

## **OPPORTUNITIES, CHALLENGES AND REFORMS IN DOING BUSINESS IN INDIA**

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### **Abstract**

India a potential investment hub and one of the fastest growing economies in the world lags behind in terms of ease of doing business. It has been repeatedly ranked low according to World Bank's ease of doing business ranking. Present study is an assessment of business environment of India and it finds, despite two decades of economic reforms, there are many issues on which India continues to falter. This study is mainly based on findings of World Bank ease of doing report, 2016. The vulnerability of our country's current standing in the doing business index means that there are many critical issues which need to be addressed. This study brings to limelight various issues related to doing business in India and highlights major business reforms initiated by Government of India till now. It also serves as a reference point for the imminent need to pursue reforms in business practices and processes prevalent in India.

### **Objectives of the study**

1. To assess opportunities and challenges in doing business in India.
2. To highlight business reforms initiated by Government of India to improve India's rank in the World Bank Group's Doing Business Study.

### **Research Methodology**

Based on World Bank Ease of Doing Report released in the year 2016, India's ranking has been compared with the top rankers on basis of ten sub indices such as starting a business, dealing with construction permits, getting electricity, getting credit, protecting investors, registering property, paying taxes, trading across border, enforcing contracts or resolving

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insolvency and reasons for lower rank has been tried to be found on the basis of secondary data available in the form of various published reports.

### **Why is India a favoured investment destination?**

"India continues to be a robust economy and investments will come in because of fundamentals of the economy and because of the strength and resilience of the economy and return that India offers post tax," said Shaktikanta Das, Economic Affairs Secretary of India. According to Shri Pinak Ranjan Chakravarty, Secretary (Economic Relations), Ministry of External Affairs "Nearly two decades of economic liberalization, coupled with robust domestic demand, a growing middle class, a young population and a high return on investment, make India a credible investment destination. In the new global dynamics, India has assumed the role of a lead player on the economic stage. India's economic growth in the last two decades has garnered immense investor interest". India is one of the fastest growing economies in the world and has emerged as a key destination for foreign investors in recent years. Economic reforms were initiated in 1991 to create investor friendly environment and these have grown in scope and scale and have started yielding dividends. India has also emerged as a significant investor abroad which is a reflection of the growing maturity of its economy. Even when the world was facing global economic crisis and recession and suffered negative growth rates, India continued to grow.

The long-term positive growth prospective of the Indian economy due to its young population, corresponding low dependency ratio, healthy savings and investment rates, increasing integration into the global economy and many other reasons can be attributed for making India a favoured destination.

- India is among the world's leading growth economies. After the US and China, India is the world's third-largest economy, having overtaken Japan in PPP terms. According to Trading Economics global macro models and analysts expectations. According to 14th biannual Global Capital Confidence Barometer (CCB) - Technology report by EY the US, the UK, India, China and Germany are the top five destinations for technology investment. India's reputation as an IT and IT-enabled services powerhouse has received a great impetus with the heightened velocity of the global digital transformation.

- GDP Annual Growth Rate in India is expected to be 7.20 percent by the end of the quarter June, 2016, and in the long-term, the India GDP Annual Growth Rate is projected to trend around 5.70 percent in 2020.
- India is adopting international “best practices” in the production of a range of goods and services.
- According to Sunil Devmurari, Country Manager, Euromonitor, India not only supports one of the largest populations in the world, but also one of the youngest. Fifty per cent of its population is below the age of 25 and two-thirds below the age of 35 creating one of the largest consumer markets in the world. It's no surprise it's attracting businesses the world over, keen to access these new customers. Also, about 65 per cent of Indians are in the working age group of 15 to 64 years, giving the country a significant edge in terms of cost competitiveness and low labour costs. Moreover, India's labour force has a strong knowledge base with a significant English-speaking population, making it a top destination for multinational corporations that are looking to expand their overseas operations for market and talent. "Two hundred and fifty million people are set to join India's workforce by 2030.
- Political stability, well developed banking system, vibrant capital market and broad consensus on reforms is also a big pull for foreign investments in India.
- According to FDI Intelligence, a division of The Financial Times Ltd. India has become the highest ranked country by capital investment and replaced China as top destination for foreign direct investment by attracting \$63 billion worth FDI projects in 2015. Major companies such as have agreed to invest in projects valued at \$5 billion and \$4 billion, respectively, in India in 2015. Many other international giants like Amazon, Starbucks, Uber, Foxconn, SunEdison and even the US presidential candidate Donald Trump have expanded their businesses to India. Global investment community is offered variety of Investment opportunities in recent past in number of sectors like multi-brand retail , civil aviation markets ,insurance, pension sectors etc. Six leading South Korean cosmetic companies have made their debut in India with an array of cosmetic and wellness products, entering into a joint venture with Indian firms to eventually make them in India. A tripartite agreement was also signed by PLK with the Uttar Pradesh government and RE for setting up a manufacturing facility in India. (Six South Korean cosmetic giants debut in India, 2015)
- According to Dhruv Ratra, CEO of Anglian Omega Network India provides a good balance between a fast-growing economy and one that happens to be relatively open and transparent.

- Emerging middle class: the rising middle class in India is globally significant. It is expected that the absolute number of India's middle class will touch 1 billion by 2039 and The Indian consumer market will grow 2.5 times by 2025. This rise of India's "new middle class" is globally significant as it will usher foreign investments in India. By 2040, nine out of every ten Indians will belong to 'the global middle class group' with daily expenditures ranging between US\$ 10 and US\$ 100 per person in today's purchasing power parity terms.
- With China slowing and providing multiple barriers to entry, and Europe stagnating, there are very few places in the world that provide the opportunities that India does. (Tharoor, 2016)

### Doing business in India:

Despite growth potential of India, doing business in India can still be a troublesome endeavour due to many bottlenecks. India's rank in the Doing Business Report 2015 was 142 among 189 countries which improved to 130 in the Doing Business Report, 2016. Even amongst Economies in South Asia, India stands at number 5 out of 8 economies with tiny countries Bhutan, Nepal, Sri Lanka and Maldives ahead of it. India has also ranked poorly in the Business Freedom Indicator-123 out of 178 –in the 2016 Index of Economic Freedom published by The Wall Street Journal and The Heritage Foundation. The situation is a clear call to action—a need for a transformational initiative to take service delivery to the next level.

**Table 1: Ranking of Economies in South Asia Region on their Ease of Doing Business**

Economy	Ease of Doing Business Rank	Starting a Business	Dealing with Construction Permits	Getting Electricity	Registering Property	Getting Credit	Protecting Minority Investors	Paying Taxes	Trading Across Borders	Enforcing Contracts	Resolving Insolvency
Bhutan	71	1	3	5	1	1	2	6	1	1	8
Nepal	99	2	5	4	4	2	6	4	4	2	2
Sri Lanka	107	3	4	3	3	5	3	3	7	3	5

Lanka												
Maldives	128	4	2	1	5	6	5	7	5	5	2	4
India*	130	5	8	7	2	4	1	1	6	4	7	5
Pakistan*	138	6	7	2	7	3	6	2	8	6	3	3
Bangladesh*	174	7	6	6	8	8	6	5	2	7	8	6
Afghanistan	177	8	1	8	6	7	3	8	3	8	6	7

Source: World Bank

### Problems:

There's no doubt there are many rich investment opportunities in India, but they're scattered over an obstacle course of opaque rules and regulations. (Barhat, 2015)

## 1. Starting a Business

**Table 2: Doing Business Rankings 2016: Starting a business index**

	Singapore	India		Hongkong	Newzealand	Canada	Macedonia, FYR
Year		2016	2015				
Rank	10	155(↑9)	164	4	1	3	2
		Mumbai	Delhi				
Procedures(number)	3	14	12	2	1	2	1
Time involved(days)	2.5	29	29	1.5	0.5	1.5	1.0
Cost incurred(% of	0.6	17	10.4	1.2	3	0.4	0.1

income per capita)							
new business entry density	9.51	0.12	31.3	16.63	1.28	3.7	
Number of new limited liability companies	38,306	98,029	167,280	49,156	30,904	5519	

Source: World Bank

- If we see the data on new business entry density, defined as the number of newly registered corporations per 1,000 working-age people (those ages 15–64), it is 0.12 against 16.63 in Newzealand and the number of new limited liability companies were 98,029 against 49,156 in Newzealand.

- (TOP 10 CHALLENGES OF DOING BUSINESS IN APAC, 2016)The cost of starting a business in India is astronomical, and the procedures involved can be daunting without local knowledge. There are 14 procedures in Mumbai and 12 in Delhi to complete in the initial set up of a business costing 17% and 10.4% of income per capita in Mumbai and Delhi respectively. It takes almost a month (29 days) in both Mumbai and Delhi to complete the tasks on average, which is well above Newzealand average of 0.5 days, the economy that tops the list in this aspect. As a result, India has ranked poorly at 155 out of 189 in starting a business indicator of World Bank’s Doing business 2016 ranking i.e. trying to start a business in India is harder than in 155 other countries

- Starting a new business or setting up a new industrial unit requires multiple license/clearances and related services from multiple Government agencies across various level of Government. The information about these services is fragmented in multiple acts, rules and procedures and scattered across multiple websites. As a result, an average investor is confused and does not know where to begin and is dependent on middlemen for guidance. After obtaining the relevant information through secondary research and middlemen, the investor has to begin a protracted series of interactions with multiple Government agencies. Each clearance requires multiple interactions with the agencies and often multiple visits to the department offices. The business user needs to apply for each service individually with the respective agency and make payments through a restricted set of Banks authorized by the agency. Even when the online channels are made available by the respective agencies, the

business user has to repeatedly submit largely similar information in repetitive fashion. Opportunity and compliances costs for business are significant, as the time and effort spent in liaising with multiple agencies could be devoted to other business-related activities. It is evident that the current process is Time-Consuming, Expensive and Cumbersome. (eBiz Mission Mode Project-An Overview, 2016)

## 2. *Dealing with construction permits*

**Table 3:Doing Business Rankings 2016: *Dealing with construction permits***

	Singapore	India		Hongkong	UAE	Newzealand	Australia
Year		2016	2015				
Rank	1	183(↑)	184	7	2	3	4
		Mumbai	Delhi				
Procedures(number)	10	40	28	11	8	10	10
Time involved(days)	26	147	231	72	43.5	93	112
Cost incurred(% of income per capita)	0.3	25.3	26.6	0.7	0.2	1.8	0.5
Building quality control index(0-15)	14	11	11	12	11.0	15	11.4

Source: World Bank

- As per World Bank this aspect tracks the procedures, time and costs to build a warehouse—including obtaining necessary licenses and permits, completing required notifications and inspections and obtaining utility connections.
- India is one of the worst countries for construction permits as the 2016 World Bank report of nations on their ease in dealing with construction permits found India has one of the most cumbersome and lengthy processes, ranking it 183rd among 189 countries i.e. seventh from bottom on this measure.
- Construction permits is a costly pursuit in India as it involves a number of procedure and a large time involved in getting clearances like Obtaining Intimation of Disapproval from the Building Proposal Office and paying fees takes around a month, and NOCs must be

sought from the Tree Authority, the Storm Water and Drain Department, the Sewerage Department, the Electric Department, the Environmental Department, the Traffic & Coordination Department, Fire Department, Planning Department and the CFO. But the task is a lot more complex than it sounds. Construction approvals involve multiple ministries: Civil Aviation, Environment & Forests and Climate Change, Housing and Urban Poverty Alleviation, Civil Aviation, Culture, Defence and Consumer Affairs (Aggarwal, 2016). In Singapore, on the other hand, there are far fewer procedures. A builder needs mainly to get approval from the urban redevelopment, building and construction, and fire safety authorities. It needs to “hold technical consultations” with the environment and water authorities and land transport authorities and simply get a water and sewerage connection. (Anand, 2014)

- In Mumbai and Delhi, on an average, it takes 147 and 231 days, respectively, to receive construction permits. Indian real estate developers often claim that the regulatory process is the single- biggest barrier to affordability of housing. In comparison, it takes only 26 days to get such a permit in Singapore, the easiest country in the world to do business. Urban policy experts and environmental economists have long maintained that no global city has environmental regulations which are as stringent as the ones in Indian cities. Environmental regulations tend to make the process even more time consuming because projects are often delayed because of litigation. But, the environment ministry has decided to cut down the norms builders are expected to comply with, from 30 to 6-8 (Shanu, ,2016).

- Construction norms also tend to be regressive because they are not progressively revised. So, even when technology progresses and when there are better methods of construction, builders are forced to do things inefficiently, to abide by regulations. Moreover, when the regulatory process is complex, long and ridden with ambiguity, corruption is more likely. Many policy analysts and developers maintain that the regulatory process is enough to break the back of any honest builder. This, again, raise the cost of housing, making it beyond the reach of most people. (Shanu, ,2016) While in Mumbai and Delhi, the cost incurred when applying for construction permits is 25.3 and 26.6 per cent, respectively, it is 0.3 in Singapore and 0.7 per cent in Hong Kong. In comparison to Singapore, Hong Kong, however, has expensive housing, partly because it is a land scarce country. It is also partly because of greater Government involvement in housing and because the city state’s record in registering property and trading across borders is not good. Yet, the quality of buildings is much better in Singapore and Hong Kong when compared with Delhi and Mumbai. (Shanu, ,2016)

### 3. Getting Electricity

Energy generation and consumption is a real source of power for a nation's industries. Power generation has always remained a challenging issue in India and it needs to be addressed on priority basis in order to meet its growth targets. Worldwide it is the energy that drives the economic growth of any nation, either in the form of finite resources such as coal, oil and gas or in renewable forms such as hydropower, wind, solar and biomass, or its converted form, electricity.

**Table 2:Doing Business Rankings 2016:Getting Electricity Index**

	Singapore	India		Hongkong	Newzealand	Korea	Germany	USA
Year		2016	2015					
Rank	6	70(↑29)	99	9	31	1	3	4
		Mumbai	Delhi					
Procedures (number)	4.0	5.0	5.0	4.0	5.0	3.0	3.0	3.0
Time (days)	31.0	53.0	123.0	28.0	58.0	18.0	28.0	32.0
Cost (% of income per capita)	25.9	76.5	766.7	1.3	75.2	39.8	42.0	23.5
Reliability of supply and transparency of tariff index (0-8)	8.0	6.0	5.0	7.0	7.0	8.0	8.0	7.0

Source: World Bank

- Getting electricity, this parameter for India witnessed a significant improvement in ranking from 99th in 2015 to 70th in 2016 due to many reforms that have been undertaken by

Government of India. However inadequate electricity is still the biggest hindrance to doing business in India, thus, the availability of power can create a multiplier effect on economic activity. The current power infrastructure in India is not capable of providing sufficient and reliable power supply. Some 400 million people have zero access to electricity since the grid does not reach their areas. The importance of electricity as a prime driver of growth is very well acknowledged and in order to boost the development of power system, the Indian government has participated in a big way through creation of various corporations such as, State Electricity Boards (SEB), NTPC Limited, NHPC Limited and Power Grid Corporation Limited (PGCL), etc. However, even after this the country is facing power shortage. (Millions of people in India have no electricity, 2016).

- The cost of getting electricity is relatively cheap in comparison to the rest of South Asia, but the number of procedures involved are daunting. What's more, each procedure is in itself quite time constraining, taking around eight days to receive an external site inspection and more than a month to get externally connected, have a meter installed and conduct a test installation. (TOP 10 CHALLENGES OF DOING BUSINESS IN APAC, 2016)

#### 4. Registering property

Registering a property requires quite a bit of legwork and can also incur substantial charges.

**Table 5: Doing Business Rankings 2016: Registering property index**

	Singapore	India		Hongkong	Newzealand	Denmark	Lithuania
Year		2016	2015				
Rank	17	138	138	59	1	9	2
		Mumbai	Delhi				
Procedures(number)	4	7	7	5	2	3	3
Time involved(days)	4.5	47	47	27.5	1	4	2.5
Cost incurred(% of property)	2.9	7	8	7.7	0.1	0.6	0.8

value)							
Quality of the land administration Index(0-30)	26.5	7.5	6.5	23	26	24.5	28.5

Source: World Bank

- Other area where India has hurdle in doing business is in registering property – the rank being 138 in 2015 and 2016, with no improvement.
- India's procedures for registering property, which average some seven procedures and 47 days, are quite higher than Newzealand which requires just 2 procedures and one day.
- According to Doing Business Report 2016 issued by World Bank, costs are relatively high in Indian cities, though, with registrations costing more, in terms of per capita income. Stamp duty of 5% of the property and a 1% charge on the market value of the property are the two important fees to look out for, although the cost to prepare the final sale deed with the purchaser's lawyer being 1% of the property value (About INR 45,000) and fees at the Land & Survey Office can also pinch.
- The quality of land administration index is measured as the sum of the scores on four other indices: the reliability of infrastructure, transparency of information, geographic coverage and land dispute resolution indices. Lithuania higher index indicates a higher quality of infrastructure, greater transparency of information on property titles and boundaries, greater geographical coverage and a fast and quick land dispute resolution. India has very little score in this index with just 7 points on an average out of 30.

## 5. Getting Credit

Credit is the life blood of business and yet it is choked in India by defective laws and legal delays. There are 2 types of systems that can facilitate access to finance and improve its allocation in an economy and these are:

- Whether **legal rights** of borrowers and lenders are secured?
- Whether adequate and qualitative **credit information** is available through credit registries and bureaus?

Only when the legal rights of creditors are secured they will lend with confidence. It is very difficult for Indian lenders to recover their dues that they are reluctant to lend to small and medium industry. And some studies find that creditor rights can help prevent some effects of

an economic crisis, since weak creditor protection and weak enforcement make credit markets more volatile. (Galindo, José, & Micco, 2007)

**Table6:Doing Business Rankings 2016: Getting Credit Index**

	Singapore	India		Hongkong	Newzealand	Columbia	Australia
Year		2016	2015				
Rank	19	42(-6)	36	19	1	2	5
		Mumbai	Delhi				
Strength of legal rights index (0-12)	8.0	6.0	6.0	8.0	12	12.0	3.0
Depth of credit information index (0-8)	7.0	7.0	7.0	7.0	8.0	7.0	2.5
Credit registry coverage (% of adults)	0.0	0.0	0.0	0.0	0.0	0.0	0.7
Credit bureau coverage (% of adults)	58.6	22	22	96	100	88.7	0.0

Source: World Bank

- India's performance with regard to getting loans has deteriorated. India performs the best of all South Asian economies for ease of getting credit, ranking 42<sup>nd</sup> in the world according to the World Bank and International Finance Corporation. In comparison to adjusted data from last year, India has slipped six spots when it comes to ease of getting credit, falling from 36<sup>th</sup> position in 2015 to 42<sup>nd</sup> place in 2016 implying that it has become much more difficult to get loans in India.

- It is very much evident from Strength of legal rights index wherein India gets 6 points against Newzealand and Columbia which get 12 on 12 points. Poor performance in this index by India shows less use of collateral and weakness in the enforcement of claims in the event of default.
- The second Index of Depth of credit information captures issues such as whether the data on both firms and individuals is distributed in credit reports? Do retailers or utility companies—in addition to—financial institutions provide credit information to credit registries and bureaus? A recent study found that after the introduction of new credit reporting systems in developing economies, access to credit grew twice as fast for small firms as for large ones **Invalid source specified..** In this index India scores 7 out of 8 points i.e. at par with Singapore, Hong kong and Columbia.
- Credit bureaus and credit registries are one way of increasing access to finance for individuals and small firms (Brown, Martin, & Zehnder, 2007). According to World Bank A credit bureau is defined as a private firm or non profit organization that maintains a database on the creditworthiness of borrowers (individuals or firms) in the financial system and facilitates the exchange of credit information among creditors. As the coverage value is 0.0%, that means no credit bureau operates in India.
- A credit registry is defined as a database managed by the public sector, usually by the central bank or the superintendent of banks, that collects information on the creditworthiness of borrowers (individuals or firms) in the financial system and facilitates the exchange of credit information among banks and other regulated financial institutions (while their primary objective is to assist banking supervision)(World Bank).The coverage value is 22% which is quite low as compared to Newzealand.The Credit Information Bureau (India) Ltd (CIBIL), owned by a consortium of banks and financial institutions, is the first and leading credit registry in India.

## 6. Protecting Investors

**Table 7:Doing Business Rankings 2016: Protecting Investors index**

	Singapore	India		Hongkong	Newzealand	Malaysia	UK
Year		2016	2015				
Rank	1	8	8	1	1	4	4
		Mumbai	Delhi				
Strength of	8.3	7.3	7.3	8.3	8.3	7.8	7.8

minority investor protection index (0-10)							
Extent of conflict of interest regulation index (0-10)	9.3	6.7	6.7	9.0	9.3	8.7	8.3
Extent of disclosure index (0-10)	10.0	7.0	7.0	10.0	10.0	10.0	10.0
Extent of director liability index (0-10)	9.0	6.0	6.0	8.0	9.0	9.0	7.0
Ease of shareholder suits index (0-10)	9.0	7.0	7.0	9.0	9.0	7.0	8.0
Extent of shareholder governance index (0-10)	7.3	8.0	8.0	7.7	7.3	7.0	7.3
Extent of shareholder rights index (0-10)	8.0	10.0	10.0	9.0	8.0	6.0	8.0
Extent of ownership and control index (0-10)	7.0	8.0	8.0	7.0	7.0	8.0	6.0
Extent of	7.0	6.0	6.0	7.0	7.0	7.0	8.0

corporate transparency index (0-10)							
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Source: World Bank

- India is the eighth best country in the world when it comes to protecting the interests of minority investors. This is the only sub-ranking where India figures among the top-ten countries globally and reflects the reforms carried out with regard to regulations for companies and capital markets including by the Securities and Exchange Board of India (SEBI) and the Ministry of Corporate Affairs. India strengthened minority investor protections by requiring greater disclosure of conflicts of interest by board members, increasing the remedies available in case of prejudicial related-party transactions and introducing additional safeguards for shareholders of privately held companies. While India's ranking has remained the same from the last year, the country is still ahead of many developed and major developing nations including the US (35th rank), Japan (36), Germany (49) and Australia (66). (PTI, 2015)
- The World Bank gave India a score of 6.7 out of 10 with regard to extent of conflict of interest regulations index, 8 on 10 for extent of shareholder governance index and 7.3 on 10 for strength of minority investor protection index. As per World Bank while the indicators do not measure all aspects related to the protection of minority investors, a higher ranking does indicate that an economy's regulations offer stronger minority investor protections against self-dealing in the areas measured.
- On the basis of Extent of disclosure index and Extent of director liability index it is proved that India has detailed disclosures and clear duties for directors.

## 7. Paying Taxes

**Table 8: Doing Business Rankings 2016: Paying Taxes index**

	Singapore	India		Hongkong	Qatar	Saudi Arabia
Year		2016	2015			
Rank	5	157(-1)	156	4	1	3
		Mumbai	Delhi			
Payments (number per	6	33	33	3	4	3

year)						
Time involved (hours per year)	83.5	243	243	74	41.0	64
Total tax rate (% of profit)	18.4	60.6	60.6	22.8	11.3	15
Corporate tax rate	17	30	30	16.5	n/a	n/a

- The ease of doing business in any country is also influenced by the stability and predictability of a country's taxation system, together with the ease of discharging a taxpayer's tax obligations. Businesses operating in India are required to make 33 tax payments a year, taking 243 hours' worth of attention. However in Qatar on the top of the list requires only 4 payments a year taking merely 41 hours.
- According to TMF group the headline corporation tax rate stands at 30%, but companies can also incur charges in the form of a central sales tax, dividend tax, property tax, fuel tax, vehicle tax, VAT and excise duty.
- The Indian taxation landscape has been characterized by ambiguous legislation posing interpretational challenges, an aggressive revenue administration that has sought to interpret taxation provisions in a manner prejudicial to the taxpayer, a long-drawn dispute-resolution mechanism as adverse tax assessments make their way through a clogged court system, and the requirement to pay up disputed tax claims (or run the risk of more punitive action) while the dispute resolution is still under way (Parikh, 2016). Considerable damage to international trade was also inflicted by retrospective amendments to the tax law to override a Supreme Court judgement in Vodafone case, thereby significantly raising the "unpredictability" quotient of Indian tax laws. Retrospective tax on Vodafone and Cairn Plc has generated a lot of controversy and has generated negative headlines globally. The outcome of this case is keenly awaited round the globe as it will cover various significant international tax aspects such as tax avoidance, use of tax havens, interpretation of favorable tax treaties, substance over form of a transaction, etc. and hence play a significant role in shaping India's future tax policy. It could also shape the behavior of global investors and cross-border acquirers (Tax alerts: the Vodafone case).

## 8. Trading Across Borders

It is well established that higher levels of Trade activities give a boost to the economy, create wealth, provide employment and lead to improved standards of living. Any country which

aspires to have a larger share of the World trade has to improve its trading environment and facilitate trading. Historically, India was the largest Trading country in the World and Indian goods were traded all across the globe, bringing in wealth and gold in exchange for the goods exported by Indian craftsmen. As such, India owed its wealth to its International Trade (TRADING ACROSS BORDERS: A Report on Improving 'Ease of Doing Business' in India, 2014). However, in recent times India has come down from the heights it had achieved in its glorious past and presently India's rank is 133 as per World Bank report. Despite India opening its borders to international trade, there are still several hurdles to overcome when importing and exporting goods.

- Transaction cost and time is quite high in India as compared to Austria which stands at rank 1. Even Sweden with rank 17 has negligible transaction cost and time. Even within India, to comply with border formalities, cost and time to export is high in Delhi as compared to Mumbai.
- Several layers of bureaucracy make it very challenging to move goods efficiently, and companies must file a long list of documents right from the contractual agreement between the 2 parties to the delivery of goods before moving goods across borders.

**Table9:Doing Business Rankings 2016: Trading Across borders index**

	Singapore	India		Hongkong	Austria	Sweden
Year		2016	2015			
Rank	41	133	133	47	1	17
		Mumbai	Delhi			
Time(Hours) and cost(USD) to export: Border compliance	12(Hours) 335(USD)	88(Hours) 368(USD)	128(Hours) 453(USD)	19(Hours) 282(USD)	0(Hours) 0(USD)	2(Hours) 55(USD)
Time(Hours) and cost(USD) to export: Documentary compliance (hours,USD)	4(Hours) 37(USD)	61(Hours) 104(USD)	24(Hours) 100(USD)	1(Hours) 52(USD)	1(Hours) 0(USD)	1(Hours) 0(USD)
Time(Hours)	35(Hours)	311(Hours)	266(Hours)	19(Hours)	0(Hours)	0(Hours)

and cost(USD) to import: Border compliance (hours,USD)	220(USD)	556(USD)	590(USD)	266(USD)	0(USD)	0(USD)
Time(Hours) and cost(USD)to import: Documentary compliance (hours,USD)	1(Hours) 37(USD)	67(Hours) 139(USD)	60(Hours) 150(USD)	1(Hours) 130(USD)	1(Hours) 0(USD)	1(Hours) 0(USD)

Source: World Bank

## 9. Resolving Insolvency

**Table 10:Doing Business Rankings 2016: Resolving Insolvency index**

	Singapore	India		Hongkong	Finland	Japan
Year		2016	2015			
Rank	27	133	133	26	1	2
		Mumbai	Delhi			
Time required to recover debt(appeals or requests for extension are included)	0.8	4.3	4.3	0.8	0.9	0.6
cost required to recover debt(% of debtor's estate )	3	9	9	5	3.5	3.5

Source: World Bank

- It takes 4.3 years to resolve insolvency in India, far longer than the Finland and Japan average. The laborious court system can often slow business relations. These delays are caused due to pendency of resolution cases in courts and confusion due to lack of clarity in the current bankruptcy framework (Dey, 2016).

- The costs associated with the case amount to approximately 9% of the value of the debtor's estate. According to World bank, costs incurred during the entire foreclosure process mainly include court or government agency fees (INR 300,000, according to Mumbai Court fees Act, 1959), attorney fees (INR 100,000), costs of notification and publication (INR 25,000), fees of accountants, assessors, inspectors and other professionals (INR 100,000), fees of auctioneers (INR 50,000), fees of service providers and/or government levies (INR 100,000-200,000), and other fees (INR 100,000).

## 10. Enforcing contracts

**Table 11: Doing Business Rankings 2016: Enforcing contracts Index**

	Singapore	India		Hongkong	NZ	Korea,Rep	Lithuania
Year		2016	2015				
Rank	1	178	178	22	15	2	3
		Mumbai	Delhi				
Time involved(days)	150	1420	1420	360	216	230	300
Cost incurred(% of claim)	25.8	39.6	39.6	21.2	27.2	10.3	23.6
Quality of judicial proceedings index(0-18)	15.5	7.5	7.5	11	11	13.5	14.5

Source: World Bank

**Table 12: Details of the Quality of judicial proceedings index(0-18)**

	Singapore	Mumbai	Hongkong	Korea,Rep	Lithuania
Court structure and proceedings (0-5)	5	3	4.5	3.5	3.0

Case management (0-6)	4.5	0.5	3.0	4	4.5
Court automation (0-4)	4.0	2	1.0	4	4.0
Alternative dispute resolution (0-3)	2.0	2	2.5	2	3.0
Total	15.5	7.5	11	13.5	14.5

Source: World Bank

- Enforcement of contracts is another major stumbling block for doing business in India as legal system can be slow and litigious. India is ranked 178th out of 191 countries surveyed by World Bank in terms of ease of enforcing a contract. We can see that situation is even worse than starting business in India as the rank for starting business in India is 178 out of 189 countries. No foreigner would like to invest in India if there is no guarantee to their investments because of poor judiciary.
- To enforce a contract in India, it takes an average of 1,420 days (more than 44 months). Of this, 1,095 days, or three years, are spent in “trial and judgment” against 118 days in Singapore which tops the rank and nearly a year is spent in India in enforcing the judgment against merely 26 days in Singapore, says the World Bank “Doing the Business Report”.
- Costs incurred in court charges and attorney fees in India are almost 40% of the claims value whereas in Korea it is just 10.3%.
- Solution is available if we see the wonderful economy of Korea, Rep which ranks second in the world when it comes to enforcing contracts. Since the mid-1980s, South Korea has pioneered the use of technology to upgrade its court procedures. It started with a few judges using a floppy disk to save court cases. Over time South Korea invested heavily in making the electronic case management system more efficient and user-friendly. In 2010, Korea launched the electronic case filing system, which enables electronic submission, registration, service notification and access to court documents. The e-court suite of services not only makes huge savings in terms of cost and space but also makes the court procedures

more secure, transparent, timely, and just. (News wrap: Improving the ease of doing business in India, 2014)

### **Reforms:**

Government of India is working extensively on improving India's rank in the World Bank Group's Doing Business Study. The following are a few notable reforms:

#### **1. Simple and easy start of a business**

- The Government of India has, in collaboration with the State Governments of Delhi and Maharashtra, undertaken significant reform measures to facilitate simple and easy start of a business in India and these measures are:

- Requirement of minimum paid up capital and common seal under the Companies Act 2013 done away with.

- Registration with ESIC and EPFO has been made real-time by eliminating all physical touch-points.

- There is no requirement to open a bank account which was earlier a mandatory condition for registration with ESIC and EPFO.

- PAN and TAN numbers can be issued within T+1 days, if an application is made using digital signatures on the ebiz platform and T+3 days without digital signature on CBDT's portal.

- Maharashtra state has combined the process of registration with VAT and profession tax. The registration will now be granted in 24 hours and the same has been adopted by Delhi VAT.

- Ministry of Corporate Affairs has launched Form INC 29 to avail 3 pre-registration services viz. 'Name Availability', 'Director Identification Number' and 'incorporation of company' with one form and one payment.

The above mentioned changes will help in bringing down the number of procedures and days taken to start a business which will reduce the costs involved as well.

#### **2. Reduction of processes for Construction Permits**

State Governments of Maharashtra and Delhi have undertaken notable reforms in order to ease the processes involved and reduce the time taken for grant of construction permit.

- Municipal Corporation of Greater Mumbai (MCGM) has completed the process of single window approval by integrating with internal departments as well as, AAI and NMA

through a common application form. NoCs from Maharashtra Industrial Development Corporation (MIDC), Director of Industries, Collector and Maharashtra Housing and Area Development Authority (MHADA) have been eliminated. MCGM has also introduced digital signing of building permit application, as well as sanctioned maps, thereby eliminating need of physical submission of documents. The manual application for grant of construction permits has been discontinued.

- Municipal Corporations of Delhi have completed the process of single window approval by integrating with internal departments as well as DMRC, Delhi Fire Services, DUAC, AAI and NMA through a common application form. NOC from Labor Department of Delhi Government is not required if no manufacturing activity is undertaken in the building. It has also introduced digital signing of building permit application, as well as sanctioned maps, thereby eliminating the need of physical submission of documents. Manual submission of application for grant of construction permits has been done away with. Ministry of Urban Development and Delhi Development Authority (DDA) have notified the Unified building Bye-laws. Color coded maps have been developed by AAI, NMA, DUAC and DMRC to enable applicants to determine whether NOC is required for the land for which permission is applied for. (Reforms undertaken towards doing business in India, 2016)

- Pimpri Chinchwad, Nagpur, Mumbai, Faridabad, Hyderabad and Surat have already taken an initiative to issue online building permits as per the ministry. This online citizen service for issuance of construction permits will be carried out to other cities also with computerization and automation. The government has also asked the civic bodies to examine the following possibilities. (Debby, 2015)

- ✓ If physical inspection of a proposed construction site is required, then the date may be fixed and communicated to the applicant.

- ✓ Requirement of "commencement notice" (that is commencement of construction building work) may be re examined. It can be either done away with, or coupled with some other existing procedure

- ✓ Merging of "completion certificate" and "occupancy certificate" for simplification

- ✓ PMC has online facility for issuing building permissions for individual owners, developers or site engineers. The applicants need to register themselves for online facility at the city engineers' office or ward offices.

- ✓ PCMC also has an online facility for issuing building permissions with an elaborate booklet on the procedures, and the documents required, and the development charges for

residential and commercial properties. If the application has all documents, the building permission would be granted in 15 days, says PCMC. This initiative comes under prime minister's vision 'Make in India' and upgrade India's ranking in ease of doing business to the top 50. The steps certainly going to help Indian Economy but it will more require observation from government side

- The government of India is planning to replicate Hong Kong's success of issuing each construction permit within 60 days. Fewer formalities and quicker approvals would help a lot to reduce project costs for real estate developers. Environmental regulations tend to make the process even more time consuming because projects are often delayed because of litigation. The environment ministry has also decided to reduce the number of conditions that developers have to meet from 30 to about six-eight, depending on the project size. These norms are related to water conservation, natural drainage, solid-waste management, energy, air quality, noise and green cover. For instance, a project coming up on a 50,000 to 150,000 sq m area will need to fulfill eight prescribed norms while smaller ones will have to meet just six conditions. "With clearance coming quickly, cost will come down. It will also cut down delays," said Sanjay Dutt, executive managing director (South Asia) of real estate brokerage firm Cushman & Wakefield. Similarly, the culture ministry has launched a cellphone app that would facilitate online approval for construction in the vicinity of monuments within 72 hours. The time taken now is 90 days. Urban policy experts and environmental economists have long maintained that no global city has environmental regulations which are as stringent as the ones in Indian cities. The Ministry of Civil Aviation will also help municipalities to decide how restrictive building height regulations should be in different areas, with colour-coded zonal maps. **(Gupta, 2016)**

- According to some studies in the US, accelerating the process even by three months will lower costs by 5.7 per cent. Many administrative reforms, according to the World Bank, are not expensive, and often do not require any major change in regulations. This is so, throughout the world, and India is no exception. The Indian government wants to accelerate the process by giving construction permits in 6 months and this is a huge improvement because some studies in the United States indicate that even accelerating the process by 3 months will lower costs by 5.7 per cent. So, accelerating the process by many years will lower the cost substantially. **(Shanu, 2016)**

These reforms will remarkably reduce compliance burden by reducing the processes and time taken in grant of construction permit.

### **3. Digitization process for Registering Property**

- Digitalisation of sub-registrar offices in Delhi and their integration with the Land Records Department.
- Digitalisation of all property tax records in Maharashtra.

### **4. Easier Contract Enforcement**

Enforcing contracts will also be an area that must be looked at; India ranks as one of the worst countries in the world for the ability to enforce a contract, taking an average of 1,420 days.

- There has been amendment in the Arbitration and Conciliation Act in regard to the grounds on which an award may be challenged and also to reduce the time taken in arbitration proceedings.
- In order to facilitate faster disposal of commercial cases in Delhi and Mumbai, Commercial Appellate Division Bench and Commercial Division Benches are functioning in Bombay High Court and Delhi High Court.

### **5. Protection of Minority Investors**

"India has strengthened minority investor protections by requiring greater disclosure of conflicts of interest by board members, increasing the remedies available in case of prejudicial related-party transactions and introducing additional safeguards for shareholders of privately held companies," the World Bank said. A number of reforms in this parameter have come in place after enactment of a new Companies Act, amendments made by the securities market regulator in India i.e. SEBI as its norms will be applicable to all listed companies in the country and to various market entities.

### **6. Resolving Insolvency**

Insolvency and Bankruptcy Code with provision of easy and faster exit, has been passed by the Parliament. New bankruptcy law will ensure time-bound settlement of insolvency, enable faster turnaround of businesses and create a database of serial defaulters. The bankruptcy code has provisions to address cross-border insolvency through bilateral agreements with other countries. It also proposes shorter, aggressive time frames for every step in the insolvency process—right from filing a bankruptcy application to the time available for filing

claims and appeals in the debt recovery tribunals, National Company Law Tribunals and courts. (Nair, 2016)

## **7. Trading cross borders:**

Import and Export procedures have been made easier by following steps initiated by Government of India:

- Number of documents required for imports and exports have been reduced to three. The reduction in the number of mandatory documents would also lead to corresponding reduction in Transaction cost and time.
- Documents can be submitted electronically by using digital signatures and hence there is no need to submit documents for export and import physically.
- Custom ICEGATE Portal has been integrated with Food Safety and Standards Authority of India (FSSAI), Animal and Plant Quarantine, Drug Controller and Wildlife Control Bureau for imports and for this Central Board of Excise and Customs (CBEC) has implemented Single Window Interface for Facilitating Trade (SWIFT) (online single window for clearance of goods).
- In order to ensure inspections which are based on risk-based perceptions, customer risk management system has been extended to other regulatory agencies.
- Ministry of Shipping has removed the limit on the number of consignments released under direct delivery and thereby facilitated prompt delivery of goods.
- In order to cut down the time required to get clearance of the containers at the Jawaharlal Nehru Port Container Terminal, the handling of receipts at terminal has been eliminated.
- Introduction of an electronic messaging system between Shipping lines and custodians for electronic delivery order.
- Government has set up a Customs Clearance Facilitation Committee at every major customs seaport and airport at Central level.
- Custom authorities have dispensed with the system of physical control and locking of public and private warehouses and this system has been replaced with record based controls.

These steps will improve the import and export regulatory environment significantly.

## 8. Taxation reforms

The Government of India has initiated some steps to promise a stable, fair and predictable tax regime to investors by reducing tax disputes between the income tax department and investors. It has also sought to effect some much-needed reforms in tax administration to reduce litigation and frivolous tax demands. Some of these reforms are:

- India eased the administrative burden of paying taxes for firms by introducing mandatory electronic filing and payment for value added tax.
- India reduced the administrative burden of paying taxes by abolishing the fringe benefit tax and improving electronic payment.
- Government hopes to roll out GST in 2016. GST would indeed be the most important initiative in the fiscal history of India. GST has been introduced with the ultimate objective of replacing multiple indirect taxes at the Centre and state levels by a single tax (GST), levied on a comprehensive base of all goods and services at a moderate tax rate.
- Introduction of Advance Pricing Agreements (APAs) has brought in certainty in the transfer pricing regime, with 41 APAs signed.

### Conclusion:

According to a World Bank report, 2016 India ranks 130 out of 189 countries in the ease of doing business, moving up 12 places from last year. A forward movement of 12 spots is a remarkable achievement for India. Overall ranking of India is based on average of 10 sub indices such as starting a business, dealing with construction permits, getting electricity, getting credit, protecting investors, registering property, paying taxes, trading across border, enforcing contracts or resolving insolvency. India has ranked poorly at 155 out of 189 in starting a business indicator. In dealing with construction permits, it ranks 183 and in registering property it ranks 138. But in getting electricity India is now ranked at the 70th spot. In protecting minority investors, India now ranks eight and in getting credit it is now placed at the 42nd spot. In paying taxes and enforcing contracts India is now ranked at 157th and 178th spots respectively. In trading across borders, India ranks 133rd and in resolving insolvency, it ranks 136<sup>th</sup>. India has initiated an ambitious process of reforms affecting a broad range of areas captured by the Doing Business indicators. If such a reform process continues, it will certainly help in improving India's ranking.

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