Ease of Doing Business - INDIA Snapshot (January 2016)

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1. Executive Summary

India's economic growth has been accelerating in the recent past and – according to official statistics[1] - is expected to be around 7.5% in 2016 and continued high growth rates are expected in the years to come. According to the IMF and the World Bank, India is soon to be the second fastest growing economy in the world after China[1].

The Indian leadership is mainly focused on domestic priorities: job creation and economic growth. Modi's flagship economic initiative - the 'Make in India' campaign - aims at transforming the country into a manufacturing hub through the adoption of the right mix of business-friendly policies (ease of doing business, reform of land ownership, reform of labour laws, energy reforms, infrastructure-stimulus plans) that can also attract foreign investments (by raising foreign equity caps) in sectors considered as priority (mainly infrastructure, railways and defence).

Since Mr. Modi's appointment as Prime Minister in May 2014, the Government enjoyed a rather widespread support and was able to pass through the Parliament important reforms and initiatives (liberalisation of FDI in insurance - where the cap was increased to 49% through the adoption of the long-awaited Insurance Law, in medical devices, defence and railways).

The litmus test in terms of economic reforms will be the capacity of the Indian government to push through the Parliament two key pieces of legislation: the Goods and Services Tax, which would replace into one system the plethora of different fiscal regimes of the different States, contributing by this to the creation of a truly Indian single market; and the Land Acquisition Bill, facilitating the purchase of land for industrial purposes.

Very recently the Indian Government looked keen to improve the government procurement policy in the country. It is likely that they will reintroduce the procurement legislation to Parliament. Although the timeline is unclear, the Public Procurement Bill (the 2012 version lapsed and was never reintroduced in the Parliament) was published in April for public consultations.

The new India's Foreign Trade Policy was adopted on 1 April 2015 for the period 2014-2019. It aims at increasing exports of goods and services as well as at generating employment and increasing value addition in the country. Priority is given to trade facilitation, ease of doing business provisions, export facilitation and support (focus is on exports of high value addition products like pharmaceuticals, defence-related and environmental friendly goods), and geographical diversification of exports.

The Government of India has taken up a series of measures to improve Ease of Doing Business. The emphasis has been on simplification and rationalization of the existing rules and introduction of information technology to make governance more efficient and effective.

A report titled "Assessment of State Implementation of Business Reforms" was released on 14th September 2015. The report captures the findings of an assessment of reform implementation by States, led by Department of

[1] http://www.imf.org/external/pubs/ft/weo/2016/update/01/index.htm#footT1

Industrial Policy & Promotion (DIPP) under Ministry of Commerce and Industry, Government of India with support from World Bank group and KPMG. This assessment has been conducted to take stock of reforms implemented by States in the period January 1 to June 30 2015 based on a 98-point action plan for business reforms agreed between DIPP and State/UTs and rank them according to the ease of doing business.

The assessment reveals that States are at different levels of implementation on the 98-point action plan. The implementation status of each State has been converted to a percentage, and, on the basis of this the State rankings have been calculated.

Rank	State	Score	Rank	State	Score
1	Gujarat	71.14%	17	Himachal Pradesh	23.95%
2	Andhra Pradesh	70.12%	18	Kerala	22.87%
3	Jharkhand	63.09%	19	Goa	21.74%
4	Chhattisgarh	62.45%	20	Puducherry	17.72%
5	Madhya Pradesh	62.00%	21	Bihar	16.41%
6	Rajasthan	61.04%	22	Assam	14.84%
7	Odisha	52.12%	23	Uttarakhand	13.36%
8	Maharashtra	49.43%	24	Chandigarh	10.04%
9	Karnataka	48.50%	25	Andaman and Nicobar Islands	9.73%
10	Uttar Pradesh	47.37%	26	Tripura	9.29%
11	West Bengal	46.90%	27	Sikkim	7.23%
12	Tamil Nadu	44.58%	28	Mizoram	6.37%
13	Telangana	42.45%	29	Jammu and Kashmir	5.93%
14	Haryana	40.66%	30	Meghalaya	4.38%
15	Delhi	37.35%	31	Nagaland	3.41%
16	Punjab	36.73%	32	Arunachal Pradesh	1.23%

Figure 1: Source: Assessment of State Implementation of Business Reforms, September 2015 published by DIPP

India was ranked 142nd in Doing Business Report, 2015. The World Bank has released Doing Business Report, 2016 on 27th October, 2015. India is ranked at 130 (against a recalculated rank of 134th for 2015). India's rank has improved in 'starting a business', 'dealing with construction permit' and 'getting electricity' indicators.

2. Major Initiatives: Improving 'Ease of Doing Business' in India.

- Department of Commerce, Government of India has launched Indian Trade Portal www.indiantradeportal.in

- Important feature of this portal is to provide information on measures other than tariff called the non-tariff measures like standards, technical regulations, conformity assessment procedures, sanitary and Phytosanitary measures which may affect trade adversely. The portal is in fact a single point for almost all the information required by an exporter in a user friendly manner which will help exporters in accessing markets easily and in comprehensive manner.

- Process of applying for Industrial License (IL) and Industrial Entrepreneur Memorandum (IEM) has been made online and this service is now available to entrepreneurs on 24x7 basis at the eBiz website. This had led to ease of filing applications and online payment of service charges. 20 services are integrated with the eBiz portal which will function as a single window portal for obtaining clearances from various governments and government agencies. These lists of integrated services are given below.

Annexure A: List of 20 Central Government Services(Integrated)		
Sl. No.	**Ministry/ Dept. Name**	**Service Name**
1	Ministry of Corporate Affairs	Name Availability
2	Ministry of Corporate Affairs	Director Identification Number
3	Ministry of Corporate Affairs	Certificate of Incorporation
4	Ministry of Corporate Affairs	Commencement of Business
5	Central Board of Direct Taxes	Issue of Permanent Account Number (PAN)
6	Central Board of Direct Taxes	Issue of Tax Deduction Account Number (TAN)
7	Reserve Bank of India	Advanced Foreign Remittance (AFR)
8	Reserve Bank of India	Foreign Collaboration-General Permission Route (FC-GPR)
9	Employees' Provident Fund Organization	Employer Registration
10	Employee's State Insurance Corporation	Employer Registration
11	Petroleum and Explosives Safety Organization	Issue of Explosive License
12	Directorate General of Foreign Trade	Importer Exporter Code License
13	Department of Industrial Policy and Promotion	Industrial License
14	Department of Industrial Policy and Promotion	Industrial Entrepreneur Memorandum
15.	Department of Heavy Industry (DHI)	Issue of custom duty concession certificate to entrepreneurs under project import scheme
16.	Central Board of Direct Taxes (CBDT)	Changes or correction in PAN data
17.	Reserve Bank of India	Foreign Currency- Transfer of Shares
18.	Ministry of Labour and Employment (MoL&E)	Registration under the Contract Labour Act, 1970
19.	Ministry of Labour and Employment (MoL&E)	Registration under the Building and other construction workers Act, 1996
20.	Ministry of Labour and Employment (MoL&E)	Registration under the Inter-State Migrant Workmen Act, 1979

- Notification has been issued on 12-03-2015 by DGFT to limit number of documents required for export and import to three.

- Ministry of Corporate Affairs has introduced an integrated process of incorporation of a company, wherein applicants can apply for Director's Identification Number (DIN) and company name availability simultaneously to incorporation application [Form INC-29].

- The Companies (Amendment) Act, 2015 has been passed to remove requirements of minimum paid-up capital and common seal for companies. It also simplifies a number of other associated regulatory requirements.

- A comparative study of practices followed by the States for grant of clearance and ensuring compliances was conducted through M/s Accenture Services (P) Ltd. and six best practices were identified. These were circulated among all the states for peer evaluation and adoption. The study has also identified important bottlenecks faced by industries and important steps required to improve the business environment in States. DIPP has prepared and released Business Reform Action plan 2016 for states/union Territories (UTs)

- Application forms for Industrial Licence (IL) and Industrial Entrepreneur Memorandum (IEM) have been simplified.

    - Vide Press Note 3 (2014), Defence products' list for industrial licensing has been issued, wherein large number of parts/components, castings/forgings etc. have been excluded from the purview of industrial licensing. Similarly dual use items, having military as well as civilian application (unless classified as defence item) will also not require Industrial License from defence angle. For these items only an Industrial Entrepreneur Memorandum (IEM) has to be filed.

    - Vide Press Note 5 (2014), initial validity period of Industrial License has been increased to three years from two years. This will give enough time to licensees to procure land and obtain the necessary clearances/approvals from authorities.

        - Government extends validity of industrial licences to 7 years: Press Note 5 (2015)

    - Ministry of Home Affairs (MHA) has stipulated that it will grant security clearance on Industrial Licence Applications within 12 weeks. In matters other than Explosives and FIPB cases, security clearances are valid for three years unless there is a change in composition of management or shareholding.

- Partial commencement of production is being treated as commencement of production of all the items included in the license. This has obviated the hardship of licensees to get their Industrial License extended even though they have started production.

- To facilitate investors and to reply to their queries, Frequently Asked Questions (FAQs) by applicants for grant of industrial license have been developed and uploaded on DIPP website.

- Vide Press Note 4 (2014), the National Industrial Classification (NIC) Code NIC 2008 has been adopted, which is the advanced version of industrial classification. This code will allow Indian businesses to be part of globally recognized and accepted classification that facilitate smooth approvals/registration.

- Vide Press Note 6 (2014), the 'Security Manual for Licensed Defence Industry' has been issued. This has obviated the requirement of affidavit from applicants. Earlier, an affidavit signed before Judicial Magistrate was required from the applicant to confirm that they will comply with the safety & security guidelines/procedures laid down by the Ministry of Defence and Ministry of Home Affairs in Government of India. The applicants were facing difficulties in obtaining such affidavit and this was severely delaying the issue of License even after approval of Licensing Committee.

- A checklist with specific time-lines has been developed for processing all applications filed by foreign investors in cases relating to Retail/NRI/EoU foreign investments. This has been placed on the DIPP website.

- An Investor Facilitation Cell has been created in 'Invest India' to guide, assist and handhold investors during the entire life-cycle of the business.

  - http://newsweb.hk.uae.uc.cn/p/detail/db8e87aad77933df455364b95f44565e?uc_param_str=dnfrpfbivesscpgimibtbmntnisieijblauputoggdnw

- Special Economic Zone (SEZ) Units allowed removing goods for repair, replacement, testing, calibration, quality testing and research and development on self-attestation.

- Process of applying for Environment and Forests clearances has been made online through Ministry of Environment and Forests and Climate Change's portals http://environmentclearance.nic.in/ and http://forestsclearance.nic.in/ .

- Requirement for Environment Assessment Report is required for industrial shed, school, college, hostel for education institution above 20,000 square meters of build-up area up to 150,000 square meters of build-up area.

- Employees Provident Fund Organization (EPFO) and Employees State Insurance Corporation (ESIC) processes have been automated and ESIC registration number is being provided on a real-time basis.

- An order facilitating revival and rehabilitation of Micro, Small and Medium Enterprises (MSMEs) through banker's committee has been issued by Ministry of MSME.

- A unified portal for registration of Units for LIN, reporting of inspection, submission of returns and grievance redressal has been launched by Ministry of Labour and Employment.

- DIPP has requested all Secretaries of Government of India and Chief Secretaries of the States/UTs to simplify and rationalize the regulatory environment. In order to improve the regulatory business environment they have been requested to take the following measures on priority: a) All returns should be filed on-line through a unified form; b) A check-list of required compliances should be placed on Department's web portal; c) All registers required to be maintained by the business should be replaced with a single electronic register; d) No inspection should be undertaken without the approval of the Head of the Department; and e) For all non-risk, non-hazardous businesses a system of self-certification should be introduced.

- Introduction of Electronic Delivery Orders Central Board of Excise & Customs

- Department of Industrial Policy and Promotion (DIPP) under Ministry of Commerce have set up an 8-member expert panel for quick redressal of grievances and queries of global and domestic investors.

- State: Maharashtra
    - Registration process of VAT and Professional tax has been merged into a single process with single ID on 1st January, 2015 by the Government of Maharashtra.
    - The time required for giving a new electric connection in Mumbai has been reduced to 21 days from 67 days. The number of procedures involved has been cut down to 3 from existing 7

- State: Delhi
    - Registration for VAT in Delhi has been made online. TIN allotment is done real-time and business can start immediately on receipt of TIN number.
    - Simplified procedure for new electric connection in Delhi with reduced procedures and time.
    - Municipal Corporation of Delhi has launched online application process for grant of construction permits for residential and industrial buildings on 16th March, 2015 and commercial buildings in May, 2015.

3. Liberalized Foreign Direct Investment Regime

The Government has put in place a policy framework on Foreign Direct Investment (FDI), which is transparent, predictable and easily comprehensible. This framework is embodied in the Circular on Consolidated FDI Policy, which may be updated every year, to capture and keep pace with the regulatory changes, effected in the interregnum. In the following key sectors/activities, FDI up to the limit indicated against each sector/activity is allowed, subject to applicable laws/regulations; security and other conditionalities.

- 100% FDI permitted in Telecom Sector
- 100% FDI permitted in Asset Reconstruction Companies
- 100% FDI in single-brand retail
    - In the area of single-brand retail, the Government has clarified that for 'state-of-art' and 'cutting edge technology', the 30 per cent sourcing norms can be relaxed subject to Government approval.
- 100% FDI in Pharmaceuticals sector
- 100% FDI permitted in Railways
- 100% FDI permitted in Construction
    - In the construction development sector, the requirements of minimum capitalization of $ 5 million within the period of six months of commencement of business and conditions of area restriction have been removed. The Government has also decided to allow the same entity to carry out both wholesale and single brand retail trading relaxing the current rule that an entity can't be engaged in both activities at the same time.
- 100% FDI permitted in Medical Devices
- 100% FDI permitted in broadcasting sector
    - FDI cap in the broadcasting sector has been raised to 100 percent from 74 percent for broadcasting carriage services like teleports, direct to home (DTH), cable network and mobile TV. In broadcasting content services including FM radio and up-linking of 'news & Government route current affairs' TV channels, the FDI cap has been raised to 49 percent from 24 percent.
- 100% FDI in While Label ATM operations
    - The government has reviewed the extant FDI policy and decided to allow foreign investment up to 100 per cent in While Label ATM operations under the automatic route. This will enable foreign investors to invest up to 100 percent equity in white label ATM operations.

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To promote financial inclusion, the Union Cabinet on September 9 approved the FDI policy in this regard. White labeled ATMs are set up by private non-bank companies that own and operate their own brand of ATMs. The companies seeking to set up such ATMs would have to follow certain conditions. Any non-bank entity intending to set up WLAs should have a minimum net worth of Rs 100 crore as per the latest financial year's audited balance sheet, which is to be maintained at all times. In case the entity is engaged in any other 18 Non-Banking Finance Companies (NBFC) activities, then the foreign investment in the company setting up WLA shall also have to comply with minimum capitalization norms for foreign investments in NBFC activities.

- 49% FDI permitted in Defence
    - In the defence sector, foreign investment up to 49 percent will be under automatic route, instead of being routed through the Foreign Investment Promotion Board (FIPB). Proposals over 49 percent will be scrutinised by the FIPB. The amendment, however, does not mention doing away with requirement of Cabinet Committee of Security (CCS) nod for proposals over 49 percent.
- 49% FDI permitted in Insurance and pension funds
- In addition to tea plantation, the Government has now decided to open certain up other plantation activities to 100 percent FDI including coffee, rubber, cardamom , palm oil tree and olive oil tree plantations.
- In the banking sector, full fungibility of foreign investment is to be allowed in private banking sector. “Accordingly, FIIs/FPIs/QFIs, can now invest up to sectoral limit of 74 percent, provided that there is no change of control and management of the investee company.
- Certain conditions of FDI policy on agriculture and animal husbandry, and mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities have been simplified.
- Regional carriers are allowed to offload up to 49 percent stake to overseas entities without seeking Foreign Investment Promotion Board (FIPB) nod. Meanwhile, foreign equity caps in non-scheduled air transport and ground-handling services have been increased to 100 percent from 74 percent.
- Overhauling of Import and Export Policy: In order to give a boost to India’s exports and for diversification of Indian export markets and products, the Government has recently announced its Foreign Trade Policy (FTP) 2015-20. Highlights of the Foreign Trade Policy (FTP) 2015-20 are available here
- Govt. amends law on arbitration to attract FDI: Amid its keenness to attract the maximum foreign investment, the government has amended to the Arbitration and Conciliation Act, 1996, as The Arbitration and Conciliation (Amendment) Act, 2015 aimed at giving a message that settling commercial disputes in India will no longer be a time-consuming affair, a senior government official said today.

4. Major Initiatives: Investor Friendly

- **Startup India**

Startup India is a flagship initiative of the Government of India, intended to build a strong eco-system for nurturing innovation and Startups in the country that will drive sustainable economic growth and generate large scale employment opportunities. The Government through this initiative aims to empower Startups to grow through innovation and design. In order to meet the objectives of the initiative, Government of India is announcing this Action Plan that addresses all aspects of the Startup ecosystem. With this Action Plan the Government hopes to accelerate spreading of the Startup movement:

- From digital/ technology sector to a wide array of sectors including agriculture, manufacturing, social sector, healthcare, education, etc.; and
- From existing tier 1 cities to tier 2 and tier 3 cities including semi-urban and rural areas.

The Action Plan is divided across the following areas:

- Simplification and Handholding
- Funding Support and Incentives
- Industry-Academia Partnership and Incubation

- **Government exempts foreign companies without PE from paying MAT**

Foreign companies that do not have a permanent establishment (PE) in India will be exempt from paying minimum alternate tax (MAT) on profits from April 2001. In a big relief to foreign firms, government today said the Income Tax Act will be amended with retrospective effect to exempt from MAT the overseas companies that are covered under double taxation avoidance agreements. Foreign companies that do not have a permanent establishment in India will be exempt from paying minimum alternate tax (MAT) on profits from April 2001.

The provisions of Section 115JB of Income Tax will not apply to foreign companies with effect from April 1, 2001, if they are resident of a country with which India has Double Taxation Avoidance Agreement (DTAA) and they do not have a permanent establishment (PE) in India. In case the companies belong to countries with which India does not have a DTAA, the MAT exemption will apply if they are exempted from registration under Section 592 of the Companies Act 1956, or Section 380 of the Companies Act 2013. An appropriate amendment to the Income-tax Act in this regard will be carried out," the Finance Ministry said. Earlier this month, the government had exempted foreign institutional and portfolio investors from payment of MAT on the capital gains made by them before April 1, 2015.

The Budget 2015-16 had already exempted FIIs/FPIs from paying the levy on gains made after April 1. The government had decided to amend the Income Tax Act to clarify the issue with regard to levy of MAT on FIIs and in the meantime CBDT field officers will be asked not to pursue cases against FIIs. Through the amendment the government will clarify that MAT provisions will not be applicable to FIIs/FPIs not having a place of business/permanent establishment in India, for the period prior to April 1, 2015.

- **Government relaxes compliance provisions for private companies**

- The Corporate Affairs Ministry has made 16 changes to the provisions governing private companies in the new company law. Keeping up with its promise of making life easier for private companies, the Government has now exempted such companies from several provisions of the new company law enacted in 2013. Besides providing exemptions, the Corporate Affairs Ministry has also provided certain relaxations, which will together make 'private companies' as the preferred vehicle for incorporation in India. In all, about 16 changes have been made to the provisions governing private companies in the new company law. Significant among the latest changes is the move to exempt private companies from complying with the new company law provisions on related party transactions (RPTs). The new company law had wanted private companies to comply with detailed provisions on such transactions, including the most stringent one of seeking nod from disinterested directors and shareholders. Now, with the latest MCA move, private companies will be freed from the hassle of getting disinterested vote and should definitely bring cheer to them, say corporate experts. Getting a disinterested vote is generally not possible in a private company situation where there are few members who are mostly related to one another, it was submitted. Interestingly, the RPT provisions in the erstwhile company law (1956 Act) did not exempt private companies. The relaxations were always in the offing given that the draft of the proposed changes was released for public comments in June 2014 itself.

Another change that could spell some good news for the audit fraternity is the exclusion of private companies from the audit cap norm. Audits of private companies would not be counted for deciding on the audit cap of 20 audits per partner. With the corporate affairs ministry having expanded the number of exemptions, the balance has clearly tilted to private companies as against public companies from compliance perspective, say legal experts. The Corporate Affairs Ministry has also provided several exemptions to Government companies, nidhi companies as part of efforts to improve the ease of doing business in India.

- **Consolidated Master Direction Document for Reporting under Foreign Exchange Management Act**

Foreign Exchange Management Act, 1999 (FEMA) is administered through the authorised persons and is based on the declarations and averments made to them by persons while undertaking the transactions. The Reserve Bank, therefore, has prescribed various reports and forms under FEMA to be submitted by/ through Authorised Persons/ Authorised Dealer Category – I Banks/ Authorised Banks. Accurate compilations and timely submission of these reports are of critical importance as they not only act as a supervisory tool but also help in fine-tuning the policies relating to foreign exchange transactions regulated under FEMA. The various reports/ forms required to be submitted under FEMA are consolidated under this Master Direction.

- **Consolidated Master Direction Document for Import of Goods and Services**

  Import of Goods and Services into India is being allowed in terms of Section 5 of the Foreign Exchange Management Act 1999 (42 of 1999), read with Notification No. G.S.R. 381(E) dated May 3, 2000 viz. Foreign Exchange Management (Current Account Transaction) Rules, 2000. These Regulations are amended from time to time to incorporate the changes in the regulatory framework and published through amendment notifications. Within the contours of the Regulations, Reserve Bank of India also issues directions to Authorised Persons under Section 11 of the Foreign Exchange Management Act (FEMA), 1999. These directions lay down the modalities as to how the foreign exchange business has to be conducted by the Authorised Persons with their customers/constituents with a view to implementing the regulations framed. Instructions issued on import of goods and services into India have been compiled in this Master Direction.

5. Other Initiatives in the pipeline

- **Revised Model Text for the Indian Bilateral Investment Treaty**

  The Union Cabinet has given its approval for the revised Model Text for the Indian Bilateral Investment Treaty. The revised Indian model text for Bilateral Investment Treaty (BIT) will replace the existing Indian Model BIT. The revised model BIT will be used for re-negotiation of existing BITs and negotiation of future BITs and investment chapters in Comprehensive Economic Cooperation Agreements (CECAs)/ Comprehensive Economic Partnership Agreements (CEPAs) / Free Trade Agreements (FTAs). The new Indian Model BIT text will provide appropriate protection to foreign investors in India and Indian investors in the foreign country, in the light of relevant international precedents and practices, while maintaining a balance between the investor's rights and the Government obligations. A BIT increases the comfort level and boosts the confidence of investors by assuring a level playing field and non-discrimination in all matters while providing for an independent forum for dispute settlement by arbitration. In turn, BITs help project India as a preferred foreign direct investment (FDI) destination as well as protect outbound Indian FDI. The essential features of the model BIT include an "enterprise" based definition of investment, non-discriminatory treatment through due process, national treatment, protections against expropriation, a refined Investor State Dispute Settlement (ISDS) provision requiring investors to exhaust local remedies before commencing international arbitration, and limiting the power of the tribunal to awarding monetary compensation alone. The model excludes matters such as government procurement, taxation, subsidies, compulsory licenses and national security to preserve the regulatory authority for the Government.

- **Bankruptcy bill introduced in Parliament**

  The Government tabled in the Lower House (Lok Sabha) the Insolvency and Bankruptcy Bill, 2015, proposing to enact a single bankruptcy code setting deadlines for processing insolvency cases. The Insolvency and Bankruptcy Code, 2015, will replace the existing bankruptcy laws to make it easy for investors to exit within a fixed time frame, in an effort to improve the ease of doing business in India. The proposed bankruptcy code will cover individuals, companies, limited liability partnerships and partnership firms, and proposes a time-bound framework. It will also amend laws including the Companies Act to become the overarching legislation to deal with corporate insolvency. The bill will "consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time-bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interest of all the stakeholders including alteration in the order of priority of payment of government dues and to establish an Insolvency and Bankruptcy Fund", the government said.

- **Finance Ministry to ease transfer pricing rules: Move to simplify tax regime, reduce litigation and help improve business environment**

  The finance ministry is streamlining safe harbour rules and advance agreements, two mechanisms to determine the price of services rendered by a multinational to its subsidiary in India. Safe harbour rules - directives on margins the tax authorities should accept for the transfer price declared by an assessed - have drawn a tepid response since they were introduced a couple of years ago. There is also a huge backlog in advance pricing agreements (APAs), an ahead-of-time understanding between a taxpayer and the tax authority on an appropriate transfer pricing methodology. The move would simplify the tax regime, reduce litigation and help improve the business environment. The steps will involve lowering the margins in safe harbour rules and definitions will be reworked to remove ambiguities. India announced the safe harbour rules in 2013, but the high margins of up to 25 per cent on total operational profits have made it unattractive for companies to use them. The lowering of safe harbour rates will ease the advance pricing agreement backlog. The government introduced the advance pricing scheme in 2012 and there are over 500 applications pending.

  Among measures recently introduced, the government said an officer would be assigned not more than 50 important and complex transfer pricing cases. Officers typically audit more than 70 cases at a time. Besides, the tax department has incorporated range and multi-year data in transfer pricing calculations to bring Indian laws in line with international practices. Earlier, single-year data and the arithmetic mean were used to arrive at transfer pricing. Earlier this year, the finance ministry allowed rollback advance pricing agreements so that multinational companies could settle taxes for previous years as well.

- **Government may open educational and legal services to foreigners**

  The government is planning to open its education and legal services to foreigners, a move aimed at boosting the country's services sector. Explaining the country's approach to open education sector, the commerce secretary said that in the beginning, opening online courses could be an option. About opening legal services for foreign players, she said the Commerce Ministry's intention is to work with Bar Council of India (BCI) to move in a direction which is "calibrated and always reciprocal". The government is also in consultation with the Society for Indian Law Firms for this. Opening up of these two sectors is under discussion of the Committee of Secretaries. The Advocates Act, which is administered by the BCI, provides for foreign lawyers or law firms to visit India on a reciprocal basis for temporary periods to advise their clients on foreign law and diverse international legal issues.

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