

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT FOR PROMOTION OF INDUSTRY AND INTERNAL TRADE
LOK SABHA**

**UNSTARRED QUESTION NO. 3918.
TO BE ANSWERED ON WEDNESDAY, THE 18TH MARCH, 2020.**

FDI FOR MAKE IN INDIA

3918. SHRI C.N. ANNADURAI:

Will the Minister of **COMMERCE AND INDUSTRY** be pleased to state:

वाणिज्य एवं उद्योग मंत्री

- (a) the details of the areas under the Make in India (MII) initiative where norms have been simplified to attract Foreign Direct Investment (FDI);
- (b) the names of the global giants that have evinced interest to set up manufacturing plants in India;
- (c) whether any e-commerce company is violating FDI policy of the Government; and
- (d) if so, the details of such companies and action taken against each one of them?

ANSWER

वाणिज्य एवं उद्योग मंत्री (श्री पीयूष गोयल)

**THE MINISTER OF COMMERCE & INDUSTRY
(SHRI PIYUSH GOYAL)**

- (a):** Make in India initiative was launched along with action plans prepared for various sectors with the objective of facilitating investment, fostering innovation, building best in class manufacturing infrastructure, making it easy to do business and enhancing skill development. The initiative is further aimed at creating a conducive environment for investment, modern and efficient infrastructure, opening up new sectors for foreign investment and forging a partnership between government and industry through positive mindset.

Make in India initiative has been reviewed and is now focusing on 27 sectors under Make in India 2.0. List of 27 sectors under Make in India 2.0 is annexed as annexure-I. Department for Promotion of Industry and Internal Trade is coordinating action plans for 15 manufacturing sectors while Department of Commerce is coordinating 12 service sectors.

The Government of India is making continuous efforts under Investment Facilitation including financial assistance to Invest India and

for implementation of Make in India action plans to identify potential investors. Support is being provided to Indian Missions abroad and State Governments for organising events, summits, road-shows and other promotional activities to attract investment in the country under the Make in India banner. Investment Outreach activities are being carried out for enhancing International co-operation for promoting FDI and improve Ease of Doing Business in the country.

Further, Government has put in place a liberal and transparent policy for Foreign Direct Investment (FDI), wherein most of the sectors are open for FDI under the automatic route. Further, FDI Policy reforms made after 2014-15 in sectors related to Make in India is annexed as Annexure-II.

(b): No such information is available.

(c) & (d): Representations have been received in this Department alleging that some e-commerce platforms are engaged in predatory pricing and are providing excessive discounts. The extant Foreign Direct Investment (FDI) policy on e-commerce sector, inter-alia, specifies that e-commerce marketplaces will not directly or indirectly influence the sale price of goods or services and shall maintain a level playing field. e-Commerce companies having foreign investment can operate only a marketplace model and there are restrictions on the inventory based model of e-Commerce. In order to clarify the same, Department for Promotion of Industry and Internal Trade (DPIIT), vide Press Note 3 of 2016, issued guidelines for FDI in e-Commerce on 29 March 2016.

However, allegations were made against e-Commerce companies that the marketplaces were violating the norms laid down in Press Note 3 of 2016. With a view to clarify the already existing policy framework, Press Note 2 of 2018 was issued by DPIIT on 26 December 2018 to provide further clarification on FDI Policy in relation to e-Commerce companies. Through the latest Press Note 2 of 2018, Government has reiterated the policy provisions to ensure better implementation of the policy in letter and spirit. Further, Clause (ix) of Press Note 2 of 2018, stipulates that e-commerce entities providing marketplace will not directly or indirectly influence the sale price of goods or services and shall maintain level playing field. Services should be provided by e-commerce marketplace entity or other entities in which e-commerce marketplace entity has direct or indirect equity participation or common control, to vendors on the platform at arm's length and in a fair and non-discriminatory manner. Such services will include but not limited to fulfilment, logistics, warehousing, advertisement/ marketing, payments, financing, etc. Cash back provided by group companies of marketplace entity to buyers shall be fair and non-discriminatory. For the purposes of this clause, provision of services to any vendor on such terms which are not made available to other vendors in similar circumstances will be deemed unfair and discriminatory. Further, if any violation is reported necessary action may be taken by the competent authority.

Further, Competition Commission of India in one case (i.e. Case No. 40/2019) filed against Flipkart Internet Pvt. Ltd. And Amazon Seller Services Private Ltd., vide order dated 13.01.2020, passed under section 26 (1) of the Competition Act 2002, has directed the DG to conduct an investigation and submit its investigation report. The said order passed by the Commission was impugned by Amazon Seller Services Pvt. Ltd. Before the Hon'ble High Court of Karnataka in W.P. No 3363/2020 and the Hon'ble High Court vide order dated 14.02.2020 has stayed the operation of the order of the Commission

ANNEXURE I

ANNEXURE REFERRED TO IN REPLY TO PART (a) OF THE LOK SABHA UNSTARRED QUESTION NO. 3918 FOR ANSWER ON 18.03.2020.

List of 27 Sectors under Make in India initiative 2.0 (Manufacturing Sectors)

- (i) Aerospace and Defence
 - (ii) Automotive and Auto Components
 - (iii) Pharmaceuticals and Medical Devices
 - (iv) Bio-Technology
 - (v) Capital Goods
 - (vi) Textile and Apparels
 - (vii) Chemicals and Petro chemicals
 - (viii) Electronics System Design and Manufacturing (ESDM)
 - (ix) Leather & Footwear
 - (x) Food Processing
 - (xi) Gems and Jewellery
 - (xii) Shipping
 - (xiii) Railways
 - (xiv) Construction
 - (xv) New and Renewable Energy
- (Service Sectors)
- (xvi) Information Technology & Information Technology enabled Services (IT & ITeS)
 - (xvii) Tourism and Hospitality Services
 - (xviii) Medical Value Travel
 - (xix) Transport and Logistics Services
 - (xx) Accounting and Finance Services
 - (xxi) Audio Visual Services
 - (xxii) Legal Services
 - (xxiii) Communication Services
 - (xxiv) Construction and Related Engineering Services
 - (xxv) Environmental Services
 - (xxvi) Financial Services
 - (xxvii) Education Services

**ANNEXURE REFERRED TO IN REPLY TO PART (a) OF THE LOK SABHA
UNSTARRED QUESTION NO. 3918 FOR ANSWER ON 18.03.2020.**

FDI Policy Reforms in sectors listed under Make in India since May 2014-15

1. **Defence sector:** India incurs huge expenditure on imports of defence equipments as the domestic defence industry has not been able to meet the expectations of the present times. The sector is capital intensive and requires advance technologies. Earlier FDI regime permitted 49% FDI participation in the equity of a company under automatic route. FDI above 49% was permitted through Government approval on case to case basis, wherever it is likely to result in access to modern and 'state-of-art' technology in the country. In this regard, the following changes have inter-alia been brought in the FDI policy on this sector:
 - (i) Foreign investment beyond 49% has now been permitted through government approval route, in cases resulting in access to modern technology in the country or for other reasons to be recorded.
 - (ii) FDI limit for defence sector has also been made applicable to Manufacturing of Small Arms and Ammunitions covered under Arms Act 1959.
2. **Pharmaceutical:** With the objective of making the sector more attractive to foreign investors, 74% FDI under automatic route has been permitted in brownfield pharmaceuticals. FDI beyond 74% is allowed through government approval route. 'Non-compete' clause would not be allowed in automatic or government approval route except in special circumstances with the approval of the Foreign Investment Promotion Board.

FDI in brownfield pharmaceuticals, under both automatic and government approval routes, is subject to compliance of following conditions:

- a) The production level of National List of Essential Medicines (NLEM) drugs and/or consumables and their supply to the domestic market at the time of induction of FDI, being maintained over the next five years at an absolute quantitative level. The benchmark for this level would be decided with reference to the level of production of NLEM drugs and/or consumables in the three financial years, immediately preceding the year of induction of FDI. Of these, the highest level of production in any of these three years would be taken as the level.
- b) R&D expenses being maintained in value terms for 5 years at an absolute quantitative level at the time of induction of FDI. The benchmark for this level would be decided with reference to the highest level of R&D expenses which has been incurred in any of the three financial years immediately preceding the year of induction of FDI
- c) The administrative Ministry will be provided complete information pertaining to the transfer of technology, if any, along with induction of foreign investment into the investee company.

3. **Medical Devices:** India has achieved an eminent global position in pharma sector. However, same has not been replicated in the medical devices industry. The country has huge pool of scientists and engineers who have potential to take medical device industry to a very high level. Domestic capital market is not able to provide much needed investment in the sector. The government has therefore permitted FDI up to 100% under the automatic route for manufacturing of medical devices, without any distinction of greenfield or brownfield and such FDI will not be subjected to other conditions of the FDI policy on the pharmaceutical sector.
4. **Food Product Retail Trading:** 100% FDI under government approval route has been permitted for trading, including through e-commerce, in respect food products manufactured and/or produced in India. This will benefit farmers, give impetus to food processing industry and create vast employment opportunities.
5. **Rail Infrastructure:** The modernization of Railways requires very large amount of capital investment. This makes foreign investment imperative in rail infrastructure especially in highly capital and technology intensive areas like suburban corridors, high speed train systems, train sets, railway rolling stock including locomotives/coaches, railway electrification, signaling systems dedicated freight line projects. Accordingly the Government with view to attract foreign investment in the sector has opened following activities of Rail infrastructure to 100% under automatic route:
 - Construction, operation and maintenance of (i) Suburban corridor projects through PPP, (ii) High speed train projects, (iii) Dedicated freight lines, (iv) Rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities, (v) Railway Electrification, (vi) Signaling systems, (vii) Freight terminals, (viii) Passenger terminals, (ix) Infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivities to main railway line and (x) Mass Rapid Transport Systems.However, FDI beyond 49% of the equity of the investee company in sensitive areas from security point of view, will be brought before the Cabinet Committee on Security (CCS) for consideration on a case to case basis.
6. **Construction Development sector:** Investment in the construction development sector remains a priority of the Government as it results in infrastructure creation; employment generation from unskilled workers to engineers, architects, designers as well as financial and other supporting services. FDI policy on Construction Development permits 100% foreign investment under automatic route subject to certain conditions. In order to liberalize and bring pragmatism in the policy so as to attract more foreign investment in the country not only in large infrastructure projects but also in held-up and smaller projects following amendments have introduced in the FDI policy on the sector:
 - a) Removal of conditions of area restriction of floor area of 20,000 sq. mtrs in construction development projects and minimum capitalization of US \$ 5 million to be brought in within the period of six months of the commencement of business.

- b) Exit and repatriation of foreign investment is now permitted after a lock-in-period of three years. Transfer of stake from one non-resident to another non-resident, without repatriation of investment is also neither to be subjected to any lock-in period nor to any government approval.
- c) Exit is permitted at any time if project or trunk infrastructure is completed before the lock-in period.
- d) 100% FDI under automatic route is permitted in completed projects for operation and management of townships, malls/ shopping complexes and business centres.
- e) It has been clarified that 'real-estate broking service' does not amount to real estate business and is therefore, eligible for 100% FDI under automatic route.

7. Civil Aviation Sector: Foreign equity cap of activities of Non-Scheduled Air Transport Service, Ground Handling Services have been increased from 74% to 100% under the automatic route. With a view to aid in modernization of the existing airports to establish a high standard and help ease the pressure on the existing airports, 100% FDI under automatic route has been allowed in Brownfield Airport projects.

FDI limit for Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline and regional Air Transport Service raised to 100%, with FDI upto 49% permitted under automatic route and FDI beyond 49% through Government approval. For NRIs, 100% FDI will continue to be allowed under automatic route. However, foreign airlines would continue to be allowed to invest in capital of Indian companies operating scheduled and nonscheduled air transport services up to the limit of 49% of their paid up capital and subject to the laid down conditions in the existing policy.

As per the earlier policy, foreign airlines were allowed to invest under Government approval route in the capital of Indian companies operating scheduled and nonscheduled air transport services, up to the limit of 49% of their paid-up capital. However, this provision was not applicable to M/s Air India Ltd., thereby implying that foreign airlines could not invest in Air India. Now, foreign investment(s) in Air India has been allowed, including that of foreign airline(s), up to 49% either directly or indirectly. Substantial ownership and effective control of Air India shall continue to be vested in Indian Nationals.

Further, Union Cabinet in its meeting on March 4, 2020; permitted foreign investment(s) in M/s Air India Ltd. By NRIs, who are Indian Nationals, upto 100% under automatic route.

8. Manufacturing Sector: In order to provide boost to the manufacturing sector and give impetus to the 'Make in India' initiative, the Government has permitted a manufacturer to sell its product through wholesale and/or retail, including through e-commerce under automatic route.

- 9. Contract Manufacturing:** In order to provide clarity on contract manufacturing, it has been decided to allow 100% FDI under automatic route in contract manufacturing in India as well. Subject to the provisions of the FDI policy, foreign investment in 'manufacturing' sector is under automatic route. Manufacturing activities may be conducted either by the investee entity or through contract manufacturing in India under a legally tenable contract, whether on Principal to Principal or Principal to Agent basis.
- 10. Other Financial Services:** Government has reviewed FDI policy on Other Financial Services and NBFCs to provide that foreign investment in financial services activities regulated by financial sector regulators such as RBI, SEBI, IRDA etc. will be 100% under the automatic route. In financial services, which are not regulated by any financial sector regulator or where only part of the financial service activity is regulated or where there is doubt regarding regulatory oversight, foreign investment upto 100% will be allowed under the government approval route.
- 11. Insurance & Pension Sectors:** FDI Policy on Insurance sector was reviewed in view of amendment to the Insurance Laws (Amendment) Act 2015 to increase the sectoral cap of foreign investment from 26% to 49%. Further it has been provided that FDI in the sector would be permitted under automatic route. Similar changes have also been brought in the FDI Policy on Pension Sector.
- 12. Banking-Private sector:** Government introduced full fungibility of foreign investment in Banking-Private sector. Accordingly, FIIs/FPIs/QFIs, following due procedure, can now invest up to sectoral limit of 74%, provided that there is no change of control and management of the investee company.
- 13. Insurance Intermediaries:** Vide Press Note 1(2020)100% FDI has been permitted in Intermediaries or Insurance Intermediaries including insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, Surveyors and Loss Assessors and such other entities, as may be notified by the Insurance Regulatory and Development Authority from time to time.
- 14. Digital Media:** The extant FDI policy provides for 49% FDI under approval route in Up-linking of 'News & Current Affairs' TV Channels. However, the policy does not have any specific provision pertaining to broadcasting of content through digital media. In the background of free mushrooming of news/ other content over the internet and possibly over the mobile, it is important that this gap in the FDI policy is addressed and the provisions governing foreign investment in the activity are clearly spelt out. Accordingly, 26% FDI under government route has been permitted for uploading/ streaming of News & Current Affairs through Digital Media.
