

An analytical study of foreign direct investment in pharma sector of India

Dr. Vikarant sopan yadav

Assistant Professor, Modern Law College, Pune, Maharashtra, India

Abstract

India liberalized its FDI policies in 2005, to allow up to a 100% FDI stake in ventures across the diverse sectors. It has substantially reduced industrial licensing requirements, removed restrictions on expansion and facilitated easy access to foreign technology and foreign direct investment FDI. Keeping in mind the increased importance of FDI and favourable changes in domestic system (legal and administrative), researcher in this research article has analysed the development and status of FDI in pharma sector.

Keywords: foreign direct investment, pharma sector, multi national corporation

Introduction: Meaning

A foreign investment could be a direct or portfolio investment. A direct investment is an acquisition or construction of physical capital by a firm from one (source) country in another (host) country. The FDI is an investment that involves a long- term relationship and control by a resident entity of one country, in a firm located in a country other than that of the investing firm. There is more involved in the direct investment than only money capital, for instance, managerial or technical guidance. FDI is generally defined as resident firms with at least 10% of foreign participation^[1].

Driving Force behind FDI

Foreign Direct Investment has accelerated remarkably in the last decades and many of the major corporations of most developed countries have taken their production of goods to diverse parts of the world. Investments are most likely to take place where location and comparative advantages are present and FDI will presumably be concentrated to the regions where the industry in question has performed most efficiently. In order to compete in foreign markets, multinational companies take advantage of their firm- specific resources, such as technological and marketing expertise^[2]. There are several reasons for a firm to undertake foreign direct investment. FDI can be market seeking (horizontal) or resource- seeking (vertical) FDI. Market- seeking FDI takes place when a Multi-National Corporation (MNC) invests because of local market size, prospects for market growth, transportation costs and the need to be close to potential customers. The aim for the MNC is often to reduce costs by avoiding tariff and transportation costs and also to be able to meet the local markets' need better than through export. Resource- seeking FDI seeks comparative advantages such as access to raw material, cheap input and low cost of labour. Furthermore, FDI is a way for firms to avoid trade barriers in order to serve foreign markets and the theoretical aspect of FDI has traditionally regarded trade barriers and tariff jumping^[3].

Indian Pharma sector

Pharmaceutical sector in India is one of the top five sectors favoured by overseas investors, with approximately Rs. 50,000 crores worth of FDI coming in since April 2000. This amounts to nearly 5% of the total foreign investment made in the country^[4].

The FDI policy regarding Indian pharmaceutical industry has been substantially liberalized 1990 onwards as a part of the macroeconomic reforms. This liberal approach to FDI is assumed to be based on several potential benefits that FDI fetches for the host country. Apart from generating financial resources, up-to-date technologies, technical capability, access to export markets, foreign exchange, employment, expertise and management functions, FDI can cause enhanced productivity in indigenous firms when firm specific intangibles spillover to the domestic firms^[5].

India's trade in pharmaceutical products has increased a lot since the liberalization reforms and it has comparative advantages in trade with pharmaceutical products, both bulk drugs and formulations. The Indian pharmaceutical industry ranks very high among developing countries, in terms of technology and quality, and is today in the front rank of India's science based industries^[6]. The growth of the Indian pharmaceutical industry has been remarkable. The industry is today the fourth largest globally, in terms of volume, and 13th largest in terms of value^[7].

The Foreign Direct Investment policy in India is liberalized and the government tries to get less involved in the private sector and leave it to market forces. Policy initiatives that have been imposed to liberalize the economy in respect of FDI are for example; industrial decontrol, simplifications of investment procedures and commitment to safeguarding intellectual property rights^[8].

Mergers and Acquisitions (M&A) in Pharma Sector

Mergers and Acquisitions M&A Activity in the Pharma Sector in the early 1980's, most developing countries started easing

restrictions on FDI and aggressively offering tax incentives and subsidies to invite foreign capital, with the view that FDI promotes growth – but does it really^[9]? Most of the M&As are motivated, by the need to obtain financial synergies, to gain market control, to get access to distribution channels or to gain entry into new geographical locations, this indicates that technological reasons may not motivate all M & A. However in the current scenario there are many high-tech industries where innovation is considered a key to competitive edge^[10].

Government Initiatives

Future of Indian Pharmaceutical Industry

The consolidated FDI policy of India 2012 by Department of Industrial Policy & Promotion (DIPP)^[11] is proactive on many counts and it covers vast areas of public importance. One such area pertains to FDI in pharmaceuticals sector of India.

Recently, India has been taking special interest in FDI in pharmaceutical companies producing life saving drugs in India. This is also somewhat controversial and complicated in nature. Clearance of many FDI proposals in this category is still pending with Indian Government and its agencies^[12].

In order to expedite the pending FDI proposals for pharmaceutical industry of India, the Indian government is planning to announce fresh norms and rules in this regard.

Today, India stands among the one of the cheapest drugs producer in the world. The Indian pharmaceutical sector predicts positive future for its growth. In this direction, Indian pharma companies are competing for the branded generic drug space to register their global presence. Several Indian pharmaceutical companies have acquired companies in the US and Europe and many others are raising funds to do so. The Indian Pharmaceutical industry meets approximately 95% of the country's pharmaceutical needs. Prospects for FDI continue to be loaded with risks and uncertainties. Globally, the Pharmaceutical industry has witnessed rise in large investments of FDI. More takeovers of Indian domestic companies by multinational drug companies may lead to a situation in which India may depend on MNCs for much of its drug requirements. The takeover of pharma companies could also impact the competitiveness of the industry due to reduced number of players^[13].

FDI in pharmaceutical sector, which was approved by the UPA government, may create a situation of non-availability of drugs in rural areas. MNCs will concentrate on the metros and on big cities and they will not target the rural masses. Thus, FDI in pharmaceutical sector may hit the common man's pocket sooner than later (With 100% FDI in pharma, medicines may soon cost more)^[14]. The aggregate market share of MNCs in the formulations market has gone up significantly with the taking over of some Indian companies. These developments may indicate that the days of product monopolies and high prices are back in India. Some MNCs have started marketing new patented drugs at exorbitant prices particularly for life threatening diseases such as cancer^[15].

The implementation of the Goods and Services Tax (GST) is expected to be a game-changer for the Indian Pharmaceuticals industry. It will lead to tax-neutral inter-state transactions between two dealers, thereby reducing the dependency on multiple states and increasing the focus on regional hubs. It is expected to result in an efficient supply chain management,

which is expected to reduce its cost considerably^[16]

Impact

Regardless of these concerns, most macroeconomic studies posit that inward FDI has a positive effect on the economic prospects of developing countries. Especially, countries with higher levels of per-capita income, well educated workers, greater degree of openness, and a progressive financial system^[17].

According to Herzer^[18], even in the case of Greenfield investments, FDI may not add to the domestic capital stock, as foreign FDI crowds out domestic investment when multinationals fund investment projects that would else be taken on by local firms. This especially occurs when multinationals compete with domestic companies for scarce resources, or when foreign firms finance their investment via borrowings in the host country, thereby increasing the host country's interest rate.

Concerns

Unproductive regulatory oversight, need for safeguards for informed consent for vulnerable populations and compensation guidelines for patients and for clinical trial associated deaths are the main concerns^[19]

Also, companies are facing a lot of flak over lax quality standards, to continue exporting to the foreign markets they will have to improve their quality and manufacturing compliance programmes and bring in line with the US FDA^[20] and Medicines and Healthcare products Regulatory Agency (MHRA- UK)^[21] regulations.

Acquisition of large Indian pharma companies would leave behind mostly the smaller domestic companies functioning in the lower end of the pharmaceutical value chain. This may constrain India from focusing on need-based R&D and may increase dependence on MNCs for meeting the common man's drug requirements. It could restrict the use of TRIPs flexibilities such as, Compulsory Licensing (CL) and patent challenges. MNCs may effectively use the marketing and distribution network setup by domestic companies to substitute low-cost drugs with high-priced ones, including patented drugs^[22].

Suggestions

- Suitable mechanism be established to keep track of the nature of Foreign Direct Investments coming in the country.
- Promotion of domestic companies and start ups, wherever necessary, instead of FDI
- When a foreign company acquires our domestic company, it exports our generics there and makes a huge profit^[23]. But if the same generic is sold at the higher price in India, the Indian public stands to lose and this is an area of concern. Hence, the government should establish monitoring mechanisms to avoid these kinds of practices.
- FDI in Research and Development (R&D) sector of the pharma Industry should be promoted and monitored.
- A special mechanism to keep check on malpractices of both foreign and domestic companies, and to ensure fair competition be established and be made accountable for.
- Promotion of public funding for increased R&D in

pharma sector may be adhered to.

- Single window clearance should be developed to avoid procedural bureaucratic hurdles.
- Strong data protection regime (law) is need of an hour to attract the FDI.

Conclusion

India is recognised as global hub for cost effective generic medicines, which is vital in protecting the right to health in developing and underdeveloped countries. FDI is necessary to bring newer and safer technology in India. However, present policies on FDI in India need a relook. Government in India should also make sure that excessive foreign investment does not hamper the local business and companies (especially one involved in Generic medicine), market and the pricing of medicines in India. The startup policies of current NDA government, Pharma Vision 2020 and its proper implementation are important in this regard. The FDI in pharma sector will serve its purpose if suggestions mentioned herein above are implemented properly.

References

1. Shahbaaz Husain, Foreign Direct Investment in Indian Pharmaceutical Industry, Competition Commission of India, retrieved from, <https://pdfs.semanticscholar.org/aaa6/016d495df87130408e896ff2ff97e40edbc2.pdf>.
2. Blomstrom Magnus, Kokko Ari. How foreign investment affects host countries, Policy Research Working Paper Series 1745, The World Bank, 1997.
3. Magnus Blomstrom, Ari Kokko. Regional Integration and Foreign Direct Investment, NBER Working Papers 6019, National Bureau of Economic Research, Inc, 1997.
4. Ghose J. Domestic drug prices immune to pharma acquisitions, The Financial Express, 12 June, Available from <http://www.financialexpress.com/news/domestic-drug-prices-immune-to-pharma-acquisitions/1127830/2>., 2013.
5. Pradhan JP. Quality of Foreign Direct Investment, Knowledge Spillovers and Host Country Productivity: A Framework of Analysis. MPRA, 2004, 17080.
6. DIPP. Available at, dipp.nic.in/English/policy/changes/pn2_2005.pdf., 2005.
7. Available at, www.icra.in/files/pdf/investors/annual-reports_2004_05.pdf.
8. Available at, <http://www.slideshare.net/SayonieBose/fdi-and-impact-on-pharmaceutical-industry-in-india>.
9. Herzer D. How does foreign direct investment really affect developing countries' growth? Review of International Economics, 2012; 20(2):396-414.
10. Vyas V, Narayanan K, Ramanathan A. Determinants of Mergers and Acquisitions in Indian Pharmaceutical Industry. Eurasian Journal of Business and Economics. 2012; 5(9):79- 102.
11. Available at, dipp.nic.in/English/Policies/FDI_Circular_01_2012.pdf.
12. Available at, <http://www.pharmtechmedica.com/upload/Foreign%20Direct%20Investment%20in%20Drugs%20%20Pharmaceutical%20Sector%20of%20India.pdf>.
13. Ibid.
14. The price of drug Haemacel was Rs 99.02 in May 2009; by May 2011 it had gone up to Rs 215, a 117% hike in just two years. The drug Gardenal, used for treating epilepsy, showed a price increase of 121%.
15. Chaudhuri S. Multinationals and Monopolies. Pharmaceutical Industry in India after TRIPS'. Economic and Political Weekly, 2012; 47(12):46-54.
16. Available at, <https://www.ibef.org/industry/pharmaceutical-india.aspx>.
17. Organisation for Economic Co-operation, Development. Foreign Direct Investment for Development: Maximising Benefits, Minimising Costs. Retrieved from <http://www.oecd.org/investment/investmentfordevelopment/959815.pdf>., 2002.
18. Herzer D. How does foreign direct investment really affect developing countries' growth?, Review of International Economics, 2012; 20(2):396-414.
19. Imran M, Najmi AK, Rashid *et al*. Clinical research regulation in India-history, development, initiatives, challenges and controversies: Still long way to go. J Pharm Bioallied Sci. 2013; 5(1):2-9.
20. The Food and Drug Administration (FDA) is an agency within the U.S. Department of Health and Human Services. It is responsible for,
 - Protecting the public health by assuring that foods are safe, wholesome, sanitary and properly labeled; ensuring that human and veterinary drugs, and vaccines and other biological products and medical devices intended for human use are safe and effective
 - Protecting the public from electronic product radiation
 - Assuring cosmetics and dietary supplements are safe and properly labeled
 - Regulating tobacco products
 - Advancing the public health by helping to speed product innovations For details visit, <https://www.fda.gov/AboutFDA/Transparency/Basics/ucm194877.htm>
21. The Agency regulates medicines, medical devices and blood components for transfusion in the UK. It plays a leading role in protecting and improving public health and supports innovation through scientific research and development. For details visit, <https://www.gov.uk/government/organisations/medicines-and-healthcare-products-regulatory-agency/about>
22. FDI in Pharma, Rajya Sabha Report. Retrieved from, <http://www.elsevierbi.com/~media/Supporting%20Documents/Pharmasia%20News/2013/August/FDI%20In%20Pharma%20Rajya%20Sabha%20Report%20Aug%202013.pdf>., 2013.
23. The cost difference between some of the medicines that we produce here as generic and what they produce there as branded is sometimes as high as 80 to 85 times.