

Rationalizing FDI policy for petroleum and gas

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The Indian oil and gas sector is one of India's core industries and has a very significant contribution towards the country's economy. In the recent past, it has been observed that the consumption of petroleum products in India is at its peak and demand already far exceeds domestic supply. Therefore, the country has to depend largely on imports of oil from abroad.

In an attempt to meet the increasing demand for oil and gas, the Department of Industrial Policy and Promotion in the Ministry of Commerce and Industry has rationalized the foreign direct investment (FDI) policy for the petroleum and natural gas sectors.

The year 2007 witnessed a number of significant initiatives by the government across the entire value chain of the hydrocarbon sector to accelerate the domestic production of oil and gas, putting in place an investor-friendly policy regime for the rapid growth of investment and oil sector infrastructure.

The Petroleum and Natural Gas Regulatory Board (PNGRB) was set up under the PNGRB Act, 2006, which provides for the setup of a board to regulate the refining, processing, storage, transportation, distribution, marketing and sale of petroleum, petroleum products and natural gas, excluding the production of crude oil and natural gas.

This is aimed at protecting the interests of consumers and entities engaged in specific activities relating to petroleum, petroleum products and natural gas and to ensure an adequate supply of these products in all parts of the country.

The government has put in place a liberal and transparent FDI policy for the petroleum and natural gas sector. In the post-liberalization era, a number of initiatives have been taken to attract FDI in this sector. Today, the FDI policy in India is widely considered

to be among the most liberal in emerging economies and FDI up to 100% is permitted under the automatic route in most sectors.

Previous liberalization

The government under Press Note 1 of 2004 has liberalized the FDI regime by raising the caps for the following activities: FDI of up to 100% on the automatic route for petroleum product marketing; FDI of up to 100% on the automatic route for petroleum product pipelines; and FDI of up to 100% with government approval for natural gas and LNG pipelines.

Press Note 4 of 2006 rationalized and liberalized FDI policy to a large extent. The government of India has allowed, under the automatic route, FDI of up to 100% for the laying of natural gas and LNG pipelines, market study and formulation and investment financing in the petroleum and natural gas sector, and setting up infrastructure relating to marketing in the petroleum and natural gas sector.

With regard to petroleum refining, FDI of up to 100% was permitted in the case of private Indian companies and a sectoral cap of 26% in the case of public sector undertakings (PSU).

Other than refining and including market study and formulation; investment and financing; the setup of infrastructure for marketing in the petroleum and natural gas sector, subject to sectoral regulations issued by the Ministry of Petroleum and Natural Gas, a divestment of 26% equity in favour of Indian partners or the public within five years is allowed.

Press note 5 (2008)

Owing to further demands for the rationalization of FDI policy for the petroleum and natural gas sector, Press

Note 5 of 2008 was notified on 12 March modifying Press Note 4 of 2006.

It has brought two important changes in policy. The condition of compulsory divestment of up to 26% equity in favour of Indian partners or the public within five years for the actual trading and marketing of petroleum products was deleted, while the equity cap was revised from 26% to 49% with prior approval of the Foreign Investment Promotion Board in petroleum refining by PSUs without involving any divestment or dilution of domestic equity in existing PSUs.

The FDI norms for the petroleum and natural gas sector, which are governed by Press Note 1 of 2004 and Press Note 4 of 2006, are relaxed through Press Note 5 of 2008 and now the ceiling on foreign investment in public sector petroleum refining has been raised from 26% to 49%.

Rising crude prices have not only brought ongoing reforms in the oil and gas sector to a standstill, but with the oil companies' inability to pass on the price increase to consumers, led to huge under-recoveries.

As a result, oil marketing companies suffered losses while upstream companies saw an increase in subsidy burdens so that investments even in planned projects have been delayed. This is the main reason for the hike in prices of petroleum, diesel and LPG in the first week of June. The surging global oil prices had put national oil companies under acute pressure which resulted in the abovementioned price rise.

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