

EXHIBIT NO.10
PRESS NOTE NO. 12 (1991 Series)
PROCEDURES IN RESPECT OF FOREIGN TECHNOLOGY AGREEMENT

Amendment to Press Note No.10 (1991 Series) dated 14th August, 1991.

1. Government tabled a Statement on Industrial Policy in both the Houses of Parliament on July 24, 1991. The Statement has substantially liberalised the provisions and simplified the procedures governing Foreign Technology Agreements.

2. The relevant portion of the Statement dealing with Foreign Technology Agreements is as follows:

“39C. FOREIGN TECHNOLOGY AGREEMENTS

- i) Automatic permission will be given for foreign technology agreements in high priority industries (Annex III) upto a lumpsum payment of Rs. 1 crore, 5% royalty for domestic sales and 8% for exports, subject to total payments of 8% of sales over a 10 year period from date of agreement or 7 years from commencement of production. The prescribed royalty rates are net of taxes and will be calculated according to standard procedures.
- ii) In respect of industries other than those in Annex III, automatic permission will be given subject to the same guidelines as above if no free foreign exchange is required for any payments.
- iii) All other proposals will need specific approval under the general procedures in force.
- (iv) No permission will be necessary for hiring of foreign technicians, foreign testing of indigenously developed technologies. Payment may be made from blanket permits or free foreign exchange according to RBI guidelines."

3. Press Note No.10 (1991 Series) issued on 14th August, 1991 set out the procedures for approval of foreign technology agreements, hiring of foreign technicians and foreign testing of indigenous raw materials and products and indigenously developed technologies. In that Press Note, it has been stated

that applications for automatic approvals under paras 39 C(i) and C (ii) referred to above would be made to the Secretariat for Industrial Approvals in the Department of Industrial Development. In the interests of entrepreneurs, this procedure has now been modified as below. Procedures relating to other matters, however, remain the same as in Press Note No.10.

4. FOREIGN TECHNOLOGY AGREEMENTS

(a) Automatic Approvals under Para 39C (i)

Applications for automatic approvals under para 39C(i) will be filed in the prescribed form (10 copies) with the Reserve Bank of India (RBI). The application shall state clearly the description of the article to be manufactured in the Indian Trade Classification System. The payment terms must comply with the conditions laid down in para 39 C(i).

After RBI's approval, the entrepreneur may approach the authorised dealer for foreign exchange release along with a copy of the agreement entered into with the foreign collaborator. The entrepreneur shall furnish such other information as may be prescribed by the RBI from time to time. RBI will issue necessary instructions to all concerned and delegate powers to authorised dealers to release the required foreign exchange.

(b) Automatic Approvals under Para 39 C(ii)

With regard to the provision contained in para 39C(ii) regarding foreign technology agreements in industries other than those in Annex III the same procedure as laid down above for approval under para 39C(i) would apply. However, in respect of these proposals, no free foreign exchange will be released towards lumpsum payment or royalty. The payments involved may be met through EXIM scrips. Ministry of Commerce is issuing a Public Notice authorising the use of EXIM scrips for this purpose.

For purposes of calculating the payments prescribed under paras 39C(i) and (ii), the lumpsum and royalty payments will be net of taxes.

EXHIBIT NO.10 (Contd.)
PRESS NOTE NO. 12 (1991 Series)
PROCEDURES IN RESPECT OF FOREIGN TECHNOLOGY AGREEMENT

5. OTHER CLARIFICATIONS

(a) Extension of foreign technical collaboration agreements.

Extensions of foreign technical collaboration agreements will need the approval of the Government. For this purpose, the entrepreneurs will have to file an application in the prescribed form (10 copies) with the Entrepreneurial Assistance Unit of the SIA in the Department of Industrial Development.

(b) Deputation of Indian technicians for training abroad.

For deputing Indian personnel for training and other purposes abroad, the entrepreneurs may approach only the RBI.

(c) Hiring of foreign technicians for more than three months.

For hiring foreign technicians beyond a period of three months, clearance of the Ministry of Home Affairs will be required as before.

No.10/43/91-LP

New Delhi, the 31st August, 1991.

The Press Information Bureau is requested to give wide publicity to this Press Note.

Sd/-

(L. Mansingh)

Joint Secretary to the Government of India

Principal Information Officer,
Press Information Bureau,
Shastri Bhawan,
New Delhi.

EXHIBIT NO.11
PRESS NOTE NO. 15❖(1991 Series)
THE JURISDICTION OF THE DEVELOPMENT COMMISSIONER, MADRAS EXPORT PROCESSING ZONE

100% Export Oriented Units set up in the Union Territory of Pondicherry will also fall within the jurisdiction of Development Commissioner, Madras Export Processing Zone in addition to the units set up in Tamilnadu, Andhra Pradesh, Andaman &

Nicobar Islands, as already mentioned in the Annex attached to the Press Note No. 14 (1991 series) dated 26th September, 1991 for the purpose of exercising delegated powers by DCs concerned, as specified in the above mentioned Press Note.

No.10(53)/91-LP

New Delhi, the 25th October, 1991

Forwarded to Press Information Bureau for wide publicity to the contents of the above Press Note.

Sd/-

(S.Bhavani)

Deputy Secretary to the Government of India

Principal Information Officer,
Press Information Bureau,
Shastri Bhawan
New Delhi

*Note: ❖ Press Note No.13(1991 Series) has been superseded by Press Note No.3(1995 Series)
Press Note No.14(1991 Series) has been superseded by Press Note No.4(1995 Series)*

EXHIBIT NO. 12
PRESS NOTE NO.16 (1991 Series)
GUIDELINES FOR LICENSING OF SUGAR FACTORIES

A. The Government of India have reviewed the guidelines for licensing of new and expansion of existing sugar factories issued vide this Ministry's Press Note No. 4 (1990 Series) dated 23.7.1990. In supersession of the aforesaid Press Note, Government have formulated the following revised guidelines:

1. New sugar factories will continue to be licensed for a minimum economic capacity of 2500 tonnes cane crush per day (TCD). There will not be any maximum limit on such capacity. However, in areas specified as industrially backward areas by the Government of India and certified by the Indian Council of Agricultural Research to be agro-climatically suited for development of sugarcane, licensing of new sugar factories in the co-operative and public sectors would be allowed for an initial capacity of 1750 TCD subject to the condition that the units would expand their capacity to 2500 TCD within a period of 5 years of going into production.
2. Licences for new sugar factories will be issued subject to the condition that the distance between the proposed new sugar factory and an existing/already licensed sugar factory should be 25 Kms. This distance criterion of 25 Kms. could, however, be relaxed to 15 Kms in special cases, where cane availability so justifies.
3. The basic criterion for grant of licences for new sugar units would be their viability, mainly from the point of view of cane availability and potential for development of sugarcane.
4. All new licences will be issued with the stipulation that cane price will be payable on the basis of sucrose content of sugarcane.
5. Other things being equal, preference in licensing will be given to proposals from the co-operative sector and the public sector, in that order, as compared to the private sector. In case more

than one application is received from any zone of operation, priority will be given to the application received earlier. However, in such cases also, preference will be given to the co-operative sector, followed by the public sector and the private sector, in that order, even though the applications of the first two sectors may be of a later date.

6. Priority will continue to be given to sugar factories with capacity less than 2500 TCD to expand to the aforesaid minimum economic capacity.
7. While granting licences for new units and expansion projects, the additional capacity to be created upto the end of the Eighth Plan, i.e. 1996-97, will be kept in view.
8. While granting licences for new sugar factories, industrial licences in respect of down-stream units for the use of molasses i.e. industrial alcohol, etc. will be given readily.

B. Applications for licences will be initially screened by the Screening Committee of the Ministry of Food. While considering such applications, the comments of the State Government/Union Territory Administration concerned would also be obtained. The State Government/Union Territory Administration would be required to furnish their comments within 3 months of the receipt of communication from the Ministry of Food.

C. Applications for grant of industrial licences for the establishment of new sugar factories as well as expansion of existing units should be submitted directly to the Secretariat for Industrial Approvals in the Department of Industrial Development in Form IL alongwith the prescribed fee of Rs.2500. A copy of the application may also be sent to the Ministry of Food.

D. The procedure and guidelines, as given above, are brought to the notice of the entrepreneurs for their information and guidance.

No.10(74)/91-LP

New Delhi, the 8th November 1991.

Forwarded to Press Information Bureau for wide publicity to the contents of the above Press Note.

Sd/-

(S.Bhavani)

Deputy Secretary to the Government of India

Principal Information Officer, Press Information Bureau, Shastri Bhawan, New Delhi.

EXHIBIT NO.13
PRESS NOTE NO.17 (1991 Series)
PROCEDURES FOR INCREASE IN FOREIGN EQUITY TO 51% IN EXISTING COMPANIES ❖

1. Government tabled a Statement on Industrial Policy in both the Houses of Parliament on July 24, 1991. The statement has substantially liberalised the provisions and simplified the procedures governing foreign investment proposals.

2. The relevant portion of the Statement dealing with foreign investment is contained in para 39 B. According to the Statement approvals will be given for investment upto 51 per cent foreign equity in high priority industries [Annex III of the Policy Statement]. These approvals will be available if the foreign equity covers the foreign exchange requirement for import of capital goods. The import of components, raw materials and intermediate goods and payment of know-how fees and royalties will be governed by the general policy applicable to other domestic units. Payment of dividends will be monitored through the Reserve Bank of India so as to ensure that outflows on account of dividend payments are balanced by export earnings over a period of time.

3. Other foreign equity proposals including proposals involving 51 per cent equity but which do not meet any or all of the criteria mentioned above, will continue to require clearance.

4. The procedures for foreign equity investment in new companies have been announced in Press Note No.11 (1991 Series).

5. This Press Note states out the procedures to be followed for increase in foreign equity in existing companies which already have some foreign equity holdings.

A. ELIGIBILITY CRITERIA FOR INCREASE IN FOREIGN EQUITY

6. The following categories of companies will receive automatic approval from the Reserve Bank of India for raising their foreign equity levels from existing levels upto 51 percent :

(i) **Companies wishing to raise foreign equity as part of an expansion programme.**

A company wishing to raise its foreign equity from existing levels to 51 per cent may do so as part

of an expansion programme. The expansion programme must be in high priority industries shown in Annex III to the Statement on Industrial Policy. The additional equity should be part of the financing of the expansion programme and the money to be remitted should be in foreign exchange. The company itself need not be exclusively engaged in activities listed in Annex III; only the proposed expansion must be exclusively in the high priority industries shown in Annex III.

(ii) **Companies wishing to raise level of foreign equity upto 51 per cent without an expansion programme.**

A company exclusively engaged in high priority industries listed in Annex III can also raise its equity from existing levels to 51 per cent without an expansion programme. The increase in equity level must result from expansion of the equity base of the existing company. The additional foreign equity must be from remittance of foreign exchange.

B. REQUIREMENT FOR PREFERENTIAL SHARE ALLOCATION

7. On receipt of RBI approval the company must pass a special resolution under Section 81 (1A) of the Companies Act proposing preferential allocation of the required volume of fresh equity to the foreign investor. In respect of the equity holdings of financial institutions in such companies, the Finance Ministry will separately advise the financial institutions that they may support such proposals provided, in their commercial judgement, they are in the interest of the company.

C. ISSUE OF SHARES AND SHARE VALUATION

8. The CCI will allow preferential allocation of equity in favour of the foreign investor on the basis of the RBI approval for expansion of foreign equity and the adoption of the special resolution by the company. For such cases, the price of new equity will be fixed by the CCI on the basis of market prices, computed on the basis of the average price for the six months period preceding the date on

Note: ❖ These procedures have been subsequently revised vide Press Note No.13(1992 Series)

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PRESS NOTE NO.17 (1991 Series)
PROCEDURES FOR INCREASE IN FOREIGN EQUITY TO 51% IN EXISTING COMPANIES

which the application is received in the CCI, with a discount of upto 10 per cent if requested by the shareholders resolution. The market price will take into account any bonus issue which may have been declared in this period and adjust for the same. For companies undertaking such equity expansion disinvestment, if it occurs in future, will also be at market price computed on the same basis.

D. PROCEDURES FOR APPROVALS

9. Applications for approval under the provisions in para 6 above will be filed with the Reserve Bank of India. In the case of expansion programme the application shall state clearly the description of the article to be manufactured in ITC (HS classification). The proposal shall be a composite one including detailed information on the capital goods to be imported for the project expansion programme. Under the provisions of the policy the proposed foreign equity must cover the import of capital goods required for the expansion programme. Similarly, in the case of companies not undertaking expansion programmes, the application shall describe the existing products of the company in ITC (HS classification).

10. The Reserve Bank of India will issue the necessary permission for the foreign equity investment under the Foreign Exchange Regulation Act, 1973 (FERA). This permission will include exemption from the operation of sections 26(7), 28, 29, and 31 of FERA. Simultaneously the Reserve Bank of India will confirm that the import of capital goods is covered by the foreign equity. Based on this confirmation the Chief Controller of Imports & Exports shall issue the relevant import licence for capital goods imports.

11. Under the procedure outlined above the plant and machinery proposed to be imported must be new and not second hand. There will be no indigenous clearance of these capital goods.

E. DIVIDEND BALANCING

12. Para 39 B(ii) of the Policy Statement provides for the monitoring of outflow of foreign exchange on account of dividend payments which are to be balanced by export earnings over a period of time. This monitoring will be done by the Reserve Bank of India. The balancing will be done on the following basis:

- (i) The condition of dividend balancing is required for all companies receiving approval for foreign equity upto 51 per cent under the provisions outlined above in para 6.
- (ii) The balancing of dividend would be over a period of 7 years reckoned from the date of commencement of production for companies raising their level of foreign equity for an expansion programme. For companies which are raising their foreign equity levels without an expansion programme, this period will start from the date of allotment of the shares raising the level of foreign equity to the newly approved level.
- (iii) Remittance of dividends should be covered by earnings of the company from export of items in Annex III. The amount of dividend payment may be covered by export earnings of such items recorded in years prior to the payment of dividend or in the year of payment of dividend. The Reserve Bank of India will issue appropriate instructions to give effect to these provisions.

F. OTHER PROPOSALS FOR RAISING LEVEL OF FOREIGN EQUITY IN EXISTING COMPANIES

13. All other foreign proposals, for raising of foreign equity levels in existing companies will be subject to usual procedures. Applications will be made to the Secretariat of Industrial Approvals in the Department for Industrial Development in the prescribed form. This will include proposals involving increase in foreign equity upto 51 per cent which do not meet any or all of the criteria outlined above.

G. CLASSIFICATION SYSTEM

14. Entrepreneurs may note that the description of article(s) to be manufactured should be stated according to the Indian Trade Classification (Harmonised System)

EXHIBIT NO.13(Contd.)
PRESS NOTE NO.17 (1991 Series)
PROCEDURES FOR INCREASE IN FOREIGN EQUITY TO 51% IN EXISTING COMPANIES

15. The description of industries covered by Annex III of the Statement on Industrial Policy in the Indian Trade Classification (Harmonised System) is available in Press Note No.11 (1991 Series)*. (Copies of the Indian Trade Classification (Based on Harmonised Commodity Description and Coding System), published by the Ministry of Commerce, Directorate General of Commercial Intelligence and Statistics, Calcutta, can be obtained on payment from the Controller of Publications, 1, Civil Lines, Delhi 110 054 or from any of the agents authorised to sell Government of India publications).

No.11/43/91-LP

New Delhi, the 19th November, 1991.

The Press Information Bureau is requested to give wide publicity to this Press Note.

Sd/-

(L.Mansingh)

Joint Secretary to the Government of India

Principal Information Officer,
Press Information Bureau,
Shastri Bhawan,
New Delhi.

*Note: * List of Annex III industries is appended to Press Note No.10 (1992 Series)*

EXHIBIT NO.14
PRESS NOTE NO.18(1991 Series)
CLARIFICATIONS REGARDING HOTEL AND TOURISM RELATED INDUSTRY

1. Government tabled a Statement on Industrial Policy in both Houses of Parliament on July 24, 1991. Subsequently Government have issued Press Note No.10 (1991 Series) on 14th August, 1991, Press Note No.11 (1991 Series) on 20th August, 1991, Press Note No.12 (1991 Series) on 31st August, 1991 and Press Note No.17 (1991 Series) on 19th November, 1991 laying down the procedures for approval of foreign technology agreements, foreign investments, etc. Annex III attached to the Statement on Industrial Policy and the Press Notes referred to above, list out the industries eligible for automatic approval of foreign technology agreements and for 51 per cent foreign equity approvals. Serial No.34 of this Annex contains the following entry:

“34.Hotels and Tourism related Industry”.

For the information of entrepreneurs, it is hereby clarified that the term ‘Hotels’ would include restaurants, beach resorts and other tourism complexes providing accommodation and/or catering and food facilities to tourists. The term ‘Tourism-related Industry’ would include among other the following:-

- i) Travel agencies, tour operating agencies and tourist transport operating agencies;
- ii) Units providing facilities for cultural, adventure and wildlife experience to tourists;
- iii) Surface, air and water transport facilities for tourists;
- iv) Leisure, entertainment, amusement, sports and health units for tourists;
- v) Convention/seminar units and organisations.

2. Hotel and Tourism related Industry as clarified above will also be eligible for approval for direct foreign investment upto 51 per cent foreign equity in accordance with para 39B of the Statement on Industrial Policy dated 24.7.1991. Procedures for Approvals as given in Press Note No.17 (1991 series) dated 19.11.1991 will be applicable for this purpose.

3❖. As regards foreign technology agreements in Hotel Industry only, automatic permission will be available in terms of para 39C(i) of the Statement on Industrial Policy subject to fulfilment of the following parameters:

(a) **Technical and Consultancy Services:**

Lumpsum fee not exceeding US \$ 200,000.

(b) **Franchising and Marketing/Publicity support**

Upto 3% of the gross room sales.

(c) **Management Fees**

Upto 10% of the foreign exchange earnings provided the foreign party puts in 25 per cent of the equity. This will also cover payments for marketing and publicity support.

It may be mentioned that the above parameters are different from those applicable to other industries as specified in para 39 C(i) of the Statement. The procedure for grant of approval in such cases will be the same as indicated in Press Notes No.10,11,12 and 17 (1991 Series).

Proposals which are not covered by paras 2 and 3 of this Press Note will be dealt with according to the general procedure in force and the procedure laid down in Press Notes No.10,11,12 and 17 may be followed for submission of applications.

No.11/43/91-LP

New Delhi, the 25th November,1991.

Forwarded to the Press Information Bureau for wide publicity to the contents of the above Press Note.

Sd/-

(L. Mansingh)

Joint Secretary to the Government of India

Press Information Officer, Press Information Bureau, Shastri Bhawan, New Delhi.

Note: ❖ The Norms have been revised vide Press Note No.1(1995 Series)

EXHIBIT NO. 15
PRESS NOTE NO.19 (1991 Series)
IMPORT OF TECHNOLOGY AND CAPITAL GOODS UNDER TDF

1. The Technical Development Fund Scheme is one of the important schemes administered by the Department of Industrial Development to encourage modernisation and upgradation of technology, product-mix rationalisation and export promotion by industrial units. The scheme has proved very useful to the Industry due to its flexibility and fast track clearance. To encourage modernisation and technology upgradation, Government have decided to liberalise the Scheme further as follows:

- (i) To counter the effect of depreciation of Indian Rupee against U.S. Dollar and other currencies and to retain the purchasing power as intended in 1989, the upper ceiling on the aggregate value of the Foreign Exchange that could be approved to an industrial unit in a financial year under the Scheme will, henceforth, be equivalent to Rs. 5 crore instead of the existing

ceiling of Rs. 3 crore. In deserving cases, this limit can be relaxed to some extent to enable a total technology package to be implemented without fragmentation.

- (II) The applications for import of Designs & Drawings as per the para 162 of Exim Policy 1990-93 which were being considered by a Committee chaired by Joint Secretary (SIA), shall, henceforth, be considered by the TDF Committee as all such proposals essentially aim at effecting modernisation and technological upgradation.

2. Provisions of this Department's earlier Press Notes No. 2(1)/88-TDF dated 22nd April, 1988 and No. 2(1)/89-TDF dated 17th March, 1989, will continue to apply except the amendment to the extent cited above which will take effect from 25.8.1991.

No. 2(1)/91-TDF

New Delhi, the 9th December, 1991.

Forwarded to the Principal Information Officer, Press Information Bureau, Government of India for issuing the Press Note and giving it a wide publicity.

Sd/-

(L. Mansingh)

Joint Secretary to the Government of India

Press Information Officer
Press Information Bureau
Shastri Bhawan
New Delhi.

EXHIBIT NO.16
PRESS NOTE NO.20 (1991 Series)
REVISION OF APPLICATION FORM FOR FOREIGN INVESTMENTS/TECHNOLOGY AGREEMENTS

1. Applications for approval of foreign investment and foreign technology agreement are being made by entrepreneurs in Form 'FC'. Government have now substantially liberalised the provisions and simplified the procedures governing foreign investment and technology agreement approvals through:-

- (i) Press Note No. 10 (1991 Series) dated 14-8-1991 relating to foreign technology agreements.
- (ii) Press Note No. 11 (1991 Series) dated 20-8-1991 relating to foreign investment.
- (iii) Press Note No. 12 (1991 Series) dated 31-8-1991 containing amendments to Press Note No. 10 relating to foreign technology agreements.
- (iv) Press Note No. 17 (1991 Series) dated 19-11-1991 regarding increase in foreign equity to 51% in existing companies.

2. In the light of the above, it has become necessary to revise Form 'FC'. A copy of the revised form, which will now be known as "Form FC (SIA)", is attached. The Form FC (SIA) is meant for applications made to the Secretariat for Industrial Approvals (SIA), Ministry of Industry (Department of Industrial Development),

Udyog Bhawan, New Delhi-110 011, to obtain approval for foreign investment and/or foreign technology agreement.

3. For permission under paragraphs 39 B(i), 39 B(iv), 39 C(i) and 39 C(ii) of the Statement on Industrial Policy, the application is to be made to the Controller, Foreign Investment & Technology Transfer Section, Reserve Bank of India, Exchange Control Department, Central Office, Bombay-400 023. The Form prescribed by the RBI should be used for this purpose. To distinguish this Form FC(SIA) this Form, will henceforth be known as Form FC (RBI). The RBI is bringing out a shorter and simplified version in view of the liberalised procedures for clearances under the purview.

4. The revised Form will also be applicable to Non-Resident Indian investment and/or technology agreement proposals. In such cases, the applicant should superscribe 'NRI' in bold letters on top right-hand side corner of the first page of the Form.

5. There shall be no fee for applications made in Form 'FC'.

6. Applications for foreign investments and/or foreign technology agreements may henceforth be submitted in the revised form.

No. 11/43/91-LP

New Delhi, the 13th December, 1991

Forwarded to the Press Information Bureau for wide publicity to the contents of the above Press Note.

Sd/-

(L. Mansingh)

Joint Secretary to the Government of India

Press Information Officer
Press Information Bureau
Shastri Bhawan,
New Delhi.

EXHIBIT NO.17
PRESS NOTE NO.22❖(1991 Series)
AMENDMENT TO THE INDUSTRIAL ENTREPRENEURS MEMORANDUM❖❖

1. Under the provisions of Press Note No. 9 (1991 Series) dated 2nd August, 1991, entrepreneurs are required to submit an Industrial Entrepreneurs Memorandum in the prescribed form alongwith the prescribed fee for undertaking the manufacture of any article exempted in terms of this Ministry's notification No. 477 (E) dated 25th July, 1991. On filing the memorandum with the requisite number of copies, entrepreneurs are given an acknowledgement of receipt.

2. References are being received from entrepreneurs seeking amendments and modifications in the memorandum already filed by them and acknowledged by the SIA. In this connection, it is clarified that the requirement of the entrepreneurs having to file a memorandum is intended purely for statistical purposes and to conduct a limited post-facto check to see whether the proposed manufacturing activity requires an industrial licence

or not. The procedure is not in the nature of any registration involving scrutiny of the memorandum. Under these circumstances, it is in the interest of the entrepreneurs to fill in the memorandum correctly.

3. It is, therefore, notified for the information and guidance of the entre-preneurs that no amendments/modifications will be made to the memorandum already filed and acknowledged by SIA, unless the error or omission is on account of wrong feeding of data in the computer by SIA. Where any correction or amendment is sought to be made, the entrepreneur will have to submit a fresh memorandum in the prescribed form alongwith the prescribed fee for issue of fresh acknowledgement. In such cases, entre-preneurs are advised to state clearly that the earlier memorandum is being withdrawn by them so that the acknowledgement issued earlier by the SIA could be cancelled.

No. 10(88)/91-LP

New Delhi, the 24th December, 1991

Forwarded to Press Information Bureau for wide publicity to the contents of the above Press Note.

Sd/-

(G. Sundaram)

Deputy Secretary to the Government of India

Press Information Officer,
Press Information Bureau,
Shastri Bhawan,
New Delhi.

Note: ❖ Press Note No.21 of 1991 Series has been superseded by Press Note No.10 of 1992 Series
❖❖ Further clarification in Press Note No.6 (1993 Series)

EXHIBIT NO.18
PRESS NOTE NO.23 (1991 Series)
PROCEDURE FOR FOREIGN INVESTMENT IN TRADING COMPANIES

1. Government tabled a Statement on Industrial Policy in both the Houses of Parliament on July 24, 1991. The Statement has substantially liberalised the provisions and simplified the procedures governing foreign investment and foreign technology proposals.

2. Para 39(B) (iv) of the Statement on Industrial Policy lays down that "majority foreign equity holding upto 51 per cent equity will be allowed for trading companies primarily engaged in export activities. While the thrust would be on export activities, such trading houses shall be at par with domestic trading and export houses in accordance with the Import Export Policy".

3. This Press Note sets out the principles and procedures for approval of foreign equity holding upto 51 per cent in trading companies primarily engaged in export activities.

4. The criteria for grant of Export House, Trading House or Star Trading House certificates are laid down in paragraphs 218 and 226 of the Import-Export Policy, 1990-93. As amended by the Ministry of Commerce, Import Trade Control Public Notice No. 242-ITC(PN)/90-93 dated November 8, 1991, effective from April 1, 1992, the average net foreign exchange earnings in the three preceding licensing years should not be less than Rs. 6 crore for Export House Certification; Rs. 30 crore for Trading House Certification; Rs. 125 crore for Star Trading House certification. Further, such certification will also be granted if the minimum net foreign exchange earning in the immediate preceding licensing year is not less than Rs.12 crore for Export House; Rs. 60 crore for Trading House and Rs. 150 crore for Star Trading House.

5. Provisions for approval

(i) New Companies

In the case of a new company, the Reserve Bank of India will give automatic approval for foreign investment upto 51 per cent foreign equity on the following basis:

- (a) Such a company will register itself with the Ministry of Commerce (Office of CCI&E) as a registered exporter/importer.
- (b) The repatriation of dividend will be permissible only after the company has registered itself with the Ministry of Commerce (Office of CCI&E) as an Export House/Trading House/Star Trading House under the provisions of the prevailing Import Export Policy.

(ii) Existing Companies

In the case of existing companies already registered as Export Trading/Star Trading House, the Reserve Bank will give automatic approval on an application for foreign investment upto 51 per cent foreign equity. The approval will be subject to the following requirements:

- (a) On receipt of RBI approval the company must pass a special resolution under Section 81 (1A) of the Companies Act proposing preferential allocation of the required volume of fresh equity to the foreign investor.
- (b) The CCI will allow preferential allocation of equity in favour of the foreign investor on the basis of the RBI approval for expansion of foreign equity and the adoption of the special resolution by the company. For such cases, the price of new equity will be fixed by the CCI on the basis of market prices, computed on the basis of the average price for the six months period preceding the date on which the application is received in the CCI, with a discount of upto 10% if requested by the shareholders resolution. The market price will take into account any bonus issue which may have been declared in this period and adjust for the same. For companies undertaking such equity expansion disinvestment, if it occurs in future, will also be at market price computed on the same basis.

EXHIBIT NO.18(Contd.)
PRESS NOTE NO.23 (1991 Series)
PROCEDURES FOR FOREIGN INVESTMENT IN TRADING COMPANIES

6. Application procedure

Applications for approval under the provisions of para 5 above will be filed with the Reserve Bank of India in the prescribed form. The Reserve Bank of India will issue the necessary permission for the foreign equity investment under the Foreign Exchange Regulation Act, 1973 (FERA). *Inter-alia*, this permission will include exemption from the operation of sections 26(7), 28, 29, and 31 of FERA.

7. Dividend Balancing❖

The outflow of foreign exchange on account of dividend payments are to be balanced by export earnings over a period of time in respect of all approvals given under the provisions outlined in para 5 above. Monitoring will be done by the

Reserve Bank of India. The balancing will be done on the following basis:

- (i) The balancing of dividend would be over a period of 7 years reckoned from the date of recognition as Export House/ Trading House/Star Trading House for new companies, and from the date of allotment of the shares raising the level of foreign equity to the approved level in the case of existing companies.
- (ii) The amount of dividend payment should be covered by export earnings recorded in years prior to the payment of dividend or in the year of payment of dividend.

The Reserve Bank of India will issue appropriate instructions to give effect to these provisions.

No.10/43/91-LP

New Delhi, the 31st December, 1991.

The Press Information Bureau is requested to give wide publicity to this Press Note.

Sd/-

(L.Mansingh)

Joint Secretary to the Government of India

Principal Information Officer
Press Information Bureau
Shastri Bhawan,
New Delhi.

Note: ❖ This condition has been withdrawn (except for industries in Consumer goods Sector) vide Press Note No.12 (1992 Series)

EXHIBIT NO.19
PRESS NOTE NO.1 (1992 Series)
REVIEW OF THE SCHEME OF RECOGNITION OF ADDITIONAL CAPACITY

1. Under the New Industrial Policy, the requirement of licensing under the Industries (Development & Regulation) Act, 1951 has been abolished for all industrial undertakings except for a short list of 18 industries, Para 23 of the Statement on Industrial Policy dated 24.7.1991 indicates the reasons for the inclusion of these 18 industries in Annex II to the Statement, viz., security and strategic concerns, social reasons, problems related to safety and overriding environmental issues, manufacture of products of hazardous nature and articles of elitist consumption. The detailed procedure with regard to industrial licensing in pursuance of this decision has already been announced through Press Note No.9 (1991 Series).

2. The question of continuation of the scheme of re-endorsement of capacity upto 49 per cent under modernisation/replacement/renovation of equipment as announced vide Press Note No. 2, (1986 series) dated 15.1.1986 has been considered in the light of

the new Policy. It has been decided that since the requirement of industrial licensing has been done away with for all industrial undertakings, it is felt that it is no longer necessary to continue the said Scheme of reendorsement. The Scheme is, therefore, being discontinued with immediate effect.

3. Henceforth an entrepreneur will have to apply for grant of LOI, as per the procedure laid down in Press Note No.9 (1991 Series), for substantial expansion of capacity if the article to be manufactured is subject to compulsory licensing irrespective of the location of the industrial undertaking, i.e., whether or not the undertaking is located within a radius of 25 Kms, from the periphery of the standard urban area limits of a town with a population of more than one million. Similarly, even if the article of manufacture is not under compulsory licensing, but the undertaking is located in this restricted area, any proposal for substantial expansion would require a licence.

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Forwarded to Press Information Bureau for wide publicity to the contents of the above Press Note.

Sd/-

(G. Sundaram)

Deputy Secretary to the Government of India

Principal Information Officer,
Press Information Bureau,
Shastri Bhawan,
New Delhi.