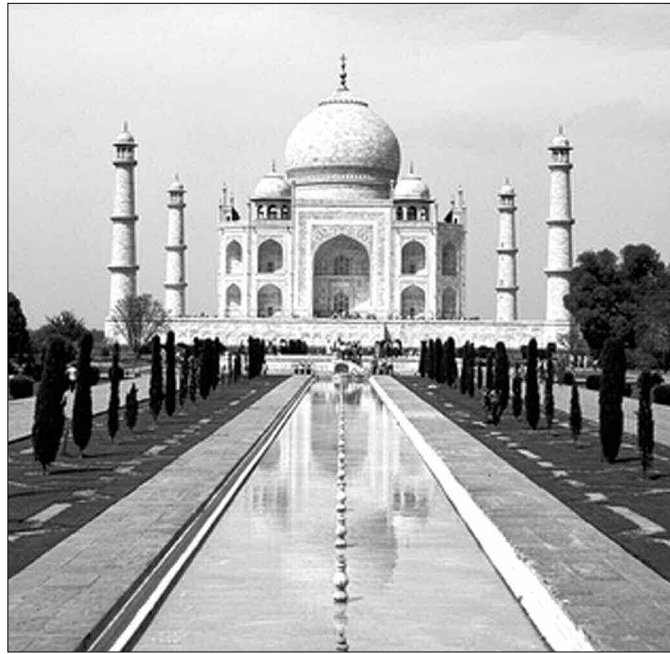


Reprinted from Fall 2006 issue of

COLUMBUS BAR

briefs

Destination India Doing business and more...



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In April, after my two months' stay in my homeland of India, as I sat on the return flight to Columbus, the words from one of Mahatma Gandhi's Independence speeches in 1947 flashed in my mind. Referring to India, he said, "A world leader is born." Nearly sixty years later, the words of Mahatma Gandhi are coming true. In the new world order of the twenty-first century, India could lead the world in peace, democracy, industrialization and trade, and commerce. India indeed is growing and prospering as it becomes a new world leader and an attractive place to do business.

India has an ancient civilization, mingled with diverse races, religions, cultures and ways of life. The country is rich in natural and human resources and has a fervent drive to expand and modernize its industries through the development of science and technology. For those reasons, India is attracting global companies and foreign nationals. It also provides opportunities to capitalists interested in free trade and commerce, to non-profits and others committed to solving its vast human welfare needs and to tourists who simply want to experience its rich culture and impressive natural beauty.

India's large and growing market for consumer goods, its massive infrastructure needs, a sophisticated financial sector, an increasingly flexible regulatory environment, numerous incentives, a democratic political system and strong economic outlook makes India an attractive investment destination. The business environment is considered conducive for achieving high levels of sustainable growth to business committed to a long term view.

Due to the competitive advantages offered, numerous multinationals and much smaller companies have established a significant presence in the Indian market through wholly owned subsidiaries or joint ventures. In the past, a more pronounced multinational presence in non-core sectors such as consumer goods, intermediates and services was observed, primarily because the core sectors, such as infrastructure, were reserved for the public sector. A large number of foreign investors have recently entered various core sectors of the Indian market. These include Fortune 500 companies as well as small and medium enterprises from all over the world. The opening of capital-intensive infrastructure industries, such as power, telecom, oil and natural gas, roads and highways, and ports offers vast opportunities to foreign investors.

The foremost important factor responsible for the strong interest of foreign investors in India is the size and potential for growth of the domestic market. Sweeping sociological changes have been brought about by rapid urbanization, an explosion in the use of electronic media, high levels of education and increasing domestic and foreign travel as well as a change in the buying habits of consumers with a growing emphasis on brands, product quality, features and convenience.

In addition to the above, another relevant and important factor is that investment in India can be profitable because the Indian government allows facilities/companies to freely repatriate any capital appreciation, free remittance of royalties, technical fees, dividends, interest, etc., after payment of taxes. The rate of return on investment amounts to an average of 16.8 percent.¹ Collaborations of many

developed countries have shown that growth of foreign companies' investment in India has been good. Royalties have been satisfactory in comparison to that elsewhere in the world. Moreover, the Indian enterprise is keen to do business with foreign nationals, companies and corporates and seek collaboration for many purposes, including the transfer of modern technology.

Further, the depth and size of Indian stock markets far exceeds that of rival Asian giants, such as Indonesia, Singapore, Thailand, Malaysia and the Philippines and is gaining ground on its well established rivals in Taiwan, Hong Kong, Korea, etc. This growth is indicative of the magnitude that can be achieved. Indian stocks, buoyed by phenomenal growth of the technology sector and knowledge-based industries have also achieved significant milestones in US capital markets because of strong interest from foreign as well as domestic investors.

In recent years, a number of significant policy changes have been introduced to make investment in India an easier and more rewarding proposition. Basic changes in the policy towards foreign investment and a host of other initiatives have considerably improved the business environment within which foreign companies now operate in India now.

Even though India appears to be an attractive destination for foreign investment, another reality is that it is critical for every foreign company planning to set-up operations or otherwise to do business in



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India to comply with all relevant national and local laws, rules and regulations that impact the business it plans to conduct in India.

Various legal issues impact a foreign company setting-up operations or doing business in India. These legal concerns, of course, include issues arising from the contracts required for your client to do business in India, but also encompass a number of other legal issues, such as:

- Obtaining regulatory approvals,
- Devising an appropriate strategy to enter the Indian market,
- Researching the competitors of that market,
- Finding and securing a suitable location for your client's operations of the foreign company, etc.

So, it is important to develop a legal strategy that supports your client's business plans and objectives. This legal strategy will include doing proper due diligence on your client's prospective partners or others with whom your client will do business, as well as on the specific conditions and prospects of your client's market. To that end, it is critical to obtain experienced guidance before helping your client to venture into this new and exciting market.

We are moving towards a global economy and the world is indeed getting flatter. The vast and growing Indian market is a reality. In India the growth is staggering, the quality of goods and services is top notch and the cost can be as low as one third of doing business in the United States. Even so, it is a challenging market that should be entered only with the planning and execution that you would perform in any developing market. Business enterprises, in order to sustain, succeed and to be a part of the world globalization must be flexible, open minded and adaptable to the realities of the Indian market.

¹ Per the market study conducted for the year 2005 by the Foreign Investment Board of India (FIPB).

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As a highly favorable destination for investment, India offers **VARIOUS COMPETITIVE ADVANTAGES**



- Largest democracy in the world and a political consensus for continuing market reforms and maintaining political stability.
- Abundant availability of untapped natural resources, rich mineral base and agricultural self-sufficiency.
- Access to regional/international markets through membership of regional integration frameworks such as SAARC, the South Asian Association for Regional Cooperation.
- Large and expanding consumer market with increasing purchasing power – up to 300 million people constitute the market for branded consumer products.
- Large manufacturing capability, spanning almost all areas of manufacturing activities with unskilled, semi-skilled and skilled labor at competitive wages.
- Relatively low inflation rates, currently less than five percent annually.
- Special investment and tax incentives for export in certain sectors such as power, electronics, software, Business Process Outsourcing (BPO) and food processing.
- Current account and capital account convertibility for foreign investors.
- English is the preferred business language.
- Established independent judicial system with a hierarchy of courts.
- Acceleration of the privatization process and restructuring of public enterprises.
- Foreign brand names/trademarks for sale of goods in India are allowed.
- No Government approval required for foreign direct investment in virtually all sectors', except some sectors as notified by the Government from time to time.
- Agreement for avoidance of double taxation with more than 88 countries, including the United States.

