

Press Note No. 1 (2005 Series)

Subject: Guidelines pertaining to approval of foreign/technical collaborations under the automatic route with previous ventures/tie-up in India.

The Government has reviewed the guidelines notified vide Press Note 18 (1998 series) which stipulated approval of the Government for new proposals for foreign investment/ technical collaboration where the foreign investor has or had any previous joint venture or technology transfer/ trademark agreement in the same or allied field in India.

2. New proposals for foreign investment/technical collaboration would henceforth be allowed under the automatic route, subject to sectoral policies, as per the following guidelines:

- i) Prior approval of the Government would be required only in cases where the foreign investor has an existing joint venture or technology transfer/trademark agreement in the 'same' field. The onus to provide requisite justification as also proof to the satisfaction of the Government that the new proposal would or would not in any way jeopardize the interests of the existing joint venture or technology/ trademark partner or other stakeholders would lie equally on the foreign investor/ technology supplier and the Indian partner.
- ii) Even in cases where the foreign investor has a joint venture or technology transfer/ trademark agreement in

the 'same' field prior approval of the Government will not be required in the following cases:

- a. Investments to be made by Venture Capital Funds registered with the Security and Exchange Board of India (SEBI); or
- b. where in the existing joint-venture investment by either of the parties is less than 3%; or
- c. where the existing venture/ collaboration is defunct or sick.

iii) In so far as joint ventures to be entered into after the date of this Press Note are concerned, the joint venture agreement may embody a 'conflict of interest' clause to safeguard the interests of joint venture partners in the event of one of the partners desiring to set up another joint venture or a wholly owned subsidiary in the 'same' field of economic activity.

3. These guidelines would come into force with immediate effect.



(Umesh Kumar)

Joint Secretary to the Government of India

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Dated 12th January 2005

Copy forwarded to the Press Information Officer, Press Information Bureau for giving wide publicity to the above Press Note.