



AMERICAN CHAMBER OF COMMERCE IN INDIA

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Ms. Anjali Prasad, IAS

Joint Secretary, Room No 126-A

Dept of Industrial Policy and Promotion,

Udyog Bhawan, New Delhi

Subject: DIPP discussion paper on FDI policy

Dear Madam,

As you may be aware, the American Chamber of Commerce in India (AMCHAM- INDIA) is an Association of American Business Organizations operating in India. Established in 1992, it has around 500 members. The incumbent US Ambassador to India is the honorary President of AMCHAM-INDIA. It has different sectoral committees, including those for Pharmaceuticals and Devices.

We greatly appreciate this opportunity to provide comments on the FDI policy and welcome the move of your department in adopting a consultative process.

Please find AMCHAM Pharmaceutical Committee's response on the draft paper in the attachment herein.

Please let us know if we could be of any further assistance to you.

For AMCHAM Pharmaceutical Committee

A handwritten signature in black ink, appearing to read 'Sandeep Gupta', is written over a printed name.

Sandeep Gupta

Chairman of the Committee

(Also the Chairman and Managing Director, Eli Lilly and Company India)

Enclosure: As above

1. Do equity caps fulfil any purpose other than 'control'?

The evolution of FDI policy and progressive liberalisation and rationalisation in India should be applauded. The approaches like moving away from positive list to a negative list and reduction in equity caps has had a very positive impact on the flow of FDI and industrial growth in India. We firmly believe that this is the right time to re-look into the entire policy and inject fresh thinking that could spur next wave of economic activity in the country. As such, equity caps largely serve the purpose of protectionism and control and should be done away with.

2. In the context of FDI Policy, should those activities that can now be done indirectly, through downstream investments, as well be allowed to be done directly?

Complicated equity holdings which allow investment indirectly do not have a place in present day world which lays premium on transparency and governance. This leads to avoidable confusion, reduced efficiencies and restricts innovations.

It is always better to have a transparent system where all activities can be done through a common methodology. This way the government will have better visibility and control and would boost the confidence to those seeking investment opportunities in India.

3. If so, is there any relevance left for equity caps, especially below 49%?

As a principle, there is no rationale for equity caps including those below 49% which will only restrict the amount of capital in the country. The paper correctly identifies how different ownership structures can provide effective control even below a 49% ownership.

4. Can the concerns supposed to be addressed by control through equity caps be addressed through sectoral conditions?

Equity caps in any form have never addressed any of the concerns which they were supposed to address. On the question of targeted sectoral interventions, they could be considered only if they are non-discriminatory in nature and fit into the overall FDI philosophy of the country and not affecting the overall sentiment around a given sector. For sectors in which there are no equity caps presently existing, these should not be even considered as that would amount to a retrograde step.

5. Do the caps create an unfair opportunity for arbitrage?

It would be fair to assume so. Equity caps create artificial investment climate which could lead to unfair opportunities for speculators which is totally against market oriented investment strategy required to provide level playing opportunities for serious investors. Equity caps distort market forces and do not suit India's overall goals of economic growth and development.

6. If at all it is necessary to have caps in certain sectors, is it a better option to ask MNCs to list on Indian stock exchanges and then offload equity within a stipulated period?

Protectionism in a world of free flowing capital oriented global economy will not be viewed favourably by any MNC company interested in investing in India or by foreign governments who may retaliate with similar measures against Indian companies operating in those markets.

Cap, control and stipulations are all considered impediments and discourage FII and FDI. Unclear stipulations, opportunity to bypass caps, window for arbitrage, and non-uniformity across sectors have discouraged the inflow. Hence, forcing companies to offload equity could be seen as extensions of protectionist regime and would deter further inflow of FDI into India. The trend of companies currently listed in India is to delist from local stock exchanges and in this environment to ask MNCs to list on Indian stock exchanges may be counterproductive.

The government should instead view FDI in general as a vehicle to uplift sectors in terms of newer technology imports, better productivity, getting skilled management, employment and innovation. If at all such caps need to be mandated, government should pick some strategic sectors and prevent FDI completely (as is the current situation) in them and open rest of the sectors to 100% equity ownership to willing MNCs.

7. As long as sectoral caps exist, should it be specified that they are exclusive of FII?

The mission and objective of FIIs existence is quite different from FDIs. The constructive and benevolent aspect of FDIs is absent in FIIs. FIIs are operating primarily with an investment objective, only goal being return on investment and hence, an indirect route to providing boost to a sector. FDIs have similar ideology but have added benefits that provide direct entrepreneurial boosts to economy and growth (highlighted in previous answers). Our position is neutral on caps for FIIs.