Policy predictability key to more foreign investment

- *Amitabh Kant**

The recent midterm elections in the United States showed that rhetoric aside, the economy matters. The cracks are visible in Western economies and the Chinese economy. Capital has already started to flow back to Indian markets. However, what India needs is patient, long term capital. Schemes like foreign currency non-resident (FCNR) deposits are a palliative measure at best. While they may attract short-term capital flows, these concessional swaps will cost the Reserve Bank of India (RBI). The solution is to attract long-term, stable foreign direct investment (FDI) and build exports. This is not a secret. Countries such as Vietnam and Mexico have attracted billions of dollars in FDI in 2026. Registered FDI in Vietnam grew nearly 75 per cent through September 2026, while Mexico saw record-breaking FDI in the first half of 2026.

To attract sustainable inward foreign investment, India needs clear rules and predictable outcomes across its legislative, executive and judicial institutions. Take the recent approval to disinvest IDBI Bank. It is India's largest FDI in the financial sector and reinforces market confidence. The credit goes to the Government for this bold decision. Yet, in the same week, the Supreme Court dismissed appeals by YES Bank, the RBI and the Union government, upholding the quashing of the AT1 bond write-down because the bank's administrator had acted beyond their authority under the reconstruction framework. This demonstrates a lack of predictability and certainty for both debt and equity investors and, indeed, the financial system. SMBC Bank had invested substantial amounts in YES Bank. After Daichi and NTT Docomo, this is the third case of Japanese investments impacted in India.

In the case of Tiger Global, the Supreme Court denied treaty relief despite the investors' Mauritian tax-residency certificates, holding that the certificates did not preclude scrutiny for tax avoidance. This order rewrites the fundamental basis of tax treaties. It also unsettled investors' understanding that grandfathered investments were protected. In March, the government amended the rules to clarify protection for income from transfers of investments made before April 2017.

Aircel's resolution plan had cleared its creditors and the National Company Law Tribunal (NCLT). Spectrum-use rights were recognised as intangible assets in operators' accounts. Yet the Supreme Court held that spectrum could not be subjected to proceedings under the Insolvency and Bankruptcy Code. In 2025, the Supreme Court annulled JSW Steel's acquisition of Bhushan Power and Steel in May, before ultimately upholding the resolution plan in September.

Such moves have a chilling effect on FDI and foreign portfolio investment (FPI) in India. Collectively, the message investors read is that a position settled in one arm of the

government can be unsettled by another. Institutions created for a purpose, such as under the IBC, lose effectiveness when they are superseded. We talk about the long pendency of cases in our judicial system, but the fact also is that collectively, the Union, State Governments, and public sector undertakings (PSUs) are the biggest litigants. Nearly Rs. 30 lakh crore is tied up in various tax disputes.

We must understand that uncertainty is a risk, and it raises the discount rate of return that firms require when evaluating investments in India. Delays further compound the damage. The Tiger Global dispute goes back at least to 2018; the YES Bank write-down to 2020. When a question of law takes six to eight years to answer, this clouds decisions to invest in India. The following decisions are critical to help restore investor confidence and bring in much-needed FDI.

First, attract the next 100 electronics and data centre companies to manufacture in India. Our experience of attracting Apple and fostering a mobile phone manufacturing ecosystem shows what is possible. Smartphones are India's top export category. By February 2026, the Production Linked Incentive (PLI) scheme had surpassed production and export targets. Global hyperscalers have made USD 200 billion in investment commitments. We are already a nation that is importing compute. We must not import the components for data centres. We must manufacture high-speed networking switches, AI server racks, storage systems, printed circuit boards, chassis, enclosures, and storage, compute and switch trays. Schemes must be designed specifically for such companies. This handholding is critical.

Second, overhaul the model bilateral investment treaty (BIT) framework. The 2015 framework severely stifled investor confidence. Importantly, the 'exhaustion of local remedies' clause must be reworked and brought in line with international standards. We must not overcorrect by shutting ourselves off from global capital in the name of protecting sovereignty.

Third, asset monetisation through real estate investment trusts (REITs) and Infrastructure Investment Trusts (InvITs) can attract a deep pool of global capital. SEBI's recent move to allow for GDRs to be issued against listed REITs and InvITs is an important first step. Looking ahead, expanding the pool of REITs to include data centres and government land will deepen markets. Exit rules and taxation rules must be clarified. The 20 per cent cap on under-construction projects must be raised to allow capital to flow in at the construction stage.

Fourth, complete promised disinvestments and create a disinvestment pipeline. The 2021 Budget promise to privatise two public sector banks and one general insurance company, in addition to IDBI Bank, must now be fulfilled. Even IDBI's sale took five years to reach Cabinet approval. The same Budget announced a New Public Sector Enterprise Policy, calling for a bare minimum government presence in four strategic sector groups and privatisation or closure of commercial public enterprises in non-strategic sectors. This policy must be

operationalised in letter and spirit. To start with, the disinvestment of The Ashok must be completed at the earliest. A hotel is not strategic, and the government has no business running a hospitality brand.

Fifth, we must recognise that to export, we must import. Tariffs on critical inputs must be brought down to zero. We must embrace competition and not hide behind quality control orders (QCOs). The digital trading experience in India must be seamless. Several separate government portals must be integrated at the backend. The full Customs Integrated System must be operationalised as soon as possible. Risk management must truly be risk-based. Authorised Economic Operators (AEOs) must evolve into a trusted-trader framework recognised by every agency. At the same time, we must not prescribe high levels of domestic value addition before scale. Insisting on high domestic value addition before firms achieve scale can discourage the investment needed to build that scale.

Finally, tax policy must align with international standards. Long-term capital gains tax (LTCG) should be removed for international investors. The securities transaction tax (STT) should be removed for all investors. In June of this year, a series of reforms were undertaken to strengthen FPI participation in G-Sec markets. A similar set of reforms to enhance participation in broader debt markets is necessary.

Fixing India's issues does not mean bending the law. It means making the law clear before capital is committed and resolving disputes swiftly thereafter. Policy predictability is the key. No number of reforms can compensate for its absence.

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