EUROPEAN BUSINESS GROUP

Position Paper

Eighth Edition

January 2008

Position Paper on India

ACKNOWLEDGEMENTS

At the outset EBG is grateful to all the members for their inputs and support to bring out the eighth edition of the position paper. In this effort, EBG has also been helped by non-members in providing information and commenting on the draft document. EBG would like to place on records its appreciation to all such professionals.

DISCLAIMER

This Position Paper is a collective expression of the views of members of the European Business Group (EBG) on some aspects of the business environment in India that affect the development of business relationships between the Indian and European Communities. The views expressed in the individual chapters therefore are generally in conformity with the views of the EBG as a whole.

The information and views put forward in this Position Paper are intended only to stimulate discussion and offer suggestions for the improvement of Indo – European business relations. Whilst we have made efforts to ensure that the information contained in this Position Paper is accurate to the best of our knowledge and belief, the EBG cannot assume any liability or responsibility for the outcome of decisions taken as a result of this Position Paper.

This Position Paper is intended for and is strictly for the use of Members of the EBG and other interested parties. Its contents may not be reproduced in whole or in part without the prior written consent of the EBG.

Published by: European Business Group in India, 65, Golf Links, New Delhi 110 003
e-mail: info@europeanbusinessgroupindia.com
website: www.europeanbusinessgroupindia.com

Gaz de France

Courtesy Logistics

INDEX

INDEX....................3
1 INTRODUCTION....................4
2 FOREWORD....................9
3 ALCOHOLIC BEVERAGES....................13
4 AUTOMOTIVE INDUSTRY....................15
5 BANKING AND FINANCE....................17
6. CIVIL AVIATION....................20
7 ENERGY INDUSTRY: OIL & GAS....................24
8 HEALTHCARE INDUSTRY....................31
9 SERVICE INDUSTRY....................36
10 SERVICE INDUSTRY: FLEET AND VEHICLE MANAGEMENT....................40
11 TELECOMMUNICATIONS....................43

1 Introduction

1.1 European Business Group (EBG)

The EBG, registered as a trust since 1997, functions as the focal point for members, who represent European Union (EU) business interests in India. These individual members pursue business in India for and on behalf of their organisations having business interests in the EU. It is intended that the initiatives and activities undertaken by the EBG should complement and reinforce those of EU member states, business groups and diplomats. Its principal objectives are:

- The protection and the development of EU business interests in, and with, India.
- The improvement of trade and business relations and devising of effective means to resolve differences, for mutual benefit and interest, between the EU and India.

1.2 EU-INDIA TRADE SOARING TO NEW HEIGHTS

The dynamism of the EU-India economic co-operation is best demonstrated by the fact that the EU remains by far India's largest trade and investment partner.

The EU-India partnership has been elevated to the level of Strategic Partnership since 2005 and it rests on the foundations of mutual interest in the areas of trade, investment and economic co-operation, among others. This partnership has grown over time and provides a framework for both India and the EU to develop new opportunities.

A milestone has been achieved in the EU-India trade relations. In 2005, EU-India trade crossed the € 35 billion target set at the 3rd EU-India Business Summit at Copenhagen in 2002. To achieve the next landmark of € 50 billion by 2008, EU and India would have to work in close cooperation, both at the bilateral level and the multilateral level. However, looking at the trend for the past three years, the target of € 50 billion looks well within the reach.

With the growing trade, India ranks among the top 10 trading partners of EU. Since, the first EU-India Summit held in the year 2000 in Lisbon, trade between both the partners has increased from € 25,6 billion in 2000 to € 46,3 billion in 2006. EU's exports to India during the same period increased from € 13,3 billion to € 24 billion and EU imports increased from € 12,3 billion to € 22,3 billion.

EU-India Trade **(In Million euros)**

Year	Imports	% change	Exports	% change	Total Trade
2000	12.341	23.16	13.303	28.60	25.644
2001	13.405	4.7	12.894	-5.4	26.299
2002	13.608	1.5	14.271	10.7	27.879
2003	13.975	2.7	14.517	1.7	28.491
2004	16.231	16.1	17.031	17.3	33.262
2005	18.873	16.3	21.083	23.8	39.956
2006	22.326	18.30	24.030	13.98	46.356

Source: **EUROSTAT**

As mentioned in the beginning, the European Union remains India's largest trading partner, accounting for 21,21% of India's total exports and 16,06 percent of India's total imports during the year 2006-07. Total trade between both the sides account for 18,14 percent. On the other hand, India only accounts for 2,06% of EU's total exports and 1,66% in EU's total imports. India's share in EU trade in Services is 1,1%, which translates into €7,1 billion including imports and exports. EU's top five trading partners are USA, China, Russia, Switzerland and Japan.

EU-India trade relations are backed by the **Cooperation Agreement on Partnership and Development** signed in December 1993 and the **Strategic Partnership** agreed in 2004. However, diplomatic relations was established way back in 1963. All these initiatives are further strengthened by the annual **EU-India Summits** that take place every year.

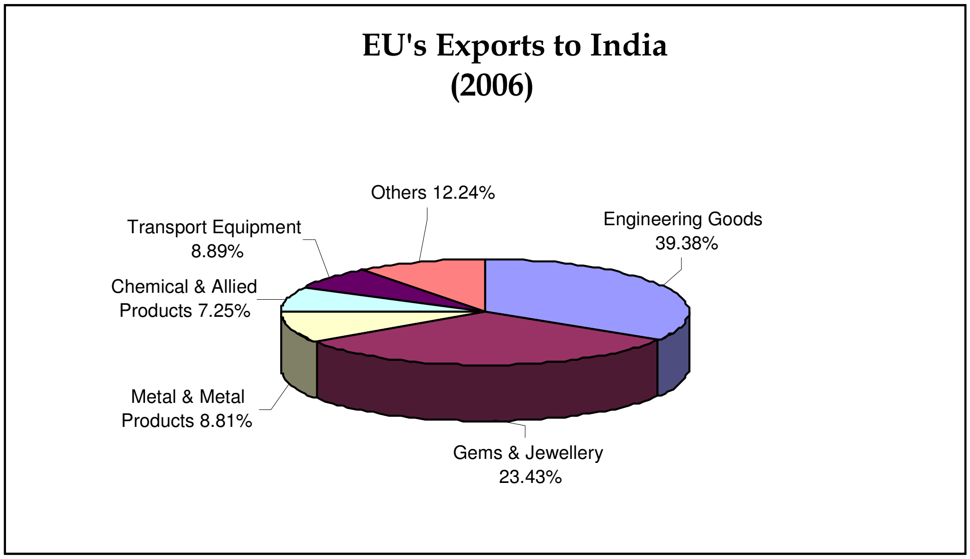
Trade relations between EU and India were further boosted with the joining of ten new Member States – Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia - on 1st May 2004 and two new Member States – Romania and Bulgaria on 1 January 2007 taking the membership of the European Union to 27. The enlargement has resulted in more markets for Indian exporters and more job opportunities. In addition to a single set of trade rules, the enlarged EU offers a single tariff and a single set of administrative procedures.

A very important instrument of the European Union is its Generalized System of Preferences (GSP). The European Union was the first to implement a GSP scheme in 1971. The EU's GSP grants products imported from GSP beneficiary countries either duty-free access or a tariff reduction. Since 2004 India became the first beneficiary of the EU's GSP scheme out of 180 countries. In 2005, preferential imports entering EU from India under the GSP reached €8 billion. The main sectors responsible for India's top position are industrial goods that accounts for €4.311 million followed by textile €3.142 million and agriculture €547 million.

The launch of the negotiations of **Trade and Investment Agreement** between India and the EU in July 2007 is another milestone in our relations. This agreement will aim to further facilitate and open bilateral trade in many different areas: goods, services, investment, non-tariff barriers, intellectual property, public procurement, etc. It is important to remember that India has already concluded Free Trade Agreements with Sri Lanka and Singapore and it is at present negotiating with ASEAN, Thailand, Japan and Korea. Moreover, study groups with EFTA, Canada, Australia, China, Russia, Malaysia, Indonesia, New Zeeland are under way.

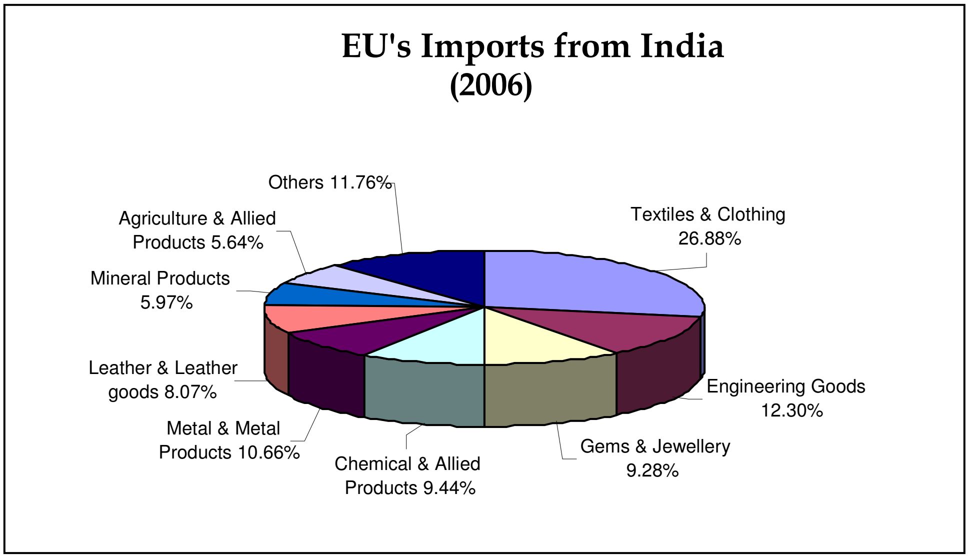
Performance of some of the key sectors

EU Exports to India



Source : EUROSTAT

EU Imports from India



Source: EUROSTAT

EU AS LEADING FDI SOURCE IN INDIA

The EU still has a leading share of foreign direct investment (FDI) inflow into India accounting for one quarter of total investment. Many reputed European companies are investing in India in diverse sectors like energy, civil aviation, ports, IT, telecom, automobiles, pharmaceutical, financial services and retail. Some leading EU companies already investing in these sectors include BMW, Fiat, Bosch, Nokia, Siemens, Philips, British Telecom, EADS, Vodafone, Novartis, Astra Zeneca, Standard Chartered, BNP, Deutsche Bank, HSBC, Aviva, Alstom and British Gas.

The EU is also becoming the prime destination for India's outward investment with several acquisitions underway and extending to sectors like steel, pharmaceuticals, automobiles, IT and energy (wind & petroleum). EU Financial institutions and banks played crucial role in funding nearly all major European acquisition by Indian companies.

It is quite apparent that India's rising exports and international trade as well as investment are closely associated with growing EU participation.

FDI Equity Inflows to India by major sources

(US$ in million)

Ranks	Country	2003	2004	2005	2006	Cumulative Inflows (from Aug. 1991 to Dec 2006)	% of total cumulative Inflows
1.	EU	687,72	1104,21	666,94	2.988,21	10.191,92	21,16
2.	U.S.A.	432,73	677,08	470,46	754,63	5.645,17	11,72
5.	Japan	98,72	121,31	169,31	118,85	2.175,60	4,52
7.	Singapore	38,19	64,89	322,02	648,46	1.583,15	3,29
9.	South Korea	25,65	27,89	66,89	66,72	813,61	1,69
TOTAL FDI INFLOWS *		2.173,62	3.359,40	4.379,71	11.444,83	48.171,91	

Source: SIA (Secretariat of Industrial Assistance), Department of Industrial Policy and Promotion, Ministry of Commerce & Industry, Government of India.

A perceptible jump in India's outward FDI is seen as the most significant development in recent times. Interestingly, the focus of this outward investment has been Europe with an estimated 55% of this capital flowing out to across EU. Due to corporate restructuring taking place in Europe, Indian firms are targeting EU companies that offer cost competitiveness and strategic access to market as well as resources.

With a massive spurt of $ 11,8 billion outward FDI, 2006-07 had been a water-shed in terms of overseas acquisitions (This figure was just $1,9 b, $3,2 b, and $2,4 b in 2003-04, 2004-05 and 2005-06 respectively). European investment agencies expect the FDI outflow from India to EU to touch $ 25 billion in 2007 (this includes about $ 12 billion of Tata-Corus deal in January 2007).

1.3 EBG Position Paper

The EBG embarked in July 2000 on the development of a document that aims to address the hurdles facing industrial development in several key areas of interest to European Business. The document termed, Position Paper (PP), currently in its eighth edition draws from the experience of both members and outside experts. It is by no means exhaustive. The intention of the PP is to give an overview of the difficulties that various sectors are facing and focuses on areas where progress is being possibly stymied.

The purpose of this document is to enable the EBG to express the views of its members on some key aspects of the business environment in India that have a direct bearing on the development of favourable relationships between the European, and the Indian business communities.

It is intended to facilitate discussion with the relevant Ministries of the Government of India and other interested bodies including those from the EU to seek action on the issues raised. EBG believes that by opening a dialogue on these points, progress can be made to resolve differences and enhance EU-India business relations to benefit both partners and to also help the Indian economy realise its full growth potential.

Back to Index

2 Foreword

The Position Paper of the European Business Group (EBG) has over the years become an important document reflecting the diverse presence of European companies in India and their perspective in the different sectoral areas. Continuing this trend, we have pleasure in placing before you the next edition of the Position Paper for the year 2008. It is our belief that like before, this edition will help the reader get valuable insights on the operations of our member companies in India. The Indian economy is increasingly emerging as one of the key economies driving world growth rates. Our member companies consider it a privilege to have played a small but a significant part in India's stupendous economic performance.

India's economy when measured in USD exchange-rate terms, is the twelfth largest in the world, with a GDP of US $1.25 trillion (2008). It is the third largest in terms of purchasing power parity. India is the second fastest growing economy in the world, with a GDP growth rate of 9.4% for the fiscal year 2006–2007. However, India's huge population results in a per capita income of $4,542 at PPP and $1,089 at nominal (revised 2007 estimate). The World Bank classifies India as a low-income economy.

The Indian Economy has grown at around 8.7% this year, which is very healthy rate but is behind the growth rate of China, which stands at around 11% for same period.

India's economy is diverse, encompassing agriculture, handicrafts, textile, manufacturing, and a multitude of services. Although two-thirds of the Indian workforce still earn their livelihood directly or indirectly through agriculture, services are a growing sector and play an increasingly important role of India's economy. The advent of the digital age, and the large number of young and educated populace fluent in English, has transformed India as an important 'back office' destination for global outsourcing of customer services and technical support. India is a major exporter of highly-skilled workers in software and financial services, and software engineering. Other sectors like manufacturing, pharmaceuticals, biotechnology, nanotechnology, telecommunication, shipbuilding, aviation and tourism are showing strong potentials for higher growth rates.

India followed a socialist-inspired approach for most of its independent history, with strict government control over private sector participation, foreign trade, and foreign direct investment. However, since the early 1990s, India has gradually opened up its markets through economic reforms by reducing government controls on foreign trade and investment. Government procedures are constantly being simplified and paper work minimized. The privatisation of publicly owned industries and the opening up of certain sectors to private and foreign interests has proceeded slowly amid political debate. Market oriented policies are boosting economic activity, all round development and GDP growth rate. As the Indian economy gears for competition in the international market, overseas investors clearly see the potential for attractive returns from investments in India, which is also evident from the many FDI success stories already achieved.

Notwithstanding the fact that the Indian economy grew at a good pace in 2007, the challenges facing the economy still remain. Inflation, falling exports in the current year due to the hardening of the Indian Rupee, agriculture and crude prices are all concerns that could possibly derail the Indian economy.The crude price rise has the strength to dent the growth outlook and cause inflation to rise in a short span of time. Food prices could shoot up and hurt the common man. Agriculture is another area of grave concern. For an agrarian country like India it's very important that it increases production of its basic food requirements like rice and wheat. Though agriculture contributes a far lesser percentage of the Gross Domestic Product of India today, its still helps employs a large section of the population.

This is just the first list of issues that the Indian economy faces as it steps into 2008. The other global factors such as the US slowdown are still on the table. India faces a fastly growing population and the challenge of reducing economic and social inequality. Poverty remains a serious problem, although it has declined significantly since independence. Official surveys estimated that in the year 2004-2005, 27% of Indians were poor.

India's retail industry has for decades been sheltered from foreign investment. Although foreign investors are now permitted to open majority-owned outlets of single brand specialty stores such as Nike, retailers that sell multiple brands are still required to be locally-owned or licensed franchises. Wal-Mart, the world's largest retail chain, announced on 27 November that is poised to enter India's rapidly-growing retail market, through a joint venture agreement with local conglomerate Bharti Enterprises. The deal set the stage for a tough battle between the traditions of the 12 million family-run shops in India and big Western retailers, which are eager to tap India's growing middle classes. More so as the Commerce and Industry Minister, Mr. Kamal Nath has very clearly stated that the government will seek to protect local retailers before allowing overseas investors to enter the Indian retail market. Another challenge that foreign retailers would face is that India's population of 1.08 billion, although second only to China's 1.3 billion people, is widely dispersed.

The Foreign Investment Promotion Board ("FIPB") and the Reserve Bank of India ("RBI") need to ease the restrictions on the activities and tax implications for the opening up of a liaison, branch and project offices in India. Over and above the FIPB and RBI, Ministry of Commerce and Industry and various other ministries and departments of the government prescribe sector specific regulatory compliances and approvals.

The EBG members represent a cross-section of industries: power, oil & gas, telecommunications, automobiles, banking and finance, etc. The Position Paper reflects the broad canvass of opinion that its members have on the different sectors in which they are engaged in India.

A common view, which emerges across the sectors, is that there is an urgent need for consistency, stability and transparency in the policies and frequent changes destabilize any business model and sends out confused signals.

Apart from core basic issues affecting the Aviation industry, the paper has outlined the limited attention devoted to Maintenance, Repair and Overhaul activities in India, which are critical support activities for the aviation industry.

In the Oil & Gas Sector, though the much-awaited Petroleum & Natural Gas Regulatory Board came into force on 1st October 2007, there is a perception that the sector is not yet market friendly. Like in other sectors there are instances of knee-jerk announcements making European companies apprehensive. Government's bid round process now in the seventh round is an honest attempt to be market friendly.

As reported in the earlier editions of the document, Telecommunications outshines all sectors in India as far as business environment is concerned. In such a mobile-driven growth scenario, the consistency in licensing policies, timely availability of spectrum and spectrum management policy is critical for fair, regular and healthy competition that ensures level playing field for the future growth of this sector.

Government has been very cautious in opening the Financial Sector and there are still entry restrictions for foreign banks in India. With an excellent regulator like RBI in place and the Indian economy having come of age, there is no reason why the Indian Government should not think in terms of allowing greater participation of the foreign banks in India.

Frequent roll back and introduction of new instruments does not augur well for the Tax regime in the country. EBG would like to see a simplified tax regime and an intention in this regard will be highly conducive to investment. Administrative procedures necessary for compliance of various tax regimes itself deters many companies to invest in India.

The document will, perhaps be incomplete or imbalanced, if EBG does not address a few issues to the authorities in the EU. These need immediate attention to enhance the EU-India business relation, the raison d'etre of EBG.

Member State Embassies should ease the Schengen Visa procedure for genuine Indian business visitors. EBG, if requested, can assist Member State Counselors to certify such visitors. Also, as Globalization is now an accepted fact of life, it is ironical that some Member States still do not recognize non-European representatives of European companies at par with European citizens. Such anomalies need to be addressed with immediate effect. Finally EBG recognizes the increasing Indian presence in the European business and such a development strengthens the relationship.

The following pages chronicle the perception of the members of EBG on the diverse areas of activities in this vast country, which has immense opportunities for growth and expansion. It is our belief that the views expressed and the suggestions outlined, if acted upon, will go a long way in making the Indian economy stronger and globally competitive. The EBG believes in the remarkable destiny of a vibrant

India to become a world industrial leader. The future beckons this great country and the EBG visualizes itself as a partner in this progress.

Back to Index

3 Alcoholic Beverages

3.1 Introduction

There are 4 European companies in this sector in India. India imports around 10 million litres of spirit and 240,000 cases of wine. The market access of spirits and wines improved during the calendar year 2007 after major reforms announced by the Government of India in response to the complaint lodged by the European spirits and wine manufacturers at the WTO. The reforms consisted of exemption of all imported beverages from additional customs duty and special additional duty.

The Government of India by notification has increased the applied rate on wines from 100% to the bound rate of 150%.

3.1.1 An update on the industry

The Government of India removed all trade barriers in 2001 and brought down the rate of basic customs duty to 150% (applied rate of wines to 100%) in 2004. It also introduced additional customs duty in four slabs. This resulted in the applied rate of spirits range between 230% to 565% on spirits and 150% to 265% on wines.

The Indian constitution permits states to levy consumption taxes on all spirits and wines. The states levied multiple discriminatory taxes on all imported bottled in origin spirits and wines resulting in flourishing grey market. The European Spirits and wines companies filed a TBR complaint with the European commission (EC) on discriminatory taxes like additional duty and special additional duty and market access in some states. The EC set up a panel for dispute resolution in 2007. This resulted in the exemption of spirits and wines from the additional duty and special additional duty on all imported spirits and wines. The applied rate on wines was enhanced to the bound rate of 150%.

Many states have responded to the rationalization process and the consumer prices of imported spirits and wines have dropped by 18% to 20%.

The state of Maharashtra still continues to levy discriminatory taxes on imported wines. This has resulted in the increase of consumer prices by almost 35% to 40% on premium wines and drop in sales by almost 50%.

3.1.2 Key European Players in the sector

S.No	Company	Country	Main Function
1.	Diageo plc	UK	Spirits,wine and beer categories
2.	Edrington	Scotland	Spirits
3.	Moet Hennessy	France	Wine and spirits
4.	Pernod Ricard	France	Wine and spirits

3.2 Issues

3.2.1 State Taxation

As liquor taxation is a state prerogative in India, states have the power to levy duties and taxes on liquor (including excise duty on domestically produced liquor). The states in the Union of India have introduced new policies to tax imported BIO spirits and wines. These policies have reduced the consumer-selling price by 18% to 20%. However taxation of spirits and wines is a concern in some states like Maharashtra. The state of Tamil Nadu does not allow sales of imported BIO whereas other states like Andhra Pradesh, Kerela have very high incidence of taxes, which act as barriers to trade.

Method of Resolution

While alcoholic beverages in India are a state subject, it is for the central Government to ensure that states do not introduce policies and regulations that violate international commitments. In this regard, the central Government has had discussions with states' officials, but has found it difficult to obtain compliance. Without co-operation from the states, it is not possible for the centre to create (or ensure) a conducive operating environment for the alcoholic beverages industry.

Many states in the country have now modified the policy by introducing separate legislation for sale of BIO products. Further the steps initiated by the Central Government will lead to a rational tax policy.

3.2.2 DGFT Rebate to Hotels

In an effort to liberalise at least the higher end of the spirits market, the DGFT has recently announced a concession that allows liquor to be imported under a newly created Duty Free Credit Entitlement Certificate scheme. Under this scheme, hotels and restaurants that earn foreign exchange of Rs 10 lacs or more are allowed to import spirits duty free up to 5% of their foreign exchange earnings. This rebate has resulted in availability of premium international brands in Hotels and Restaurants at affordable prices.

Back to Index

4 Automotive Industry

4.1 Introduction:

After the full recognition of Software & Services sector, now Indian Automotive Sector is also getting the attention of biggies of world-wide automotive manufacturers & almost everybody has either already set up the shop here or are in the process. Car segment and commercial vehicle segment are in full limelight and almost every month there is couple of announcements being made by the manufacturers for setting up business in India.

Through English speaking manpower, their flexibility to work, productive & cost effective approach and rising spending power and many other factors go in favor of the country’s economic growth, however, various issues are still bottlenecks and may affect in the long term if not addressed in current scenario.

4.1.1 Key European Players in the sector

S.No	Company	Country	Main Function
1.	BMW	Germany	Automaker
2.	Continental	Germany	Tyre Maker
3.	DaimlerChrysler	Germany	Automaker
4.	Fiat	Italy	Automaker
5.	Michelin	France	Tyre Maker
6.	Porsche	Germany	Automaker
7.	Peugeot	France	Automaker
8.	Renault	France	Automaker
9.	Volkswagen	Germany	Automaker

4.2 Issues:

- Inflation rate in the country may create as adverse effect on India‘s ‘Low Cost Country status’. It is visible from the fact that Inflation rate which was 3.8% in year 2004 has now touched 6.5% in year 2007 and expected to either sustain this level or rise little bit more .The reason for the same is global as well as local also.
- As raw material / commodity index worldwide is showing new heights almost every week, on the other side the local property rates in the urban area are touching new records as compared to west. Main reason for this is again demand and supply. Acute shortages of skill set again resulting in to poaching and increase in salary hikes to retain the talent and experience.
- Basic Infrastructure establishment though taking a shape slowly but needs much more speed to overcome the basic needs related to water, roads, power, Mass transportation system for productivity by avoiding time wastage on the traffic jammed roads in various metropolitan cities.

- There is a need for reviewing the Tax structure applicable and to be made more favourable for the MNEs to operate in India.
- Clarity in Automotive policy is also need of the hour. As it is being circulated in various newspapers that Government is studying the possibility to ban the diesel engine passenger vehicles in national capital and nearby regions, which is creating an uncertainty for various related manufacturers.

4.3 Suggestive Actions:

- Government can take concrete steps in land control acts and puts control on the vested interests and adding new land areas to control the property rise in the major metropolitan cities to start with.
- As manpower with right skills set is & also going to be a major issue for running the business. This area needs a major thrust by Government so that quality Institutes may come up to cater the requirement of current and future demands This will facilitate the businesses not only to retain the talent but will avoid the unnecessary hikes demanded by the employees.
- Infrastructure has been and will be a key issue for the desired growth .As it had been repeatedly addressed in our previous position papers as well. More participation by Private players can be encouraged to meet the deadlines for various projects.
- On the taxation part, government can create a level playing field for the local players and MNEs e.g. corporate tax etc. Transfer pricing policy also needs to be made more simple and clearer so that there remains no ambiguity on the interpretation of the rules and regulations between the assesse and assessor.

4.4 Conclusion:

As GDP growth, which saw the peak of 9.4% in year, 2006 has reached a level of 8.2 %in year 2007 and is projected as 8 % for year 2008. Hence to sustain this level even, some strategic actions will have to be taken by the government in all the above issues and India can rise to its full potential.

Back to Index

5 Banking and Finance

5.1 Introduction

Banking and Finance:

Strong development of the Indian economy provides massive opportunities for the banking system. There is little doubt that the Indian banking and financial services are today in midst of rapid growth and far-reaching change. At the same time, a number of important reforms are still incomplete limiting the potential for European banks participation in the economic growth and development. Reforms related to banking ownership and controls continue to be incremental. European Business Group in India favors faster reforms (including consolidation among the less efficient public sector banks, easier entry norms for foreign players etc.

European banks have acted principally as a gateway to the world for Indian business, which the relatively small size of even India's largest banks has made impossible. Whether liberalization will be sufficiently rapid to permit European banks to compete effectively in the domestic Indian consumer market remains to be seen? Increased competition will eventually translate into a more efficient and transparent banking system. Drivers of competition have changed from merely distribution strength to technological superiority, customer centricity, flexibility and indeed innovativeness. All banks will ultimately be forced to adopt new products, rigorous credit culture and sophisticated management information systems that foreign banks are fostering.

5.1.1Key European Players in the sector

S.No	Company	Country	Main Function
1.	ABN Amro	Netherlands	Banking, AM
2.	Barclays	UK	Banking
3.	BNP Paribas	France	Asset Management, CIB, Private Banking and Insurance
4.	Credit Agricole SA	France	Corporate and Investment Banking
5.	Credit Suisse	Switzerland	Banking
6.	Deutsche Bank	Germany	Banking/Investment Banking, Retail
7.	HSBC	UK	Banking
8.	Lloyds	Scotland	Banking
9.	UBS	Switzerland	Asset management, banking
10.	Societe Generale	France	Corporate and Investment Banking
11.	Standard Chartered	UK	Banking

5.2 Key Issues

Issues of ownership and control are still evolving

The regulator has set out a conservative roadmap for banking sector reforms, which envisages cautious liberalization from 2009 onwards. In the first phase, RBI announced this roadmap in February 2005, whereby foreign banks are allowed to establish a wholly owned subsidiary or to convert existing operations into a subsidiary, whereas in the past they limited to opening branches only. The second phase commences from April 2009 after a review of the experience gained and after due consultation with all the stakeholders in the banking sector.

1. Time frame prescribed to expand through Merger and Acquisition should have been less. The roadmap for opening up of the market has a distant future.
2. Although, the guidelines mentioned above are a step in the right direction and at first sight these guidelines may appear to be attractive for foreign banks, a more through review reveals that the restrictions behind them limit the opening up of the market. In particular, until March 2009 no foreign bank having operations in India is allowed to have a stake of more than 5% in a private bank without RBI approval. RBI is left with considerable discretionary powers to approve or reject holdings in local banks. For example, there has been strong interest on the part of foreign banks to acquire weak and troubled private sector banks such as United Western bank and Ganesh bank. However even though they technically qualified for such a transaction, RBI chose not to consider them and instead allowed two other local banks to acquire the two banks.
3. Although Foreign direct investment of up to 74% is allowed in Indian private banks (up from 49% a few years ago), there exists a 10% cap on the "voting rights" for any single investor-whether Indian or foreign. This discourages large individual investments in existing banks. Voting rights of shareholders should reflect their ownership level, rather than being capped at 10%.
4. While, restrictions on FDI remain a barrier for foreign players, the RBI's branch licensing policy prevents foreign banks from expanding rapidly.
5. Treating a foreign bank, which gets locally incorporated at par with local banks from the branch-licensing point of view, will be an appropriate incentive for a foreign bank to get locally incorporated and be well capitalized.

Huge Scope for Financial Depth:

Given India's currently low financial depth (the size of financial services sector relative to GDP) there is substantial scope for financial sector to expand. For example, of the combined value of financial assets (equity, corporate bonds, government debt, and bank deposits), corporate bonds comprised a miniscule share and amount to just 2% of GDP.

1. On account of numerous regulations (which raise the cost of issuing bonds) and difficult listing procedures and disclosure norms, many Indian firms choose to avoid the fledgling corporate bond market, and seek funding from other sources – including private debt placements, and commercial loans (both domestic and foreign).

2. Creation of world class supporting infrastructure such as payments, asset reconstruction companies (ARCs), credit bureaus, back office utilities is extremely important to enable the banking sector to focus on the core activities. The process has already begun, but this needs to be accelerated to achieve world class standards.
3. The entire approach to Priority Sector Lending should be revisited and Banks may be permitted to take advantage of their core competencies and concentrate on niche business or areas where they have developed competitive advantage over other players in the market. This would call for flexibility in the regulatory prescriptions regarding preferred sector/priority sector lending and Banks may be allowed to decide on sub targets for different sub-segments within the overall targets for priority sector advances. Alternatively, fungibles may be facilitated for the assets created by banks through development of appropriate market instruments.
4. For the development of local currency syndication market and to provide greater flexibility in capital market operations, underwriting positions may be excluded from exposure calculations for single /group borrower limit.
5. Some of the departments of the Government of India still insist on acceptance of only Indian Public Sector Banks' guarantees. Acceptance of guarantees of all scheduled Banks (Foreign and Indian) present in India will lead to cost savings and efficiency for the concerned departments and ministries of the Government of India. Such departments could however prescribe, if they so desire, criteria on the capital and ratings of the issuing bank.

Fiscal Aspects:

1. Current limits for tax-deductible H.O. expenses do not correspond to actual realization of expenses and therefore needs to be revised.
2. The tax rate on the profit of a foreign bank branch is @42% as against 35% for the local banks.
3. Commission charged on Bank guarantees is a risk charge (just like interest on loans) and not a service fee and should therefore be excluded from application of service tax.

Back to Index

6. CIVIL AVIATION

6.1 Introduction

Aviation in India has been skyrocketing with growth rates between 25% & 30%. Given the relatively low base from which this growth is happening and underpinned by GDP expansion nearing double digits most industry analysts foresee a growth of around 20% per annum for the next decade. Much has been achieved particularly since 2004 in liberalizing the aviation industry. However, in spite of these positive numbers India's aviation industry is facing major stumbling blocks. These include in particular:

- Lack of infrastructure
- Taxation related distortions
- Missing clear and reliable national aviation policy
- Ambivalence regarding the regulatory environment
- Restrictions in FDI in aviation
- Slowdown in the PPP approach to airport expansion / development projects
- Government interference on the national state level

While European interest in India in general and in large part in the aviation industry is strong and growing, failure to address the key issues will severely affect competitiveness and hence the sustainability of their business. As a result potential business may be diverted to third countries bypassing India altogether. The result would be a weakened industry and lost investment in infrastructure, employment, training and a failed opportunity to promote ancillary business activity. The Centre for Asia Pacific Aviation (CAPA) has aptly warned that "commercial aviation's growth in India may depend on whether or not the government is willing to redouble their commitment to reform. Investor uncertainty related to issues of transparency, even-handed application of regulations and policies governing inter-airport competition and was limiting potential new investment in the country, especially in its critical airport sector."

6.1.1 Key European Players in the sector

At present the number of large-scale aviation players with interests or activities in India can mainly be found in the following sub-sectors:

S.No	Company	Country	Main Function
1.	Air France/KLM	Netherlands/France	Airlines
2.	Airbus	France	Aircraft Manufacturing
3.	Alitalia	Italy	Airlines
4.	Austrian Airlines	Austria	Airlines
5.	British Airways	UK	Airlines
6.	DHL	Germany	Airlines
7.	Finnair	Finland	Airlines
8.	Fraport	Germany	Airports
9.	Globeground	Germany	Ground Services
10.	Lufthansa	Germany	Airlines
11.	Lufthansa Technik	Germany	Maintenance, Repair and Overhaul (MRO)
12.	Menzies	Scotland	Ground Services

13.	Rolls Royce	UK	Engine Manufacturing
14.	ServisAir	UK	Ground Services
15.	Snecma	France	MRO, Engine Manufacturing
16.	Swiss	Switzerland	Airlines
17.	Turbomeca	France	Engine Manufacturing
18.	Unique Zurich	Switzerland	Airports
19.	Virgin Atlantic	UK	Airlines

Defence and General Aviation[1]

The individual players are outlined in the Table 1 below.
More players can be expected to enter the market over the next 5 years. For example LTU, LOT Polish Airlines, Air France Industries, Munich Airport and others have already declared their interest in the Indian market.

6.2 Issues

The core issues affecting the industry can most clearly be listed in matrix format in order to fully understand their implications on the industry players.

	Sectors				
Issue	**Airports**	**Airlines**	**MRO**	**Ground Handling**	**Aircraft Manu-facturers**
Airport Infrastructure & connectivity to airports	X	X	X	X	
Service Tax for MRO		X	X		
Dealing with multiple government agencies	X	X	X	X	X
ATF tax		X			
Lack of clarity on a reliable / consistent aviation policy	X	X	X	X	X
Stalling of PPPs on (AAI) airport projects	X	X			
FDI restrictions in air transport services (airline, MRO, Training…) companies		X	X		
Restrictive bilateral agreements affecting metro airports	X	X			
Lack of clarity on policy for development of metro airports	X	X			
Lack of clarity on future dealings with multiple regulatory agencies (DGCA, AERA, BCAS, AAI etc.)	X	X	X	X	X
Conflict of interest in AAI's	X				

[1] Defence and General Aviation will not be considered in this chapter.

	Sectors				
Issue	**Airports**	**Airlines**	**MRO**	**Ground Handling**	**Aircraft Manu-facturers**
role as PPP partner, regulator, competitor and ATC service provider					
Cumbersome, Intransparent process of provision of airport entry passes	X	X	X	X	
Cumbersome visa and work permit procedures for foreign nationals	X	X	X	X	X
Taxation of 1st and Business Class airline tickets		X			

Given the limited attention devoted to Maintenance, Repair and Overhaul activities in India which are critical support activities for the aviation industry, additional concerns of this industry segment are outlined below.

MRO Support activities for civilian aviation:
Civilian aviation support activities are a global business. Today most of the support activities for Indian civilian aviation (MRO, spare parts warehousing and logistics) are carried out abroad due to the lack of competitive infrastructure in India. Resulting from the tremendous development of air transport in India, many projects aimed at setting up such activities in the subcontinent fail to progress due to obstacles posed by Indian's tax structure: MRO and spare parts positioning in India are heavily taxed through customs duties on imported aviation parts (exemption is not available to Original Equipment Manufacturers or to MRO providers), service taxes on labour and VAT on material. The consequence is that there has been very little progress in the past few years in establishing a viable MRO industry and that the aviation support infrastructure is lagging behind air transport growth. The development of aviation support activities in India will require a globally competitive tax structure or it will continue to be based outside the country.

6.3 Suggestions

In order to sustain the blistering growth in aviation – a critical factor also for the general economic development in a globalising world, the following points should be taken into consideration with utmost urgency:

1. The lack of sufficient Airport Infrastructure is currently one of the most pressing problems for growth in the industry. While some of the problem is addressed in Delhi, Mumbai, Bangalore and Hyderabad the successful PPP model should be extended to all airports. At the same time the conflicting role of the Airports Authority of India as regulator, competitor, service provider and shareholder should be addressed.
2. A level playing field in India's tax system must be created that allows airlines and MROs in particular to effectively compete globally. The issues of service tax for MRO, ATF for airlines, import duties & excise should be addressed.

3. Clarity of the regulatory and policy environment should be created to allow investors to make reliable long-term decisions, which will benefit the industry and generate sustainable skilled employment opportunities.
4. In order to address the temporary skills shortage in the booming sector, ease of doing business in India should be improved. This would include simplifying and accelerating visa and work permit procedures, speeding up background checks to enable foreign employees or consultants to obtain airport entry passes on an as need basis.

Back to Index

7 Energy Industry: Oil & Gas

7.1 Introduction

The country has witnessed strong economic growth over the last two decades that has seen the primary energy consumption growing at a rate of over 5.5 % per year.

While the overall primary energy consumption has been increasing, the per capita consumption is still below that of the developed nations and a large portion of India's population continues to lack access to commercial energy. Coal has been the dominant fuel in the primary energy basket; however share of natural gas has increased led by improved availability and favourable economics.

India needs to sustain 8% to 10% economic growth to eradicate poverty and meet its economic & human development goals. But to deliver a sustained growth of 8% through 2031, India would need to grow its primary energy supply substantially over the same period either through domestic sources or through imports.

Although India has significant resource potential, its power sector has experienced severe shortages and its reliance on oil and gas is expected to grow in line with the increasing requirement for coal to fuel the mega power plants being planned by GOI. The gas industry has been playing an important role in the growth of the energy sector in India. Increased availability of indigenous hydrocarbon and solid fuel resources, supported by pipeline infrastructure combined with high demand growth for energy, are likely to provide an impetus to the demand for natural gas in India.

7.2 Natural Gas Sector

Natural gas has been gaining significance over the last two decades at a global level and especially in India with a sharp increase in its share in the overall primary energy basket. Natural gas consumption growth has been driven by cost competitiveness, efficiencies and environment friendly nature.

The Government of India projects a natural gas demand of 49 mtoe[1] (approximately 150 mmscmd[2]) and 127 mtoe (approximately 394 mmscmd[2]) by the years 2011-12 and 2026-27, respectively, from the existing supply of 90 mmscmd[2], which falls short of the current demand of approximately 115 mmscmd[2]. However, with the KG Basin finds coming to production; there would be additional supplies of around 80 mmscmd of gas to the market in the next couple of years.

The demand growth of natural gas has been traditionally anchored around power (gas-based power projects) and fertiliser sectors (as feedstock in the manufacturing process and fuel), while industrial segment has increased its share in the last decade. Natural gas is being increasingly used as fuel by the transport sector. The Government of India has been actively promoting various trans-national pipeline projects to meet the shortfall in gas supply. Allowing setting-up of LNG regasification terminals is also a step

[1] million tonne of oil equivalent [2] mmscmd: million standard cubic meters per day

in the direction of improving gas supply in the country through imports. Incidentally, European energy majors viz. Gaz de France and Shell are involved in the two LNG terminals i.e. Petronet LNG Terminal at Dahej and Shell, Hazira currently operating in India.

In March 2006, GOI of India enacted the Petroleum and Natural Gas Regulatory Board (PNGRB) Act, 2006 and has also appointed the Regulatory Board, which has started functioning w.e.f. October 1, 2007. The Board is in the midst of preparing regulations for the oil and gas downstream segment to encourage competition in the sector and attract much needed investment in creation of necessary infrastructure in the country. The Government also announced the policy for gas pipelines and city or local natural gas distribution networks in December 2006, which aims to encourage investment in the sector.

7.2.2 Key European Players in Indian Oil & Gas sector

S.No	Company	Country	Main Function
1.	British Gas	UK	E&P/Downstream gas
2.	British Petroleum	UK	E&P/Petroproducts
3.	Cairn Energy	UK	E&P
4.	Eni	Italy	E&P
5.	Gaz de France	France	LNG
6.	Premier Oil	UK	E&P
7.	Saipem	Italy	Engineering
8.	Shell	Netherlands	LNG/Retail/Petroproducts
9.	Technimont	Italy	Engineering
10.	TOTAL	France	LNG/LPG
11.	Tractebel Eng	Belgium	Engineering

7.3 Issues

7.3.1 Regulatory Framework

Since, the petroleum products industry and the natural gas industry in India are at two different stages of development with the former being significantly more mature than the nascent gas industry, it is envisaged that the regulations to be framed by PNGRB would be investment encouraging supported by the fiscal incentives provided by GOI for investments made in the gas sector. Therefore, separate guidelines for the two sectors would be required with different objectives – encouraging investment in the gas sector and enhancing competition in the petroleum products.

To ensure that the PNGRB is not influenced by the GOI, an independent Board has been set-up with members of eminence drawn from different disciplines. Financial independence of the Board is also one aspect, which the Board is trying to achieve through levy of license fees on various activities, which it proposes to regulate. However, EBG regrets that the Board does not comprise any representative from the Private Sector.

A debate on the policies for principal areas like criteria for grant of license, exclusivity period, third party access and tariff is being generated and it is likely that the Board would come out with regulations for the gas sector.

7.3.2 CGD

- A *competitive bidding process* with emphasis on the work plan, technical and financial capability of the investor and lowest delivered cost to consumer will ensure maximum interest from national and international players in the sector.
- An exclusivity period of 8-10 years is required for a CGD investor, considering the capital-intensive nature of the investment and slow build-up of volumes, to allow the investor recoup his costs. Competition in the form of alternate fuels ensures that the CGD investor does not use the exclusivity to earn monopoly profits.
- Gas availability needs to be ensured for CGD activity so that competition for bidding for CGD network takes place.

7.3.3 Natural Gas Pipelines

- Ensuring *non-discriminatory third party access, regulated tariffs and service obligations* would lead to creation of a level playing field and enforce the confidence of investors.
- Principles for the establishment of *tariff* should balance the expectations of the investor by ensuring a rate of return commensurate with the risk of investment and take care of consumer interest by having checks and restrictions in place to discriminate against monopolistic practices.

7.4 Fiscal Issues

Taxes imposed on Natural Gas / Regasified LNG

- Natural gas sold in most states in India attracts a high sales tax rate (the effective rate is 12.5% in Gujarat & Maharashtra, respectively). Reduction in these rates can improve the competitiveness of gas vis-à-vis other fuels. Since, the use of natural gas is similar to that of coal being the key input for the deficient power sector; it needs to be treated at par in terms of taxation.

- Natural gas and Regasified-Liquefied Natural Gas (R-LNG) should be considered goods of national economic importance in inter-state trade and conferred 'Declared Goods' status under the Central Sales Tax Act. This would subject the commodity to three per cent Sales Tax in any state, in line with other fuels, such as coal and crude oil.

Proposed Solution: Conferring Declared Goods status on Natural Gas/R-LNG

Excise Duty

A 16% excise duty was imposed on Compressed Natural Gas (CNG) in Budget 2002, even though gas compression does not constitute manufacturing. In Mumbai, for instance, the Government levies in the form of excise duty and sales tax forms about 30% of CNG cost to the end consumer. This is a disincentive to the growth of the environment friendly automotive fuel, particularly in light of the Supreme Court orders in cities like Delhi and Mumbai decreeing the increase of use of CNG. Reduced operating costs will increase the viability of converting to CNG, given the fairly high initial costs, particularly for heavy diesel vehicles, the prime pollutants.

LNG regasification has been recognised as a non-manufacturing process and exempted from excise duty. This view must continue to be held.

In the market determined price scenario for natural gas which is slowly but surely emerging, the removal of Excise Duty would be an important step towards keeping CNG competitive and enhancing its attractiveness as the preferred clean automotive fuel.

Assigning the status of Infrastructure Projects to City Gas Distribution Projects, LNG Terminals

City gas distribution, transmission pipelines and LNG terminals are capital-intensive projects. In addition, they have long gestation period, which further increases the risk associated with the investment. In India, the natural gas sector is still at a nascent stage and industry needs a supportive fiscal regime. Bringing the projects under the ambit of Infrastructure Projects for the purpose of Section 80 (IA) along with gas transmission pipelines will lead to economic viability of the projects leading to development of much required infrastructure and lower tariff for the end user.

Since in most of the cases, the end user is the power and fertiliser sector, a rationalisation will boost the growth of these sectors by reducing their input costs.

7.5 Exploration and Production (E&P)

- GOI initiatives of offering exploration blocks under the New Exploration & Licensing Policy (NELP) have been successful. Till date, six rounds of auction of oil and gas blocks have been completed and the seventh one is likely to be launched by early next year i.e. 2008. The fiscal terms offered are attractive and encourage participation.
- The country has 3.14 Million Sq.Km. of sedimentary area and prognosticated reserves of 205 Billion barrels. Only around 20% of the sedimentary area has been extensively explored and 30% of the prognosticated resources have been established. Realizing the need for massive investments in the oil & gas sector, Government has undertaken various policy reforms, including the New Exploration Licensing Policy (NELP) in 1999. NELP was formulated to provide an attractive and level playing field to new entrants including foreign companies in the E&P sector.

- ➢ The Government through the NELP process is seeking to encourage wider, swifter and more efficient exploration and development of the Indian sedimentary basins. Success in this effort would translate to finding and developing of hydrocarbons faster and more efficiently. It has been so far very successful in attracting most Indian and several small and medium sized foreign operators to bid and win acreage in the six bid rounds. However, other than a few operators most have been marginally successful.

With Exploration and development efforts made under NELP, Natural Gas production in the country is likely to be doubled from the present level of gas production of about 90 million standard cubic metres per day (MMSCMD) by the end of 2009.

However, the participation and stake of foreign energy majors in Indian E&P sector in NELP blocks is negligible as can be seen from the details below:

1. A total of 162 blocks have been awarded in six NELP rounds.
2. Only 5 of these 162 blocks have been awarded to 3 foreign companies (Gazprom -1 block, Eni-2 blocks & Santos - 2 blocks). The majority of blocks have gone to Indian PSUs - 107 blocks and Indian private sector players - 44 blocks.
3. One other company(BG) has got three E&P blocks as minority partners.
4. Only 8 foreign companies have ever participated in all the NELP rounds of bidding.

Investment in the Indian E&P sector from foreign companies is likely to increase in case some issues are sorted out, which are as follows:

7.5.1 Move towards Open Acreage Licensing Policy (OALP)

In order to tap the hydrocarbon resources that India possesses, it has to expedite the move towards an Open Acreage Licensing Policy. Conventional NELP rounds can be conducted in parallel with open block rounds provided data access is guaranteed and sufficient evaluation time is assured. The OALP can be implemented only in a regime of data availability in open domain. It would be a necessary requirement to establish a National Data Repository, where companies can purchase or loan sufficient volumes of good quality data, as and when necessary. Until this is established, an open acreage system would be biased towards organisations having a larger database by virtue of a longer presence in the upstream sector in the country.

7.5.2 Promoting Investment in Upstream

Oil & Gas exploration industry operates on cost recovery basis. Any additional cost due to increase in service tax is, therefore, indirectly borne by the Government. In order to boost and encourage much needed investments in E&P sector, service taxes on survey and exploration expenses, processing charges, Pipe line transportation charges, storage & warehousing services should be eliminated, reduced or appropriate abatement should be given.

Tax holiday under Section 80IB of Income Tax Act 1961 should cover production from new wells during the entire duration of field life. The definitions of 'Commercial Production", undertakings (each well, well plat form, process plat forms, reservoir, concession granted or each PSE) and "mining same as production" should be clarified in this regard.

Profit Gas

The proposed plan of the Government of India to introduce taking profit gas in kind rather than cash will be detrimental to the growth of the natural gas sector in India. Such a move would make it virtually impossible for producers to forecast the actual volumes of gas available to them to market and hence would make it impractical to commit a specific quantum of gas to downstream customers without risking a physical disruption in gas supplies.

In addition, in certain Production Sharing Contracts (PSCs), the producer could be left with a small fraction of the produced gas, owing to the high share (upto 90%) of Government entitlement at high investment multiples. The long-term trend is that the proportion of profit gas will increase as the field becomes more mature and capital expenditure reduces. This will mean the marketing rights that have been given to the producer effectively get taken away as the field life progresses. Again, this presents an impossible hurdle in terms of developing a gas marketing business.

This move will hinder offshore oil and gas field development domestically; and defeat the Government's objective of enhancing India's energy security by increasing the exploration and production of natural gas.

Stress on Capability of the operators

As the new acreage in the coming rounds focus on frontier, deepwater and ultra-deepwater areas, technology and experience need to play a very key part in order to effectively explore and develop complex and challenging fields.

The focus of Government should be to augment pace of exploration and subsequent development in the frontier basins including deep water through bringing in knowledge and technology. Such acreage requires a lot of advanced studies and seismic interpretations by an experienced operator before zeroing in on actual targets for drilling. With rig availability becoming increasingly difficult and costly it is of utmost importance that the operator has the knowledge and past experience to be successful. Additionally, if discoveries are made, then it is critical that the operator has extensive experience to develop and exploit the reserves efficiently and in a timely manner.

Hence, for deep-water exploration the criterion should be so devised that greater weightage is assigned to technical capability and past track record rather than work program fiscal parameters. Aggressive work program and more wells are good parameters, in the onland and shallow water areas and in places where the focus is to do maximum work in order to generate more data for future that phase of exploration rounds are over and India has been now successful in finding hydrocarbons. In the coming rounds for the frontier basins, one has to attract more successful operators who can be most effective.

7.5.3 Foreign Direct Investment Norms

Foreign Direct Investment norms for leasing activities should be rationalised. Currently, 100% FDI in this sector is permitted with a minimum capitalization of US $ 50 million. Minimum capitalization for foreign promoters stake ranging between 50% and 75% is US$ 5 million. It is proposed that capital infusion norms for leasing activities should be rationalised to attract investments in this sector.

In addition to the above, availability of good quality data is also an issue, which needs to be looked into by GOI. Also, the granting of extensions to the work programme vitiates the bidding process and spirit of the PSCst and violates the basic norms of awarding the contract. Furthermore, a core purpose of the NELP viz. the acceleration of hydrocarbon discoveries and improvement in the efficiency in exploration and production is defeated through incomplete work programme schedules. Furthermore, extensions or relinquishments as defined in the PSC should not be relaxed in the event of a discovery being made.

Back to Index

EBG acknowledges the support of CRISIL for this chapter.

8 Healthcare Industry

8.1 Introduction

Healthcare in India continues to grow at 15 – 30% per annum across different segments. Evolution is seen in all segments of the healthcare industry with leadership being taken by the expansion of hospitals across the country – chains of hospital and new projects.

The Government of India through the Ministry of Health has made it clear that focus of public spending will be on rural healthcare – through the initiatives of the National Rural Health Mission – with a focus on mother/child mortality, TB, Malaria, dengue and other infectious diseases. Key elements of the programme include equipping rural centres with ASHA (basic health/hygiene care) workers and district/tertiary care medical centres to provide required support services to the NRHM projects. Leaving the burden of building infrastructure for a significant segment of the population to the private sector.

In this environment of economic and industry growth the opportunities are enormous. However, international companies willing to participate in this growth, with quality solutions across the spectrum face a number of critical issues. In this environment where the patient pays and the private sector is driven by the need to generate profits healthcare partners are under tremendous pressure to reduce prices while providing world class service. This situation is compounded by the level of customs duties and tariffs for international companies levied by the Government on all imported products. In some cases, the tariffs can be as high as 39% - leading to a barrier that does not allow access to crucial healthcare tools to the patients who need them the most.

It is important to note that when duty concessions have been given by the Government of India most European healthcare providers have passed on this benefit to customers for the end benefit of making advanced tools affordable for patient care.

Some of the critical issues that need to be addressed urgently, if international companies are to have an equal opportunity to participate, are presented in this document with a request for action at the Government to Government level.

8.1.1 KEY EUROPEAN PLAYERS IN THE SECTOR

S.No	Company	Country	Main Function
1.	bioMerieux India	France	Invitro Diagnostics
2.	B Braun	Germany	Medical Devices
3.	GSK	UK	Pharma,Vaccines,Nutritional HC
4.	IMV Technologies	France	Veterinary Equipments and Consumables
5.	Lundbeck	Denmark	CNS drugs
6.	Novartis	Switzerland	Pharma/Sandoz
7.	Novo Nordisk	Denmark	Diabetes
8.	Portex	UK	Medical Devices

9.	Sanofi- Aventis	France	Pharma and Vaccines
10.	UCB	Belgium	Zyrtec and some other products
11.	Vygon India	France	Medical devices

8.2 ISSUES BEFORE THE MEDICAL DISPOSABLES, DIAGNOSTICS & MEDICAL EQUIPMENT SECTOR

8.2.1 The VAT problem

Implementation of VAT in all states is still not uniform. While most states have agreed to and implemented 4% VAT on Medical goods, in some states this change has yet to happen (VAT @ 12%). This leads to significant price discrepancies and several logistical and accounting problems.

It is recommended that a uniform rate of 4% VAT be adopted across all states. This will allow for price parity, fair trade practices and access to quality products across the country at a uniform price.

8.2.2 Countervailing duties

The Government of India has levied a new countervailing duty of 4% on all goods imported in to India. This takes the effective duty levels to nearly double of that of ASEAN countries. This duty differential would make the product imported from Europe or America significantly cheaper in the ASEAN countries than in India. These products are then likely to infiltrate in to the Indian grey market and this smuggling would lead to a loss for the exchequer (Indian Government) and international companies operating in India.

Catheters and diagnostics (equipment and reagents) being small in size, make themselves exceptionally good candidates for this sort of cross border smuggling. Leading to a dangerous situation in which patients and customers will have no guarantee or services to ensure the correct application of healthcare related products leading to a serious risk to public health.

Through a recent amendment (will give details) the Government has offset this countervailing duty of 4 % but not in spirit. As the procedure to get this duty draw back requires a lot of paper work and involves considerable red tape. We suggest that countervailing duties be taken off completely.

Secondly most of the products featuring in chapter 3822, 9018, 9022 & 9027 are not manufactured in India. As countervailing duties have been imposed to compensate domestic manufacturers for their expenses on Excise duties. It stands to reason that those products where there is no local manufacture should be altogether exempt from excise duties. By imposing countervailing duties, the Government has made many life saving imported medical goods unaffordable for the patient – who pays.

8.3.3 Fringe Benefits Tax

Medical equipment/device/diagnostic industry uses medical representatives and technical/scientific support personnel to promote and support its products just like the Drugs & Pharmaceutical industry. The latter's expenditure on 'conveyance' has been taken out of the net of Fringe Benefit Tax. The medical equipment/device industry which is always grouped with the Drug & Pharmaceutical industry because of their stark similarities should also be given similar benefit of not paying fringe benefit tax on their 'conveyance' expenditures. The additional taxation on justifiable and relevant support to customers for better patient care will also lead to an increase in prices to the patient.

8.4 Reduction in basic duties

The health sector is a priority sector & most items appearing under chapter 3822, 9018, 9021, 9022 & 9027 are critical in nature. Some of those products are already classified in the category of "life saving" under general exemption 107 list 4, list 8 and list 37.

These critical health products must be brought within the reach of the common man by shifting these products to a lower duty slab. Additionally, there are additional critical products, which should be included in the Life saving category. We propose that the Government with the concerned Associations could set-up a proactive Task Force to review the list of the products to be included and ensure that the benefit given to the importers is passed to the population.

This in fact will give the Indian government more revenues as the demand will rise and the collection of taxes and levies (as custom duties/sales taxes for example) will be higher.

Due to the progressive reduction of duties over the last five years, import revenues to the Government have increased by 25% per annum. If this trend is maintained the beneficial result for customs revenues will increase significantly as opposed to being limited due to a reduction in imports.

A couple of examples are given below:

8.4.1 Concerning Infectious Diseases

Being a tropical country, there is a high incidence of infectious disease spread. Particularly, there is a serious concern with TUBERCULOSIS (TB) with over 3 million new cases reported each year. Being a contagious disease like common cold, TB spreads through air. Left untreated, each person with active TB disease will infect on average between 10 to 15 people every year.

It is estimated that two Million deaths resulted from TB in 2002 as per WHO report. One third of them were in India.

HIV and TB form lethal combination, each speeding the other's progress.

By including the reagents for automated blood culture/bacteriological identification and susceptibility reagents (including Mycobacterium tuberculosis) as LIFE SAVING DRUGS or MEDICINES and making these free of custom duty, rural and poor people will be benefited as the diagnostics will be increasingly affordable, accurate and fast.

An additional issue of deep concern is the emergence of multi drug resistance to an increasing level of extra drug resistant (the most complex and untreatable form) – as a result of inaccurate diagnosis and broad-spectrum therapy. With an enhanced affordability of accurate diagnostics this problem and the spread of both disease and resistance could be controlled effectively.

8.4.2 Concerning Implantable ports for administration of Chemotherapy to cancer patients

Implantable ports (Chapter No. 90189099) are presently taxed at (12.5+2+2+4%). *These ports are used for critically ill patients of cancer and should be brought into list 37 (5% duty) because of their life saving nature and this will help bring the back-breaking cost of treatment for a cancer patient under control.*

8.4.3 Concerning Infection Control Products

Impregnated Surgical Brushes (Chapter No. 9603.90.00) are presently taxed at (12.5+2+2+4%). These items are used in serious infection control therapy. *It should be given a concessional duty slab and be brought into List 37 (5% duty) category. This will promote the cause of infection control, which has also been espoused in the new health policy of the Government.*

Needless access devices/I.V. connection systems protect the patients from infections. Moreover they also protect the hospital staff from the threat of AIDS & Hepatitis B as they completely do away with the use of needles. Infection and AIDS control today is a priority for the Indian Government. These needless access devices/ I.V. connection systems fall under Chapter 90189099 and thus attract a duty slab of (12.5+2+2+4%). These products should be brought under list 37 of the Indian Custom Tariff Act. This change will go a long way in serving the cause of infection control in Indian hospitals.

8.4.4 Concerning Infant Mortality

Infant mortality is still a cause of serious concern in India. Catheters for infants and Neonates play a life saving role. These however feature under Chapter No. 90183990 under the (12.5+8+2+2+4%) duty slab. These should be made exempt from customs duty.

8.5 Classification

There are a number of products that have been wrongly classified in the Customs notification using patented names of products as opposed to generic names – leading to unfair trade practices which benefit one company with special duty tariffs as opposed to a level playing field for all – and denying the benefit of choice to healthcare providers and cost to patients.

One example of this is the classification of molecular biology diagnostic techniques as PCR (Exim Code 3822.00.19) and Notification 7/2004-Customs dated 8th January 2004. PCR is a proprietary name. The generic name is Nucleic Acid Testing (NAT) which includes systems and reagents for the isolation, amplification and detection of RNA/DNA. In order to ensure that the complete range of such tests can be made available the entry should be changed to "Nucleic Acid based diagnostic systems and reagents for extraction, amplification and molecular probe detection and quantification for infectious diseases like HIV, TB, Hepatitis and others, cancer and genetic disorders."

8.6 Medical Devices classification as Drugs has lead to several problems which are likely to cause supply problems:

A) Several European companies make thousands of critical care products. Many of these sell in very small quantities in India but is life saving in nature. Keep this fact in mind the registration fees of $ 1000 per family of products is too high. Either it should be brought down to $ 100 or the shelf life of the registration certificate should be long: indefinite or more than 10 years. This will enable and facilitate the European companies to ensure continued supply of these vital products to the Indian market.

B) Another problem which European companies face is at the customs when our goods arrive. The Assistant Drug Controllers there are not familiar with medical device categories. They end up inspecting and holding up the devices which are not governed by the new law e.g. some times catheter extensions are held up as their names carry the prefix "catheter". Our employees then have to visit the air port to get these goods cleared or we have to request the Drug Controller's office to have them cleared for us. The Drug Controller's office is helpful but this leads to time and cost over runs and often deprives the patient of a timely supply of these critical products. Needless to add that there is harassment at the customs. The Drug officials at the customs level need to be trained adequately and acquainted to the medical device universe.

Back to Index

9 Service Industry

9.1 Introduction

The market oriented reforms which started in India in mid 1980's followed by more fundamental reforms in early 1990's and continuing into the 2000's have lifted the economy of India to a significant higher growth of around 9.0% in 2007, helping to reduce the poverty.

The success can continue by removing barriers to the growth in product, labour, and financial markets, and the provision of infrastructure, where reform is needed both at central and state levels.

Service Sector in India is flourishing as the country has the largest youngest population in the world and a huge bracket of middle class to support both in terms of providing services and having the capacity of developing a sizeable consumer market.

There are number of areas where bottlenecks to the healthy competition need to be reduced. The regulatory procedures need to be reengineered to reduce administrative burdens on the new and existing firms especially in terms of extent of inspections as well as number of returns to be filed. A nodal agency should be created and charged with undertaking regulatory reforms based on an analysis of existing as well as proposed laws.

9.2 Infrastructure Sector

- Since most of the infrastructure services are inherently non-competitive, establishing a transparent and coherent regulatory regime can attract necessary investments to meet the huge demand supply gap giving boost to the economic growth of the country.

- Emphasis should be laid in the matters related to tariff settings and cross subsidies.

- The regulators have to look at achieving other important objectives such as promoting competitiveness, protecting consumer interest, maintaining quality of services, safety and so on.

9.3 Transport:

- Existing legislation in most transport sector have remained silent on several important aspects such as Universal Service Obligation, Quality of service, safety etc. Even the best practices in one sectoral regulatory legislation, do not find place in others.

- Regulatory frame work needs to be strengthened to have enabling provisions to support the stakeholders to represent their legitimate concerns.

9.4 Telecommunications :

Though the opening of Private sector in telecommunication have produced exemplary results, making India as the third largest telecom network country in the world, offering expanded choice with reduced pricing, more is needed to be done to promote competition in the fixed line market given the possibilities offered by broad band technology.

9.5 Aviation:

Aviation in India is booming with the domestic passenger traffic souring by almost 40% this year. At present the foreign equity limit in the international airline services is 26%. In order to attract investment in the sector the possibility of increase in foreign equity may also be considered.

Considering that the major airports will be developed through long term lease and with the move towards the privatization of airlines, it is considered essential to have a regulatory frame work in place. The regulatory authority needs to monitor the airport charges and performance of airport infrastructure against specific standards. It may also be considered providing a suitable regulatory frame work for the air service as well.

9.6 Manpower oriented Service Industry

- We wish to highlight that although with the economic growth, the regular employment has risen, however it still represents only 15% of the total employment and further the employment generation has been more in smaller least productive enterprises.

- The level of employment protection needs to be reformed in order to increase employment, particularly in large companies which are the ones that are covered by legislation, and to remove barriers which hinders companies from exploiting economies of scale. It is pertinent to mention that the laws governing regular employment contracts in India are stricter from those in China and Brazil.

- It is important that a consolidation be considered of almost 46 central and around 200 state labour laws. Labour laws today act as an impediment to growth and progress in many industries as substandard, excess and incompetent manpower has to be carried. It is extremely vital for the labour laws to be suitably amended to provide for sustained growth in industry.

- Large manpower intensive companies do face procedural difficulties in terms of obtaining licensing and registrations especially when they are subjected to state regulations which are different in different state.

9.7 Security Industry:

The security industry has been recently regulated by the introduction of a central Act Private Security Regulation Act 2005 which actually requires Security Company to obtain license state-wise. It would have been prudent that companies having national presence should have special provisions under which they could have had taken license centrally.

Further, the Act also requires Security Company to have 51% Indian ownership where as under the FDI policy; a security company can qualify for 100% foreign investment.

9.8 Financial Sector

- Despite progressive de-regulation, banks can only allocate 41% of their assets freely notwithstanding long standing recommendations by government committees that this ratio should be increased.

- Private Sector banks have been successful in India and so progressive privatization of public banks will surely contribute to the efficiency of the banking sector.

- The Government may also consider relaxing the foreign direct investment in the sector in order to have a better capital in flow.

- The Indian market is ready for the introduction of much broader range of exchange traded derivative instruments to improve the market for bonds.

9.9 Fiscal System

- Reforms in direct taxation will further improve the growth. Extensive loop holes and exemptions introduced distortion and complexities facilitating tax evasion.

- There are series of indirect tax at central and state levels that needs to be integrated into a single tax that is neutral both as to the sector and location which will help in minimizing the possibility for fraud.

- The Government is committed to introduce nation wide goods and services tax by 2010, however, it is yet not been tabled in its final form. For the introduction of VAT, the Government should either consider moving to national VAT with central revenue collection and its redistribution to the states through a formula or introducing a two tier system that would allow central and state VAT.

9.10 Competition Commission

- There is an urgent need for new competition commission to become a fully functional agency enforcing the competition law.

- The new Company bill is pending for implementation. We do wish to highlight that before the bill is passed it should be debated again at various forums so that unnecessary provisions are deleted and difficult and lengthy procedures as in the case of restructuring, closing of insolvent and bankrupt companies are simplified.

9.11 Labour Laws

- The Government should be vigilant in introduction of wage increase so that they are not made with retrospective effect, affecting manpower intensive companies. The recent example had been the enhancement of bonus criteria which was made applicable with effect from 1st April 2006 when the financial books of the companies had already been audited and closed.

- Many companies and industries in service sector function round the clock and therefore the workers prefer working 10-12 hours shift rather an 8 hours shift. The Government may also consider increasing the minimum working hours.

- In essential service sector, Government has granted permission to deploy women during night shifts. However, the shops and establishments prohibit the deployment of women employees at the work premises between 9:00 pm to 7:00 am. The Government should relax these regulations as the percentage of women force in employment is increasing year by year.

- In the event of change of job from one company to another, transfer of provident fund and family pension fund accumulations is a long and cumbersome process causing harassment not only to the employee but a long administrative process for the employer as well.

- We understand that all the companies which are actually offering outsourcing services are required to obtain license under Contract Labour (Regulation and Abolition) Act, it is to be noted that these companies employee permanent manpower on their rolls and therefore should be exempted from obtaining license under the Act.

Back to Index

10. SERVICE INDUSTRY: FLEET AND VEHICLE MANAGEMENT

Introduction:

The vehicle operational leasing is a relatively young sector in India. Unlike in Europe and the US which are mature markets with respect to fleet and vehicle management, Corporate India has begun to recognize this as an upcoming industry. When LeasePlan decided to venture into India nine years ago, leasing was relatively a not-so-popular mode of acquisition for the corporates. A substantial amount of investment was made by LeasePlan to educate the market, the concept of which was very well received by the target group. Realising that the product concept not only helps companies streamline their cash outflows and boost productivity but also offers the best of outsourcing benefits, a lot of organizations have embraced the products and services offered by the industry players. Today LeasePlan has close to 800 corporate customers in India and manages a fleet of nearly 13,000 cars.

The automobile boom, the operational leasing advantages and the maturing market are ensuring a promising growth for this industry. With the churn of new car models every year, today's Indian would not like to restrict him/herself to one model for more than 3-5 years. This trend is giving a strong thrust to operational leasing, where the user can, through the lessor, opt for a new vehicle without the risks and worries of selling off the old vehicle.

A study conducted by LeasePlan in 2006 showed a market potential of 22-25% (from the total car sales) for operational leasing in India.

10.1.1 Key European Players in the sector

S.No	Company	Country	Main Function
1.	ALD Automotive	France	Fleet and Vehicle Management
2.	ARVAL	France	Fleet and Vehicle Management
3.	LeasePlan	Netherlands	Fleet and Vehicle Management

ALD Automotive, a fully owned subsidiary of Societe Generale Bank, started operations in India in 2005 and Arval is a part of the BNP Paribas Group and in the process of setting up operations in India.

Issue:

Need for higher depreciation allowance for car leasing industry

As per the provisions of the income-tax Act, 1961, ('the Act') depreciation is allowable deduction in business. Income-tax Rules classifies the assets into different block/heads and provides the rate of depreciation applicable to each block/head. The rate of depreciation applicable, w.e.f. assessment year 2006-07, in respect of the motor cars (other than those run on hire) is 15%. The rate of depreciation prior to assessment year 2006-07 was 20%. The aforesaid reduction in rate of depreciation has affected the motor cars leasing industry adversely.

Depreciation is allowed to provide for diminution in the value of the asset due to the wear and tear on account of usage, technological obsolescence, etc. during the expected useful life of the asset. The best international practice is to provide for depreciation at rates that would enable the investors to replace the asset before its economic life ends. The expected useful life of a leased motor car is only three to four years. The realizable value of used motor cars which has been used for three to four years is approximately 30% to 35% of the cost of acquisition. To enable an investor to replace a motor car having expected useful life of 4yrs, costing INR 500,000/-, and having a realizable value of 30% to 35% of cost of acquisition after 4yrs, depreciation @ 23% to 25% of WDV should be allowed.

In Germany the WDV rate of depreciation applicable for leased motor cars for has been increased from 20% to 30% for the fiscal year 2007. In New Zealand 36% of the WDV of the leased motor cars is allowable deduction for the purpose of computing taxable profits. The French Revenue authorities generally accept four to five years as the expected usual life of the leased motor car

The reduction in the rate of depreciation from the 20% to 15%, would carrying the asset for over a period of 7 to 8 years, since that is time within which the motor car will fully depreciate. It may be noted that unlike additions of plant and machinery used in manufacturing, motor car are not eligible for additional depreciation under the Act.

In case of motor cars used in the business of running on hire rate of depreciation applicable is 30%. A comparison of the motor cars used in the business of running them on hire and the motor cars given on lease would show that in both the cases the motor cars undergo similar amount of wear and tear. As in the case of hire, if the motor car is given on lease, the lessor has no control as to the manner of utilization of the leased motor car and the lessee who uses the car can not be expected to bestow the same care as the owner of a car may.

Even the depreciation rates provided Schedule XIV of the Companies Act, 1956 are much higher than the current depreciation rate applicable to motor cars given on lease under the Act.

For above mentioned reasons, there is a gross mismatch between income and expenditure as revenue from the use of the motor car given on lease are derived over a period of four to five years but deduction of the cost of the car is allowed over a much longer period. As a result, there would be higher income and therefore, higher tax outflows in the initial years

In the year of sale of the motor car the amount of sale consideration is reduced from the WDV of the block of assets and the loss arising from the sale of the motor car does not get captured.

In view of the above there would always be taxable income where addition to vehicles in a year is more than the disposal, though there may be loss as per the books of accounts. This would result in taxation of the distorted income and not taxation of the true profits earned by the assessee engaged in such business.

10.3 Suggestions:

In order to mitigate the hardship caused to the car leasing industry, putting their survival in jeopardy. Due to allowance of depreciation at an unreasonably low rate of 15%, the following proposal may kindly be considered.

(1) the motor cars given on lease under a lease agreement at par with the motor cars used in the business of running them for hire for the purpose of claiming depreciation under the Act and allow depreciation in respect of leased motor cars @ 30%, i.e., the same rate at which depreciation is available in respect of the motor cars used in the business of running them for hire, or

(2) Allow for setting off the loss arising due to sale of leased motor car with the profits of the business in the year of sale of the aforesaid leased motor car, or

(3) The taxation laws of some of the countries such as New Zealand provide for a mechanism whereby a rate higher than the rate prescribed in the respective tax statutes can be fixed by the Revenue in consultation with the assessee provided the assessee is able to justify his claim based upon the specific facts, circumstances and nature of his business. Similar mechanism may be introduced in the Act.

Back to Index

11 Telecommunications

11.1 Introduction

1. The telecom industry on India has seen phenomenal growth in the recent past. The annual growth in the past fiscal year had almost outpaced total combined growth from the beginning of telephony in India through to March 2004 and the Industry had already met the 2010 goal of tele-density of 15 percent set in the New Telecom Policy 1999. The mobile connections had crossed/overtaken the fixed wire line connections in India. Now, the target is 250 million subscribers by 2007 and 500 million subscribers by 2010 and faster pace is needed for penetrating into the rural areas.

2. As of now, there are over 180 licensed cellular and unified access service providers in the country which has been divided into 23 telecom service areas. There had been some mergers and consolidations. The subscriber base and coverage have increased dramatically due to increased competition and the trend of the service providers to capture target market share. 6-7 million subscribers are being added on an average to the networks per month. India is the third largest cellular market in the world and is the fastest growing country.

3. Thus, the overall growth in tele-density has been possible only on account of large-scale growth in mobile communications in the country, largely based on the wireless segment. Wireless technology is the future growth driver. In such a mobile-driven growth scenario, the consistency in licensing policies, timely availability of spectrum and spectrum management policy fair regular and healthy competition, ensuring level playing field continue to play important role for the future growth.

11.1.1 Key European players in the Telecom sector in India

S.No	Company	Country	Main Function
1.	Acquaint	UK	Managed Services
2.	Alcatel	France	Equipment Manufacturer/Supplier
3.	British Telecom	UK	Long Distance Operator
4.	Dialogic	UK	VoIP
5.	Ericsson	Sweden	Equipment Manufacturer/Supplier & Managed Services
6.	Eutel Sat	France	Satellite
7.	Flag Telecom	UK	Submarine Cable
8.	France Telecom	France	Operator
9.	Globcast/France Telecom	France	Broadcast Content
10.	H Airer	Germany	Mobile Phones & Electronics goods
11.	I basis	Netherlands	VoIP carrier
12.	ND Satcom	Germany	VSAT

13.	Nera Telecom	Norway	Satellite Phones
14.	Nokia	Finland	Equipment Manufacturer/Supplier
15.	Nokia-Siemens Networks	Finland	Equipment Manufacturer/Supplier & Managed Services
16.	Orange/France Telecom	France	Networking
17.	SAGEM	France	Manufacturer
18.	Siemens	Germany	Manufacturer
19.	Tanberg	Germany	HDTV and Video Conferencing
20.	Tharane & Tharane	Denmark	SatPhones
21.	Vergin	UK	Packet/Mobile Phones
22.	World Space	USA	Satellite Radio

Some Current Issues

11.2 Review of License Terms and Conditions and Capping of number of access providers.

11.2.1 Some highlights of the Government policy guide lines issued in October, 2007, based on the TRAI recommendations (August 2007) are,

(i) The government has accepted the TRAI recommendation that there shall be no cap on the number of access providers in any service area.

(ii) The existing private UAS Licenses may be permitted to expand their existing networks by using alternate wireless technology i.e., the present UAS license that is using GSM technology for wireless access may be permitted to use CDMA technology and vice-versa.

(iii) The spectrum for the alternate technology CDMA or GSM (as the case may be) shall be allocated in the applicable frequency band subject to availability after payment of prescribed fee as entry fee for getting a new UAS license in the same service area.

(iv) Government accepted the TRAI's recommendation of enhanced subscriber linked criteria for frequency allocation to UAS/CMTA licenses and set up a TEC Committee for further study (the proposals envisage that the telecos are mandated to hike their subscriber base by 2-6 times, before they are allocated additional spectrum).

(v) At the time of further allotment of spectrum in any technology, allotment will be subject to the condition that in case the eligibility of the license for Allocated spectrum in other technology falls below the criterion set for spectrum in the specified technology for the last consecutive six months then corresponding chunk of spectrum in that technology will be surrendered by the licensee before any further allotment of spectrum is considered.

(vi) The Access Service Providers shall endeavor to use more efficient methods and optimum technologies for spectrum utilization. "Spectrum Enhancement charge" would be levied, in addition to the current annual spectrum charges (based on revenue share), beyond 10 MHz for GSM and 5 MHz for CDMA.

11.3 Review of the subscriber linked criterion for frequency allocation, based on Capacity Enhancement Methods and Spectral Efficiency Techniques for optimum spectrum utilization.

11.3.1 Some highlights of the Government policy issued in October and Nov '07,

(i) The Government has accepted the TRAI recommendation are that there was a need to tighten the subscriber criteria for all the service areas as to make it more efficient from the usage and pricing point of view, and also the enhanced subscriber norms suggested by TRAI as an ad hoc measure.

(ii) In the meantime, Telecom Engineering Centre (TEC), Department of Telecom, had submitted a concept paper "Spectral Efficiency for Mobile Telecom Services", on conceptual computational model proposed for development and to be used for assessment of spectrum utilization in Nov '07. The proposed norms by TEC tightened the TRAI suggested subscriber based/linked spectrum allocation norms/criteria. The Government gave its "in principle" approval to the TEC Report.

(iii) In order to frame a new spectrum allocation criterion, a multi-disciplinary committee has been constituted on 7 November, 2007 with 8 Members.

11.4 Guidelines for 3G Services

11.4.1 Some highlights of the Government following guidelines issued on 12 Nov '07,

(i) 3G Spectrum will be permitted in the 2.1 GHz band

(ii) 3G licenses shall be granted through a controlled simultaneous ascending e-auction.

(iii) Besides the initial one time spectrum charge, the successful service provider would pay additional spectrum charge of 0.5% of their total Adjusted Gross Revenue (AGR) as the recurring annual spectrum charge.

(iv) The CDMA spectrum in 800 MHz band for EV-DO application would be treated separately from the 2.1 GHz spectrum.

11.5 DoT decides to launch Mobile Number Portability in Metros in the initial phase.

10.4.1 Some highlights of the Government policy guidelines issued on 12 Nov '07 are:

(i) All UASL's / CMSP's will implement the Mobile Number Portability.

(ii) This facility is likely to be available to the mobile subscribers by the fourth quarter of 2008.

11.6 Present Position

11.6.1 As many as 46 companies have put in a total of 575 applications for telecom licenses. The Government has yet to decide about the policy for these applicants.

11.6.2 The above policy guidelines by the Government have raised a country wide debate in the mobile telecom industry.

11.6.3 The implementation of the revised subscriber base spectrum allocation criteria for allocation spectrum as well as the revised terms for UASL license (like allowing of dual technology under the same license) have been challenged in the Telecom Dispute and Settlement Appellate Tribunal (TDSAT) by the GSM operators; alleging that the Government was favoring a particular CDMA operator to enter GSM arena. Further, it is alleged the Government has been selective with the TRAI recommendation (suiting to Government) and not identifying/implementing the linkages elsewhere in the recommendations. The TRAI recommendations were inter-related and have a bearing in totality on the telecom sector.

11.6.4 TDSAT had stayed the spectrum allocations based on revised Govt. criteria keeping in view the assurance of the Govt. that the Committee has been constituted on Nov 7, 2007 for the purpose and it shall be rendering its Report within three weeks. The next hearing by TDSAT is now due on 12 Dec, 2007.

11.6.5 The new prevailing Government policy guidelines and confusion on the spectrum allocations are likely to disturb the investment climate, and may perhaps de-celerate the on-going rapid growth of the telecom in the country.

Back to Index