5
Foreign Investments in India: Modes and Legislative Constraints

5.1. Introduction

The regulation frame foreign investors find in India is diversified. It was born as legacy of the colonial period and it was influenced by the English law system; then it experienced openings and closures according to the political orientation in force, and in 1991 it followed a liberalistic orientation that maintains some limits till now.

The system of licenses, the control stock limits, the several supervisions and the numerous authorizations required by central government are now departing for an easier and faster regulation.

Direct foreign investments are today allowed in many sectors according to automatic procedure; the procedure of licenses has been downsized, such as the share limits of foreign capital.

The approval of the Competition Act (2002), the liberalization of the commercial policy, the reforms of the financial sector, the laws protecting intellectual property are other examples of important initiatives made in these years in order to solve problems limiting the inflow of foreign direct investments.

In this chapter we want to provide a synthesis of the most important aspects related to this issue.

The subject we deal with is described in many publications (Koch, 2001; Mukherjee and Sengupta, 2001; Osland et al., 2001; Alvarez, 2003; Eapen and Hennart, 2004; Ekeledo and Sivakumar, 2004). Useful information can be found in Indian institutional sources (Secretary for Industrial Assistance (SIA¹), Indian Chamber of Commerce, Indian Embassies) and the website of legal consultancy companies.

We suggest an analysis of this literature for further investigations.
5.2. Entry modes into the Indian market

A foreign company interested in investing in India can follow different entry modes. Fig. 5.1 shows the main ones.

5.2.1. Liaison office

This solution consists in the opening in India of an office that cannot perform any production or selling activity, or any kind of profitable activity\(^2\). Activities that a Liaison Office can perform include promotion, market analysis, suppliers research, after sales services, general services for the headquarters. The opening of this office is authorized by the Reserve Bank of India (RBI). The licence is assigned for a period of three years and can be renewed. It is not possible to purchase real estates in order to create a Liaison Office. Lease contracts longer than 5 years must be authorized by the RBI.

5.2.2. Branch office

Branch Offices are offices set on the Indian country that must respect the regulations of the Exchange Control Manual of the Reserve Bank of India. These regulations include some bonds depending on the

![Figure 5.1: Main entry modes](image-url)