

SHRI P. CHIDAMBARAM: Sir, it is a suggestion and I certainly take note of the suggestion.

MR. CHAIRMAN: Question No.143. ...*(Interruptions)*...

श्री विनय कटियार : सभापति महोदय, मैं रोज ही सबसे पहले हाथ उठा रहा हूँ। कल भी उठाया, आज भी उठाया, कल तीन प्रश्नों पर उठाया, आज भी उठाया। ...**(व्यवधान)**...

श्री सभापति : देखिए, विनय कटियार जी,

श्री विनय कटियार : लेकिन पता नहीं ऐसा क्यों हो रहा है। पिछले सत्र में भी इसी प्रकार से उठाया। क्या आप हमसे नाराज हैं? ...**(व्यवधान)**...

सुश्री मैबेल रिबेलो : कल हमारा क्वेश्चन था, वह आपने डिस्टर्ब कर दिया। ...**(व्यवधान)**...

श्री सभापति : विनय कटियार जी, आपको मालूम है कि क्वेश्चन पूरे हाउस में रोटेट करने होते हैं। ...**(व्यवधान)**... आपकी पार्टी से तीन सवाल पूछे गए हैं। ...**(व्यवधान)**...

श्री विनय कटियार : पार्टी को तो लेना ही था। ...**(व्यवधान)**...

श्री सभापति : नहीं, नहीं। देखिए, रोटेशन के आधार पर ...**(व्यवधान)**... रोटेशन का प्रिंसिपल जरूरी है। ...**(व्यवधान)**...

श्री विनय कटियार : सर, पार्टी की संख्या के आधार पर हमें मौका मिलना चाहिए। ...**(व्यवधान)**...

श्री सभापति : नहीं, नहीं। ...**(व्यवधान)**... Just one minute. Let me clarify one point. आप एक मिनट बैठ जाइए। ...**(व्यवधान)**... आपका सवाल नहीं था। आप सिर्फ सप्लीमेंट्री पूछना चाहते थे। ठीक है। ...**(व्यवधान)**...

श्री बुलविंदर सिंह भुंडर : सर, यह कंट्री का सवाल है। ...**(व्यवधान)**...

MR. CHAIRMAN: There is no computer programme by which three names can be picked out of 242. The Chair follows a principle of rotating them around the House. If somebody has a better suggestion I am quite willing to look at it. Q. No. 143.

Investment by companies in sensitive sectors

*143. MS. MABEL REBELLO: Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether Indian companies that have foreign shareholders and wish to invest in sectors with caps such as telecom, aviation' and single-brand, retail would be required to disclose their entire shareholding pattern and agreements before a specially constituted committee that would

determine and confirm whether it is Indian owned and controlled, and accordingly allow its downstream activities to be treated as "Indian";

(b) if so, to what extent these norms and rules governing investment in the so called sensitive sectors are applicable to the Indian companies that have foreign holding; and

(c) if so, to what extent it would help?

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI ANAND SHARMA): (a) to (c) A Statement is laid on the Table of the House.

Statement

(a) to (c) As on date, there is no specially constituted committee for the purpose. For a downstream investment by an Indian company to count as Indian investment, the investing company has to be both ultimately 'owned and controlled' by Resident Indian citizens. The Government is examining how the operationalisation of these guidelines could be made more effective.

MS. MABEL REBELLO: Sir, there is not much reply in this, but, still Sir, I want to ask the hon. Minister that there is a FDI policy in place of the Government and the FDI policy is meant to attract investment into the country so that we can have a large number of manufacturing jobs and create wealth in the country. I would like to ask the hon. Minister - the FDI policy is on for the last so many years - is there any re-thinking on it and what is the Minister thinking about it. Will he please enlighten us, Sir?

SHRI ANAND SHARMA: Sir, there is a FDI policy in place since 1996 and this policy as such conveys about investments to be made under automatic route. The procedure or the methodology for calculation of FDI, the sectors where sectoral caps are there, that also is communicated. I would like to inform the hon. Member that Government takes steps to attract Foreign Direct Investment in various sectors. It is done through entering into bilateral agreements for investment promotion and protection. It is also done by ensuring an active interaction between the Governments and also the industry apex chambers with the industry of the other countries. India has remained one of the most favoured destinations for FDI. Even during the period of economic crisis we were the first three favoured destinations. As per the UNCTAD Report, i.e. on World investment report between 2009

and 2012, India will be one of the first three countries. Regarding what else is done, there have been three steps which have been taken and I would like to share those, Mr. Chairman, Sir, with the House. One is, that we have created an Invest Indian company...

MR. CHAIRMAN: Could you stick to the question and the answer only.

SHRI ANAND SHARMA: I would stick, Sir, but allow the...

MR. CHAIRMAN: We will not expand the scope of the question.

SHRI M. VENKAIAH NAIDU: He is trying to enlighten us.

MR. CHAIRMAN: I think time is very precious. Let us have the second supplementary please.

MS. MABEL REBELLO: Sir, the Minister in his reply says for a downstream investment by an Indian company to count as Indian investment, the investing company has to be both ultimately 'owned and controlled' by Resident Indian citizens. Now, I want to know from the hon. Minister how does he define an Indian company 'owned and controlled'. There were large numbers of Indian companies, even listed companies, where the owners own hardly 30 per cent or so. So, how does he define Indian companies? I want to know from the hon. Minister what is 'owned and controlled'.

SHRI ANAND SHARMA: Sir, there was a GoM which went into this question. After that, the Press Note 2, 3 and 4 of the calendar year 2009 communicated the guidelines and methodology for calculation of foreign investment in a company, both direct and indirect, by defining the concept of ownership and control and using both as a means of calculating indirect foreign investment. A company is accepted as owned by resident Indian citizens and Indian companies which are owned and controlled by resident Indian citizens if more than 50 per cent of the equity interest is beneficially owned by resident Indian citizens and Indian companies. And, for a company to be controlled by resident Indian citizens and Indian companies, those companies where the resident Indian citizens and Indian companies controlled and controlling the companies have the power to appoint majority of the Board of...

MS. MABEL REBELLO: Sir, a large number of companies own only 30 per cent.

SHRI ANAND SHARMA: I am talking of power to appointment majority of the Board of Directors to the said company. More than 50 per cent, as I have said, of the equity holding as beneficial shareholding, not only shares, means they have the complete ownership of shares. I think, beneficial shareholding is a very clear concept.

SHRI TAPAN KUMAR SEN: Sir, taking a cue from the hon. Minister's reply, I would say, of late, there are certain takeovers of the Indian companies, particularly in the pharmaceutical sector. How do you look into the status of those companies? The very recent example is Ranbaxy.

Another point is this. I don't know how you count 50 per cent on a beneficial shareholding. The fact is, in most of the private companies the ownership of shares of those who are controlling is around 30-35 per cent on an average. That is the real picture. Then, how do you define it in that case? The remaining 20 per cent has to be owned by Indians and then it will be considered as 50 per cent beneficial. I request the hon. Minister to understand this.

SHRI ANAND SHARMA: Sir, I reply the second supplementary of the hon. Member first.

I have clearly explained that the Government have communicated the policy clearly defining the guidelines and methodology for calculation of total foreign investment and also the ownership and control by resident Indian entities that is more than 50 per cent of the equity interest beneficially owned by resident Indian citizens and Indian companies. That means, a minimum 51 per cent has to be owned by Indian entities/Indian companies and that has to be beneficial holding and the control also has to be there i.e., power to appoint majority on the Board of Directors.

Sir, as you have guided that we have to be restricted to the question, on the pharmaceutical companies' takeover, I am afraid, this supplementary does not arise out of the main question. But, I can assure the hon. Member that if he wants I can send him the information. But, investments are permitted only as per the guidelines, FDI Policy and not outside those parameters.

SHRI ASHOK GANGULY: Sir, the hon. Minister has said that our policy was defined in 1996. But, it has undergone transformation over a period of time. As a erstwhile Member of the Investment Commission, we came continuously face-to-face with foreign investors who were either confused at the beginning of the process or became even more confused during the process. It is because of

number of rules and regulations keep on changing - the Press Notes, the FIPB Directions, the freedom to invest in certain sectors without seeking permission, lack of clarity, particularly in sensitive sectors etc. etc. As a consequence of that, I would like, through you, Mr. Chairman, to ask the hon. Minister that our rating, as a country, in terms of attractiveness for foreign investor, is significantly below compared to many other countries.

This is a fact. But it need not remain so. My question is this. What steps are you taking in order to covert the real attractiveness, which we feel about our country, into attractiveness to a lot of people around the world who see India as one of the important and attractive destinations?

SHRI ANAND SHARMA: Sir, I thank the hon. Member for a very useful question, which will allow me to explain as to what steps have been taken in the recent past. Earlier, as per the 1996 policy, the cap for the FIPB approval was the project cost of Rs. 600 crores. In January, this year, the Cabinet has approved a major change, where the net equity inflow up to Rs. 1200 crores is within the ambit of the FIPB. So, there is a big shift between the project cost, as the hon. Member would appreciate, and net equity inflow from Rs. 600 crores project cost to Rs. 1200 crores net equity inflow. Only beyond that the CCA approval would be required. Secondly, we have created this company Invest India, not for profit, with partnership between the Government and the FICCI, where the majority shareholding, that is, 51 per cent, is with the industry to give sectorial counselling support and information. The portal is functioning. They are also coordinating for statutory approvals so as to assist those investors who do not have logistics or resident offices in India. Third, and very important step, earlier, the FIPB policy was communicated through calendar year press notes, RBI circulars and the FEMA guidelines. In December, 2009, we have taken a decision that we will have a single FDI policy document, after stakeholders' consultations on the draft document. On 31st of March, a single FDI policy document had been put in place. It subsumes 178 Press Notes of all the previous years, all RBI circulars and all FEMA guidelines. And, the reason is to ensure nationality, definitional clarity and easy comprehension of India's FDI policy.

SHRI PIYUSH GOYAL: Thank you, Mr. Chairman. It is my first question. I would like to compliment the Hon. Member, Ms. Mabel Rebello, because she has put an excellent question. But the Hon. Minister has not replied to the question at all.

MR. CHAIRMAN: Please put your question.

SHRI PIYUSH GOYAL: How many layers does the Department clear, before we find out the beneficial ownership, to determine that the sectoral cap is complied with. Secondly, nominee ...*(Interruptions)*...

MR. CHAIRMAN: Only one question please.

SHRI PIYUSH GOYAL: Just a small one, Sir. The nominee Indian shareholders often hold shares with a buyback arrangement, which can be bought back by the foreign company once the sectoral cap is lifted. Does the Department investigate - this is the question Ms. Rebello had asked - the agreements which are there at the back of the nominee Indian shareholders?

SHRI ANAND SHARMA: Sir, the shareholding pattern for any FDI application, which is made before the FIPB, has to be very clearly communicated and declared. That is properly examined. I am referring to those cases of investment where the approval of the FIPB is mandatory. There are a large number of sectors, which are there under the automatic route, where the investing company only has to give the information to the RBI. But for all those sectors, where approvals are required, surely the shareholding pattern and ownership is clearly examined.

Secondly, there is another important thing, which I would like to inform the Member. He referred to the sensitive sectors. In sensitive sectors, the policy is clear. It is not the Indian entities, but a single Indian entity or a single shareholder must have 51 percent. These are not multiple entities.

North East outfits' fight against Indian state

*144. MS. SUSHILA TIRIYA: Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether it is a fact that some North East outfits have stepped up their activities to fight the Indian State after getting aid from China;

(b) if so, the details thereof;

(c) whether these outfits have charted out their action plan in another neighbouring country;
and

(d) if so, the steps taken in this regard?