India thwarts China's Hostile Takeover Bids during Covid-19

by

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Abstract

The world today is facing a unique situation in the form of Covid-19 with unique consequences and effects. There is not even a single aspect of the society and economy which is untouched by this pandemic and corporate sector is also one of them. The companies are struggling in terms of finances. The financial crunch being faced by them is making the companies more vulnerable to takeovers/acquisitions. All this situation in the world has brought China in the forefront and as reports are suggesting Beijing has been expanding its economic footprint throughout the world and specially in South Asia.

In order to protect the companies in India, our government proactively changed its FDI policy to prevent opportunistic takeover. This move prevents the 7 countries with which India shares its land borders from making any investments in India and also prevents China from making any investments in India through these countries. The aim of this article is to analyse the situation of takeovers and especially hostile takeovers in India. It will also analyse the situation with respect to takeovers before and after Covid-19.

Introduction:

Mergers and Acquisitions have emerged as a natural process of business restructuring throughout the world and India is also not far behind. As far as India is concerned, the developments in the sphere of economic policies paved the way for globalisation which further led to privatization, commercialization, and modernization. The government had become liberal in terms of economic activities and they had also paved the way for rational and optimal use of resources. To meet these above-mentioned goals the companies had adopted all sorts of economic, financial, managerial methods including mergers and acquisitions.[1]

The changes and developments in the economy resulted into a massive change in the landscape of the corporate sector and in the process, there was a steep rise in mergers and acquisitions and other forms of restructuring. The increase in all forms of restructuring has been enhanced by foreign competitors in the market. Further, it is not just the foreign players but the policies and regulations in place governing takeovers are also important factors in changing the landscape of the Indian corporate sector.[2]

Merger and Acquisition is basically consolidation of companies. Difference between the two terms is that merger is a combination of two companies to form one, whereas acquisition is one company taken over by the other. Mergers and Acquisitions form an important aspect of the corporate finance world. The idea behind it is that a combination of two companies would create more value than just one company working alone. The main objective for any company is that of wealth maximization therefore, the companies keep on evaluating different opportunities through the route of merger or acquisition.[3]

The process of mergers and acquisitions spans across geographical boundaries. The cross-border mergers and acquisitions mostly by transnational corporations (TNCs), have assumed a significant proportion of the corporate sector. The market driven mergers and acquisitions are essentially a phenomenon of the late 1990s in India. Prior to this they were solely driven either by the government agencies or by the financial institutions within the framework of a regulated regime. But now, the Indian economy specially the corporate sector has been exposed to both domestic and international competition and competitiveness has become an imperative for

[1] Vikas Bharara and Gopal Singh Latwal, *Indian Mergers and Acquisitions: Environmental Analysis in Current Competitive Business Environment*, 4 IITM Journal of Management and IT 80 (2013)

[2] Dr. Rabi Narayan Kar, *The framework of mergers and acquisitions in India: Background, Implications and Emerging Issues*, (May 20, 2020, 6:00 PM), http://ssrn.com/abstract=1886324

[3] Natika Poddar, *A Study on Mergers and Acquisition in India and Its Impact on Operating Efficiency of Indian Acquiring Company*, 9 Theoretical Economic Letters 1040, 1042 (2019)

survival. Hence, in recent times, companies have resorted to restructuring processes specially around their core business activities through mergers and acquisitions.[4]

In India, takeovers are regulated by the Companies Act for unlisted companies and by the SEBI Takeover Code for listed companies. The primary objective of this paper is to focus namely on acquisitions or takeovers of listed companies in India with special analysis of the concept of Hostile Takeovers and an increase in the attempts for hostile takeovers during the time of Covid-19.

Understanding the Regulations with respect to Takeovers:

The term 'takeover' is one of commercial parlance and denotes purchase or acquisition of undertakings, acquisition of shares of the Company proposed to be taken over, as also any arrangement whereby the control over the affairs of the target company commonly passes to the corporate raider. Takeovers are also considered as a first step towards a merger meaning thereby that companies get on board for an acquisition of another company and then take steps to merge or amalgamate with the acquired company.[5]

To get a conceptual understanding of the regulations in the takeover code it is important to give a step by step procedure of how takeover takes place. The first step in takeover is, that the acquirer acquires shareholding in the target company which reaches the initial acquisition limit mentioned in the code, after which he has to make a public announcement for an open offer. After the public announcement is made, it is open for any other person to make public announcement with respect to the acquisition of the same company within 15 days of the initial public announcement. This offer is in particular for the shareholders of the company and it is up to the shareholders whether they reject or accept this offer. Finally, if the offer is accepted by the shareholders then the acquirer has to make the payment to them and the offer is completed. Subsequently, if the acquirer acquires in a financial year more than 5% voting rights in the target company, then again, he has to bring another public offer in the same manner as explained above.[6]

As mentioned above, for making a public announcement for an open offer the acquirer's shareholding in the target company has to reach the initial acquisition limit. This is also called as the trigger point for making an open offer. The threshold limit for making an open offer

[4] B.K. Bhoi, *Mergers and Acquisitions: An Indian Experience*, 21 Reserve Bank of India Occasional Papers, 133 (2000)

[5] Vikramjit Reen, *An Overview of The Legal Regime Governing Mergers and Acquisitions in India*, 8 Student Advoc. 142, 150 (1996)

[6] Raghav Kumar Bajaj, *The New Takeover Code*, The Chartered Accountant Journal, 1241 (2012)

under the Takeover Code 2011 is 25% i.e. an acquirer is mandated to make an open offer if he is alone or along with person acting in concert with him were acquiring 25% or more of the voting right in the target company. The threshold limit to trigger an open offer was 15% in the Takeover Code 1997.[7] The increase in the threshold limit would serve two purposes, firstly, it would give potential acquirers more leeway to acquire a stake in a company without attracting the takeover regulations and secondly, it would ensure that promoters still retained control over the company through a majority of share capital of the company. Therefore, the basic effect of this change is that an acquirer can buy up to 24.99% in a listed company without being required to bring a public offer.[8]

Hostile Takeovers:

A takeover in the legal context can be of two kinds mainly, Friendly takeover and Hostile takeover. *In hostile takeover, the acquirer company silently and unilaterally pursues the acquisition of shares of another company without knowledge of and against the wishes of the management of the target company. Therefore, the acquirer company does not offer any deal or arrangement to the target company.*[9] In India, the takeover regulations do not pose any restriction as such to hostile takeovers. The presence of open offers and creeping acquisition limits create a set-up in which hostile takeovers can be accomplished.[10]

If we analyse the position of hostile takeovers in India immediately after the economic reform in 1991 till the late 2000's, it can be seen that India has witnessed a majority of friendly deals and only a handful hostile attempts. It had been the opinion of many in the corporate circle that hostile takeovers by foreign enterprises are very difficult to take place in India. The reasons given by them were:

1. There is prevalence of founding families with dominant shareholding in most of the companies
2. There are a lot of government approvals required for a takeover by foreign enterprise
3. The regulatory provisions, which are there mostly favour promoters[11]

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[7] Priyanka Devgan, *Cracking the New Takeover Code*, 2, (May 20, 2020, 6:00 PM), available at http://ssrn.com/abstract=2224144

[8] Karan Talwar & Nivedita Saksena, *Anti-Acquirer and Pro-Shareholder? An Analysis of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011*, 5 NUJS L. Rev. 129, p.129 (2012)

[9] P.R. Raamaanathan, *Concise Overview of Takeover Code*, Chartered Secretary, 1393 (2011)

[10] Shaun J. Mathew, *Hostile Takeovers in India: New Prospects, Challenges and Regulatory Opportunities*, 3 Columbia Business Law Review, 815 (2007)

[11] *Supra* note 10, 803

Internationally also it is observed that hostile takeovers are a rare phenomenon occurring only in a handful of countries. The reason behind this is that hostile takeover happens only in those companies where there is dispersed stock ownership which is itself a rarity even internationally. So, the observation is that the reasons for hostile takeover attempts not happening in India or internationally are the same.[12]

The change in the initial threshold limit for triggering an open offer which has been explained above triggered only one fear and that was with respect to hostile takeovers. The fear was that the promoters who have low shareholding i.e. below 25% and who do not have enough funds to increase their shareholdings would be concerned about hostile acquirers who can acquire up to 24.99%. An acquirer who has 24.99% will have an opportunity to block those decisions of the target company for which a special resolution has to be passed. The concern for promoters would be that any acquirer can take advantage of this provision and assume a greater control in decision making process of the target company.[13] The only underlying positive effect of this will be that the constant fear of hostile takeover bids will put the promoters on the edge, which will compel them to adhere to the highest corporate governance standards. Further, the promoters will also be careful enough to put in place protective measures to safeguard their interests and avert hostile takeovers.[14]

It is also interesting to note that corporate lawyers believe that concept of voluntary offers in the takeover regulations will rule out hostile bids. When the SEBI (Substantial Acquisition of Shares and Takeover) Regulations were passed in the year 2011 it made attempts by outsiders more difficult and time consuming. This was done by introducing the concept of "voluntary open offer".[15] Voluntary offer provision in the takeover regulations state that any acquirer who holds shares or voting rights in a target company of more than 25 per cent but less than the maximum permissible non-public shareholding, shall be allowed to make a public announcement of an open offer for acquiring shares in accordance with the procedure provided in the regulations. According to this provision only a person holding a minimum 25% share in

[12] John Armour; Jack B. Jacobs; Curtis J. Milhaupt, *The of Hostile Takeover Regimes in Developed and Emerging an Analytical Framework*, 52 Harv. Int'l L.J. No. 1, 222 (2011)
[13] *Supra* note 7, 4
[14] *Public M&As in India: Takeover Code Dissected*, Nishit Desai Associate Research Paper, 15, (Dec. 4, 2019, 10:05 PM), www.nishitdesai.com
[15] N Sundaresha Subramanian, *New Takeover Code will keep raiders away*, Business Standard, January 20, 2013, (June 7, 2020, 11:30 AM), https://www.business-standard.com/article/companies/new-takeover-code-will-keep-raiders-away-111093000073_1.html

a target company can make a voluntary offer for 10% or more. If the person has purchased shares of that company from the market in the preceding one year then he is not entitled to make an open offer.[16] This is a new provision which was introduced in 2011 whereas the regulations that were applicable in 1997 did not have a separate category of voluntary open offers. Any non-promoter either with or without any shareholding in the company can make an unsolicited open offer to the shareholders of that company. It is believed that the prior holding criteria and the limits on market purchases will prevent hostile acquisitions and also prevent people without having any substantial stake from creating pressure on the promoters".[17]

Hostile Takeover Cases in India:

Hostile takeovers are, as it is a rare scenario Internationally so it is not at all surprising that the position in India is no different. The examples of unsuccessful and successful hostile takeover attempts in this section are meant to provide a context with respect to the situation of Hostile takeovers in India.

Before takeover regulation was promulgated or even before liberalization of the Indian economy took place in 1991, there was a hostile takeover attempt in the year 1984 by British businessman Swaraj Paul with respect to two Indian corporations, Escorts Limited and DCM. Although the deal was not successful but it did shock the entire Indian business world. And then after 15 years of this case, India was still not prepared for hostile takeovers. Another attempt of hostile takeover took place in 1997 by ICI, a paint company based in UK which tried to acquire stake in Asian Paints but yet again it was not successful. [18]

The only successful hostile takeover attempt in the history of Indian corporate sector took place in the year 1998 with the takeover of Raasi Cements by India Cements. India Cements Company already held 10% in Andhra Pradesh Company Raasi Cement. Then, later on the chairman and promoter of Raasi Cement B.V Raju had put his 8% equity on the block. India Cements quickly acquired that 8% but this triggered an open offer as that time the Takeover Regulations 1997 had provided that whenever a company acquires more than 15% it has to make an open offer.[19] The Raasi management had termed the takeover hostile and had begun

[16] SEBI (Substantial Acquisition of Shares and Takeover) Regulations 2011 Regulation 6
[17] *Supra* note 15
[18] *Supra* note 10, 812
[19] N. Madhavan, *The company he keeps-with the odds stacked against him, N Srinivasan might feel at home*, The Business Today, June 23, 2013, (June 7 2020, 11:30 AM), http://businesstoday.intoday.in/story/spot-fixing-scam-cannot-dislodge-bcci-chief-n-srinivasan/1/195392.html

lobbying with financial institutions to avert it. India Cements made an open offer to acquire 20% shares of Raasi Cements and the offer price was Rs 300 per share. The management was not happy with this offer price so, they involved an associate company called Vishnu Cements as their White Knight to foil this takeover offer and dragged both India Cements and SEBI to court. Before court could give its ruling Raasi Cements share price had fallen by 40%.[20]

The three-month-old hostile takeover saga ended with the executive chairman and chief promoter of RCL, Dr B V Raju selling out his entire 32 per cent holding to India Cements Ltd. with this deal that India Cements get a majority stake of 53% in Raasi Cements. This was one of the major acquisitions and also the first successful hostile takeover which the Indian corporate industry had seen.[21]

Regulatory Obstacles for Foreign Investors – Position before and after Covid-19:

India is one country which is not rich in capital so, Foreign Direct Investment (FDI) acts as an important source of fund. Under FDI, overseas money is invested in India and any investment above 10% is considered as FDI. The policy for FDI in India is governed by Reserve Bank of India (RBI) through Foreign Exchange Management Act, 2000. Anyone can invest in India either through the Automatic route or through the Government route.[22]

The Automatic route is one where neither the non-resident investor nor the Indian company require any kind of approval from the government for investment. The second is the Government route, where prior to investment the approval of government is required. The approval is required from the concerned Ministry/Department through a single window i.e. through Foreign Investment Facilitation Portal (FIFB) which is administered by the Department of Industrial Policy & Promotion (DIPP), Ministry of Commerce and Industry, Government of India.[23]

As per the FDI Policy of India, there is a cap or a limit provided sector wise up to which investment can be done in that particular sector and it can either be through automatic route or

[20] *Takeovers in India- Happy Returns*, The Economist, April 2, 1998, (June 7, 2020, 11:35 AM), http://www.economist.com/node/361524

[21] A.S. Panneerselvan, *Melting Cement- In a smooth killing ICL's N. Srinivasan gobbles up Raasi Cements*, The Outlook, April 20, 1998, (June 7, 2020, 11:37 AM), http://www.outlookindia.com/article/Melting-Cement/205407

[22] Taruna Nagi, *Foreign Investment: Compliance under RBI/FEMA*, Economic Times, August 5, 2019, (June 10, 2020, 11:30 AM), https://economictimes.indiatimes.com/small-biz/resources/startup-handbook/foreign-investment-compliance-under-rbi/fema/articleshow/59488429.cms

[23] *FDI Policy of India*, Invest India, (June10, 2020, 11:35 AM), https://www.investindia.gov.in/foreign-direct-investment

government route. There are also certain prohibited sectors where investment cannot be made at all. These sectors include: lottery business, gambling, chit funds, nidhi company, real estate business or construction of farm houses and manufacturing of cigars, cigarettes & tobacco.[24]
If we discuss about the relationship between Takeovers and FDI in India then we can clearly observe that after 1991 when the economic reforms were introduced, the foreign acquirers did not have to face a lot of obstacles to acquire an Indian company, be it a friendly takeover or hostile takeover. If we specifically discuss the position of hostile takeovers, there might be certain aspects which may be challenging for the foreign acquirers but there is nothing in the regulations which expressly prohibits a hostile takeover. Apart from the takeover regulations even the foreign policies effectively permit foreign acquisitions with of course certain sector or industry specific limitation with respect to FDI as pointed out above.[25] This has been the position in India with respect to takeovers before Covid-19 took over the world.

When we talk about Covid-19 the only name that comes to our mind is China. The way China has handled the virus has impacted economies around the world, fuelled anger and sparked anti-Chinese campaigns around the world. Countries across the world are also rethinking their relations in general and trade ties with China. But can the countries all over the world who are so dependent on Chinese made goods and raw materials severe their ties suddenly?[26]

This novel disease has not just impacted the economies on the whole but it has also changed the way people work and affected the livelihood of many. If we look at India specifically then this fiscal year India is going to record its worst growth performance since 1991 i.e. the starting the point of its economic liberalisation process. Government is trying its best to address the economic crisis but surely it is not going to be easy.[27]

Covid-19 has not spared the corporate sector as well with companies and firms literally struggling to just hang in there. The companies and firms facing a financial crunch also become vulnerable to takeovers or acquisitions. The companies and firms not just in India but all around the world are facing the same situation. Having said that, the rule book for the M&A sector

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[24] Chapter 5, Sector Specific Conditions on FDI, Consolidated FDI Policy of India 2017, Department of Industrial Policy & Promotion, 22, (June10, 2020, 12:00 PM), https://dipp.gov.in/policies-rules-and-acts/policies/foreign-direct-investment-policy

[25] *Supra* note 10, 814 & 815

[26] Vaishali Dar, *Covid-19 effect: Time for Made-in-India tag to go global*, Financial Express, May 24, 2020, (June 10, 2020, 12:10 PM), https://www.financialexpress.com/economy/covid-19-effect-time-for-made-in-india-tag-to-go-global/1968616/

[27] Vikas Vasal, *M&A works from home during Covid-19*, The Live Mint, June 4, 2020, (June 10, 2020, 1:00 PM), https://www.livemint.com/news/india/m-a-works-from-home-during-covid-19-11591273419154.html

will definitely change post Covid-19. As pointed out above, China has emerged out be in the front amidst this pandemic and as reports are suggesting Beijing has been expanding its economic footprint throughout the world and specially in South Asia.[28]

If we look at the countries around the world, European Union was amongst the first to tighten its foreign investment rules around mid-April. And then the following countries took a similar kind of step - Germany, France, Italy, Spain, Australia, Canada, USA and UK. India is however, a latest edition to this list. India not only cancelled the orders for faulty rapid test kits but also revised its FDI policy to resist the hostile takeover attempts by China.[29]

Putting a break on the dream of Chines companies looking to acquire financially weak Indian companies, the government of India, tweaked its FDI Policy in the month of April. It is important to know the position that existed before this change. Earlier, the position was that: "*any non-resident could invest in India subject to the FDI policy except in the prohibited sectors. However, anyone from Bangladesh could invest in India only through the government route. And similar was the situation with respect to Pakistan but in sectors like defence, space, atomic energy, no investment could be made*".[30]

Now, the revised position is that: "*a non-resident entity can invest in India except in those activities that are prohibited. However, an entity of a country, which shares land border with India or where the beneficial owner of such an investment is situated or is a citizen of any such country then they can invest only under the government route.* The position with respect to Pakistan remained the same as before. *Further, the government also pointed out that in case there is a transfer of ownership of any existing or future FDI in any entity in India which leads to the ownership falling within the restrictions mentioned above then this change also requires government approval*".[31]

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[28] Remya Nair, *Govt revises FDI policy over fears of Chinese takeover of Indian firms amid Covid-19 crisis*, The Print, April 18, 2020, (June 5, 2020, 11:30 AM), https://theprint.in/economy/govt-revises-fdi-policy-overs-fears-of-chinese-takeover-of-indian-firms-amid-covid-19-crisis/404438/

[29] Geeta Mohan, *As global economies dwindle, world wakes up to China's hostile takeovers amid pandemic,* India Today, April 21, 2020, (June 5, 2020, 11:40 AM), https://www.indiatoday.in/business/story/world-wakes-up-to-china-hostile-takeovers-of-companies-amid-covid-19-pandemic-1669240-2020-04-21

[30] FDI Policy, Department of promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Government of India, Para 3.1.1

[31] Review of FDI Policy for curbing opportunistic takeovers/acquisitions of Indian Companies due to current covid-19 pandemic, FDI Policy, Department of promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Government of India, Press Note No. 3, Para 3.1.1,(2020), (June 5, 2020, 1:00 PM), https://pib.gov.in/PressReleasePage.aspx?PRID=1615711

This move by the government is to prevent opportunistic takeover which might result as a reaction to this pandemic. India shares its land borders with 7 countries: China, Pakistan, Bangladesh, Myanmar, Nepal, Bhutan and Afghanistan so, any revision in the FDI policy will not only affect investments from China but also investments made by Chinese companies which are routed through the other 6 countries in India. And it is not just the new investments that will be under the scanner but any change in the existing investments will also be scrutinised. The move should not be viewed as if India is shutting itself completely from investments coming from its neighbouring countries but only being extra cautious about these investments.[32] The revision in FDI policy by the government is not a spontaneous reaction but in fact it based on the fear of domination by China. This fear is backed factually with a review conducted by SEBI of the investments from China over possible takeover concerns. SEBI did this review only when concerns were raised by HDFC bank with respect to China's central bank buying a minority stake in the bank which further led to the China's central bank shareholding crossing 1%.[33]

India's move to revise FDI policy is being considered as an anticipatory move, wherein they are predicting that China is going to target Indian companies and take benefit of the fall in equity prices. As it has been rightly pointed out by Professor Biswajit Dhar that China has got a noteworthy start in comparison to the other countries, their manufacturing activities have also begun. Chinese firms can easily target the distressed and troubled firms throughout the world. Many Indian companies will be also be their target. China is also likely to dominate trade and we cannot do anything about it. We can only act to restrict the Chines investments.[34] Despite the fact that Indian government's move is being lauded we cannot ignore the fact that these new FDI rules will affect the investments in India specially the investments that are made in start-ups. If we look at start-ups, then at least 18 out of 23 companies including Paytm, Snapdeal, OYO Rooms, Ola, Swiggy, Zomato and BigBasket have heavy investments from China. The new norms can force these companies to look for new investors and the start-ups

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[32] *Supra* note 28

[33] KR Srivats, *Covid-19: Govt steps in to curb opportunistic takeovers of Indian companies*, The Hindu Business Line, April 18 , 2020, (June 15, 2020, 11:40 AM), https://www.thehindubusinessline.com/companies/covid-19-govt-steps-in-to-curb-opportunistic-takeovers-of-indian-companies/article31375385.ece#

[34] *Supra* note 28

who are at a growing stage might witness a problem of cash flow because of these investments drying up.[35]

There is no denying the fact that Indian companies specially the start-ups will face financial crunch but India is still trying its best to step up for this challenge which lies ahead of us. For this, the Atmanirbhar Bharat scheme has been launched by the government which could give the much-needed boost to the business operations by promoting 'Make in India', encourage the use of substitutes of the imported goods, particularly China and at the same time encouraging local produce at lower prices. A Rs 20-lakh-crore stimulus package was also announced by the government which focuses on tax breaks for small businesses, as well as incentives for domestic manufacturing. A Rs 3-lakh-crore collateral-free assistance was also handed out to MSMEs to help them in their operations. All these initiatives by the government would be a relief for the industries and businesses.[36]

As mentioned above India was the latest country to take some steps against China to prevent opportunistic takeovers. Before India European Union had issued guidance in March that gave a warning to all its members of increased attempts to acquire healthcare companies or any related industry. This was because at that point of time the biggest warning was for the healthcare sector only and this can be easily seen as an obvious thing as at that point of time the healthcare sector became the primary focus due to Covid-19. Similarly, Spain also tweaked its FDI rules to prevent investment from outsiders. Then, in April Germany decided to protect its domestic firms by restricting the investors from non-European countries. On the same lines, Canada, USA and UK also tightened their investment rules and started screening acquisitions.[37] Italy was already seeing an increased influence of China on its economy before the pandemic and after this pandemic took over the world, Italy's concerns increased further due to the apprehensions that the distressed companies would be purchased by foreign investors at a cheaper price. So, the Italian government expanded to what is called as the 'Golden Powers Law' which was meant to restrict foreign investment in sensitive areas and it also included sectors like transport, financial sector and even data storage sector.[38] So, not just India but most of the countries around the world have been reacting against China.

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[35] Asit Ranjan Mishra, *FDI policy change may dry up access to Chinese investments in post-covid world*, The Live Mint, April 19, 2020, (June 15, 2020, 1:00 PM), www.livemint.com/new/indi/fdi-policy-change-may-dry-up-access-to-chinese-investments-in-post-covid-world-11587318548263.html
[36] *Supra* note 26
[37] *Supra* note 29
[38] *Supra* note 29

Conclusion:

The world is wary of China and every nation has a sovereign right to protect itself. This should not be viewed as protectionism and once this pandemic is over a balance will have to be maintained between being open and being protective. India and other countries in the world are being prudent in amending their FDI rules and making an attempt to save their already struggling economies.[39]

Covid-19 has also created a difficult scenario all around the world. Governments are struggling with various strategies to contain the spread of covid-19 and businesses are also exploring various options to tackle the economic crisis. At the same time, this situation also offers opportunities to investors and businesses to think about the future. There is also an opportunity to introduce various in India like labour and land reforms, tax benefits, etc. Countries like Ethiopia and Kenya have imparted sector specific skills to its labour and have also invested in infrastructure to attract investors. Similarly, Vietnam which already has cheap labour is now providing speedy clearances as well. Although India has the manpower, it needs to raise its skills level and also ease out the government restrictions.[40]

The steps India has taken with respect to revising its FDI policy is definitely the right course of action as China has become a major threat during these challenging times. So, India should definitely protect its economy but at the same time as mentioned above should not overlook the opportunities available to it even at this point of time as well. *As has been rightly advised by Winston Churchill, "never waste a good crisis"*.[41] There is no doubt that China is going to dominate the trade but here's hoping that India can keep on protecting its economy and grow at the same time.

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[39] The Print Team, *E-commerce curbs and China FDR rules: Is Covid-19 making India more protectionist?*, April 20, 2020, (June 15, 2020, 1:30 PM), https://theprint.in/talk-point/e-commerce-curbs-and-china-fdi-rules-is-covid-19-making-india-more-protectionist/405253/

[40] *Supra* note 26

[41] *Supra* note 27