture workers account for the majority of this workforce.

Employment Generation In India

- *7% of the total employed are in the organized sector I.e., unorganized sector dominates in the employment scenario.*
- *Additional employment generation in the organized sector is not significant I.e., scope for additional wage employment in the organized sector continued to be less.*
- *Significant employment generation took place in the tertiary sector particularly in services industries.*
- *Substantial employment growth was observed in the small and unorganized sector, i.e., in small and tiny enterprises.*
- *Self - employment and casual labour continued to play a pivotal role in rehabilitation of the unemployed.*

COUNTRY PROFILE - INDIA

Recent Policy Recommendations:

Considering the problems of employment and unemployment situation in the country, Planning Commission set up a Task Force under the chairmanship of Dr. M. S. Ahuwalia to go into the details of the employment generation taking place in the economy and suggest measures for creation of 100 million jobs in a period of 10 years.

The Task Force has recommended intervention in five major areas;

- *Accelerating the rate of growth of GDP, with a particular emphasis on sectors likely to ensure the spread of income to the lower income segments of the labour force.*
- *Pursuing appropriate sectoral policies in individual sector, which are particularly important for employment generation. These sector level policies must be broadly consistent with the overall objective of accelerating GDP growth.*
- *Implementing focused special programmes for creating additional employment of enhancing income generation from existing activities aiming at helping vulnerable groups that may not be sufficiently benefited by the more general growth promoting policies.*
- *Pursuing suitable policies for education and skill development, which would upgrade the quality of the labour force and make it capable of supporting a growth process which generates high quality jobs.*
- *Ensuring that the policy and legal environment governing the labour market encourages labour absorption, especially in the organized sector.*

Wage Levels:

The minimum wages covers all workers in the sectors agricultural, industrial and small - scale sectors. This means:

** farm labourers*
** landless labourers*
** factory workers*
** people working in cottage industries*
** construction workers etc*

The issue of fixing minimum wages is of primary importance in a country like India where 300 million people are employed in the informal sector with no collective bargaining power. This is 93 percent of the workers.

*The enactment of the **Minimum Wages Act in 1948** is a landmark in the labour history of India. The Act provides for fixation of minimum wages for notified scheduled employment.*

As per Government of India, for all the States, the minimum wages have been fixed at about Rs. 40 to Rs. 60 per day per person, average about Rs. 50 per day for 25 days per month.

There are 45 scheduled employments in the Central sphere and 1232 in the state sphere for which minimum wages have been fixed. To protect the wages against inflation they were linked to rise in the Consumer Price Index.

The Renoir Group

COUNTRY PROFILE - INDIA

The variable dearness allowance came into being in 1991 and the allowance is revised twice a year. At present 22 states/Union Territories have these provisions. The states and Union Territories were further directed to ensure that minimum wages are not below Rs. 45 per day for any scheduled employment.

There is a Labour Commission with subsidiaries till the regional level and which appoints inspectors for enforcement of the provision of the minimum wages. They are the Labour Enforcement Officers who conduct crash inspection programmes. They inspect the wage records and see that holidays, overtime and bonuses as prescribed in the minimum Wages Act are followed.

If the regulations are not followed, then the employers can be prosecuted. The nature of violation decides whether the Labour Commission offices arbitrate or the state courts.

In 2005 the National Rural Employment Guarantee Act, 2005 got the Presidential nod. It aimed at enhancing livelihood security in rural areas by providing at least 100 days of guaranteed wage employment in every financial year to those households whose adult members volunteer to do unskilled manual work.

The Government of India has launched Bima Yojana for the workers in the unorganized sector like: milk products, rickshaw pullers, construction workers, farm labour etc.

India has a federal system of governance and most of the labour and wage provision come under the state subjects. There are many lacunas in the implementation of the same. Also being affiliated to trade unions ensures some adherence to the Act for industrial and factory workers but for agricultural and unskilled labourers in the rural areas the situation is very bad. They have no bargaining power and their poor status ensures that they accept whatever remuneration and in whatever form is given to them. Fear of reprisals and loss of freedom forces them to be silent and not appeal to the appropriate authorities. The only recourse is the non-governmental organizations working overtime to ensure basic survival for them. The Scheduled list of employment is not exhaustive, there are many trades which are out of it. Most of the times minimum wages are paid not on hourly or daily basis but on piece rates which are very low.

The Renoir Group

COUNTRY PROFILE - INDIA

Visiting Costs:

Even today, traveling to and within India presents a few special challenges. As in other developing countries, getting around and paying your bills in India requires a little advanced planning and some reorientation to a different money system and numerical convention.

Travel:

Business travel to and in India is rapidly becoming more and more sophisticated. Top U.S. executives are ferried back and forth on private jets and helicopters. However, getting around once back on the ground can be a bit of an adventure, especially if you insist on taking the wheel yourself. For this reason, as well as a host of others, it is strongly recommended that you prearrange all your travel through a reputable business travel agent. Legacy providers, such as American Express and Thomas Cook, can handle all your entry visa arrangements and help you through unforeseen crises with their small business and corporate travel services. It is recommended that you get in touch with them right away. It's often better than having your own in-house travel department. Beyond the need to handle business - related travel issues, most good travel guides should be sufficient to help you enjoy your stay and even do some exploring.

Airports of Entry:

Business travellers can enter India through any of the five major cities with regular International Airports - New Delhi, Mumbai, Chennai, Kolkata and Thiruvananthapuram. In addition to the International Airports there are also several domestic airports in India with limited international operations: - these have customs and immigration facilities for limited international operations by national carriers and for foreign tourist and cargo charter flights. These include Bangalore, Hyderabad, Ahmedabad, Calicut, Goa, Varanasi, Patna, Agra, Jaipur, Amritsar, Tiruchirapally, Coimbatore, and Lucknow.

Airport Charges:

Airport departure tax for international departures is Rupees 500 (Foreign Travel Tax) plus Rs. 200 (passenger service fee), I.e Rs. 700. For departures to India's neighboring countries, the charge is Rs. 150 (Foreign Travel Tax) plus Rs. 200 (passenger service fee). Although departure tax is usually included in the cost of ticket, it is advisable to recheck before departure with your travel/ticketing agent.

Currency Declaration, Customs and Baggage Rules:

The unit of the Indian currency is the Rupee. Travellers can bring into India any amount of foreign exchange, subject to the condition that on arrival a declaration is made to the custom authorities in a Currency Declaration Form. It is necessary to fill out a declaration form if the foreign exchange exceeds US$10,000 or its equivalent and/or the aggregate value of foreign currency notes is US$50,000 or its equivalent. Travellers cheques in US Dollar and Pound Sterling are easily exchangeable and ATMs are available in major Indian cities. Credit cards are accepted in hotels and large stores.

There are two channels for customs clearance: - Green channel for passengers not having any dutiable goods and Red channel for passengers having dutiable goods. Passengers walking through the Green channel with dutiable/prohibited goods are liable to prosecution/penalty and confiscation of goods.

RENOIR The Renoir Group

COUNTRY PROFILE - INDIA

Travel Maps:

Detailed and digitized maps helpful for traveling inside India are now available from the Internet. These also provide interactive facilities for obtaining more detailed information about specific locations by zooming inside the maps. You may also visit MAPTELL website or Maps of India website for viewing the maps.

Travel Agents:

India has a well established network of Travel Agents and tour operators. Most Travel Agents and Tour Operators are also members of reputed National and International Associations. The Government also has a system of providing recognition to them. You may search for members of the Travel Agents Association of India from TAAINET.

Hotels:

Hotels in India are classified into different groups such as deluxe, international chains, heritage and palace hotels, tourist bungalows, traveller lodges, rest houses, etc. Liberalization and a spurt in travel have brought a large number of international hotel chains to India. While well-known chains such as Sheraton, Holiday Inn, Hyatt, Inter -Continental, Meridian, Quality Inns, Best Western and Kempinski have been in the country for a while, more recent entrants include Country Hospitality, Marriot, Hilton, Park Plaza, Four Seasons and SHPC.

Relative Costs: Budget Meal of US$1, Moderate Restaurant Meal of US$2-5, Top end restaurant meal of US$10 and up. Budget Room of US$3-10, Mid-range hotel room of US$15-25 and top-end hotel room of US$100-200+.

The Renoir Group

COUNTRY PROFILE - INDIA

Potential for Investment in India:

India imported over 125 billion dollar worth of goods during 2005-2006. Indian import is growing at a rate of over 20% per year. Steady GDP growth of around 7% since mid-nineties has created a huge consumer market, that is fuelling this ever growing demand for more and more products.

- *The Government is focusing on expansion and modernization of roads and has opened this up for private sector participation. 48 new road projects worth US$12 billion are under construction. Development and upgrading of roads will require an investment of US$24 billion up to 2008. Private sector participation in road projects will grow significantly. Special incentives and tax - breaks are given for certain sectors such as power, electronics, telecom, software, hydrocarbons, R&D and exports.*
- *The railway sector will need an investment of US$22 billion for new coaches, tracks, and communications and safety equipment over the next ten years.*
- *Upgrading and modernization of airports will require US$33 billion investment in the next 10 years.*
- *There is a potential for investment for the expansion and modernization of ports. The government has taken up a US$22 billion "Sagarmala" project to develop the Port and Shipping sector under Public-Private Partnership. 100 Percent FDI is permitted for construction and maintenance of ports. The government is offering incentives to investors.*
- *The Ministry of Power has formulated a blueprint to provide reliable, affordable, and quality power to all users by 2012. This calls for investment of US$73 billion in the next five years. Opportunities are there for investment in power generation and distribution and development of non-conventional energy sources.*
- *There is potential for investment in urban infrastructure projects. Water supply and sanitation projects alone offer scope for annual investment of US$5.71 billion.*
- *The entire gamut of exploration, production, refining, distribution and retail marketing present opportunities for FDI.*
- *India has an estimated 85 billion tones of mineral reserves remaining to be exploited. Potential areas for exploration ventures include gold, diamonds, copper, lead zinc, cobalt silver, tin etc. There is also scope for setting up manufacturing units for value added products.*
- *The telecom market, which is one of the world's largest and fastest growing, has an investment potential of US$20-25 billion over the next five years. The telecom market turnover has increased from US$8.6 billion in 2003 to US$13 billion by 2007.*
- *The IT industry and IT-enabled services, which are rapidly growing offer opportunities for FDI.*
- *India has emerged as an important venue with considerable growth potential in the services sector including financial accounting, call centers, and business process outsourcing.*

- *Biotechnology and Bioinformatics, which are in the government's priority list for development, offer scope for FDI. There are over 50 R&D labs in the public sector to support growth in these areas.*

- *The Indian auto industry with a turnover US$12 billion and the auto parts industry with a turnover of $3 billion offer scope for FDI.*

- *The government is encouraging the establishment of world-class integrated textile complexes and processing units. FDI is welcome.*

- *While India has abundant supply of food, the food processing industry is relatively nascent and offers opportunities for FDI. Only 2 percent of fruits and vegetables and 15 percent of milk are processed at present. There is a rapidly increasing demand for processed food caused by rising urbanization and income levels. To meet this demand, the investment required is about US$28 billion. Food processing has been declared as a priority sector.*

- *The Healthcare industry is expected to increase in size from its current US$17.2 billion to US$40 billion by 2012.*

- *The Government has recently established Special Economic Zones with the purpose of promoting exports and attracting FDI. These SEZs do not have duty on imports of inputs and they enjoy simplified fiscal and foreign exchange procedures and allow 100% FDI.*

- *The travel and tourism industry which has grown to a size of US$32 billion offers scope for investment in budget hotels and tourism infrastructure.*

Market Research:

Developing a basic understanding or potential of the Indian market, envisaging and developing a Market Entry Strategy and implementing these strategies when actually entering the market are three basic steps to make a successful entry into India.

The Indian middle class is large and growing; wages are low; many workers are well educated and speak English; investors are optimistic and local stocks are up; despite political turmoil, the country presses on with economic reforms.

The Indian market is widely diverse. The country has 17 official languages, 6 major religions and ethnic diversity as wide as all of Europe. Thus, tastes and preferences differ greatly among sections of consumers. Therefore, it is advisable to develop a good understanding of the Indian market and overall economy before taking the plunge. Research firms in India can provide the information to determine how, when and where to enter the market. There are also companies which can guide the foreign firm through the entry process from beginning to end - performing the requisite research, assisting with configuration of the project, helping develop Indian partners and financing, finding the land or ready premises, and pushing through the paperwork required.

Is there a need for the products/services/technology? What is the probable market for the product/service? Where is the market located? Which mix of products and services will find the most acceptability and be the most likely to generate sales? What distribution and sales channels are

available? What costs will be involved? Who is the competitor? These will contribute to the market study for the developing up-front takes.

The general economic direction in India is toward liberalization and globalization. But the process is slow. Before jumping into the market, it is necessary to discover whether government policies exist relating to the particular area of business and if there are political concerns which should be taken into account.

Developing plan for Overseas Markets:

A step by step analysis of what needs to be done and thorough understanding of how to prepare yourself will put your company on sound footing and help you achieve early breakthrough. Broadly, the marketing plan should address the following issues:

- *Prepare your company for export/import*
- *Comply with regulatory requirements*
- *Conduct market research - identify potential markets*
- *Develop effective sales and promotion strategy*
- *Test the waters*
- *Start export/import*

You may need to develop new promotional materials, translate existing documents, modify products or packaging, travel internationally, or obtain additional financing. Given the commitment necessary, please check how much time and resources you can realistically employ before getting started. A good idea will be to talk to exporters who have successfully entered foreign markets. This will help you gain insight into what lies ahead as well as gauge your position or preparedness. The input will be particularly valuable if you manage to talk to exporters whose products are similar to yours. Additionally, consult various chambers of commerce, industry associations, embassies, trade points etc.

A Practical Approach in Product Selection:

There are products that sell more than others in international markets and it's not very difficult to find them using various market research tools. However, such products will invariably have more sellers and consequently more competition and less margin. On the other hand - a niche product may have less competition and higher margin - but there will be far less buyers.

Fact of the matter is - all products sell, though in varying degrees and there are positive as well as flip sides in whatever decision you take - popular or niche product.

So, instead of approaching the product selection process from demand side - it is far more practical to

look at supply side. Ask yourself - what you can supply. What are your strengths? How close are you to supply sources? Once you take a stock of your capabilities - evaluate and prioritize available options.

Some key factors in product selection:

- *The product should be manufactured or sourced with consistent standard quality, comparable to your competitors. ISO or equivalent certification helps.*
- *It should be available in sufficient quantity. If possible, avoid products which are monopoly of one or few suppliers.*
- *It is competitively priced. The price should not fluctuate often.*
- *Though there are very few regulatory restrictions in export - it is better to check regulatory status of your selected product.*
- *Status of various Government incentives - Duty Drawback, DEPB etc.*
- *Import Regulation in overseas markets, especially tariff and non-tariff barriers. Though a major non-tariff barrier has been abolished - there are still other tariff and non-tariff barriers. If your product attracts higher duty in target country - demand obviously falls.*
- *Registration/Special provision for your products in importing country. This is specially applicable for processed food and beverages, drugs and chemicals.*
- *Seasonal vagaries of selected products. Some products sell in summer, others in winter. Some products may sell only during Christmas. Keep in mind seasonal aspect of your product, if there is any, and lead time required to reach target market.*
- *After Sales Service. If the product needs after-sales service, you should open service centre beforehand or arrange distributor/agent who can provide servicing facility. It is not advisable to export a product that requires after sales service, in case you lack the technical and financial ability to provide it.*
- *Packaging and labeling requirements. Keep in mind special requirements of perishable products like processed food.*
- *Mode of transport, logistics requirements. Special care is required for certain products which may be bulky or fragile or hazardous or perishable or of some feature.*

Developing Sourcing Guide for Products:

Before starting marketing effort and contacting prospective buyers, one must be ready with a detail sourcing guide that documents all necessary information about your product basket.

Once you have zeroed in to a set of products - next step is to prepare a portfolio for each selected product. The portfolio should contain all information about the product - its sourcing, packaging, pricing, selling etc. Together, these dossiers will comprise your product portfolio.

The Renoir Group

- *Product Name*
- *Availability: Where available at competitive prices*
- *Description: Short and snappy*
- *Image/photographs - Specially for handicraft/beauty products*
- *Specifications - size, volume, weight, materials*
- *Quality Standards*
- *Packaging - unit pack, carton pack, packaging materials*
- *Market price*
- *Suppliers - names and addresses of most suppliers*
- *Competitors*
- *Target Countries - some market research required*
- *Various overhead costs: packaging, labeling, transportation, logistics, port charges*
- *Your profit margin*
- *Selling price (FOB and CIF)*
- *Minimum Order Quantity*
- *Discount scheme for volume buyers*
- *Agency/Distribution commission.*

Identifying key factors for competitive pricing:

Ability to supply quality products at competitive price is a key success factor in any business. Cost, demand and competition are the three key factors that determine final price. To be successful in international market - you should be able to source or manufacture products at cost that is better than your competitors as sourcing or production cost is one of the most crucial factor in determining the price. Three factors play a vital role here:

- *Sourcing directly from producer, avoiding middlemen as much as possible*

- *Sourcing from geographical pockets that have traditionally excelled in producing quality products*

- *Leveraging government incentives for export, e.g. special export processing zone, cheaper export credit, etc.*

***Identifying Key Markets*:**

Successful companies concentrate on one foreign market at a time, moving on to the next after succeeding in the last. Market Research helps you identify promising markets through objective analysis of available facts and statistics.

Market Research is conducted by analyzing primary or secondary data resources. In conducting primary market research, a company collects data directly from foreign marketplace through interviews, surveys, feedback and other such direct contact with potential buyers. Primary market research has the advantage of being tailored to the company's needs and provides answers to specific questions, but it is invariably time consuming and very expensive. Secondary market research is based on analysis of statistical data such as trade statistics. To be effective, the data should be reliable and cover significant historical period. Though it is considerably less expensive than primary research, one should be aware

RENOIR
The Renoir Group

of the limitations. Statistics may also be distorted by incomplete data-gathering techniques.

Step 1 - Collect Data:

Collect export statistics published by authentic sources. In India, there are two major sources for reliable trade statistics - DGCIS and Customs. Directorate General of Commercial Intelligence and Statistics (DGCIS) is extremely important for macro level data analysis. One can find out product and country wise statistics for whole year from DGCIS publications. Customs department publishes port-wise "Daily List of Export and Import". This list contains brief details of every shipment made through a seaport or airport

Step 2 - Identify Promising Markets:

Identify five to ten large and fast-growing markets for products in your export basket. Check volume as well as trend for a historical perspective of 5 to 10 years. Ask critical questions - has market growth been consistent year to year? Has there been a shift in product choice? Was there a seasonal bias? Historical analysis of foreign trade statistics can help you identify seasonal bias or shift in demand.

Step 3 - Identify Emerging Markets:

Identify some smaller but fast-emerging markets that may provide ground-floor opportunities. If the market is just beginning to open up, there may be fewer competitors than in established markets. Growth rates should be substantially higher in these countries to qualify as up-and-coming markets, given the lower starting point.

Step 4 - Access Target Markets:

Ascertain the sources of competition, including the extent of domestic industry production. Analyze factors affecting marketing and use of the product in each market, such as end-user sectors, channels of distribution, cultural factors and business practices. Finally, identify tariff and non-tariff barriers (if any) for the product being imported into the target country.

Step 5 - Draw Final List:

After analyzing data, the company may conclude that its marketing resources would be applied more effectively to a few countries. In general, if the company is new to exporting, then efforts should be directed to fewer than ten markets. Exporting to one or two countries will allow the company to focus its resources without jeopardizing its domestic sales efforts. The company's internal resources should determine its level of effort.

How to sell your product in India:

Most distribution models in India involve many intermediaries between companies and their retail customers and have varying costs and benefits. The wholesaler model, for instance - in which large, powerful wholesalers buy products from manufacturers and sell them to the retailers that they finance - gives producers little control over the distribution channel but provides considerable reach. By contrast, under the distribution model, the distributor acts as an extension of the manufacturer and operates exclusively within a specified territory. Other distribution channels involve dealers, who operate as both

wholesalers and retailers and are served directly by the manufacturer. Still others involve various stockiest and substockists.

Distribution models in India vary by the number of layers in the channel, the intermediaries used, and the number of channel partners. Every model requires manufacturers to make a tradeoff between their degree of control and their reach. The goal is to find a balanced mix of approaches that confers a unique advantage depending on the sophistication of the market. The following are some guidelines for finding the right distribution model for your business.

Plan to have more than one distribution model for different segments or regions. *Obviously, the distribution model a company chooses must be aligned with its business model and with consumers needs. But one model is rarely sufficient for all segments of a market. Most companies choose a mix to reach their dispersed customer base. Consider the following examples:*

- *The Indian subsidiary of a major consumer-goods company works with more than 1000 distributors, which deliver its products to more than 1 million outlets across India. It uses the distributor model to sell to outlets in urban areas, a small corporate team to sell to organized retail chains, and partnerships with local groups in rural areas to reach the mostly ignored market of less affluent consumers.*

- *A home-improvement-products company developed a hybrid structure that mixes the wholesaler and distributor models, along with the organized-retailer model - in which there is no intermediary between manufacturer and large retailer. It also sells some products directly to consumers, to whom it offers services as well.*

- *A global consumer-electronics company mixes the distributor and organized-retailer models in a slightly different way. It uses a distributor to serve small outlets but manages large ones directly through a small group at the center. It has also begun to open its own franchised retail shops to carry its brand exclusively.*

Carefully determine which consumers you want to serve. *Not every company operating in India needs a nationwide distribution network across all cities and towns. Although India's population is dispersed, there are sharp differences in income between regions.*

Be prepared for multiple channel partners. *Given the fragmented nature of India's distribution channels, companies often have to work with several hundred channel partners. Some companies use thousands of distributors and stockiest to reach more than a million retail outlets. One advantage of using many distributors is that a company retains some power over and independence from them. But it must ensure that each distributor is large enough to provide benefits for all the others in the channel. The right number and layering of channel partners will depend on the business, its target segments, and the types of partners available.*

Invest in developing the channel and sales team. *Overseeing large numbers of people can be difficult, but investment in channel partners is crucial for competitive advantage. Successful companies pay as much attention to retaining a distributor with the right resources, capabilities, and attitude as they do to hiring a senior employee. Companies that provide channel partners with training, selling support, and coaching programs differentiate their offering from that of their competitors and earn high*

returns. Sales-force effectiveness is especially important. Managing a network of distributors id different from managing relationships with organized retailers.

Always measure performance. *The complexity of India's distribution channels and the inexperience of some channel partners can complicate performance measurements. Nevertheless, such measures are important to maintain. Measures of channel partners' performance should include their economic health, payment terms and inventory costs. And it is important for companies to regularly track their reach across cities and their share of sales across retailers to measure the strength of the channel.*

Setting up an Operation:

Where?

A foreign company planning to set up business operations in India has the following options:

1. As an Indian Company:

A foreign company can commence operations in India by incorporating a company under the Companies Act, 1956 through

- *Joint Ventures; or*
- *Wholly Owned Subsidiaries*

Foreign equity in such Indian companies can be up to 100% depending on the requirements of the investor, subject to equity caps in respect of the area of activities under the Foreign Direct Investment (FDI) policy.

Joint Venture with an Indian Partner:
Foreign companies can set up their operations in India by forging strategic alliances with Indian partners.

Joint venture may entail the following advantages for a foreign investor:

- *Established distribution/marketing set up of the Indian partner*
- *Available financial resource of the Indian partners*
- *Established contacts of the Indian partners which help smoothen the process of setting up of operations.*

Wholly Owned Subsidiary Company:

Foreign companies can also to set up wholly owned subsidiary in sectors where 100% foreign direct investment is permitted under the FDI policy. For registration and incorporation, an application has to be filed with Registrar of Companies (ROC). Once a company has been duly registered and incorporated as an Indian company, it is subject to Indian Laws and regulations as applicable to other domestic Indian companies.

2. As a Foreign Company:

Foreign Companies can set up their operations in India through

- *Liaison Office/Representative Office*
- *Project Office*
- *Branch Office*

Such offices can undertake any permitted activities. Companies have to register themselves with Registrar of Companies (ROC) within 30 days of setting up a place of business in India.

Liaison Office/Representative Office:
Liaison office acts as a channel of communication between the principal place of business of head office and entities in India. Liaison office cannot undertake any commercial activity directly or indirectly and cannot, therefore, earn any income in India. Its role is limited to collecting information about possible market opportunities and providing information about the company and its products to prospective Indian customers. It can promote export/import from/to India and also facilitate technical/financial collaboration between parent company and companies in India. The approval for establishing a liaison office in India is granted by the Reserve Bank of India.

Project Office:
Foreign companies planning to execute specific projects in India can set up temporary project/site offices in India. RBI has now granted general permission to foreign entities to establish Project Offices subject to specified conditions. Such offices cannot undertake or carry any activity other than the activity relating and incidental to execution of the project. Project Offices ma remit outside India the surplus of the project on its completion, general permission for which has been granted by the RBI.

Branch Office:
Foreign companies engaged in manufacturing and trading activities abroad are allowed to set up Branch Offices in India for the following purposes:

- *Export/Import of goods*
- *Rendering professional or consultancy services*
- *Carrying out research work, in which the parent company is engaged*
- *Promoting technical or financial collaborations between Indian companies and parent or overseas group company.*
- *Representing the parent company in India and acting as buying/selling agents in India*
- *Rendering services in Information Technology and development of software in India*
- *Rendering technical support to the products supplied by the parent/group companies*
- *Foreign Airline/shipping company.*

A branch office is not allowed to carry out manufacturing activities on its own but is permitted to subcontract these to an Indian manufacturer. Branch Offices established with the approval of RBI, may remit outside India profit of the branch, net of applicable Indian taxes and subject to RBI guidelines Permission for setting up branch offices is granted by the Reserve Bank of India.

Branch Office on "Stand Alone Basis":

`Such Branch Offices would be isolated and restricted to the Special Economic Zone (SEZ) alone and no business activity/transaction will be allowed outside the SEZs in India, which include branches/subsidiaries of its parent office in India. No approval shall be necessary from RBI for a company to establish a branch/unit in SEZs to undertake manufacturing and service activities subject to specified conditions.

How?

India's foreign trade policy has been formulated with a view to invite and encourage FDI in India. The process of regulation and approval has been substantially liberalized. The RBI has prescribed the administrative and compliance aspects of FDI. FDI can be divided into two broad categories: investment under automatic route and investment through prior approval of Government.

1. Procedure under automatic route:

FDI in sectors/activities to the extent permitted under automatic route does not require any prior approval either by the Government or RBI. The investors are only required to notify the Regional office concerned of RBI within 30 days of receipt of inward remittances and file the required documents with that office within 30 days of issue of shares to foreign investors.

2. Procedure under Government approval:

FDI in activities not covered under the automatic route, requires prior Government approval and are considered by the Foreign Investment Promotion Board (FIPB). Approvals of composite proposals involving foreign investment/foreign technical collaboration are also granted on the recommendations of the FIPB. Application for all FDI cases, except NRI investments and 100% Export Oriented Units (EOUs), should be submitted to the FIPB unit, Department of Economic Affairs (DEA), Ministry of Finance, Application for NRI and 100% EOU cases should be presented to SIA in Department of Industrial Policy & Promotion. Applications can also be submitted with Indian Missions abroad who forward them to the Department of Economic Affairs for further processing.

Investment by way of Share Acquisition:

A foreign investing company is entitled to acquire the shares of an Indian company without obtaining any prior permission of the FIPB subject to prescribed parameters/guidelines. If the acquisition of shares directly/indirectly results in the acquisition of a company listed on the stock exchange, it would require the approval of the Security Exchange Board of India.

New Investment by an existing collaborator in India:

A foreign investor with an existing venture or collaboration with an Indian partner in particular field proposes to invest in another area, such type of additional investment is subject to a prior approval from the FIPB, wherein both the parties are required to participate to demonstrate that the new venture does not prejudice the old one.

COUNTRY PROFILE - INDIA

General Permission of RBI under FEMA:

Indian companies having foreign investment approval through FIPB route do not require any further clearance from RBI for receiving inward remittance and issue of shares to the foreign investors. The companies are required to notify the concerned regional office of the RBI of receipt of inward remittances within 30 days of such receipt and within 30 days of issue of shares to the foreign investors or NRIs.

Participation by International Financial Institutions:

Equity participation by international financial institutions such as ADB, IFC, CDC, DEG, etc., in domestic companies is permitted through automatic route, subject to SEBI/RBI regulations and sector specific cap on FDI.

FDI in SSI Units:

A small - scale unit cannot have more than 24 percent equity in its paid up capital from any industrial undertaking, either foreign or domestic. If the equity from another company exceeds 24 percent, even if the investment in plant and machinery in the unit does not exceed Rs. 10 million, the unit losses its small - scale status and shall require an industrial license to manufacture items reserved for small - scale sector.

Financial Assistance:

This section provides broad description about different funding facilities provided from different banks with a list of Nationalized and Private Banks. For the specific requirement details, it is suggested to go to the site of each bank.

Fund Based Bank Facilities:
Term Loans:
Term Loan is an installment credit repayable over a period of time in monthly/quarterly/half yearly/yearly installments. Term loan is generally granted for creation of fixed assets required for long - term use by the unit. Term loans are further classified in three categories depending upon the period of repayment as under:

- *Short term repayable in less than 3 years*
- *Medium term loans repayable in a period ranging from 3 years to 7 years.*
- *Long term loans repayable in a period over 7 years.*

Cash Credit Facility:
A major part of working capital requirement of any unit would consist of maintenance of inventory of raw materials, semi finished goods, finished goods, stores and spares etc. In trading concern the requirement of funds will be to maintain adequate stocks in trade. Finance against such inventories by banks is generally granted in the shape of cash credit facility where drawings will be permitted against stocks of goods. It is a running account facility where deposits and withdrawals are permitted. Cash credit facility is of two types (depending upon the type of charge on goods taken as security by bank)

- *Cash Credit - pledge: When the possession of the goods is with the bank and drawings in the account are linked with actual movement of goods from/to the possession of the bank. The*

physical control of the goods is exercised by the bank.

- *Cash Credit - Hypothecation: When the possession of the goods remains with the borrower and a floating charge over the stocks is created in flavour of the bank. The borrower has complete control over the goods and the drawings in the account are permitted on the basis of stock statements submitted by the borrower.*

Overdraft Facility:
Overdrawing permitted by the bank in current account is termed as an overdraft facility. Overdraft may be permitted without any security as 'clean overdraft' for temporary periods to enable the borrower to tide over some emergent financial difficulty. 'Secured overdraft' facility is against fixed deposits, NSC, and other securities.

***Bills Finance**:*
This facility is against bills of sales raised or book debts.

Export Finance:

Banks grant export credit on very liberal terms to meet all the financial requirements of exporters. The bank credit for exports can broadly be divided in two groups as under:

- *Pre Shipment advances/packing credit advances: Financial assistance sanctioned to exporters to enable them to manufacture/procure goods meant for exports and arrange for their eventual shipment to foreign countries is termed as pre shipment credit.*
- *Post Shipment credit the bills purchase/discount facility granted to exporters is grouped as post shipment advice.*

Non - Fund Based Bank Facilities:
Credit facilities, which do not involve actual deployment of funds by banks but help the obligations to obtain certain facilities from third parties, are termed as non - fund based facilities. These facilities include issuance of letter of credit, issuance of guarantees, which can be performance/financial guarantee

National Level Financial Institutions:
1. *Small Industries Development Bank of India (SIDBI)*
2. *Industrial Development Bank of India (IDBI)*
3. *Industrial Finance Corporation of India (IFCI)*
4. *National Bank of Agriculture and Rural Development (NABARD)*
5. *ICICI Bank*
6. *State Bank of India*

State Financial Corporations Offering Specialized SSI Schemes:
1. *Andhra Pradesh State Financial Corporation (APSFC)*
2. *Arunachal Pradesh Industrial Development and Financial Corporation (APIDFC)*
3. *Assam Financial Corporation (AFC)*
4. *Bihar State Financial Corporation (BSFC)*
5. *Delhi Financial Corporation (DFC)*
6. *The Economic Development Corporation (EDC) of Goa*
7. *Gujarat State Financial Corporation (GSFC)*

8. Haryana Financial Corporation (HFC)
9. Himachal Pradesh Financial Corporation (HPFC)
10. Jammu & Kashmir State Financial Corporation (J&KSFC)
11. Karnataka State Financial Corporation (KSFC)
12. Kerala Financial Corporation (KFC)
13. Madhya Pradesh Financial Corporation (MPFC)
14. The Maharashtra State Financial Corporation (MSFC)
15. Orissa State Financial Corporation (OSFC)
16. Punjab Financial Corporation (PFC)
17. Rajasthan Financial Corporation (RFC)
18. Uttar Pradesh Financial Corporation (UPFC)
19. West Bengal Financial Corporation (WBFC)

Venture Capital Organizations:

1. ICICI Venture Funds Management Company Limited
2. IFC Venture Capital Funds Limited (IVCF)
3. SIDBI Venture Capital Limited (SVCL)
4. IL & FS Group Businesses
5. Gujarat Venture Finance Limited (GVFL)

Other Banks Offering Financial Assistance:

1. Canara Bank
2. Corporation Bank
3. Bank of India
4. Indian Bank
5. Indian Overseas Bank
6. IndusInd Bank Limited
7. Syndicate Bank
8. State Bank of Travancore
9. Union Bank of India
10. UCO Bank

Acquisition:

An acquisition may be defined as an act of acquiring effective control by one company over assets or management of another company without any combination of companies. Thus, in acquisition two or more companies may remain independent, separate legal entities, but there may be change in control of the companies. When an acquisition is 'forced' or 'unwilling', it is called a takeover. In an unwilling acquisition, the management of 'target' company would oppose a move of being taken over. But, when the managements of acquiring and target companies mutually and willingly agree for the takeover, it is called acquisition or friendly takeover.

Under the Monopolies and Restrictive Practices Act, takeover meant acquisition of not less than 25 percent of the voting power in a company. While in the Companies Act, a company's investment in the shares of another company in excess of 10 percent of the subscribed capital can result in takeovers. An acquisition or takeover does not necessarily entail full legal control. A company can also have effective

control over another company by holding a minority ownership.
Procedure for evaluating the decision for Mergers and Acquisitions (M&A):

The three important steps involved in the analysis of M&A are:

- ***Planning:** of acquisition will require the analysis of industry - specific and firm - specific information. The acquiring firm should review its objective of acquisition in the context of its strengths and weaknesses and corporate deals. It will need industry data on market growth, nature of competition, ease of entry, capital and labour intensity, degree of regulation, etc. This will help in indicating the product - market strategies that are appropriate for the company. It will also help the firm in identifying the business units that should be dropped or added. On the other hand, the target firm will need information about quality of management, market share and size, capital structure, profitability, production and marketing capabilities, etc.*

- ***Search and Screening:** Search focuses on how and where to look for suitable candidates for acquisition. Screening process short - lists a few candidates from many available and obtains detailed information about each of them.*

- ***Financial Evaluation:** of a M&A is needed to determine the earnings and cash flows, areas of risk, the maximum price payable to the target company and the best way to finance the M&A. In a competitive market situation, the current market value is the correct and fair value of the share of the target firm. The target firm will not accept any offer below the current market value of its share. The target firm may, in fact, expect the offer price to be more than the current market value of its share since it may expect that M&A benefits will accrue to the acquiring firm.*

Regulations for Mergers & Acquisitions:

Mergers and Acquisitions are regulated under various laws in India. The objective of the law is to make these deals transparent and protect the interest of all shareholders. They are regulated through the provisions of:

The Companies Act, 1956:

The Act lays down the legal procedures for mergers or acquisitions:

- *Permission for M&A: Two or more companies can amalgamate only when the amalgamation is permitted under their memorandum of association. Also, the acquiring company should have the permission in its absence of these provisions in the memorandum of association, it is necessary to seek the permission of the shareholders, board of directors and the Company Law Board before affecting the merger.*

- *Information to the stock exchange: The acquiring and the acquired companies should inform the stock exchanges (where they are listed) about the M&A.*

- *Application in the High Court: An application for approving the draft amalgamation proposal duly approved by the board of directors of the individual companies should be made to the High Court.*

- *Shareholders' and creators' meetings: The individual companies should hold separate meetings of their shareholders and creditors for approving the amalgamation scheme. At least, 75 percent of shareholders and creditors in separate meeting, voting in person or by proxy, must accord their approval to the scheme.*

- *Sanction by the High Court: After the approval of the shareholders and creditors, on the petitions of the companies, the High Court will pass an order, sanctioning the amalgamation scheme after it is satisfied that the scheme is fair and reasonable. The date of the court's hearing will be published in two newspapers, and also, the regional director of the Company Law Board will be intimated.*

- *Filing of the Court Order: After the court order, its certified true copies will be filed with the Registrar of Companies.*

- *Transfer of assets and liabilities: The assets and liabilities of the acquired company will be transferred to the acquiring company in accordance with the approved scheme, with effect from the specified date.*

- *Payment by cash or securities: As per the proposal, the acquiring company will exchange shares and debentures and/or cash for the shares and debentures of the acquired company. These securities will be listed on the stock exchange.*

The Competition Act, 2002:

The Act regulates the various forms of business combinations through Competition Commission of India. Under the Act, no person or enterprise shall enter into a combination, in the form of an acquisition, merger or amalgamation, which causes or is likely to cause an appreciable adverse effect on competition in the relevant market and such a combination shall be void. Enterprises intending to enter into a combination may give notice to the Commission, but this notification is voluntary. But, all combinations do not call for scrutiny unless the resulting combination exceeds the threshold limits in terms of assets or turnover as specified by the Competition Commission of India.

The Commission while regulating a 'combination' shall consider the following factors:

- *Actual and potential competition through imports*
- *Extent of entry barriers into the market*
- *Level of combination in the market*
- *Degree of countervailing power in the market*
- *Possibility of the combination to significantly and substantially increase prices or profits*
- *Extent of effective competition likely to sustain in a market*
- *Availability of substitutes before and after the combination*
- *Market share of the parties to the combination individually and as a combination*
- *Possibility of the combination to remove the vigorous and effective competitor or competition in the market*
- *Nature and extent of vertical integration in the market*
- *Nature and extent of innovation*
- *Whether the benefits of the combinations outweigh the adverse impact of the combination*

Thus, the Competition Act does not seek to eliminate combinations and only aims to eliminate their harmful effects.

The other regulations are provided in the: The Foreign Exchange Management Act, 1999 and the Income Tax Act, 1961. Besides, the Securities and Exchange Board of India (SEBI) has issued guidelines to regulate mergers and acquisitions. The SEBI(Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and its subsequent amendments aim at making the takeover process transparent, and also protect the interests of minority shareholders.

Products or Services:

The total M&A deals for the year during January - May 2007 have been 287 with a value of US$ 47.37 billion. Of these, the total outbound cross border deals have been 102 with a value of US$ 28.19 billion, representing 59.5 percent of the total M&A activity in India.

The sectors attracting investments by Corporate India include metals, pharmaceuticals, industrial goods, automotive components, beverages, cosmetics and energy in manufacturing, and mobile communications, software and financial services in services, with pharmaceuticals, IT and energy being the prominent areas among these.

Financial Assistance and Sources of Financing:

Acquisition/Buyout financing involves:

- *Acquisition financing in order to acquire another firm for further growth*
- *Management Buyout financing so as to enable the operating groups/investors for acquiring an existing product line or business and*
- *Turnaround financing in order to revitalize and revive the sick enterprises.*

These are promoted by:

- *Overseas Private Investment Corporation: It is an independent, US government sponsored financial institution that provides medium - term and long - term loans and loan guarantees for FDI and project opportunities in underdeveloped and developing countries. For OPIC to consider a loan usually requires that the venture carries a debt-to-equity ratio in the 60/40 range and that the investor cover at least 25 percent of the venture.*

- *U.S. Agency for International Development: The USAID is administered by the US Department of State and receives its guidance and direction from the secretary of State. USAID is actively fostering partnerships with private entities, intermediate service organizations, and non governmental organizations that will, in time, assume many of its roles.*

- *U.S. Trade and Development Agency: The TDA mission is to advance economic development and U.S. commercial interests in developing and middle - income countries by funding various forms of technical assistance, investment analysis, training, orientation visits and business workshops. TDA gives special emphasis to economic sectors and ventures that may benefit from consulting and export of U.S. goods and services.*

- *International Finance Corporation: IFC invests in emerging market companies and financial*

institutions. Its main activities are for - profit financing and risk management products, although its role has begun to broaden into technical assistance, anti - corruption, and social and environmental guidance. In India, IFC has provided well over $4 billion in financing to companies since 1956. India is currently the third largest country in which the IFC is conducting operations, and its active role in UN sustainable development initiatives means it will be there for some time to come.

- *Indian Banks and Branches of Foreign Banks in India: It wouldn't be prudent to overlook Indian Development Banks, commercial banks, and branches of U.S. commercial banks as possible sources of financing. The Reserve Bank of India continues to open the door a little at a time for foreign banks that want to set up operations in India, and everyone is cautiously confident that this is only the beginning of a new era in foreign banking in India. Foreign banks in India are permitted to set up local subsidiaries, but they may not acquire Indian ones and their Indian subsidiaries will not be able to open branches without Government approval. A partial list of branches of foreign banks in India include: ABN AMRO, Abu Dhabi Commercial Bank, Bank of Ceylon, BNP Paribas, Citibank, China Trust Company, Credit Suisse, Deutsche Bank, GE Capital, HSBC, Industrial and Commercial Bank of China, J. P. Morgan Chase, Royal Bank of Scotland, Standard Chartered Bank, Scotia Bank, Taib Bank, UBS etc.*

- *Investment Banks and Private - Equity Financing: Right now, private - equity financing by investment banks is the hottest topic in India. Investment banks raise capital by selling securities, acting as intermediaries for clients wishing to trade securities, underwriting bond issues and advising clients. Investment banks traditionally are not a viable source of capital for financing business acquisitions by a third party. What they hope to be able to do in the future is to help you prepare the initial public offering for the Indian company you purchased with help and financing from USAID or a commercial bank in India.*

Due Diligence checklist for business acquisition or sale:

The process of buying or selling a company requires a thorough due diligence of all key elements of the business. The following is a list of major areas typically reviewed.

1. Sustainability of the Business: In this part of the review, the buyer will want to understand the potential economic value of the business he is buying. More specifically:

- *What is the financial business plan for the next 3-5 years?*
- *What is the company's vision?*
- *What are the company' core competences?*
- *What are the existing strategic alliances?*
- *Are there synergies with the acquiring company?*
- *What part of the product life cycle is this business in? Is it on the 'bleeding edge'? Can it be expected to be a 'cash crow'?*
- *What new products are under development?*
- *What new customers are under development?*
- *What does the current order status and backlog look like?*
- *How stable is the customer base?*

2. Competition: In this part of the review, the buyer will want to understand the dynamics of the

market and the most significant competitors. If this is a manufacturing business, the international aspects of production and competition will also need to be understood.

3. Financials: Typically, audited financial reports will be required and these will be reviewed by a competent outside financial auditor. Among the key financial data to be reviewed are:

- *Cash Flow*
- *Days Sales Outstanding*
- *Tax Returns*
- *Obsolete Inventory*
- *Accounts Payable*
- *Long term contracts - payables*
- *Long term liabilities for pensions, etc.*
- *Asset Value - book versus replacement*
- *Accounting procedures and policies*
- *Facility ownership structure and any leases related to facilities or equipment*

4. Potential Liabilities: It is important to understand the risk of any major "financial surprises" in the future. Often this also requires representation letters from lawyers or environmental study firms. Topics include: Warranty issues, Environmental, patent infringements, liens/lawsuits, pending regulatory issues, unfair dismissals.

5. Technology: If this is a product company, it is important to understand any patents that have been awarded or applied for. Is there any know-how or research and development that could provide competitive advantage?

6. Sales and Marketing: Since the acquiring company is typically interested in growing the business, it is important to understand current activities and results. Among the areas of importance are: Market potential, distribution channels, and product promotion.

7. Business to Business Fit: Sometimes there is additional benefit to a particular acquisition because there is a good fit between the acquiring business and the company being purchased. Among the characteristics that are important to understand are:

- *Strategy Fit: How well does the business direction for the acquiring company fit that of the company being purchased? How well do the products and markets fit together?*

- *Personnel Fit: How well will the people and cultures of the two organizations fit together?*

- *Financial Fit: If one business is growing but needs cash, while the other is profitable with limited prospects, this is a better situation than if both are cash cows, or both are cash hungry.*

- *Geographic Fit: If the merger gives the two companies a broader geographic reach, this is good, but it must be balanced against the costs of trying to coordinate to dispersed entities.*

8. Information Gathering: In addition to information available from the company, the following outside resources may be useful in order to make an assessment:

- *Chambers of Commerce*
- *Educational Databases*
- *Competition*
- *Industry Associations*
- *Peers*
- *Mentors*

Joint Ventures:
A foreign company can invest in an Indian company through a joint venture agreement in the areas which are otherwise not reserved exclusively for the public sector or which are not under the prohibited categories such as real estate, insurance, agriculture, and plantation. The government has set up a Indian Investment Centre in the Ministry of Finance as a single window agency for authentic information or any assistance that may be required for investments, technical collaborations and joint ventures. It advises foreign investors on setting up industrial projects in India by providing information regarding investment environment and opportunities, the Government industrial and foreign investment policies, taxation laws and facilities and incentives and also assists them in identifying collaborators in India.

For such foreign investments into India, a two tier approval mechanism has been provided:

- *Automatic Approval Route*
- *Foreign Investment Promotion Board*

Approvals of composite proposals involving foreign investment are also granted on the recommendations of the FIPB. The companies having foreign investment approval through FIPB route do not require any further clearance from RBI for receiving inward remittance and issue of shares to the foreign investors. The proposals to FIPB shall contain the following information:

- *Whether the applicant has any existing financial or technical collaboration or trade mark agreement in India in the same field for which approval has been sought; and*
- *If so, details thereof and the justification of proposing the new venture or technical collaboration;*
- *Applications can also be submitted with Indian missions abroad who will forward them to the Department of Economic Affairs for further processing;*
- *Foreign investment proposals received in the Department of Economic Affairs are generally placed before the FIPB within 15 days of receipt.*

Also, the Secretarial for Industrial Assistance (SIA) has been set up by the Government of India in the Ministry of Commerce & Industry to provide a single window service for entrepreneurial assistance, investor facilitation and receiving and processing all applications which require government approval. It also notifies all government policy decisions relating to investment and technology and collects monthly production data for select industry groups.

Products or Services:

The Government has outlined 37 priority areas covering most of the industrial sectors. Besides the 37 high priority areas, automatic approval is available for 74% foreign equity holdings setting up international trading companies engaged primarily in export activities. Full foreign ownership (100% equity) is readily allowed in power generation, coal washeries, electronics, Export Oriented Units (EOU) or a unit in one of the Export Processing Zones.

Foreign Investment is also welcomed in many of infrastructure areas such as power, steel, coal washeries, luxury railways, and telecommunications. The entire hydrocarbon sector, including exploration, producing, refining, and marketing of petroleum products has now been opened to foreign participation.

Financial Assistance and Sources of Financing:

Investors can raise a substantial portion of the project cost in India through debt and equity instruments.

Applications for long term loans can be made to State Financial Corporation when the project is small - generally less than Rs. 50 million - or to National Level Financial Institutions, such as IDBI and IFCI, when the project is large. Institutions expect concrete project and market reports, with reasonably firm costs and implementation plans. Other long term financing options include leasing, hire purchase, deferred payment guarantee, etc.

Capital markets are increasingly the preferred route for raising finances in India, through equity shares, debentures and hybrids. Investors can freely access the capital market and in most cases freely price the issue. Investors with both small as well as large fund requirements can mobilize funds from the market. Private placement with institutional investors is also possible. Indian companies also have the option of raising funds from international capital markets.

Short term finances for working capital requirements are available from commercial banks and through instruments such as fixed deposits, inter-corporate deposits and commercial paper.

Due Diligence Check for a Joint Venture Agreement:

Selection of a good partner is the key to the success for any joint venture. Personal interviews with a prospective joint venture partner should be supplemented with proper due diligence. Once a partner is selected, generally a memorandum of understanding or a letter of intent is signed by the parties highlighting the basis of the future joint venture agreement. A joint venture agreement requires dexterous legal drafting and should incorporate clearly the relevant clauses that specify the mutual understanding arrived between both parties so as to the formation and operations of the Joint venture company. A brief checklist of important clauses is as follows:

- *The proportion of shareholding in the joint venture company*
- *Specify nature of shares, indicate their transferability conditions*
- *Composition of the Board of Directors, Appointment of Chairman, Quorum of Board Meetings, Casting vote provisions*
- *General Meeting*
- *Appointment of CEO/MD*
- *Appointment of Management Committee*
- *Important decisions with mutual consent of partners*
- *Dividend policy*
- *Funding provisions*
- *Access conditions*
- *Change of control/exit clauses*
- *Anti - Compete clauses*
- *Maintaining Confidentiality*
- *Indemnity Clauses*
- *Assignment*
- *Break of Deadlock*
- *Dispute Resolution*
- *Applicable Law*
- *Force Majeure*
- *Termination Provisions*

General Hints:

The U.S Department of Commerce suggests the following as being the leading business sectors for U.S. involvement. Several of these products are listed in mature U.S. trade agreements with India. Like everything else in India, this list is likely to change as new avenues open and business sectors develop.

Agricultural Sectors:

- *Cotton*
- *Tree Nuts and dry fruit (excluding cashews)*
- *Wood products*
- *Fresh fruits and pulses*
- *Vegetable oil*

Commercial and Financial Sectors:

- *Airport and ground - handling equipment*
- *Banking*
- *Broadcasting*
- *Computers and peripheral equipment*
- *Education services*
- *Electric power (generation, distribution and transmission equipment)*
- *Food - processing equipment*
- *Health care*
- *Infrastructure (such as roads, ports)*
- *Insurance*
- *Machine tools*

The Renoir Group

COUNTRY PROFILE - INDIA

- *Medical Equipment*
- *Mining and Mineral Processing Equipment (such as for coal)*
- *Oil- field and gas - field machinery*
- *Pension fund management*
- *Petroleum refining and petrochemical manufacturing*
- *Pharmaceuticals (research, development, manufacturing)*
- *Pollution - control equipment*
- *Process - control Equipment*
- *Safety and Security Equipment*
- *Software Services*
- *Telecommunications Equipment*
- *Water (wells, pumps, purification, and wastewater treatment).*

The Renoir Group

Bibliography:

Republic of India Government:

- *Department of Industrial Policy and Promotion: www.dipp.nic.in*
- *Department of Education (Ministry of Human Resource Development): www.education.nic.in*
- *Export - Import Bank of India: www.eximbankindia.com*
- *India in business (sponsored by Ministry of External Affairs): www.indiainbusiness.nic.in*
- *Ministry of Finance: www.finmin.nic.in*
- *National Portal of the Government of India: www.india.gov.in*
- *Reserve Bank of India: www.rbi.org.in/index.htm*

Other Resources and Websites:

- *An America's guide to doing business in India: Author - Eugene M. Maker*
- *www.sethassociates.com*
- *www.education.newkerala.com*
- *www.dget.nic.in/dex/empscenario.pdf*
- *www.paycheck.in/main/officialminimumwages*
- *www.infobanc.com/markets.htm*
- *www.finance.locateindia.com*
- *www.doingbusiness.org*

News and Media:

- *Rediff India Abroad: www.rediff.com/money/2007/jul/24rbi1.htm*
- *Hindu Business Line: www.thehindubusinessline.com*
- *The Economic Times: www.economictimes.indiatimes.com*
- *The Financial Express: www.financialexpress.com*
- *www.tmtctata.com/journal/Jan%2005/TMTC-Jan2005_Pg13-18.pdf*

The Renoir Group