2020

VOLUME 3 ISSUE 1 & 2
APRIL & NOVEMBER

FIMT LAW JOURNAL

FOREIGN DIRECT INVESTMENT AND BUSINESS ENVIRONMENT IN SOUTH ASIA

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Foreign Direct Investment ("FDI") plays a catalytic role in economic growth. It is a source of capital formation. The FDI has direct relation to the business environment of the countries. In context of South Asian region, almost every country is in their development phases, which requires FDI and technology in various sectors for the rapid and sustainable development. The Business Corporation and Government are willing to invest in various sectors. There are various countries, individual and multinational sectors that are ready to invest investing in one country. This article shows the FDI inflows of South Asian countries. The major investing country towards South Asia is China. South Asia's business environment is increasing rapidly and has become one of the major hubs for investment. The geopolitical environment among the south Asian countries has helped boost the FDI in recent years. The government has played positive roles by making various policies to support FDI regimes in its own countries.

INTRODUCTION

According to The World Bank, "Foreign Direct Investment are the net inflows of investment to acquire a lasting management interest (10 per cent or more of voting stock) in an enterprise operating in an economy other than that of the investor". Here, a lasting management interest reflects the long-term relationship between the investor and the investing enterprises with an active involvement of investor in the management of enterprises.

Foreign direct investment ("FDI") can be described as money that a company invests in buildings, factories, machines or other infrastructure outside its home country. By investing internationally, a company can obtain the raw materials it needs for its production processes. Investing in a developing country is profitable because prices are often low and the regulations are lenient.

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FDI is rapidly growing in developing countries. The theoretical study highlights the perfect market theory and imperfect market theories of FDI. It is an important source for the developing countries with plenty of resources but is economically weak with a deficiency in finance, technology and competitive management. It introduces new technology, knowledge, skills, new management practices etc., to the recipient country.

"Foreign Investment" means the investment made by a foreign investor in any industry in the form of Investment in share (Equity), reinvestment of the earnings derived from investment in share and Investment made in the form of loan or loan facilities. "Technology Transfer" is possible through an agreement between an industry and a foreign investor on the matters relating to the use of any technological right, specialization, formula, process, patent or technical know-how of foreign origin, through use of any trademark of foreign ownership, or by acquiring any foreign technical consultancy, management and marketing services. Therefore, a foreign investor in any industry can make Foreign Investment either through Foreign Investment in an Existing Industry, by Share Transfer, Loan Investment in an Existing Nepalese Industry or through Technology Transfer.

The country's investment competitiveness goes beyond attracting Foreign Direct Investment. It is determined by the country's ability to bring in, retain and leverage private investment for inclusive and sustainable economic growth." Investor's survey of multinational corporations shows that political stability, security and regulatory environment are leading factors driving investment decisions in developing countries.

FLOW OF INVESTMENT

According to UNCTAD's World Investment Report 2018, FDI inflows to South Asia grew by 4% in 2018 to $ 54 billion. Asian Region receives 39% of global investment flows - the largest share. It also hosts more than 4,000 special economic zones, that is, three-quarters of the world total. Foreign direct investment (FDI) inflow to developing countries in Asia rose by 3.9% to US$512 billion in 2018.[1] Growth occurred mainly in China, Hong Kong (China), Singapore, Indonesia, and other countries that belong to the Association of Southeast Asian Nations and India and Turkey.

[1] World Investment Report 2018, United Nation Conference on Trade and Development, 47

All sub-regions in developing Asia are expected to receive higher inflows. Prospects are underpinned by a doubling in value of announced Greenfield projects in the region, suggesting continued growth potential for FDI. However, uncertainties stemming from global trade tensions could weigh on the mood. On outflows, bilateral cooperation under the Belt and Road Initiative is expected to continue to encourage outward FDI along the routes, particularly in infrastructure.[2]

FDI INFLOWS IN SAARC COUNTRIES

The organization's principal objective is to undertake a collective effort towards regional progress for South Asian countries- Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri-Lanka. Since SAARC inception leaders of the member states met several times and signed a long list of agreement, convention, understanding and declaration. South Asian Free Trade Agreement (SAFTA) is considered the most vital achievement of SAARC as it has unlocked remarkable ideas South Asia Customs Union Market, South Asian Single Currency, South Asian Common Security Force, South Asian Road and Water Transport Movement and South Asian Free Movement of People and Goods.[3]

After the establishment of SAARC, the primary concern was developing and fostering the social, economic and political situation of SAARC nations. All the nations are either under-developed or developing, due to which FDI became one of the significant requirements for rapid and sustainable development of the nations. The ratio of cash inflows is much higher than the of cash outflows. The only nation to have higher outflows is India, and the outflows are more to the SAARC nations and to the other developing nations.

As per the national and international reports, data suggested that India is a hub nation, ranked as no.1 with the total FDI inflows of $4, 25,082 (hereafter USD in a million for every country) and a country share of 87.81%. In 2018 FDI in India, which was historically accounted for 70% to 80% of inflows to the sub-region, increased by 6% to 42 billion. The investment was substantial in manufacturing, communication and financial services- the top three industries recipients. The growth is cross-border M&A's from $23 billion in 2017 to 33 billion in 2018 was primarily due to

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[2] ibid.

[3] Md. Joynal Abdin, 'Foreign Direct Investment (FDI) in SAARC Countries' 15 Global Journal of Management and Business Research Finance, (2015)

transaction in retail trade $16 billion), which include e-commerce and telecommunication ($13 billion).[4]

FDI inflows to Bangladesh to a record level of 3.6 billion. This was driven by significant investment in power generation and in labor-intensive industries such as ready-made garments.

Pakistan, the third-largest recipient of FDI in the sub-region, registered a 27% decrease in investment to $2.4 billion. This was largely due to the competition of some project related to China. Pakistan Economic Corridor, and a balance of payment challenges that may have delayed new inflows.[5]

Sri-Lanka's inflows also reached a record level of $1.6 billion, pushed by robust Asian investment, including from China, India and Singapore. Infrastructure, particularly ports and telecommunication, absorbed a significant portion of inflows to the country.[6]

Apart from these four nations, the FDI inflows of the remaining nations is under a mark of one billion, Maldives has a total inflow of $0.55 billion, followed by Nepal with $0.16 billion, Afghanistan with $0.13 billion and Bhutan with the least FDI inflows of $0.006 billion. Although the FDI inflows (2018) include Bangladesh at 2nd largest FDI receiver, in the context of the total FDI flows and each country share, Pakistan is ranked 2nd, followed by Bangladesh. In all the above criteria, India is ranked at the top position.

MAJOR FACTOR FOR FDI INFLOW DECLINATION IN 2017 AND 2018

Outflows from Asia declined by 3% to $401 billion. This was mainly due to reducing investment from China for the second consecutive years. The outward flow from china declined by nearly 36% to an estimated 125 billion. The decline resulted from policies to clamp down on outward FDI in reaction to significant capital outflow during 2015-2016.[7] In late 2016, the Chinese Government identified several areas of "irrational investment". It started to curb overseas investment (especially M&As) in certain industries, including real estate, hotels, cinemas, entertainment and sports clubs

[4] World Investment Report 2019, United Nation Conference on Trade and Development, 47
[5] ibid.
[6] ibid.
[7] World Investment Report 2018, United Nation Conference on Trade and Development.

which continues in 2018. With tightened foreign exchange controls investment policy uncertainties and lightened investment screening regulations also weighed on Chinese outward FDI to US and EU were declining significantly.

ESTABLISHMENT OF SAARC

SAARC was established on December 08, 1985, with the principal objective to undertake a collective effort towards regional progress for South Asian countries – (Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka). SAARC covers 3% of world's geographic territories, 9.12% of global wealth, 21% of world's population. Combined, SAARC is the world's 3rd largest economy after US and China. Major Source of FDI in SAARC includes India, China, USA, UK, Japan, Hong Kong, Switzerland, Saudi Arabia, Singapore, Germany, UAE, EU member states, Egypt.

The South Asian Free Trade Area (SAFTA) entered into force on July 01, 2006, under the umbrella of SAARC. From the same platform, the SAARC Agreement on Trade in Services entered into force on November 29, 2012. SAARC Agreement on Promotion and Protection of Investment is yet to be finalized and enter into force.

SAARC is the third-largest economy of the world. But a significant number of the world's poor people are living in this region. With its diverse landscape and variety of natural resources, SAARC has every potential for economic development and poverty alleviation within the shortest possible time. To achieve these objectives, SAARC leaders must be committed to further economic integration under this common platform. Employment generation and entrepreneurship development could be effective weapon in this regard. To generate employment for such a huge amount of population, huge investment is needed. Intra SAARC investment promotion and attracting foreign direct investment (FDI) could be one of the best options. South Asian countries are looking to diversify their traditional energy supplies, promote additional foreign investment for energy infra structure development, improve energy efficiency, reform and privatize sector, and promote and expand regional energy trade and investment.[8]

[8] Dr. Bharat Bahadur Karki, 'Legal regulation of Foreign Investment in Nepal: Industry sector specific', Nepal Law Review, Kathmandu (1999)

FDI REGIME IN NEPALESE CONTEXT

Nepal purposes of becoming a middle-income country and achieve the Sustainable Development Goals by 2030 A.D. According to World Bank Report, the level of investment is not enough for the country to achieve that goal. Nepal's investment to GDP ratio for 2001-2016 stood at 21 percentages, which needs to be increased by 10 per cent. In a report, the National Planning Commission said that country faces a financial gap of Rs. 585 billion per year to meet the sustainable Development Goals.[9]

The Systematic Country Report published by the World Bank in February last year revealed that FDI has averaged just 0.2 percentages of GDP over the last decade, one of the lowest in the world. In the past few years, FDI inflows in the country have seen an upward trend but lag behind most South Asian countries. According to UNCTAD Report, Nepal was ahead only the war-torn Afghanistan and tiny Bhutan. Countries like Bangladesh and Sri-Lanka are far ahead of Nepal in attracting FDI in South Asia.

The government has introduced several laws to attract domestic and Foreign Investment in the country. The New FITTA, new IEA (2076), SEZA and PPPIA came into force past two years. One of the highlights of FITTA 2075 is the inclusion of other forms of investment such as lease financing and investment in the secondary market through Venture Capital Fund (VFC) under the foreign investment[10]. With this move, GON expects to attract more foreign investment to the secondary market. Secondary market in Nepal has recently been slow and the stakeholders highly appreciate this move. Another attractive feature of FITTA is the introduction of the Single Point Service Centre. Through this facility, the investors can get various service from one place, such as approval of foreign investment, registration, visa-related services, work permits etc.

One of the setbacks of this act is that foreign loans can be obtained from a financial institution, not from the Parent or a private enterprise. This means that a company won't be able to obtain a loan from a cash-rich parent.[11] It also imposed on the foreign investor to notify any ownership changes, including its holding through the sale of share or assets in or outside. Nepal, including change in the

[9] Prithivi Man Shrestha, "Why has Nepal failed to attract enough foreign Direct Investment?' *The Kathmandu Post*, (Kathmandu, 7 November 2019)
[10] The Foreign Investment and Transfer Technology Act, 2019, sec 9
[11] PKR TR Upadhyay and Co., 'Foreign Investment Transfer and Technology Act, 2075 (Highlight)' 5,6

beneficial ownership within 30 days to the DOI/IBN. This provision is difficult to comply with those companies which have multiple layers of companies above them.

CONCLUSION

No country is big or small in itself regarding foreign investment. We need to analyze the inflow rate of foreign direct investment in South Asia, its relation with socio-economic and development rights, its prospects and challenges, and best practices adopted in the region. Over the past few decades, global business operation has expanded. Nonetheless, cross-border investment still faces a number of obstacles. The recent development of national security policy also bears the risk of further hampering FDI.

The results from this reveal that FDI and all its potential determinants have a long-run equilibrium. The major determinants of FDI in South Asia are market size, labor force, infrastructural index and trade openness. However, the most significant and influential factors are market size and labor forces growth. Overall, South Asian countries need to maintain growth momentum to improve market size, frame policies to make better use of their abundant labor forces, improve infrastructure facilities and follow more open trade policies for attracting more FDI.

The contribution of foreign investment to local economies is dependent with the country characteristics, which includes but not limited with political stability and security, legal and regulatory environment, large domestic market size, favorable exchange rate, the skill of labor, good physical infrastructure, low tax rates, access to land and real state, financing in the domestic market. Some of the obstacles to Foreign direct investment includes but not limited to lack of good governance, Regulatory deficiencies, such as the limitation on foreign ownership and foreign equity restriction in the name of National Treatment and prior approval requirement, lack of expertise and human resources, including infrastructures, insufficient protection of intellectual property, discriminatory screening and prior approval and so on.

However, Developing countries are becoming increasingly attractive destinations because they can offer investors a range of "created assets".

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