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Bangalore: An inter-ministerial group (IMG) on foreign direct investment (FDI) in pharmaceuticals, headed by Mr Shanktikanta Das, additional secretary, Department of Economic Affairs (DEA), decided that investments resulting in an equity holding higher than 49 percent in an Indian pharma company will have to apply for the approval of the Foreign Investment Promotion Board (FIPB). The IMG also included representatives from the Department of Industrial Policy and Promotion (DIPP), Department of Health, Department of External Affairs, and overseas Indian affairs ministries.

The IMG considered various views on imposition of specific conditions on foreign investors. The ball is now in the Prime Minister's Office (PMO) court, which needs to take a final view on relaxing foreign direct investment norms in the pharmaceutical sector. The IMG also decided that a multinational firm that buys 49 percent or higher stake in an Indian pharma company will maintain the same level of investment in research activities and production of essential medicines for a period five years. Investments resulting in an equity holding lower than 49 percent as-well-as those made in subsidiaries will, however, do not need approval and can go through what is called the 'automatic route'.

The finance ministry had been rooting for a capping threshold of 49 percent since the very beginning of discussions as compared to DIPP, which has been advocating 100 percent FDI through the FIPB route. Furthermore the health ministry wants that MNCs that are acquiring Indian firms should not cut production of generic medicines under any circumstances and also ensure their availability in the domestic market before exporting. Many feel that the decisions made by the IMG will adversely affect FDI. In a climate where India is already FDI-starved, any policy which restricts freedom of trade and investment will further restrict capital flows and this might also have a negative ripple effect in other industries.

The pharmaceutical industry in India has seen several major pharma deals in recent years, including the acquisition of Ranbaxy by Japanese drug maker Daiichi Sankyo in June 2008 for nearly $5 billion; and the acquisition of healthcare solutions business of Piramal Healthcare by US-based Abbott Laboratories for close to $3.72 billion; among others.

Alarmed by such acquisitions and their possible impact on the availability of low-cost medicines, the health and commerce ministries demanded that foreign investment in domestic pharma companies be routed through the FIPB, which is a part of the ministry of finance. The Indian pharma sector saw six proposals worth $137 million being approved by the FIPB since January 2012.

Following this, a panel was set up under the chairmanship of Mr Arun Maira, member, Planning Commission, at the behest of the cabinet committee on economic affairs, which suggested a status quo in the FDI policy for the sector while recommending oversight by the Competition Commission of India (CCI) on pricing and competition issues.

However, this recommendation was opposed by both the DIPP and the health ministry. Finally, a meeting called by Prime Minister Manmohan
Singh in October 2011 in order to resolve the differences came to a conclusion that while 100 percent FDI in greenfield investments through the automatic route will continue to be allowed, brownfield investments in Indian pharma companies will be routed through FIPB for six months (from October) and that CCI will then take over the job.