

# ACCESS INDIA



A **Guide** to Doing  
Business in **INDIA**



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# 1. Introduction

***“I think India is a fantastic country to do business with and I think it is a really interesting country to do business with. If you can get your foot in the door as early as possible, in the mid-to-long-term, I think it is a market that will pay huge dividends to somebody considering it.”***

**John Broaders, Account Manager, The Now Factory**

With a population of approximately 1.27 billion, more than a sixth of the world's populace, India has become one of the fastest-growing economies in the world following its economic liberalisation in 1991. Since then, the country has continuously recorded high growth rates, with an average quarterly GDP growth of 7.45 per cent from 2000 until 2011, due to a huge increase in the size of the middle class consumer, a large labour force and considerable foreign investments.

In August of 2013, data issued by the Government showed that India's economy grew 4.4% in the April-June quarter, the slowest since the first quarter of 2009 during the global economic downturn. A range of factors, including a slowdown in key sectors such as mining and manufacturing, and the central bank's tightening of liquidity prompted by a sharp fall in the rupee currency's value and a rise in inflation rate in recent months, have hurt India's growth. However, the Finance Minister P Chidambaram stated that he is confident that stability will return. India's better-than-expected industrial output data released in early September 2013 also encouraged some economists to believe that the country's ailing manufacturers are headed towards recovery.

## Why this Market is Important

India is a complex and challenging market, but one that is fast emerging and increasingly relevant to Irish companies. Ireland is at an early stage in the development of its economic ties with India, but activity in the market is growing rapidly. The 500+ Irish companies with a presence in Asia are well positioned to more closely examine the Indian market.

India is, without a doubt, a more challenging environment for conducting business than Ireland is, as each country's 2013 World Bank's Ease of Doing Business ranking (Ireland 15<sup>th</sup>, India 132<sup>nd</sup>) demonstrates. Nonetheless, India has been making progress in creating a favourable business environment. For example, in 2012, the country introduced mandatory electronic filing and payment for value-added tax and carried out multiple business reforms to reduce administrative burdens. In July 2013, the Indian Government announced the opening-up of the telecommunications industry to 100% foreign ownership from the previous 74%, which is pending clearance from the full Cabinet. India also plans to ease restrictions in a range of other industries such as defence, so as to support the sliding currency and boost growth.

The Indian market is one that Enterprise Ireland clients should not overlook.

## Purpose of the Report

The objective of Access: India is to provide practical and up-to-date information on the Indian market for Irish companies. Here, you will find useful, easy-to-digest advice on the critical aspects of doing business in India for companies at all levels in their business development within the country.



This guide covers:

- How to get started
- India's business culture
- Market research
- Routes to market
- Key legal issues, tax and visa considerations
- How to sell to the Government.

## How it was Compiled

This report is based on the practical experience and knowledge of highly successful people in the market. It is informed by the lessons learned by the Irish businesspeople who have succeeded in India and includes commentary from a number of these people.

Access: India is intended to be of use to a wide audience - from companies thinking of exporting to India for the first time, to those already selling in the market and wishing to examine strategic options for further growth. Updated in November 2013, this report is up-to-date with the latest available research and findings.

# CRITICAL SUCCESS FACTORS



## 2. Critical Success Factors

### Introduction

The key to successful market entry is “doing your homework” and developing an understanding of the new market. This is no different in India. A grasp of business culture and business communications in India is essential to successfully navigating the business environment.

### Business Culture

Successfully navigating Indian business culture requires an understanding of its languages, religions, dining preferences and cultural values (including those connected to familiarity, hierarchy and pace).

- The Indian Constitution declares Hindi, the mother tongue of about 20 per cent of the Indian population, to be the official language of India. English is also the official authoritative, legislative and judicial language of India, as well as the language of business. In addition, twenty-two regional languages are recognised by the Constitution. Each state of India also designates an official language, some more than one. For example, Bihar in east India has three official languages – Hindi, Urdu and Bengali – which are all recognised by the central Government.
- India is composed of a multitude of religions; the dominant is Hinduism, but there are also significant numbers of Muslims, Buddhists, Sikhs, Jains, Jews, and Christians. Religion can impact business in a number of ways, including food requirements during business meals, and requirements during meetings (for example, Muslims may take small breaks during meetings for their prayers).
- Many business meetings in India will take place over or followed by a meal. Traditionally in India, food is eaten using fingers (only with the right hand) and leaving a little on the plate indicates to the host that the meal was satisfying. A large proportion of Indian people – some estimate 30-40 per cent – are vegetarian. In addition, many Indians consider eggs a non-vegetarian food. If a guest is not a vegetarian, religious food restrictions may still apply. As a rule, Hindus do not eat beef and Muslims do not eat pork or drink alcohol. Thus, lamb, fish and chicken are commonly served, as these avoid such religious restrictions.
- The ancient tradition of the caste system and the dominant Hindu religion emphasise established hierarchies in all interpersonal relationships in Indian culture. For example, fathers are the patriarch of the family, teachers are highly revered as gurus and the boss of a company holds ultimate responsibility for every decision. As a result of the emphasis on hierarchy, there is a higher degree of formality between colleagues in India than in the West. For example, it is very common for people, especially those younger than you, to call you “Sir” or “Madam” out of respect. Titles are of great importance in Indian culture and it is considered polite to mention any relevant salutations or academic titles, such as Dr. or PhD, when using someone’s name.
- Indian culture has a slower, more informal pace when it comes to business and many Indians believe that schedules should be flexible in order to accommodate different people’s timetables. It is very normal for meetings to start a few minutes late or have some interruptions, and should not be considered a sign of disrespect.

## Business communication

Effective business communication in India requires an understanding of meeting conventions and communication styles.

- The business calendar year is from April to March. As in Ireland, time format in India is expressed in the manner of day, month and year; so August 15, 2009 is written 15 August 2009 or 15/08/09.
- India has a variety of national and religious holidays that may influence business schedules. The three largest national holidays are: 26 January – Republic Day; 15 August - Independence Day; and 2 October - Gandhi Jayanti. Religious holidays, which often fall on different days each year, include those for Hinduism (Diwali, Ganesh Chaturthi, Holi, Dusserha), Islam (Eid ul-Fitr, Eid al-Adha, Mawlid an-Nabi) and Christianity (Christmas Day and Good Friday).
- Initial business meetings will often be entirely devoted to the two parties getting to know each other, with no real business talk until the subsequent appointment. When coming from abroad, it is advisable to organise meetings one or two months in advance and to send a detailed agenda beforehand, with supporting documents and relevant information, to ensure the Indian party is informed and comfortable with what is going to be discussed. Confirm appointments - they can be subject to change or cancellation at very short notice.
- Business cards should be exchanged at the first meeting. It is a good idea to have the card translated on one side into Hindi, more as a sign of respect as opposed to linguistic necessity. Including any academic honours or special titles on the card contributes to making a good impression. In addition, be sure to receive and give the cards with the right hand and to put the card away respectfully.
- English, as the official language of business, is often adequate when working in India, but certain situations may arise where a fluent Hindi speaker may be required. In general, it is advisable to learn a few basic expressions in Hindi, such as remarks of greeting and gratitude, to show your interest and understanding of the Indian culture.
- As this is a hierarchical culture, greet the most senior person first and continue greeting others by descending order of rank. Likewise, when leaving a meeting, bid farewell individually in order of rank. In a business setting, it is customary to shake a male colleague's hand. Shaking hands with women is less common and it is better to wait for a woman's initiative. In the absence of a handshake, you can do a namaste, the traditional Indian greeting in which you press your hands together, palms touching and fingers pointed upwards, in front of your chest, with a slight nod or bow of the head.
- In India, unlike some East Asian countries, "losing face" is not a major concern and Indian businessmen generally appreciate being clear and forthright. An exception to this tendency is when communicating a negative response, as Indians consider a verbal or written expression of "no" to be rude. Instead, Indians may prefer to give an affirmative answer while implying their enthusiasm (or lack thereof) through suggestion. This is considered polite rather than dishonest and should be taken as a cue for the relevant response.
- Since Indians may be hesitant to say no, it is important to be specific when asking questions. For example, rather than asking a yes or no question, such as "Does this deadline work for you?", it is better to ask, "What deadline works for you?"
- Conversely, be careful when saying "no" to Indians because of its harsh implications. Rather than directly refusing an invitation, it is better to say, "I'll try."
- Indians are generally less confrontational than many western cultures so it is advisable to avoid high-pressure tactics when negotiating. Be aware that losing your temper

during negotiations will likely be viewed by the Indian party as evidence of an untrustworthy character.

- Generally, Indian people prefer to do business with people they know and trust. As such, many cultural specialists suggest avoiding emphasising legalities and legal jargon, as Indians often place more trust in a person's word. It is also highly beneficial to be introduced to a target business partner by a mutual third party, which dramatically increases credibility.
- Computer literacy is required for white collar jobs in India and therefore it is reasonable to expect staff of Indian companies to have the requisite knowledge and understanding of basic computer skills and software.



#### NEED TO KNOW

For security reasons please bear in mind when travelling:

- Keep your hotel room number confidential and make sure hotel room doors have chains, deadlocks and spy-holes.

Women should pay special attention to the following when travelling in India:

- When travelling by train, it is advisable to travel in cars reserved for women.
- Avoid travelling alone in hired taxis, especially at night. Use taxis from hotels and prepaid taxis at airports rather than hailing taxis on the street.
- Smoking by a woman is generally not acceptable, except in major cities.

## CASE STUDY: Business Culture in India

### The Now Factory, John Broaders, Account Manager

*The Now Factory provides analytic resources to its international portfolio of Communication Service Provider (CSP) partners. Headquartered in Dublin, the Now Factory has customers in 29 countries, including India*

[www.thenowfactory.com](http://www.thenowfactory.com)

**Can you give us an introduction to the Now Factory and its relationship with India?**

“The Now Factory – prior to being acquired by IBM in October 2013 - was a small Irish technology company set up about seven years ago to provide solutions to mobile data carriers. We enable them to provide better service to customers within the smart phone marketplace. The company focuses on mobile data carriers and, as such, is required to look at the large carriers across the world, including India, which is a very populous center with some very large mobile carriers.

**Do you think it is important to have a local representative in India?**

In every market we go to, there is a strong requirement to have a local presence. What we have also found is that the challenges of operating our Indian sites are very different from the challenges that are common in many European countries. So having an operation with people who are from the local region is of significant benefit to doing business in India.

**How does the Indian market differ from the other markets you operate in?**

I look after several of our markets, including India, Middle East, Africa and some of Europe. In my mind, India is the most challenging market to address from a commercial perspective. You

are dealing in an environment where growth is aggressive – making it a buyers' market. The approach to negotiation is very challenging for people who are only used to doing business in a western marketplace. It requires a lot of patience and a lot of flexibility. But when you do make the commitment, there is a very strong partnership that develops and a great deal of long-term rewards to be had by doing things well.

**Is it important to have Indian colleagues to help establish business relationships in India?**

It is a huge advantage to have people that are local. Initially, when we started doing business in India, that was not something we had and we still managed to succeed. But it was a lot tougher than it needed to be.

**Do you find it necessary to have staff with Hindi language skills?**

I haven't found, in the business we do, that we absolutely require Hindi speakers to do business. I *have* found that they are very advantageous to have as it makes things flow better.

As always, it's very important be able to speak a small bit of the local language yourself to demonstrate that you are culturally aware and you are willing to put in the effort to have a small conversation. But I have never been at a meeting where a full conversation has been in Hindi, but occasionally there will be side comments between locals in the language.

**Do you have any advice for someone looking to enter the Indian market?**

When you enter the market in India, you need to have a lot of patience. You need to put a lot of time and effort into having everyone understand how you will support your business model in India. You need to be prepared to be very flexible and be very clear about where you want to go commercially well before you enter into negotiations. It is very easy to get carried away in an Indian negotiation. You also need to have a strong understanding of the tax and customs obligations which can be onerous. As it can be quite difficult to secure business, you have to be very careful that you understand the full economics of the situation. There are not many quick wins to be had!

I think India is a fantastic country to do business with and I think it is a really interesting country to do business with. If you can get your foot in the door as early as possible, in the mid-to-long-term, I think it is a market that will pay huge dividends to somebody considering it.

India is an amazing country. It is fascinating culturally and commercially. If you plan well, invest in relationships, and put the correct structures in place, it will pay dividends.”



# STARTING IN THE INDIAN MARKET





## 3. Starting in the Indian Market

***“One of the first things to establish is the key parameters for your industry and the actual costs of doing business. Between those two things and looking at some key points—the accessible potential, which is the key number to have—it is on that basis that we would decide to engage staff or just to go with a distributor if the market didn’t have the potential to sustain a salary for someone.”***

**Michael Connolly, Group Business Development Director, Connolly’s RED MILLS**

### Introduction

Following the introduction of economic reforms designed to liberalise and deregulate the Indian market in 1991, India has lowered its trade barriers and tax rates, broken up many of its State-run industries and encouraged greater competition. While the emergence of India’s free economy has transformed India through the introduction of new consumer goods, technologies and ways of life, it has also involved massive internal realignments of its laws and businesses. As a result, the foreign business and investment communities are often confused or misinformed. Therefore, it is advisable to engage experienced market and legal counsel prior to investment in India.

### Geography

India is comprised of 28 states and seven union territories, and is now in the process of adding a 29<sup>th</sup> state, Telangana, which received the endorsement of the Government on July 30, 2013.

The target market for foreign investors offering a premium product or service is likely to be the six major cities in India - Delhi, Mumbai, Kolkata, Chennai, Bangalore and Hyderabad, which are spread across the country. New Delhi, the capital of India, is a hotbed for the IT and BPO industries. Mumbai has received nearly 37 per cent of foreign investment across the last decade and is the country’s entertainment, fashion and financial capital. Chennai, nicknamed "the Detroit of India," excels in automobile and electric manufacturing. Bangalore is often referred to as "the Silicon Valley of India" because of the large number of IT companies headquartered there. It is also home to the country’s most respected colleges and research institutions. Hyderabad, the joint capital of Andhra Pradesh and Telangana, is an education, IT and biotechnology hub.

India has several other fast-growing cities (all with large, skilled, English-speaking workforces) that are receiving significant FDI, such as Ahmadabad, the largest city in the state of Gujarat.



## Market Research

When considering India as a potential market destination, it is important to conduct informed and representative market research. Quality market research enables companies to make decisions regarding market entry strategies based on actual knowledge and understanding of the market. Conducting primary research is important because data compiled by organisations and associations are only available in limited industries, and those that are reported by companies may not be standardised.

India's size and diversity can create several challenges when conducting market research. Data collection is difficult because of the country's great variety of languages, cultures, and education and skill levels of its people. There is also a scarcity of trained interviewers who have in-depth knowledge of conducting market research. When deciding which market research firm to engage in India, it is critical to ensure that they have the requisite techniques and methodologies to overcome these limitations.

Market research should start with the creation of a research plan based on your discussions with a market research firm. During the discussions, you should determine your data

requirements and how they are to be presented. In order to understand the needs of your target customer, the research will often consist of a customer survey designed specifically with regard to your individual products. The market research should also evaluate the opportunities within a sector and the direction of the market, as well as the relevant legal and regulatory requirements.

There are many reliable market research agencies in India, both global and domestic. You should make sure that the firm conducting market research has a strong business sense and command of a scientific approach, as well as rich experience and networking in the relevant industries. In addition to commissioning surveys and reports, you can also conduct private or sponsored trade missions to meet potential clients, partners and consultants. To find a reliable legal firm in India, talk to Enterprise Ireland India and other in-country firms.



### NEED TO KNOW

Knowledge of the competitive markets in which Irish companies operate is the key to successful growth. The Enterprise Ireland Market Research Centre offers client companies access to market intelligence in the form of company, sector, market and country information to explore opportunities and compete in international markets. Please visit the Enterprise Ireland website [www.enterprise-ireland.com/mrc](http://www.enterprise-ireland.com/mrc) for more information on the market research facilities available.

## CASE STUDY: Starting in the Indian Market

Connolly's RED MILLS, Michael Connolly, Group Business Development Director

*Connolly's RED MILLS is a horse feed and pet foods producer based in Ireland. Along with a strong domestic brand, Red Mills also caters to an exclusive international clientele of horse breeders and pet owners.*

[www.redmills.com](http://www.redmills.com)

**Can you give us an introduction to Red Mills and its relationship to India?**

“Connolly's Red Mills is a 100 year-old, 5<sup>th</sup> generation family business. We have been making animal foods since the 1960's as the first mover in Ireland. We have also established a dominant market leader position, especially in the horse feed business. Red Mills is divided into three main divisions. We have an agri-business division, which is fully vertically integrated, we have a horse feed business, which is our global business exporting to 53 countries, and we have a sizeable pet food business, which is mainly domestic with some small American exports.

We commenced looking at Indian markets a number of years ago, and having assessed the potential of the market, we commenced with a market visit in April of 2012. This confirmed our initial estimates and we felt that a market entry could start later on that year. We commenced trading in India in November of last year. The product that we are exporting to India is horse feed and we are supplying that product into the racing industry for breeders and trainers in India.

**How do you distribute your product in India?**

Our philosophy is to look after the end user and everything else will fall into place. We have found, in a market entry position, that distributors are very disappointing. They always plateau within the first 18 months and we end up doing the sales for them, if they allow us to do that—so our standard market entry position is to look after the end user and let everything fall into place. In other words, we go in, we take some of the distributor's larger clients—customers they may

have had previously—and then they are much more available to talk to us. We can work on a much more reasonable and fair basis and secure a dominant position in the market. Since we have entered the Indian market last year, we are steadily growing our position very strongly.

### **Do you have to change your approach to marketing when selling to India?**

Yes, Indeed. Looking at the four P's (product, promotion, price and place), if I start with product, we had already done a lot of the homework and launched into the Indian market with a product called Singapore Racing Formula, which would suite the climate in India and suited their type of training. We have since modified that product and created an Indian racing formula, having learned how the horses responded to our product. So, related to product, we do localize and we will always localize, but we take our time and we go in with our best foot forward. In regards to promotion, our model for promotion is not mass media, although we do engage in that in certain markets. For this particular market, it is a very small niche business- there are only about 200 or 300 people that we really need to talk to, so we work very much using P.R. and customer intimacy models. So we get down and we'll visit people to talk to them face to face, invite them for dinner and sponsor some races to show our commitment to the market. We also have engaged in employing our own Indian staff member, someone that really is very embedded in the small and interesting niche feed market in India, which is important.

### **How important is it to make a personal connection when marketing your product?**

I think relationships are key. I think it's not the only thing, price is also very important, but relationships are absolutely key- I think pretty much everybody will say the same thing. I think it's very important nevertheless to not get too close to your customer as many of your different customers are competing very closely together, so you need to be objective within the industry and be able to deal with everybody and not be pigeonholed into a particular clique.

### **How did you conduct your marker research before entering India?**

Over the years we have developed significant skills at establishing accurate information. One of the first things to establish is the key parameters for your industry, so for us it's the cost of feeding a horse per day and the actual costs of doing business. We'll talk to freight companies and try to glean how much are competitors are doing. Between those two things and looking at some key points- the accessible potential, which is the key number to have- it is on that basis that we would decide to engage staff or just to go with a distributor if the market didn't have the potential to sustain a salary for someone.

### **Are there any issues to consider when exporting to India?**

Logistics are something that people underestimate in India- it is a huge cost. It is difficult to get around this country and customs issues are absolutely essential. Filling in the right paperwork, as always, is essential, but in particular, the right relationships at customs can be critical.

The other thing is payment moral. When you take the risk and you go into a market writing invoices from Ireland, we had to implement a money-up-front basis for payments and we incentivised people to go with us on that. The norm is that distributors issue credit, and sometimes they will tolerate anything up to 6 months of terms, which is something we would never consider in any country.

### **What advice would you give to others looking to enter the Indian market?**

India is not a place for the feint-hearted and those looking for the quick buck. It's a place where someone has to genuinely want to have a strategy for India. Indian people are nice people to work with- they are very approachable- and once you understand the Asian emphasis on face and not embarrassing people, then you can do good business here. But just like everyone in Asia, Indian's will not be quick to tell you the bad news first; they will hide it and disguise it. They will tell you about price straight away, but when it comes to something maybe even far more serious, sometimes you really have to dig it out. ”



# ROUTES TO MARKET



# 4. Routes to Market

## Introduction

In this chapter, we overview the important options for serving the market in India, including direct export from Ireland, direct selling, working with partners, third-party distribution, establishing a local presence and acquiring a company in India.

## Direct export from Ireland

India is a country that places a great deal of emphasis on face-to-face interactions when engaging in business and does not respond well to remote control from abroad. Establishing a base in India is an important signal of a long-term commitment to the Indian market, and also ensures your company can provide quality after-sales service- both are factors that influence customers' purchasing decisions. Therefore it's best to operate your business from within the country.

## Direct Selling

Direct selling is the marketing of consumer products and services directly to consumers in order to bypass the restraints and cost of managing permanent retail locations.

At present, India lacks central guidelines and regulation overseeing its direct selling industry. This has led to varied interpretations of permissible practices in the direct selling industry, with most direct selling companies entering the Indian market through back-door routes.

Recently, an Interministerial Committee was setup under the aegis of the Ministry of Corporate Affairs (MCA) to formulate the requisite legislation governing the direct selling industry. MCA is likely to become the principal regulator for the direct selling industry in India.

## Working with Partners

The Irish enterprises successfully established in India have generally found that a local Indian partner with a proven track record can help establish credibility, provide local contacts, knowledge and experience, and assist in understanding the needs of customers and the nuances of the local business culture.

A joint venture with a local partner can be especially useful for accessing the Indian market. A partner can also offer established distribution or marketing networks, as well as financial resources. Joint ventures are most common in sectors where foreign investment caps remain, e.g. insurance and multi-brand retail.

When appointing a partner, don't rely solely on your impressions and information gathered during face-to-face meetings. Do your due diligence properly, know with whom you're doing business, and consider using a forensic accounting firm to examine a prospect's books.

## CASE STUDY: Working with a Local Partner

### Instant UpRight, John Breen, Business Development Manager

*Instant UpRight produces tower systems for both low and high-reach work locations from their state-of-the-art manufacturing base in Europe. They have a global presence, with customers in Europe, America, and Asia. Instant UpRight has worked with India's National Thermal Power Corporation to provide high-quality scaffolding on several major industrial projects.*

[www.instantupright.com](http://www.instantupright.com)

#### **Can you give us an introduction to Instant UpRight and its relationship with India?**

“Instant UpRight started business in California, back in 1947. It was quite outward looking and quickly established branches all over Europe. A factory was set-up in Dublin in the mid-sixties to produce industrial Aluminium scaffolding, which the company's owner had pioneered in the 'forties. Soon, the company began supplying boiler scaffolds to the Asian power market. These large-scale scaffold structures are custom designed for use inside the huge furnaces, which are at the heart of most major electricity-producing power plants. We had opportunities there because we were facilitating a “quantum leap” from traditional timber and bamboo scaffolds and bypassing steel scaffold.

We started to promote our scaffolding in India and won our first project bid in 2001, and in 2004 signed our first contract for a large boiler scaffold project. Since then, we have been doing a lot of work with NTPC, the National Thermal Power Corporation. While we did sell occasional scaffold towers, our main focus has been the industrial power plants. While such projects often move forward very slowly in India, the potential prize justifies the effort and patience required.

#### **Is it important to have a local partner in India?**

You certainly need a local partner or a local contract employee - someone who knows the local business environment. If you are genuinely focused on doing business in India, I don't believe it's possible to do so without a local representative, unless you are committed to visiting the market very frequently. We have an agent in India who assists with our contract bids, which is very important to our success.

#### **What cultural issues may impact on your relationship with an Indian partner or employee?**

Decisions in business, both good and bad, are often made quickly, and therefore you need to have a strategic plan in place. You can't demand things and you have to allow for cultural differences. The problem with India is that people don't like giving you bad news. They will tend to tell you what they think you want to hear, which is great if it turns out to be true, but can be a problem and you need to be aware of it. The best approach is to agree to clear performance targets and evaluation criteria with your representative. If he then falls significantly short of the agreed expectations for the growth of the business, you will clearly have an issue to resolve. And because of the cultural differences in Asia, you can't be too confrontational - you have to balance your approach.

#### **Is it important to think regionally when considering full-time staff in India?**

Because India is such a large country and every region is different, you need to carry out strong market research before selecting a person or team based on your regional focus. It can be impractical to have employees throughout India, but it really depends on the product. If it is a consumer product, it would make sense to identify a partner who would have a presence in multiple locations.

If you are considering doing business in India, you are probably already established in other markets, so you've already gone around with your eyes open and know what to look out for.

You have to do your own research homework and you have to be really serious about it. Partnering in India can be quite challenging. In other words, you have to know your partner very well before you engage, and of course all the standard rules of partnership will still apply.



India is very bureaucratic, and even a visa application is a slow and expensive process. A first step for anyone considering doing business in India would be to identify a compelling investment opportunity. It's not something you can do on a whim - you really have to feel that there is a genuine opportunity. And even then it's not something that you will do quickly. You need a scientific process of evaluating what you intend to do and how effective it might be.”

## Third-Party Distribution

There are two fundamental options to consider when looking at third-party distribution: agents and distributors.

An agent negotiates and may conclude contracts with a third party (i.e. importer) on behalf of the exporter thus creating a legal relationship between the importer and exporter. An agent is paid commission based on sales.

A distributor purchases goods on its own account from an exporter and resells those products to customers. Unlike the case of the agent, it is the distributor who maintains the sale contract with the customer, not the exporter. Similar to the agent, the distributor can offer readily available sales and marketing channels as well as expertise.

Choosing an agent with extensive knowledge of your target market is often advantageous as they will be able to provide region-specific support, such as transportation and appointments with the relevant Government agencies, if so required. Using an agent will also allow the exporter to maintain more control over their product's final price and brand image.

When appointing an agent or distributor in India, effective due diligence will include the following considerations:

- The potential agent may handle similar product lines, resulting in a conflict of interest. Consider whether or not this is acceptable, as complications may arise. You may need to appoint three to four representatives for different products, locations and markets.
- Make sure the agent has adequate transport facilities and warehousing capacity and is capable of providing the requisite sales promotion and advertising services.
- Gather references on the agents from banks, trade associations and major buyers and verify that the lists of foreign principals and products provided by the potential agents are dated, and that the relationships exist.

The number of distributors a company should employ largely depends on the company and their product, and will vary greatly across sectors. Market entry consultants who can conduct targeted research can advise you on the best ways to distribute your product in India. Note that transport challenges add to the cost and complexity of moving product in India.

For companies targeting consumer markets in India, organised retail distribution systems (i.e. retail chains and supermarkets, etc.) reach less than two per cent of the market, with over 90 per cent of the total consumer product trade flowing through traditional outlets such as kiosks, corner shops, local mom and pop shops and open markets. As such, using extensive third-party distribution helps capture demand in smaller cities and rural areas, which make up a large share of the Indian market. Successful multi-nationals have built deep third-party distribution networks that serve second-tier cities and villages.

## Establishing a Local Presence

Establishing a local presence in India will give you more control over your destiny in the market from both an operational and a financial standpoint.

In order to establish a local presence, a company needs to first determine whether its investment falls under the automatic route or Government route of FDI. Under the automatic route, no approval from Governmental bureaus or the [Reserve Bank of India \(RBI\)](#) is required prior to investment. Foreign investors are only required to notify the regional RBI office within 30 days of receipt of inward remittances and file the required documents with that office within 30 days of the issue of shares to foreign investors. Most sectors fall under the automatic route except those few specifically listed as requiring Government approval in the [Consolidated FDI Policy](#).

Under the Government route, approval from the Foreign Investment Promotion Board (FIPB) is required prior to investment. Areas where Government approval is required include asset reconstruction, commodity exchange, courier service, defence, print media, etc.

Most sectors allow 100 per cent FDI under the automatic route, but some sectors have foreign investment caps, meaning that foreign investors can only invest up to a certain percentage in an entity. For some sectors, a certain percentage of FDI is permitted under the automatic route, but investment above that percentage requires investment under the Government route. For example, in the broadcasting carriage services sector, foreign investment under the automatic route is capped at 49%, and falls under the Government route where the investment is between 49% and 74%. Foreign investment cannot exceed 74% in this sector.

FDI is prohibited under any investment route in sectors such as lotteries, the manufacturing of cigarettes, the real estate business, atomic energy and railway transport.

A company choosing to establish a local presence also needs to determine which investment structure suits their purposes: a private limited company, liaison office, project office, or branch office.

- A private limited company is the most popular form of business entity used by foreign investors in India. A private limited company in India requires a minimum of two directors, and has from two to 50 shareholders with limited liability. There are no nationality requirements. A private limited company requires a minimum paid-up capital of Rs 100,000 (€1,664). Private limited companies can be funded via equity, debt (both foreign and local) and internal accruals. The funding options for other structures such as liaison office, project office, branch office and limited liability partnership are more limited.
- Foreign corporations can open liaison offices in India to undertake liaison activities (e.g. representing and acting as a communication channel between the parent company and Indian companies, promoting export/import from/to India, and promoting technical/financial collaborations between the parent company and companies in India) on their behalf. Expenses of such offices are to be met entirely through inward remittances of foreign exchange from the headquarters outside India.
- Foreign investors planning to execute specific projects in India that are linked to a one-off contract (as may well be pertinent for infrastructure-related construction, for example) can set up a temporary project office in India to handle the contract.
- Finally, companies incorporated outside India and engaged in manufacturing or trading activities are allowed to set up branch offices in India with specific approval from the RBI. Branch offices are permitted to represent their parent/group companies and undertake export and import, professional and consultancy services, research work (in which the parent company is also engaged), promote technical and financial collaborations between Indian companies and the parent/overseas group company, represent the parent company as a buying/selling agent in India, render IT/software development services in India, or render technical support to the products supplied by parent companies.
- To establish a branch or liaison office in India, an application should be submitted through a designated Authorised Dealer Category-I bank (a list of Authorised Dealers can be found [here](#)) to the Foreign Investment Division of the RBI. The application documents required include an English version of the Certificate of

Incorporation/Registration or Memorandum and Articles of Association attested by Indian Embassy or Notary Public in the country of registration, and the latest audited balance sheet of the applicant entity. The RBI will consider the company's profit-making track record for the five immediately preceding financial years, as well as the net worth of the branch/liaison office when deciding whether or not to approve the application.

- At the end of March 31 each year, branch/liaison offices have to file an Annual Activity Certificate (AAC) signed by a chartered accountant, which certifies that they undertook only activities that have been specifically permitted by the RBI. In addition, branch/liaison offices have to submit an audited balance sheet on or before September 30 of that year.
- The legal status of the entity determines the level of liability and associated risks for the entity. Branch, liaison and project offices have unlimited liability.
- All companies incorporated in India are required to file annual returns with the [Registrar of Companies \(RoC\)](#) with proper jurisdiction over the company within 60 days of the Annual General Meeting. Depending on the type of entity, an entity may have to be audited on an annual basis.



#### NEED TO KNOW

The [Department of Industrial Policy and Promotion \(DIPP\)](#) is the department responsible for formulating and implementing promotional and developmental measures for the industrial sector, and for facilitating and increasing FDI flows to the country. The Consolidated FDI Policy summarizes all the current regulatory framework and FDI policies and is revised every year.

The latest edition of the consolidated FDI policy document can be found [here](#).

## Acquiring a Company in India

Some of the advantages of acquiring a local company include:

- Reduced supply chain costs;
- Sales network expansion;
- Acquisition of market position in India.

Acquisitions in India are governed by the Indian Companies Act, 1956. Approval of the High Court is required to commence the acquisition process. In addition, the proposal for acquisition should be sanctioned by 3/4 of the shareholders or creditors present at the General Board Meeting of the company to be acquired. Obtaining the required regulatory approvals for acquisition, which vary depending on the industry of the business, can lengthen the acquisition process.

Companies considering taking any of the above routes are strongly recommended to seek professional advice, including advice from Enterprise Ireland.

## CASE STUDY: Acquiring a Business in India

### CRH Plc., Jay Wasson, Development Manager for Mumbai

*CRH Plc. is an Irish building materials group with an international reach. They operate in 35 different countries around the world and purchased a 50 per cent stake in Indian cement company, My Home Industries Ltd., in 2008.*

[www.crh.com](http://www.crh.com)

#### Can you tell us briefly about your business in India?

“In India, CRH produces and sells cement in South India. Cement demand in India is increasing even though the capacity for production is already pretty high. At present, national cement consumption is about 2/3 of that which can be produced.

Based on the size of the local market and the geological availability of limestone as a raw material, some states have evolved as natural cement producers whilst others import cement inter-state to meet demand. It usually doesn't make economic sense to transport cement long distances. Our cement is marketed within its home state of Andhra Pradesh and to neighbouring states like Orissa and Karnataka. Transport linkage is not as good as it could be and this adds to the cost and complexity of moving product in India.

Our cement is produced through a joint venture with an Indian cement company, My Home Industries Ltd. (MHIL). We started looking at potential acquisition targets in 2004 and eventually acquired MHIL in 2008. Subsequent to that, we established our own development office in Mumbai.

#### How did you find your joint venture partner?

Prior to acquiring MHIL, we did a pan-India trawl of potential cement businesses that might be available for sale. We have other products, but for India, cement was our initial product choice. We visited plants and met promoters, investment banks and other intermediaries to work through a long list of potential targets and see who was really interested in doing business with us. It took 4 years to get from the point of entry to acquisition. The acquisition deal itself took about 18 months to complete, although we were quickly connected to the people who would become our partners.

#### What has your experience been working as a joint venture in India? Do you have any advice for a company considering this as an option?

Our joint venture is a very integrated partnership. It's a fifty-fifty split; both sides have equal board representation and the company is jointly managed. The board is a mix of locals and expats—a model that CRH follows in every country in which it operates. It took quite a bit of searching to get people with the right experience—you have to be prepared to cast your net fairly wide.

#### Do you see entering into a partnership as being a good approach to take when approaching the Indian market?

I would say that depends on industry. There are lots of reasons why you would not want to be in a partnership, but there are also lots of good reasons for one as well. If you can find the right partner with the good fit, then it would definitely be beneficial. India is not an easy country to navigate, so a partnership can certainly help with that.

If you're operating in India, it's best to operate the business from within the country. People in India want to deal with you face to face; it's not a country that responds well to remote control from abroad.

### **How did you choose your location in India?**

CRH's Mumbai office has a development team with eight staff members. We chose Mumbai because it's the financial hub of India, with ready access to banks, private equity firms and other investment firms. It's eye-wateringly expensive—ground rents are high, simple administrative costs are high, salaries are relatively high because the cost of living is high. These costs will go down as you move away from major cities, but good financial and legal advice is accessible in Mumbai, and the city has the sort of peers and network that we wanted.

### **What is your observation of India's legal environment?**

From an administrative point of view, India is a pretty standard operating environment. The legal framework is based on the British model, so it's quite established and quite rigid. The financial sector is heavily regulated, quite transparent, and reasonably safe and steady. But there are lots of little laws and things to know, which is why you need local advisors. We got top advice to navigate the complex regulatory environment for the acquisition. Any regulatory changes are generally pretty well publicised—the legal fraternity will publish notes and send them around. If we need to interpret and adjust to legal changes and we don't think we can do so internally, then we will bring in outside expertise.

### **How important is networking in India?**

The local business culture here seems to be keen on social interaction. A lot of networking goes on through trans-industry conferences and other open gatherings. If you have family/friend connections here, you have a major advantage. As an established player, MHIL's team has a very good network, which continues to bring added value to our partnership. A fair bit of time goes into checking in with the dealers, chatting, making sure everything's as it should be. We have annual/semi-annual functions at the plant, which are kind of parties to sponsor friendship with our dealers.

### **What do you think makes India a particularly good business destination for Irish companies in your industry?**

I would say that there is always a place for the product you're selling in India thanks to the country's huge, vibrant and flexible private sector and the readily available legal, banking and business expertise support networks. India has developed a huge private sector with the right attitude that is very business savvy, and people support businesses in India. The challenge comes when it comes to things such as the infrastructure gap—the simple logistics of moving product can be difficult. It is not without challenge, that's for sure.

### **Have you found any particular states in India to be tougher to conduct business in compared to others?**

Not really. You just need to come in with your eyes open and understand the local laws and regulations. There may be different ways of recording sales or maybe different tax requirements or excise duties, but the main point is you should know what to expect when you're entering a particular state.

### **Various companies may have been affected by India's inflation rates and the sliding rupee. Have you noticed any adverse effects in your industry?**

Since we are selling to the construction industry, these things are certainly slowing down infrastructure investment, which no doubt puts pressure on the construction industry and squeezes our cement market. The rupee has gone down by about 8 percent recently. I also expect that the upcoming 2014 election cycle will not help.

However, on the plus side, someone coming into India with a heavily depreciated rupee will find that the cost of entry is lower than what it was a while back. It is reasonable to look at India as a reasonably low cost-of-entry destination now.

## **What advice would you give to an Irish company, or foreign firm, looking to enter India in your industry?**

Do your research. It is absolutely fundamental and not difficult to do some detailed research to enter the market you are entering and to understand how that market works with regard to business and competitive landscape.”

## **CASE STUDY: Go Where Your Clients Are**

**PM Group, Allan Schouten, Managing Director for Asia Pacific; Krishna Kumar Gopala, Managing Director for India**

*PM Group provides project management, architectural and engineering design and construction management services in the life sciences, food and beverage and advanced manufacturing sectors. PM Group is an Irish company with offices in Europe, the U.S. and Asia. In Asia, PM Group has a presence in Singapore and China, as well as an office in Bangalore, which was established in 2010.*

[www.pmggroup-global.com](http://www.pmggroup-global.com)

### **How did PM Group decide to start its India operation?**

“PM Group came to India because our U.S. and European multi-national clients are focusing more and more on the Asia Pacific region, including India, and we need to be able to design and build facilities locally in a country where our clients are investing. If they want to spend their money in India, then we need to be there.

India has a very well-developed project management/engineering service industry. Costs are far lower than in the US, Europe and most of Asia, including Singapore or China. Our India operation also provides PM Group with a high-value engineering centre, which our global operations can access when it makes sense for our multi-national clients.

### **When did you start doing business in India?**

We started doing business in India in 2006 and established our Project Management and Architect and Engineering design office there in 2010.

### **What are some of the challenges of doing business in India?**

One of the challenges of India is planning enough contingency time for the many interactions with officialdom in complex administrative processes. Setting up a business in India does take longer, but as long as it's planned properly, there's no reason why it can't be done efficiently.

### **How did you decide where to set up your base in India?**

If you look at the major cities of India - Delhi, Mumbai, Kolkata, Hyderabad, Bangalore, Chennai, Ahmadabad – I would estimate over 80 per cent of investment is going into these key cities in India. With limited resources, a medium-size company cannot be everywhere, so select your base carefully. We thought the best place to be would be in one of the mega cities where most foreign investment in our sector is going, and it was the right decision for us.

### **What advice would you give based on your experience regarding India?**

You have to focus on the same business development investment rules as anywhere else - where are your clients investing, where are they spending money, what type of services do they want? Figure out your game plan and differentiate yourself from the competition. It is critical to figure out your unique selling point that will attract a premium. Getting into a pricing war with the local competition is not a good idea as you will not beat the local competition.

You have to protect your interests, so it's also advisable to have your own legal advisor if you are considering joint ventures or acquisitions. You need to be fully aware of the laws of the land, but that said, that's the same wherever you are investing. There are very reputable legal firms in India, so we selected an Indian legal firm to support us and it worked out very well. To find a reliable firm, talk to Enterprise Ireland and other firms already in country.

### **What makes India a strong target for Irish investment?**

To start with, I would say that India is one of the largest markets in the world, and is growing strong. Irrespective of some signs of slowing growth in the recent past, which are due to negative sentiments, I would say that there is a latent demand in the market, which should grow quite fast in the coming years. More importantly, why should Irish companies look at India? For one reason, the business opportunities are strong. Second, I would say that there are certain common elements between the Indian and Irish cultures which allow for very easy communication between businesspeople. Having met with so many Irish people both inside and outside our organization, I feel that cultural barriers are not at all a major issue, and that Irish companies will assimilate well into Indian settings. With that foundation, building important relationships will be easier.

### **You mentioned that the economic situation in India has been a little slow recently. Do you see high inflation rates or the sliding currency as being a major problem for your company - or Irish companies in general - looking to start or continue business activities in India?**

We see the problems that came up in the last quarter, like the sliding rupee, as a temporary phenomenon unlikely to affect the market over the long term. We see them largely as a response to changing policy issues, which we believe that the Government is seriously considering and trying to change in a positive fashion. Additionally, we believe that India's market will display good growth in the coming years. The slowdown may continue for one more quarter, but we expect that India's Government and business sectors will be able to address these issues effectively.

### **Besides the top-tier cities, like Delhi and Mumbai, do you foresee any other major areas experiencing a sustained surge in growth or foreign investment?**

Yes – some examples would be places in Gujarat, Punjab, Chattisgarh, etc. Based on the resources available in each region, we believe those states offer strong opportunities for growth. So, if we look at some other regions, like Bihar or West Bengal, each of the states has some major market that drives growth. Once again, this is a matter of business-specific sectors rather than location.

### **Would you say that partnering with a local Indian firm as PM Group did is the best way to enter the Indian market, or would you advise Irish companies to seek a more independent approach?**

No, I would not recommend that an Irish company simply partner with a local company just for their business. We came into India with a local partner and developed the business in new sectors/services. As the customer profile changed, over time we realised the only option for future growth was to acquire the entire business.

I think that an Irish company looking to invest and a local company looking to partner with them will have different objectives for the partnership itself. In a joint venture, Indian companies will always expect MNCs to put in the lion's share of the money, and sometimes these companies may not receive proper support from the Indian management.

Finding a good partner is a big task in India, so I would recommend that Irish companies look at objective-based partnerships – temporary partnerships that extend for only a certain period of time or until a certain objective is achieved.

So, Irish companies should be able to plan their business objectives and their partnerships in a specific way, one that allows them to say to potential partners 'I'm not looking for a long-term



partnership, but I would like you to open these five doors for me, and that will be all. I'll give you a one-year period to find me five customers in this area, and I will pay you a commission fee at the end of that time.' In this way, an Irish company which comes to India will be able to make a clear decision about whether to stay in the market or walk away from the market. So the selection of a partner has multiple layers – the search for a good partner, and the definition of objectives in the market.

**It's been said that to be truly successful in India, you need a unique selling point. What, in your view, makes PM Group so successful in India?**

PM Group's unique selling point is its expertise and international success, which we have been able to bring to the Indian market with a local flavour. We are customer-focused, committing ourselves to specific deliveries, and not running away from projects that demand quality. We are able to take international principles, and sell them through a strong local team.

PM Group's success has been attained through a focus on the life sciences sector, the food nutrition and beverages sector, and the engineering/manufacturing sector. So we understand these industries, and we are able to serve Indian clients with exactly the same quality control as we would provide in the US, or in Europe or in China. We have also recruited exactly the right team to serve the needs of our clients. So, PM Group's unique selling point is – expertise, customer commitment coupled with reliable delivery and localization.”

# LEGAL ISSUES IN INDIA



# 5. Legal issues in India

## Introduction

India's laws and regulations are quite complex and constantly evolving. Businesses investing in or exporting to India should spend time understanding its import/export framework, taxes, exchange controls and visa requirements.

## Import/Export Framework

In India, the [Directorate General of Foreign Trade \(DGFT\)](#), a department under the [Ministry of Commerce and Industry \(MCI\)](#), and its 35 regional authorities handle all activities related to import and export. The agency is in charge of issuing import and export licences and is also authorised to suspend or cancel such licences.

- To import or export in India, it is mandatory to obtain a 10-digit [Import Export Code \(IEC\)](#) from the [DGFT](#). An application for an IEC Code can be filed online on the [DGFT website](#) or in person at a DGFT authority. Only one IEC Code can be issued per Permanent Account Number (PAN). (Please see 'Need to Know' below for details on PAN).
- The import and export policy of India is stated in the [Foreign Trade Policy](#) ("FTP", earlier known as Export Import Policy or EXIM policy) issued by the [MCI](#). This policy is announced once every five years, with annual supplements. The most updated policy applies to the years 2009-2014, and is available on the [DGFT website](#).
- Under the [FTP](#), imports of all goods are free except for three categories of goods: banned or prohibited items, restricted items and "canalised" items. Prohibited goods and items (e.g. wild animals) cannot be imported. An import licence needs to be secured from the [DGFT](#) for import of restricted items (e.g. inorganic chemicals, live plants, seeds). Import of items that are enumerated in the "canalised" list of items (e.g. rice and petroleum oil) are permitted to be imported only by designated agencies.
- [Indian Customs](#) uses a nomenclature system called ITC-HS codes (Indian Trade Classification based on Harmonised System of Coding) to classify commodities in import and export operations. The two ITC-HS Codes Schedules can be downloaded from the [DGFT website](#). Schedule I of the ITC-HS Codes indicates whether an item is free, canalised, restricted or prohibited for import.
- Applications for an import licence should be made to [DGFT](#) regional authorities.
- Every import licence application should consist of two copies of a bank receipt from the designated bank in India or a bank draft indicating the deposit in accordance with the prescribed fees. Fees are calculated based on the CIF (Cost, Insurance and Freight) value of the goods.
- In addition to the [DGFT](#), and depending on the nature of the commodity to be imported, other authorities may also be involved in granting the import licence. For example, import of seeds will also require a permit granted by the Plant Protection Advisor under the [Department of Agriculture and Cooperation](#).



## NEED TO KNOW

All companies incorporated in India, whether locally or foreign-owned, must apply for a [Permanent Account Number \(PAN\)](#) for taxation purposes. This unique identification code is used for communications between the company and the tax authorities.

The [National Securities Depository Limited \(NSDL\)](#) is responsible for issuing all [PAN](#) cards. To apply for the [PAN](#) card, you can enlist the assistance of an agent or apply yourself online at the [NSDL website](#). Documents including proof of existence of the company and proof of office address must be provided. It usually takes 15 days to issue a [PAN](#) card to a business.

## Taxes

One of the major differences between the Indian and Irish business environments lies in taxation. On average, firms have to spend more than three times as much time to file, prepare and pay taxes in India as compared with Ireland, and pay more than twice as much tax based on profit.

India has a very low entry for creating a taxable presence, so foreign firms should reach out for tax advice at the beginning of an investment in India. This helps avoid unnecessary penalties and administrative costs, and achieve tax savings in the long term.

In order to establish an entity structure with long-term tax savings, an investor should consider the following:

- Companies established in India are taxed at a rate of 30 percent, with an additional charge of five percent if taxable income is greater than Rs 10 million (€118,000).
- Foreign companies are taxable at 40 percent; surcharge is applicable at 2 percent if the total income exceeds Rs 10 million (€118,000).
- A 3 percent education tax (called “cess” and collected for improvement of education) is levied on the amount of income tax, including the surcharge for both domestic and foreign companies.
- A company is considered a foreign non-Indian company if its core management (i.e. where key decisions on management are made) is located outside of India for the duration of the year. Companies formed in India are considered Indian domestic companies, even subsidiary units with mother companies in foreign countries.
- Branch and project offices have to pay tax on income earned. A branch office is deemed an extension of the foreign corporation in India and is taxed at the rate applicable to foreign companies.
- Goods manufactured in India are subject to excise duty, also known as Central Value Added Tax (CENVAT). “Excisable goods” are goods specified in the first and the second Schedules of the [Central Excise Tariff Act](#). The rate at which excise duty is applied to goods depends on the classification of the goods under the Act. The general CENVAT rate is 12 percent. The rates for other goods can vary greatly, e.g. 3 percent for refined gold and 24 percent for certain automobiles. CENVAT filings should be conducted monthly on the 10<sup>th</sup> day following the end of the period. More details about CENVAT can be found on the [Central Board of Excise and Customs website](#).
- Capital gains tax is imposed on gains derived from the disposition of capital assets. The treatment varies depending on whether the gains are long-term or short-term.

- Presently India does not have any thin capitalisation rules. However, thin capitalisation rules are proposed to be introduced in the Indian tax regime in a limited manner in order to restrict the tax evasion by companies who infuse more debt than equity by allowing for re-characterisation of debt into equity and vice versa.
- Both India and Ireland tax their residents based on their worldwide income, i.e. income sourced both in and outside of the country. Under the double taxation avoidance agreement (DTAA) between Ireland and India, double taxation relief is offered under the tax credit method. Where income from sources within Ireland has been subject to tax in both India and Ireland, the amount of Irish tax paid by a resident of India will be allowed as a credit against the Indian tax payable in respect of such income. Indian tax payable on profits, income and gains from sources within India is also allowed as a credit against any Irish tax computed by reference to the same profits, income and gains.
- State value-added tax (VAT) applies to intra-state sales in India and is levied on every stage of sale in the state unless the goods are exempt from tax. The VAT paid on goods purchased from within the state is eligible for VAT credits, which can be used to offset the VAT/Central Sales Tax (CST) due on the sale of goods.
- There are varying rates of VAT, generally at 1 percent, 4 percent, 5 percent or 12.5 percent. Each state promulgates its own VAT law and the rates are generally uniform, with some variations.
- VAT reporting is either monthly or quarterly, depending on the particular state's rules. Every business is required to register their VAT.
- All goods sold in the course of inter-state trade (i.e. between dealers of two different states) are subject to Central Sales Tax (CST). CST is generally 2 percent.
- A countrywide dual – Central and State level – Goods and Service Tax (GST) is planned to replace most of India's current indirect taxes.

## Exchange Controls

The [Reserve Bank of India \(RBI\)](#) regulates the country's foreign exchange markets and prescribes exchange control norms. Foreign exchange transactions are governed by the [Foreign Exchange Management Act \(FEMA\)](#) of 1999.

- Foreign exchange transactions are broadly classified into two types: current account transactions and capital account transactions. The Indian rupee is fully convertible on the current account, which means that foreign exchange is made freely available for making and receiving trade-related payments. However, on the capital account, the Indian rupee is only partially convertible. This means that the freedom to convert local financial assets into foreign financial assets and vice versa at market-determined rates of exchange is limited.
- One of the ways an Indian company can access funds abroad is through External Commercial Borrowings (ECB), i.e. commercial loans in the form of bank loans, buyers' credit, suppliers' credit, or securitised instruments from non-resident lenders.
- ECBs are accessible under the automatic route or the approval route of FDI. Under the automatic route, no prior approval from the RBI is required to obtain the ECB, as long as certain requisite conditions are met. The borrower must simply obtain a Loan Registration Number (LRN) from the RBI before drawing down the ECB. For ECB under the approval route, applicants are required to submit an application along with necessary documents through a designated Authorised Dealer Bank (i.e. banks authorised by the RBI) to the Foreign Exchange Department of the RBI. A list of Authorised Dealers can be found [here](#).



- Profits and dividends (remittances classified as current account transactions) earned in India can be repatriated through an Authorised Dealer after tax liabilities are met, without requiring the permission of the RBI.
- Indian branches of companies incorporated outside of India are permitted to remit profits they earned, net of the applicable Indian taxes, to their head offices outside the country. These branches will need to present a certified copy of the audited balance sheet and profit and loss account for the relevant year and a Chartered Accountant's certificate certifying the manner of arriving at the calculated profit, etc.
- Where a foreign technology collaboration agreement is entered into with an Indian company, payments for royalties and technical know-how can be remitted under the terms of the agreement, subject to tax withholding, if any, without any limits.



### NEED TO KNOW

The [Foreign Exchange Management \(Current Account Transaction\) Rules](#) of the year 2000 and their amendments stipulate the current account transactions that are prohibited, those that require prior approval of the Central Government and those that require prior approval of the RBI. Remittances for all other current account transactions can generally be made directly through the Authorised Dealers without any specific prior approval.

## Managing Exchange Risk

There are many factors to consider when conducting business internationally, ranging from the microeconomic concerns of your individual enterprise to the global macroeconomic situation. With the recent pressure on the Indian rupee, it is now more important than ever to understand the broader context in which your business operates.

The exchange rate between two countries' currencies will affect the flow of goods between those two countries, with the cheaper currency's country often seeing a boost in exports due to the other country's greater relative purchasing power.

Over the past two years, the Indian rupee has seen its value decline against other major currencies, including the US dollar and the Euro. In July of 2011, 45 Indian rupees were equivalent to 1 US dollar. The rupee has fallen nearly 70 percent since then, reaching a low of 65 rupees per 1 US dollar in August of 2013. The rupee has seen similar action against the Euro, falling from Rs 56 in June of 2010 to Rs 88 in August of 2013.

Companies selling to India will feel the greatest impact of the weakened rupee. All rupee-denominated profits, once exchanged to the home currency, will reflect the devaluation of India's currency. To offset this cost, companies may have to consider raising prices on their rupee-denominated products. Current economic data shows that this may already be happening, with the consumer price index rising over 9 percent in July of 2013 alone.

Foreign companies looking to source from India will benefit from the rupees' depreciation as their home currency gains purchasing power over products produced in India, thus reducing the costs of operating in India. The impact of inflation may erode this advantage however, and it will be important for firms sourcing from India to regularly compare the economic gains of a weakened rupee against the potential costs of rising inflation.

As noted earlier, companies exporting from India may see the greatest benefit from the Rupee's recent decline. As the major currencies gain greater purchasing power over Indian goods, it will become more economical to import goods from India. Exports from India have already begun to see this increase, rising 11.2 percent on a year-over-year basis in September of 2013.

India's trade deficit has also fallen from US\$17.5 billion (€13 billion) in September of 2012 to US\$6.7 billion (€5 billion) a year later, allowing more room in the market for domestic

consumers to buy local goods, and for foreign businesses to enter the market. These figures suggest that, although the rupee is going through a revaluation relative to other major currencies, India's long-term prospects remain healthy and opportunities in the country remain strong.

Fluctuation in currency exchange rates adds uncertainties to conducting international trade. If there is a change in the relative value between the Indian Rupee and the foreign currency between the time that a deal is made and the payment is received, it can cause a windfall or loss to the parties in the transaction, thus affecting profits. Foreign exchange risk management is the process of identifying such exchange risks and implementing the process of protection by hedging these risks.

Due to the volatility of the Rupee and the changing policies of the RBI, the ability of a company doing business with India to adequately hedge its foreign currency exposures is limited, as hedging can even contribute to increased losses.

Various hedging instruments are available in India, such as foreign exchange forward and option contracts. A foreign exchange forward contract, offered through banking institutions, is an agreement to purchase or sell a currency for a specific price at a future date. Normally, the maturity period of the hedge does not exceed the maturity of the underlying transaction.

Currency options give the right to the buyer of the option to sell or buy a specific amount of foreign currency at a pre-determined price. In India, the contingent foreign exchange exposure arising out of submission of a tender bid in foreign exchange is permitted for hedging. For example, where the company bids for a contract determined in foreign currency, the company will not know whether or not currency exposure will arise in the future. If the company wins the bid, the company will exercise the option if the spot rate moves adversely and will not exercise the option if spot rate is in favour. If the company does not win the bid, the option will be abandoned and sold back to the writer.

## Visa

All foreigners visiting India need a visa.

- India issues tourist visas, generally for 180 days with multiple entries.
- A business visa can also be issued for between 3 months to 5 years; applicants must provide a business invitation letter from a sponsoring company in India. Under the business visa, the period of stay in India for each visit is limited to six months.
- Travellers should ensure their passports are valid for at least six months from their intended date of departure and have at least two blank visa pages for Indian visa stamps.
- Work permits in India are less clearly defined than work permits in many other countries. The Indian immigration structure does not present detailed requirements for obtaining one, but they are necessary if you intend to live and work in India. The employment visa must be issued from the country of origin of the foreign employee.



### NEED TO KNOW

Employment visas are only granted to foreigners who are highly skilled and/or are qualified professionals for jobs for which no qualified Indians are available. The foreign national should generally receive an annual salary exceeding €18,735.





# 6. Growth Sectors

## Introduction

In this section, we provide a quick look at seven sectors of opportunity in which Irish companies are well placed to deliver products and services to the Indian market. These include:

- International Education
- Medical Devices
- Biopharmaceuticals
- Agricultural Technology
- Aviation Services
- Engineering Services
- Information and Communications Technology (ICT).

## International Education

Due to the limited number of colleges and universities in India, there are a large number of Indian students who are going to foreign countries for higher education. This presents a great opportunity for Irish institutes.

- Despite India's large population of over 1.2 billion people, there are only 570 domestic universities. Because of this, many high-performing candidates, especially in professional courses, are seeking to pursue education abroad. Furthermore, overseas education is perceived to be superior to that provided by most Indian institutions and is valued highly in the job market.
- The number of Indian students traveling overseas for their education has grown consistently over the last ten years. In 2012, more than 200,000 Indian students studied overseas.
- With the expanding middle-class in India, many parents are willing to support their children's education in universities abroad and the Central Bank of India and other financial institutions also provide educational loans at attractive interest rates to facilitate this trend. The growing demand for international education by Indian students represents a great opportunity for Irish educational institutions and student-oriented service providers.
- The top study abroad destinations for Indian students are the United States, the United Kingdom and Australia. As the second most popular destination for overseas students from India, the U.K. receives 20 per cent of India's share of overseas students. A growing number of Indian students are seeking higher education in Ireland as well, with over 1,200 students attending Irish schools last year.
- Factors influencing the student's decision to study abroad include: availability of information about schools, variety as well as prestige of universities, visa rules of the country, ease of application procedure, tuition and cost of living, living environment, cultural encounters and support, internship and employment opportunities, work permit access and permanent residence options

## **CASE STUDY: Opportunities for Irish Education Institutions**

### **University College Dublin, Una Condrón, International Recruitment Manager**

*University of College Dublin was established in 1854 and is the largest university in Ireland.*

<http://www.ucd.ie/>

#### **Can you introduce the University College Dublin and your programs for Indian students?**

“UCD is Ireland’s Global University – we are the largest and most international university in Ireland with over 26,000 students. 5,500 students within our student body are international from over 120 countries. We are also an old university, established in 1854, and have been a major contributor to the making of modern Ireland. Similar to a US university, we are very program based, with a diverse offering at undergraduate and graduate level, as well as innovatively structured PhDs.

Coming from Ireland, what we are looking to do is to establish UCD, establish Dublin and establish Ireland as a destination for Indian students because, until recently, Indian students have been very focused on going to the US or the UK. So, coming from Ireland, we have to work a little harder and share the advantages of an Irish education experience! Even though we are an English speaking country on the western edge of Europe, often times student can be quite surprised at our place in the world... for example, when I explain that 100 years ago we had an Indian president, V. V. Giri, study law at UCD. So there is a tradition and a history between the two countries and we are working to raise this profile.

#### **What are the important points to make when recruiting Indian students?**

One big thing that Ireland has in its stead at the moment is that we are very big in key areas like ICT that have a global demand and global interest. We are also very big in the areas of green technology, pharma and medical devices. In the area of ICT, we are due to be the third most digitally engaged country in the world in the next three years and have a reputation as the Internet Capital of Europe. We have the European headquarters of Google, Facebook, LinkedIn, Apple, Twitter - all of these big entities have their headquarters in Ireland, not where you might expect in the UK or Germany. They do so because we are a very skilled and educated graduate work force and our universities are very research orientated, so there is a good dialogue between the universities and the industry.

Indian students are also interested in Ireland because it offers a safe and friendly destination for them – it is truly a welcoming country and we are similar to India in that education is very important. As I mentioned earlier, UCD is in the top 1% of world universities and many programmes are in the top 100 in the world. Indeed, our graduate business school, the Smurfit School of Business, is ranked first in Ireland, top 20 in Europe and top 100 in the world and has a global reputation for producing top rate business graduates. Ireland has one of the best educated workforces in the world and this has been proven once again in a recent report published by the European Commission, which outlines details of the numbers of third level educated people in Ireland. The report has shown that Ireland is the graduate capital of Europe, with a bigger share of 30-somethings holding a degree in Ireland than anywhere else in the EU. And moreover, Ireland is the only country with over 50% of 30 - 34 year olds holding a third level qualification.

We also have a “stay back” option, so when Indian students complete their studies in Ireland, if they attend third or fourth level, they can stay for twelve months living and working on a stay back visa.

The other important point when looking to offer Ireland as a destination to Indian students is to be as available to the Indian market as we can, so we are traveling their 4 to 5 times a year and

we're looking to set up an office in India. We want to show to the local market that we are very committed and consistent in our approach.

### **Is studying abroad becoming more popular among India students?**

Absolutely yes. I think Indian students have always looked overseas for a proportion of their studies and now we are seeing more and more students looking to complete their bachelor's overseas. I find that Indian students are ambitious and are looking to have an experience that takes them forward, whether it is for further studies or opportunities to secure employment. Global exposure is not a 'nice to have' these days – rather a 'must have.'

### **Are there any incentives offered by UCD or the Irish Government for students looking to study in Ireland?**

Last year we released a very strong scholarship template because we are trying to reduce the obstacles for top students. First tier students don't always have the means to study overseas, so last year we offered a number of full and partial scholarships and also the Government of Ireland had a very attractive scholarship scheme for Indian students whereby they would have gotten a full tuition scholarship - a living stipend and 10,000 euros. We are hoping to work with the Irish Government to offer the same next year. And we in UCD of course intend to bring the largest scholarship fund from Ireland to India again in way of attracting Indian's best students.

### **Do you have to have a physical presence in India when recruiting students?**

That is genuinely my feeling for India. We are making ourselves known to Indian students, to schools, to colleagues in India to promote UCD and to give view to our programs. You have to go out and try to differentiate what you are offering and you have to make them feel secure and confident about the decision they are making, particularly if you look at Ireland, as it is a newer proposition to some students.

You have to give the students an opportunity to talk with the academic staff that will be teaching their programs and conducting research here- they want to know who these academics are and why they are the best people to instruct them in their chosen studies. Often times, students will have already done significant research into the programs that we offer, the talents that we have, the industry links that we have, and there is no better person for prospective students to speak to than the people that are most involved in the education we provide.

### **Are there specific academic subjects that Indian students gravitate towards?**

There are certain programs that have widespread attractiveness. I would say our business portfolio - anything to do with finance, quantitative finance and analytics- has become such an in-demand program, particularly because of the global need for graduates to manage this big asset that is India. Students from Bangalore and Chennai tend to be attracted to programs like electrical engineering, computer sciences, and biotech. Looking towards Delhi, you can see a wider reach in interest- the student could be interested in developmental studies or environmental studies or looking at something in Anglo-Irish literature even. There can also be outliers. I had an undergraduate student asking recently about agriculture in Bangalore. She just felt really passionate about the land and the environment and she wanted to follow agriculture with a view to doing agri-food, and that is going to be a huge area for India going forward as they look to meet the demand. As the market shifts, there will be new programs that will pick up the gaps.

The very last thing I might mention is something I do speak to graduates about and that is the opportunities for the Indian students to bridge the gap between western companies looking to access India's huge market of 1.2 billion people. No better people than are our graduates to bridge the expectations and nuances of the international markets. So, I think for commercial entities to invest in those types of students who have had exposure, it better places them to be the representatives locally in India because they have the connections and networks that they got through their studies, but they also have the wider mind space that is important for success.”

## **CASE STUDY: Opportunities for Irish education institutions in India**

### **SannamS4 Consulting Pvt Ltd, Lakshmi Iyer, Head of Education**

*Sannam S4 is a specialist, single window service provider supporting the market entry and ongoing successful business development of international organizations in India. Sannam S4 has offices in New Delhi, Mumbai, Bangalore and Chennai and we have established client operations across the country.*

[www.sannams4.com/](http://www.sannams4.com/)

**Of your client list, how many would you count as Irish based schools engaging you for your services?**

“One of the services we offer for international customers is called the LaunchPad, which is where we go out and find the resources with the right level of capabilities for our customer's requirements and offer their consulting services. Using this model, Trinity College Dublin is our customer in India. In the education space, Trinity is the only Irish education customer on the LaunchPad system.

Having said that, we have also delivered public relations initiatives for University College Dublin and have supported the Irish Universities Associations to conduct a range of activities in India, including conducting student fairs. We support Enterprise Ireland in India and worked consistently with them for the past 2 years.

**Is SannamS4 more oriented at getting students abroad, or bringing students into India?**

All of our clients are international organizations and academic institutions that want to engage with India through a variety of levels. So with India being the second largest source market behind China, the predominant theme when academic institutions engage with India is to identify the right kind of students for them and to bring them to study at their campuses at whichever part of the world they are in.

The second theme is partnership. As the third largest education system in the world after the U.S. and China, there is a range of institutions such as Government institutions and highly ambitious private institutions, so everybody wants to engage with these institutions at different levels to try and see if they can collaborate when it comes to running programs on the ground or through research initiatives. Student recruitment of course is a focus, but a range of our customers is also involved in partnership building whether it be research partnerships or program-based partnerships.

We also have experience in supporting institutions when they want to bring their students into India for Study India programs. We have just finished delivering a UK-India education research initiative with the University of Dundee in the UK in which British nationals came to work as interns in Indian companies.

The Study India program is a growing one, but for many it is of a lower priority behind having a sufficient number of Indian students on campus and a sufficient number of India collaborations moving on the ground. We largely work with institutions that want to engage with India and bring their students outside of India to study in their campuses.

Probably in the next 3-4 years, we will see a lot more Study India programs, specifically through Australia's Asia Bound Grants Scheme, which will bring in a lot of Australian students to experience India's educational atmosphere, and the British Government's expansion of its Study India program.

**Are there any particular trends in terms of subject matter or specific states that have seen larger numbers of Indian students going abroad?**

India is a very diverse market. Every 150 KM or so, aspirations change. We now have 29 states and all of them are very different in terms of aspirations, ability to pay for an education abroad, attitude to study abroad and subjects they choose to study. Traditionally, the South of India has



been known for science and engineering students; while the West and North have more students looking for business courses.

Overall, the Indian market is very value-conscious and they want to see a very high level of return on investment. Return on investment is a very important thing because a majority of Indian students take student loans, which are not cheap. The average interest rate is 11%, so people really want to be able to repay the loans as soon as possible. So they look for opportunities to stay back and work in countries with currencies that are stronger than the Indian Rupee.

Even worse, over the last 12 weeks or so, the rupee has weakened by about 15% which means that students looking to go abroad have not been able to get the money together.

**What advice would you give to an Irish, or foreign, institution looking to get into India?**

One of the first things I would say is that it's very easy to come on fishing expeditions to India because there is a range of institutions and each state varies in terms of what it wants to get out of an education abroad or what it thinks should be a return for money being spent on an education abroad. Under those circumstances, it is very important to have eyes and ears on the ground in India. If you look at the trend with institutions that have already engaged with India for over a decade or so, many now have local representation on the ground which would ensure that students and their agents if any are getting timely service on a real-time basis.

Education as a sector in India is currently in a dramatic flux. We know that we need to grow our gross enrolment ratio (which is currently hovering at around 20% country-wide). We are very ambitious in wanting to push gross enrolment up, so that means that we will have a lot more people coming into education in the next 10 years or so.

Half of the world's population that is under 25 lives in India, and many of them are not in the leading cities such as Delhi or Mumbai. Many more second tier cities are home to ambitious parents looking to see their children have an education abroad as a matter of pride, so education remains a high involvement and investment product. People are willing to invest in an education abroad, but have become more demanding and are quality-conscious. Unfortunately, this is something domestic universities have struggled to meet and provide. The bottom line is striking the balance between quality and quantity. That is the biggest challenge in the Indian market, and for that local knowledge is very important.

**Do you see any particular reason why an Irish university would attract an Indian student compared to a more well-known US/UK institution?**

Indian students look at where there is a value for money and where there are good opportunities for them to look for work and stay back and build a career. Over the past 18 months, Education in Ireland has done a lot of good work in India to get their name out there and making Ireland a sought after destination.

I would say that 2.5 years ago that this was not the situation, but that has changed and that has got a lot to do with the on the ground work that Education in Ireland has done in India by conducting fairs and making Ireland a more accessible destination.

Of course the changes to the visa rules and stay-back options have really helped, but exposure has been key. For example, they have conducted student fairs to provide information at least once in six months over the past 18 months to show Indian students exactly what these institutions have to offer.

Another one of Ireland's biggest advantages is that it is an English-speaking country.

**I noticed that SannamS4 offers a skills training/further education program. Have any Irish institutions engaged you in this?**

No, but we currently support 30 further education colleges from the UK. India has a huge skills agenda, with 500 million people needing to be trained in various skills by 2023, and the Government of India has put in place schemes for skills providers from abroad to contribute by way of training sessions and curriculum sharing.

Every year there is a Global Skills Summit, and many foreign Governments – particularly ones from skill-based economies such as Australia, New Zealand and Germany – have really involved themselves in India's agenda. The Indian Government is keen to build over 100 American-style community colleges.

However, we have not had much contact with Irish skill providers, but we are very active in developing and supporting this agenda.

**You mention that Irish institutions have done a good job recruiting through student fairs. Would it be better for them to go down that road with a local partner through someone like you through the LaunchPad program, or would it be possible for them to enter alone?**

I think doing so through a partner would be best because it is more of a question of having a 24/7 presence on the ground. There are a lot of fairs and institutions that pop up on a regular basis, and to be able to keep on top of it is quite a challenge. Imagine trying to serve the highly competitive market by just flying in just 3-4 times a year and expecting success.

When I first started in the sector 11 years ago, not many countries came into India to get Indian students. Now there are at least 10 major countries looking to come and actively obtain Indian students. So you need to have a constant local presence to make a dent. If you are not there as a regular presence, people will forget about you.

**I've read that the Indian Government plans to reboot the country's education system by way of new reforms. Would this affect foreign schools looking to come into India?**

The Foreign Education Provider Bill, which has been stuck in Parliament for the past few years, was created to update the educational framework and to offer a framework for foreign institutions looking to collaborate with Indian institutions. That bill, unfortunately, has been stuck for a while.

Having said that, there are over 600 existing collaborations of foreign institutions with Indian institutions currently. If the bill goes through, it will definitely help Indian institutions actively scout around for collaborations. But, most importantly, it should help push up the quality of the existing infrastructure of our educational institutions. Many of our top institutions are not yet up to world class standard, and many even do not have enough faculty members. Before we go down the path of creating more institutions, we have to build up and make sure that the existing ones are up to international standards. Further, not only do we not have enough new teachers, but many of our existing teachers should look to upgrade their skills.

Pushing up existing infrastructure, ensuring that vacant posts are filled with passionate, highly-qualified teachers and making sure that the quality of the graduates who come out of our institutions are of a good calibre – those are the three things that we should focus on now before building more infrastructure”

## Medical Devices

India's market for medical devices is the fourth largest in Asia and one of the twenty largest in the world. Furthermore, nearly 75 percent of the market in India consists of devices imported from overseas. The sector is expected to see growth of 16 percent per year in 2014 and 2015, outpacing the slower growth of the medical devices sector overall.

- Medical device registration falls under the authority of the Medical Devices Division of the [Central Drugs Standard Control Organization \(CDSCO\)](#), a subdivision of the Ministry of Health & Family Welfare.
- Any medical device imported and marketed in India has to be checked with the authorities to determine whether it is within CDSCO drug/device classification standards during the conformity assessment process. If the medical device is not within Government classification, then a NOC (no objection certificate) issued by the CDSCO



is required for custom clearances. The guidance documents issued by the CDSCO on registration of medical devices and on applying for import licences for medical devices can be found [here](#) and [here](#).

- Medical devices for export to India that have received prior CE Mark approval by the European Union are allowed to bypass the conformity assessment procedures and may enter the market directly.
- It takes approximately 9 months to complete the medical device registration process in India. Once granted, medical device registrations in India are valid for 3 years.
- Medical devices imported to India are currently subject to a 10 per cent import duty. By importing on a SICOI (sale in the course of import) basis, VAT does not apply.
- [Medical Fair India](#) offers companies a platform to showcase their diagnostic and medical technology products. The fair, which is held in New Delhi each year, attracts exhibitors from over 17 countries and visitors from all aspects of the medical industry.

## Biopharmaceuticals

The Indian pharmaceutical market has grown 15 percent annually over the past five years, a trend that is expected to continue through 2020. Low-priced, domestically produced generic products dominate the market, with about 250 leading companies controlling 60 to 70 percent of the sector. Despite this, there is growing need for quality international pharmaceuticals as domestic production meets only 70 percent of the country's demand.

- The Indian pharmaceuticals market, worth US\$18 billion (€13.5 billion) in 2012, is expected to reach US\$45 billion (€33.7) by 2020, according to a report by McKinsey & Company. The Joint Secretary of the Department of Pharmaceuticals Dr. A.J.V. Prasad has an even higher estimate, stating: "The Department envisages that the industry will grow from its current level of Rs1 lakh crore to Rs5 lakh crore (€61.7 billion) by 2020." Increases in the treatment of chronic disease and greater insurance coverage are expected to fuel continued growth of India's pharmaceutical industry.
- Due to lack of domestic quality control, many multi-national companies turn to Irish firms for guarantees of credibility and marketable products. Additionally, eight of the world's top ten pharmaceutical companies employ nearly 50,000 people in Ireland, making the local expertise a tangible value that Irish companies can bring to India along with their capital.
- India's growing high-income group will open a potential €6.1 billion market for multi-national companies selling high-end drugs by 2015, according to a report by Ernst & Young.
- The Drug Controller General of India (DCGI), under the Central Drugs Standard Control Organisation (CDSCO), regulates the pharmaceutical industry in India.
- Companies looking to export pharmaceuticals to India must register their drugs with the CDSCO. Each drug will be subject to a fee of US\$1,000 (€750). An import licence will also be granted upon registration of the overseas manufacturer.
- Top pharmaceutical companies in India include GlaxoSmithKline Pharmaceuticals, Ipca Labs, Torrent Pharmaceuticals, Divis Labs, JB Chemicals, Cadila Healthcare, Lupin Limited, Dr. Reddy's Laboratories and Sun Pharma.
- Suggested source: India Brand Equity Foundation Overview - Pharmaceuticals (<http://www.ibef.org/industry/pharmaceutical-india.aspx>)

## Agricultural Technology

The Indian agricultural sector is in great need of R&D for science-based technologies and products that increase agricultural efficiency. Due to labour shortages, both north and south India are emerging as destinations with strong buying potential for machinery and farm equipment. Opportunities also exist in the organised food sector, which is projected to grow at an annual rate of 30 percent. As the largest dairy producer in the world and a growing exporter of meats and poultry, the animal husbandry and dairy sectors will also benefit from investment and efficient technologies. Firms capitalising on Ireland's agriculture expertise and environmentally friendly practices will find many opportunities for growth in the Indian market.

- Mechanisation of the farming process has been increasing in India recently. The northern cities of Punjab, Haryana and Western Uttaranchal have embraced the trend and are looking for advanced technologies to increase their productivity. Western Bengal and Orissa in eastern India and many northeastern states are also in the process of adopting farm mechanisation.
- The Government has set up multiple schemes (including the [National Food Security Mission](#) and [ISOPOM](#)) that offer subsidies on the price of agricultural equipment such as irrigation equipment, power tillers, etc. in order to increase agricultural growth in India. Sales of agricultural machinery are driven by these subsidies.
- Several preferential loans and Governmental subsidies are also available for farmers looking to upgrade their agricultural equipment. Some states require machinery be tested to find out if the machine would operate under Indian conditions before a loan will be granted.
- [AGRI INTEX](#) is a leading agriculture trade show in India featuring exhibits of the most recent and advanced agricultural equipment; it welcomes leading exhibitors from all over the world to showcase their latest breakthroughs in agricultural technology.
- India is the largest producer and consumer of dairy products. The sector was worth US\$48.5 billion (€36.5 billion) in 2011 and is expected to grow to US\$118 billion (€88.8 billion) by 2017, according to Gyan Research and Analytics. Demand for dairy is expected to continue, putting pressure on Indian producers to increase output by adopting more efficient procedures and equipment.
- Starting this year, the Indian [Department of Animal Husbandry and Veterinary Services](#) will award eligible farmers with a Rs1.5 lakh (€1,800) subsidy for the purchase of dairy equipment.

## Aviation services

The aviation industry in India is one of the fastest growing aeronautical sectors in the world. India is poised to emerge as the world's third largest aviation market by the end of this decade, according to the CAPA Centre for Aviation. Domestic passenger travel currently ranks 4<sup>th</sup> in the world by passenger volume and the Ministry of Civil Aviation has forecast a 10 per cent growth rate in the sector through 2020.

- The number of aircraft in India is expected to increase from 400 as of 2011 to 1,000 aircraft by 2020. Passenger volume is also expected to increase to 180 million passengers per year by that time.
- India has one of the lowest aircraft-to-population ratios among the emerging markets, making it a prime destination for aeronautical manufacturing and research.
- Customs duty is up to 27 per cent on parts imported for maintenance, repair and overhaul of aircraft, but may be exempt if specified conditions are met.
- A foreign original equipment manufacturer (OEM) may enjoy various tax and duty exemptions for its supplies to the Ministry of Defense under a supply contract.

- Recently, India has increased its FDI cap on the aviation sector, allowing foreign companies to own up to 49 per cent of Indian airlines. A further increase to 74 per cent has been proposed.
- India is in the process of establishing the country's first aviation university. The Rajiv Gandhi National Aviation University will open in 2018 and will handle 5,000 students per year. The university will train flight and cabin crew, as well as aircraft engineers.
- The [Indian Aviation Exhibition and Conference](#) is the country's largest civil aviation airshow and features exhibits "from every aspect of the industry and creates a global commercial marketplace." The exhibition offers an internationally promoted platform to showcase aviation-related equipment and services in India.

## Engineering Services

As one of the largest segments of India's industrial sector, the engineering industry has been developing rapidly, with machinery, transport equipment and engineering goods all growing by more than 30 per cent in 2012. The Department of Commerce has forecast a 20 per cent annual growth rate for domestically produced exports in the major engineering sectors with a target market total of US\$125 billion (€93.7 billion) by the end of fiscal year 2013-14. An increased emphasis on infrastructure development in the country will also boost demand for engineering services.

- Both the heavy and light engineering sectors in India are robust, with strong demand in several subsectors, including textile and rubber machinery, oil field and mining equipment, dairy machinery, surgical instruments and process control instruments.
- While the import duty on engineering products can vary depending on the sector for which the products will be utilised, the standard import rate is a basic duty of 7.5 per cent and a countervailing duty of 12 per cent. Motors, textile and mining equipment all fall within this rate.
- The Indian engineering market is known for its competitive pricing and innovative processes. Companies looking to gain an edge in India must do so at a price-point acceptable to the domestic market while offering localised services for country-specific needs.
- India has become a leading engineering research and development (ER&D) hub and has a 22 per cent global share of ER&D activity. According to a report by the globalisation advisory firm Zinnov, the ER&D market will reach US\$42 billion (€31.5 billion) by 2020.
- The [India Engineering Sourcing Show](#) is the country's largest engineering products and services trade show. The annual event features exhibitions from over 80 countries and facilitates global cooperation among industry leaders.

## Information and Communications Technology (ICT)

India is a leading player in the world's ICT sector and imports many different products, including telecommunications, audio and video, computer and related equipment, and electronic components. India's telecommunications network is the fastest growing market and has the second largest number of telephone users in the world. Demand for enterprise software is also high, especially in the education, electronic security and medical fields. According to a report released by Gartner, a leading IT research company, the IT sector in India will grow by 14 per cent in 2013, reaching nearly US\$4 billion (€3 billion) by year end.

- Ireland is a natural partner for India in the ICT industry: eight of the world's top ten companies in this sector are headquartered in Ireland, and a large percentage of ICT firms in Ireland are foreign-owned, giving Irish businesses considerable experience with cross-border cultural and monetary issues.

- Demand is greatest for telecom, computer and electronic component imports in India. Due to the increase in 3G and high-speed broadband networks, the import of telecom equipment has consistently risen over the last few years.
- In 1997, India signed the WTO's Information Technology Agreement (ITA) and committed to the total elimination of all customs duties on IT hardware by 2005. Recently, however, India has backtracked some of its previous duty exemptions in order to protect "national interests."
- The basic customs duty on many ITC items is zero per cent, but the Indian Government has implemented a 6.03 per cent duty on computer processors, a 16.85 per cent levy on laptops and computers and a 28.85 per cent duty on video equipment.
- Foreign direct investment into telecom companies was raised this year from 74 per cent to 100 per cent. The Foreign Investment Promotion Board will automatically approve investments of up to 49 per cent.
- Aside from telecom, some ICT business opportunities identified in India are in e-healthcare (hospital information systems, data management systems and wireless technologies) and education IT (IT tools for student services and for delivering education and educational aids).
- Due to high and growing demand, companies can export low cost software to India in large volume. Furthermore, localising software for the Indian market will also result in great product acceptance.
- In 2006, India's National Association of Software and Services Companies (NASSCOM) and Ireland's Irish Software Association (ISA) signed a Memorandum of Understanding designed to boost collaboration between the ICT sectors of both countries.

# SELLING TO THE GOVERNMENT IN INDIA



## 7. Selling to the Government in India

**“India is very bureaucratic, so you want to have a very compelling reason to invest in India, in terms of opportunity. It’s not something you can do on a whim—you really have to feel that there is an opportunity. [Doing business] in India can be very slow, but it pays off.”**

**John Breen, Business Development Manager – Industrial Sales, Instant UpRight**

### Introduction

India's public procurement system is open to foreign bidders, although priority is given to Indian companies. In some states, Indian institutions are encouraged to partner or subcontract with foreign entities for certain tenders. Due to the complexity and opacity of the system, foreign entities should be prepared to make long term commitment and devote substantial resources in order to be able to secure opportunities.

India's public procurement system accounts for approximately 30 per cent of the country's GDP every year, with defence, railway and telecom departments devoting about 50 per cent of their budgets to procurement. It is estimated that India's annual public procurement expenditure is in the range of Rs 2.5 – 3 lakh crore (€44-45 billion). Much of this public procurement has historically been in physical infrastructure. Recently, however, one of the most important areas for Government procurement has been in information technology infrastructure related to e-governance, e-commerce and e-banking.

Currently, India's public procurement sector is not widely open to foreign participation. The policy of the Indian Government is to make purchases in such a way as to encourage development of indigenous production to the utmost possible extent and to make the country self-sufficient. As such, preference in making purchases will be given first to articles produced or manufactured in India. In addition, India uses Government procurement as a development policy tool to address economic and social inequalities by giving certain preferences to vulnerable groups, such as micro, small and medium enterprises (MSMEs), women's groups, village enterprises and minorities.

India currently has observer status under the World Trade Organisation's General Procurement Agreement (GPA). The GPA is designed to make laws, regulations, procedures and practices regarding Government procurement more transparent and to ensure they do not protect domestic products and suppliers, or discriminate against foreign products and suppliers. Under observer status, India may participate in GPA discussions during WTO meetings, thus helping India obtain a greater understanding of the global market for Government procurement and the rules and regulations governing market access issues.

Government statements suggest that India does not plan to take any immediate steps towards further opening of the procurement sector. Below, we briefly outline the public procurement framework in India and introduce the country's public procurement system.

### Framework

India is a federal republic with a parliamentary system of Government. It consists of 28 states and seven union territories (i.e. centrally-administered territories). Power is divided between the



Central and State Governments, and legislative powers are divided between the parliament and state legislatures.

Government procurement in India is decentralised, meaning there is currently no central law governing public procurement. In April 2012, the Cabinet approved the Public Procurement Bill that seeks to regulate Government purchases of above Rs 50 lakh (€60,300) through a transparent bidding process. The bill was passed in the lower house of Indian parliament in 2012 and is now pending clearance in the upper house.

The [General Financial Rules](#) issued by the [Ministry of Finance](#) lay down the principles for financial management, the procurement of goods and services and for contract management. The [Manual on Policies and Procedures for Purchase of Goods](#) assists procurement entities and their officers in procurement. The [Central Vigilance Commission](#) issues instructions to supplement these regulations.

At the federal level, procurement is regulated through executive directives and administered by the individual Government agencies, which may issue more detailed instructions in conformity with the [General Financial Rules](#). They may also develop their own handbooks, model forms, and model contracts and tender documents.

Specific sectoral procurement regulations exist in some areas, such as defence procurement.

## India's procurement system

- The [Central Public Procurement Portal](#) of Government of India facilitates the publication of tender enquiries, corrigendum and award of contract details for all Central Government organisations.
- The [Indian Government Tenders Information System](#) is the central source for Government and public sector procurement/tenders/notifications issued by the Central and State Governments and other public bodies across India for goods, services and works.
- All public sector purchases and contracts in India over a certain value have to be publicly notified through tender notices and advertised through newspapers, trade journals, departmental publications, notice boards and the Internet.
- Some states, like Andhra Pradesh and Gujarat, have initiated e-procurement programmes under a larger umbrella programme of e-governance.
- Tenders for various Government departments can be found on their websites. For example, the tenders for RBI can be found [here](#).

# HOW ENTERPRISE IRELAND CAN HELP YOU SUCCEED IN INDIA



## 8. How Enterprise Ireland can help you succeed in India

Enterprise Ireland is committed to supporting our clients' growth in their current markets and assisting their expansion into new ones. Our team of experienced marketing professionals includes a network of overseas offices ready to help you succeed. An overview of our service offerings is shown below:

### Pre-Visit Support

Enterprise Ireland can provide:

- A sector overview
- A validation of the opportunity for your product/service
- An evaluation of your market entry strategy
- Suggested channels to market
- Competitor analysis
- Relevant contacts/suggested itinerary
- Summary of relevant market information resources.

### In-Market Support

Services available include:

- Introduction to buyers and decision-makers
- Identification of potential partners
- Facilitation of buyer visits to Ireland
- Assistance with product launches/workshops
- Securing reference sites.

### International trade events programme

Every year, Enterprise Ireland organises an extensive programme of events to support your business abroad. These include:

- Inward buyers' mission to Ireland
- Group stands at important international trade fairs
- Overseas trade missions

- Study visits to gain knowledge of overseas markets
- Client knowledge events including seminars and workshops
- Networking events to build and enhance relationships with market contacts.

Further information is available at: [www.enterprise-ireland.com/events](http://www.enterprise-ireland.com/events)

## International market contacts

Enterprise Ireland has established an excellent network of individuals in India who are able to work with Irish client companies to develop their businesses. This includes market and sector specialists, business accelerators and members of Irish business associations.

## Additional supports

We can offer additional supports in the following areas:

- Access to translation and interpreting services
- Introductions to specialist expertise such as legal, recruitment, public relations and taxation
- Access to mentors.

For further information on the services of Enterprise Ireland overseas, please go to [www.enterprise-ireland.com/en/Export-Assistance/](http://www.enterprise-ireland.com/en/Export-Assistance/)

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## DISCLAIMER

Updated in August-November 2013, this report represents the latest available research and findings on the Indian market. Information in this publication is only intended to provide a general outline of the subjects covered. It should neither be regarded as comprehensive nor sufficient for making decisions, nor should it be used in place of professional advice. Enterprise Ireland accepts no responsibility for any loss arising from any action taken or not taken by anyone using this material.

Readers are encouraged to consult with professional advisors for advice concerning specific matters before making any business decisions.

While every effort has been made to ensure the accuracy of the information contained in this publication, Enterprise Ireland accepts no responsibility for errors or omissions.

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