THE MULTILATERAL INVESTMENT GUARANTEE AGENCY (MIGA) AND POLITICAL RISK INSURANCE: A STUDY OF INDIA

Dissertation Submitted to Jawarlal Nehru University

in partial fulfillment of the requirements for the degree of

MASTER OF PHILOSOPHY

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2011

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DECLARATION

Date: 25.7.2011

I declare that the dissertation entitled **"The Multilateral Investment Guarantee Agency (MIGA) and Political Risk Insurance: A Study of India"** submitted by me for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

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ACKNOWLEDGEMENTS

I express my earnest gratitude to my supervisor Dr Archna Negi for her, encouragement, support, constructive criticisms and suggestions towards my work and who has taken keen interest in my work and it was her encouragement and brilliant supervision which culminate into this dissertation.

I am grateful to the CIPOD, especially to Prof. C. S. R. Murthy, Dr. Yeshi Choedon, Dr. Moushumi Basu, Prof. Rajesh Rajagopalan and Dr. J. Madhan Mohan as their teachings, both in the fields of international organizations as well as in research methodology, provided valuable approaches, necessary for the completion of this work. I am also indebted to my alma mater Department of Political Science, Osmania University, Hyderabad, particularly, Prof. Kancha Ilaiah, Prof. Ravindra Sastri, Prof. K. Laxmi and Prof. V. Yoga Jyotsna, Prof. G. Krishna Reddy and Dr. Ram Reddy, who provided me the foundation to carry out this study successfully. I would like to sincere thanks to Dr. Y. Chinna Rao, SSS, JNU. I am also thankful to Sunita Malhotra of the World Bank Public Information Centre, New Delhi for assisting me in finding relevant documents.

I am grateful to my friends Sudhakar Karakoti, Venkatesh Nayak and Satyanarayana with whom I always find the discussions productive and encouraging. My colleagues Aparna, Dileep, Gunanidhi, Mithilesh, Pamir and Surabhi were also supportive.

I can record my sense of gratefulness to Pragyanshu for his continuous encouragement and all the technical support. Special Thanks to my Friends Rajani, Kanika, Sampath and Thirupati without their support it would not been possible to me to complete this dissertation.

I find no word to express my deep sense of gratitude to my nieces Sandya, Sneha and Srujana. My Nephews, Bhagath, Chandu and Srinivas Raj and my elders, Jashwanth, Utham, Renuka and Anasuya for their constant encouragement. The sources of inspiration to the work are my loving parents Shri. Chinnanna and Smt. Bhumakka, to whom I dedicate this work.

Santhosh J.

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ABBREVIATIONS

AIG:	American International Group
BECL	Beekay Engineering and Casting Limited
BIT:	Bilateral Investment Treaty
BJP:	Bharatiya Janata Party
BU:	Berne Union
CAA:	Charted Accountants Association, Allahabad
CIFP:	Country Indicator for Foreign Policy
CPI (M):	Communist Party of India (Marxist)
CUP:	Cooperative Underwriting Program
ECAs:	Export Credit Agencies
ECGC:	Export Credit Guarantee Agency, India
ECGD:	Export Credits Guarantee Department of the United Kingdom
EDC:	Export Development Corporation of Canada
FDI:	Foreign Direct Investment
FEMA:	Foreign Exchange Management Act
FERA:	Foreign Exchange Regulatory Act
FIPB:	Foreign Investment Promotion Board
GDP:	Gross Domestic Product

GNP:	Gross National Product
GOI:	Government of India
IBRD:	International Bank for Reconstruction and Development
ICG:	International Crisis Group
ICRG:	International Country Risk Guide
ICSID:	International Center for Settlement of Investment Disputes
IDA:	International Development Association
IFC:	International Finance Corporation
IFIs:	International financial institutions
IMF:	International Monetary Fund
MFN:	Most Favored Nation
MIGA:	Multilateral Investment Guarantee Agency
MNE:	Multi National Enterprises
NDA:	National Democratic Alliance
OECD:	Organization for Economic Co-operation and Development
OPIC:	U.S. Overseas Private Investment Corporation
PPP	Public Private Partnership
PRI:	Political Risk Insurance
PRS:	Political Risk Service (group)

R&R:	Rehabilitation & Resettlement
SDR:	Special Drawing Rights
SEZ	Special Economic Zone
UK:	United Kingdom
UN:	United Nations
UPA:	United Progressive Alliance
USA:	United States of America
USSR:	Union of Soviet Socialist Republic
WBG:	World Bank Group

Chapter 1: Introduction

The complexities of globalization have implications for development concerns that require systematic study in order to take forward the agenda of the international organizations that are mandated to implement the development agenda at the global level. The integrated nature of the current global economy requires that all areas of the world develop to their full potential. An essential requirement to achieve this objective is investment for development in areas where it is required and a proper flow between sources of capital and areas of underdevelopment. Ironically, however, it is the areas where investment is most required because of abject under-development that capital is most reluctantly invested because of high 'political risk'. In other words, countries that are the most in need of development-related investment are often the least likely to attract such capital because of the political/policy environment they offer to the incoming investment. In order to ensure that investment capital reaches even those countries where there is a high perception of political risk, third-party guarantees (or insurance) may be required. It is this central problem that is sought to be addressed multilaterally by the *Multilateral Investment Guarantee Agency* (MIGA), which is the subject of this study. The role of MIGA in political risk insurance and its interaction with a developing country like India are the central themes of this research.

Background

The industrial revolution brought about significant changes in the world, making production much easier and resulting in a surplus in the West and the need for additional markets. Up till the First World War, Britain had dominated the world in the political and economic fields. During the Second World War the major powers had taken an initiative to design and set up international institutions in the political field (United Nations) and in the economic sphere (Bretton Woods Institutions). The United States (US) changed its policy from isolation to hegemony towards the end of the War and in 1944 at the Bretton Woods Conference; the foundation was laid for the *International Bank for Reconstruction and Development* (IBRD) along with the *International Monetary Fund.* The IBRD was set up basically to lend for the development of war-ravaged Europe but

later its focus shifted to lending to the developing countries for development. Over the years, the IBRD has expanded it scope of work and accordingly it has established new affiliates such as the *International Development Association* (IDA), *International Finance Corporation* (IFC), the *International Centre for Settlement of Investment Disputes* (ICSID) and the *Multilateral Investment Guarantee Agency* (MIGA), all of which together are known as the 'World Bank Group' (Marshall 2008: 9).

The problem faced by most developing countries is the inability to raise capital for their development. Also, they are afflicted with problems of debt and internal instability, causing reluctance in the private sector to provide credits to them. In this situation, the proponents of economic cooperation recommend flow of foreign direct investment (FDI) into these countries. In the 1960s and 70s, most developing countries were wary of these new ventures; they were sceptical of falling under the undue influence of foreign investors and they wanted to protect their domestic industries. However, they gradually became more aware about how to use and monitor such investments. Private companies from industrial countries were more willing to invest in the developing countries because they found the markets more attractive in terms of profit as well as providing resources. But in practice, third world investments were limited to a small number of countries (Kebschull 1986: 46-47). This was mainly because of the perception of insecurity of the developed countries investors in the Third World. Investors see more risks in these countries as they face a less favourable investment climate as well as security for their investments.

Non-commercial risks, also known as 'political risks' include war, armed conflicts, revolutions and risks resulting from nationalisation, the blockage of payments, restrictions on transfer of funds or convertibility etc. To mitigate such risks, most industrial countries have their own national level investment insurance agencies. For example, the American government backed national insurance agency *Overseas Private Investment Corporation* (OPIC), which provides guarantees to only U.S. nationals.

The World Bank recognized the constraints of such national level agencies and took the initiative of increasing the flow of investments into Third World countries by establishing

the MIGA. The initiative for setting up such a multilateral agency was not new; there were no less than twelve initiatives launched in the early 1960s. In 1973, the World Bank came up with the proposal for an *International Investment Insurance Agency* (IIIA) and in 1981, UNIDO proposed an *International Insurance System*; all these proposals culminated in the establishment of MIGA in 1988. The setting up of MIGA was a step forward in improving the flow of foreign investments into developing countries. MIGA is the first multilateral institution dealing with political risk insurance. Previously, such insurance was carried out at the national or bilateral levels. MIGA supplements the objectives of the World Bank as it contributes to increased investment flows to the developing countries by offering insurance to investors (Kebschull 1986: 46-49).

In the annual meeting of the World Bank in 1985 at Seoul, the foundation for MIGA was laid when the Board of Governors adopted the Convention establishing the Agency (Kebchull 1986: 49). The need for setting up the MIGA was felt for three reasons. First, there was less investment in the developing and least developed countries because of a number of risks for investors. Second, these countries required a steady flow of FDI to help their development processes. Third, existing insurance institutions were not sufficient. For instance, the state-backed national insurance agencies and private insurers are largely unwilling to provide insurance to conflict ridden societies. National agencies, with limited resources are not able to provide insurance for multinational projects (Sinn 1986: 273). With the ratification by 15 category one countries (developed) and five category two countries (developing), MIGA started functioning from 1988 and as of July 2011, MIGA had 175 members, including 25 industrialised countries (Chatterjee 1987: 76; www.miga.org).

The purpose of this organization is insuring foreign direct investment (FDI) against political risks (Sinn 1986: 269). MIGA's main aim is to encourage the flow of investment for productive purposes among its member countries and in particular to developing member countries (MIGA Convention, Art. 2). The MIGA Convention provides insurance for four types of non-commercial risks, which are explained by Chatterjee (1987: 83) as follows:

1. prevention by host state of transfer of earnings or capital into freely usable currency
2. expropriation or any other similar legislative or administrative measures which affect the ownership of the investor's investment
3. breach of contract by host state
4. internal disturbance or war, causing loss or damage to an investment

All the above mentioned guarantees are applicable for investors if they meet certain requirements. All new foreign investments must contribute to the host country's development. Insurance and guarantee by MIGA must be approved by the host country (Article 12, 14 and 15 of MIGA Convention). MIGA will insure only those investments which are granted fair and equitable treatment as well as legal protection (Sinn 1986: 270). MIGA was established as an autonomous institution but the World Bank President is the ex-officio chairperson to the MIGA Board of Directors.

Among the sources of foreign funding is ODA (Official Development Assistance), regarding which the target adopted by the United Nations in 1970 was 0.7% of the GNP (Gross National Product) of the developed countries. This target was subsequently reaffirmed at the Rio Conference in 1992 and in 2002, at the International Conference on Financing for Development held in Monterrey, Mexico, the developed countries were urged to undertake concrete steps to reach this target (The Energy and Resources Institute 2006: 153-54).

India's interaction with MIGA dates back to 1985 when B.L. Jalan of India elaborated the proposal for establishment of international investment insurance scheme (Shihata 1988: 32). Although there was initial opposition from some political parties in India as they did not like the idea of supranational arrangements for foreign investments, the Indian government signed the MIGA Convention in 1992 and it became a member effectively from 6 January 1994.

The Government of India has been channelling foreign aid through BITs (bilateral investment treaties); these agreements may end up granting rights to investors that create

tensions between the host state's commercial objectives and non commercial objectives such as the environment, public health and safety. In this sense, liberalising and encouraging foreign investors raises questions about how India will address such concerns. (The Energy and Resource Institute 2006: 153-160). India, as of June 2011, has 84 bilateral investment treaties which have helped in increasing investment inflows into India (Zachary et.al. 2006: 814).

In the era of globalization, states are not in a position to completely regulate foreign investments although they can pose some restrictions in the form of nationalization, currency convertibility etc. Since 1991, by liberalizing its economy, India became a favourable destination for investors as it constituted one of the largest available markets for foreign investment inflows. But India also poses problems to exporters and investors because of political instability, corruption, bureaucratic delays, political violence like left-wing extremism, infrastructure deficit, lack of land and adequately skilled labour etc. To mitigate all these political risks, investors need security and insurance for their capital. MIGA works in India in collaboration with Indian insurance agencies like Export Credit Guarantee Corporation (ECGC), EXIM Bank, etc. In addition, there are also many private insurance agencies like Bajaj Allianz, IFFO-Tokyo General insurance Co. Ltd. and New India Assurance Co. Ltd.

In recent years, India has also become an overseas investor. Indian companies have gradually increased their global presence. Their overseas investment rose from US$ 0.7 billion in 2000 to US$ 11 billion in 2007 (PRI Center 2007). This figure further rose to US$ 14.3 billion by 2009 (IBEF 2010). In terms of destinations, Singapore, Mauritius, the Netherlands, the US and the British Virgin Islands accounted for 67 per cent of India's total outward foreign direct investment (FDI). Singapore and Mauritius remain top destinations with more than 48 per cent share of the investments during 2009-10 (IBEF 2011).

MIGA has gained importance for India also from the point of view of Indian companies investing abroad. Several Indian companies are insured by MIGA for their overseas investments. Beekay Engineering and casting Limited (BECL), an Indian company has

started investment in Zambia, which was financed by the EXIM Bank of India. It has obtained an insurance of US$ 1.6 billion from MIGA. This was the first insurance to an Indian company from MIGA in 1999. Another Indian company is Rockland Steel Trading (P) Ltd which was insured for US$ 11.4 million from MIGA in the manufacturing sector in Nigeria. In Africa another project Congo International Company SPRL in infrastructure sector has been invested in by the Indian company AMCO Fabrics Private Limited, India in Congo Democratic Republic. MIGA has provided the guarantee of US$ 0.63 million in 2008 and covers the risk against War and Civil disturbance, transfer restrictions and expropriation (www.miga.org).

This study aims to review the functioning of MIGA and analyse the nature of the challenges it faces in its functioning. It will be interesting to focus on issues relating to efficiency and adaptation by MIGA. Also, MIGA's interaction with India will be assessed, from the perspective of both insurance for foreign investors in India and insurance for Indian investors abroad.

Survey of the Literature

As a general introduction to the MIGA, Chatterjee (1987) describes the establishment, aims and objectives of the Agency. He elaborates upon its functioning based on the convention and rules governing MIGA. He poses interesting questions like, considering that there exist bilateral agreements between investors and host countries, how will this multilateral agency add value to the insurance of investors (Chatterjee 1987: 76).

Dietrich (1986) articulates that the least developed countries aspired for an inflow of FDI through bilateral and multilateral cooperation. These countries were facing difficulties in funding their development programmes and were also facing a recession in the 1980s leading to a decline in foreign aid and high indebtedness. He points out that all countries agreed that these problems can be addressed by the promotion of FDI but investors from industrialized countries were apprehensive of the risks involved in such investments. To mitigate these risks, most developed countries have 'national level insurance agencies' since the end of the Second World War. Also, they had bilateral agreements and many private sector insurance agencies were underwriting for them at the global level. The

author highlights many advantages of MIGA over other insurance agencies such as the extension of insurable risks, even to the developing countries; private agencies can expand their activities by reinsurance and coinsurance with MIGA. He also attempts to explain how it contributes to the development of developing countries by ensuring a flow of foreign investments.

Sinn (1986) clearly points out that political risks are the main obstacles to the inflow of foreign investments into developing countries. To mitigate these risks, he explains MIGA's aims and objectives from the point of view of the allocating financial resources at global level. He further explains that existing national level agencies insure only domestic investors and there is no scope for multinational investments. So, to mitigate transaction costs, there is a need for a global level multilateral agency which can insure all investors. From this perspective, MIGA is the better political risk diversification agency.

As far as the theoretical aspects of international political risk are concerned, Simon (1984) uses theoretical perspectives for assessment of political risks. He discusses the difficulties which the Multinational Enterprises (MNE) face regarding the risk forms and the kind of role played by political, social and environmental setting of the host country. He argues that if there is no theory, then every crisis will demand an independent assessment of the risk. He also discusses the obstacles in theory-building, such as the demand for immediate results and lack of boundaries for the discipline. Secondly, there was no systemic study at the international level as the nature of the problem is multidisciplinary. To assess political risk, he mainly focuses on the relationship between the host government and the MNE. In this process of development of theory, he points out some pre-theoretical aspects related to controlling the foreign business in the territories of the host countries while considering national interest, sovereignty and the national identity. He says that the local business groups and opposition parties will have an important role to play. Simon's work is important to understand the relations between investor and host country and its socio-political conditions.

Erb et al. (1996) give the conceptual understanding of various risks, however only the political risk effecting the foreign investments will be considered in the present study. The authors highlight that political risks lead to least returns to the investors. Diamonte et al. (1996) point out that political risk could affect the financial returns in several countries. But, they illustrate that the changes in political risk made a bigger impact on developing country markets than developed ones. This assertion is also affirmed by other sources such as Political Risk Services Publication and International Country Risk Guide (ICRG) etc. They illustrate the case of Hong Kong which is riskier because of the weak political leadership and higher conflict risk. Among the emerging market economies, Chile was protected and reduced political risk due to the strong political leadership.

Bunn and Mustafaoglu (1978) anticipate the political risks that are faced by international public and private companies in different countries. They categorize these risks into export-import restrictions, taxation changes, price controls, production constraints, and expropriation, which have had adverse effects on different companies. They argue that on the one hand, a state is opposing restrictions on foreign imports and on the other hand, they are moving towards mixed economies as they have sovereign right to formulate their domestic policies. They point out the major shortcomings of research on political risk as there is no quantitative research on the subject. Further, there seems to be a gap in the literature on the issues of dispute resolution by the investor states.

Stephen (1979), Jarvis and Griffith (2007), Jarvis (2008), have developed the four generations of approaches towards political risk. They are: First Generation Political Risk Approaches (The Catalogue School), Second Generation Political Risk Approaches (The System–Event School), Third Generation Political Risk Approaches (Method versus Theory) and Beyond Third Generation Approaches, A Fourth Generation of Political Risk Assessment Techniques.

On India's interaction with MIGA, BM (1992), Whelan (2008), EXIM Bank (2008), PRI-Center (2007) indicate that to join MIGA, India faced opposition at the domestic level but eventually it became a member in 1992. India has increasingly become attractive to foreign investors and also Indian companies are now investing heavily in other countries.

India does have various political risks such as political instability, political violence, corruption, lack of infrastructure, bureaucratic delays etc. To mitigate these risks investors need security and insurance for their capital in this case MIGA has been insuring investment guarantees in India by collaborating with national level insurance agencies. Investors also can have access to private insurance agencies in India.

FDI is crucial for the development of any country but the conditions or environment in the developing countries are not very favourable for FDI. Investment Commission (2006), Ministry of Finance (2009), Ministry of Commerce and Industry (2003) indicate the need to increase FDI through facilitating foreign investors. They also rightly point out the problems of corruption, restrictions in certain sectors, breach of contract and lack of infrastructure to attract investors. To mitigate these problems, they also mention some recommendations like removal of restrictions on investments except some 'strategic' sectors and reducing procedural delays, updating important laws to control corruption.

The Energy and Resources Institute (2006) points out that since India became a member of MIGA, this facilitated guarantees in renewable energy projects like wind and biomass. However these projects received criticism for not properly taking into account of environmental and developmental impacts. The World Bank (2009) reiterates that the IFC and MIGA started initiatives for new policy and performance standards for social and environmental sustainability since 2007; in India MIGA mainly concentrates on energy and water sectors. Misra and Yadav (2009) discuss the Indian corporations doing business abroad and the strategies and problems of Indian MNCs and their interaction with EXIM Bank of India, ECGC, and MIGA. Iida (1997) points out the need for foreign investments in India and challenges it faces like infrastructure, environment protection, continuing reform of financial sector and cooperation from open global trade and investment system.

All the above surveyed existing literature provides the scope for further research into the concept of political risk and some theoretical understanding of it. A comprehensive assessment of MIGA's role in India is, however, missing in the existing literature and will be attempted in this study.

Objectives, Scope and Structure of the Study

This study traces the origins and evolution of MIGA within the larger context of the changing nature of international political risk and its management. MIGA's role is sought to be understood in the context of its affiliation with the World Bank and how it complements its development objectives. The study of India first explores the nature of political risk in India and then assesses MIGA's involvement with India. It also seeks to examine the relationship between MIGA and other national insurance agencies.

In the light of the existing literature the present study attempts to address the following questions: What is 'political risk' and how has it evolved internationally?; What were the contending debates related to the establishment of MIGA?; What are the defining features of MIGA's role and the challenges involved in international political risk management?; What is the nature of political risk in India?; What is MIGA's involvement in India?; Has MIGA's insurance made India a favourable destination for foreign investment?; What is the nature of MIGA's relationship with national insurance agencies in India?; What is MIGA's relationship with Indian investors abroad?

The study tests two hypotheses: (a) MIGA's real contribution is in complementing national level insurance agencies rather than working as an autonomous actor in the insurance sector and (b) India's involvement with MIGA has been more in terms of Indian investors seeking insurance for investment overseas rather than foreign investors seeking insurance for investment in India.

The study is divided into five chapters. The current chapter has introduced the area of study and provides a background of MIGA's establishment and its relevance. Chapter 2 discusses the theoretical aspects of the political risks involved in the investments at the international level, focusing on the evolution of the various political risk approaches. Chapter 3 traces MIGA's functioning since its inception, including its relations with other insurance agencies and discusses its role in encouraging development projects. Chapter 4 contains the case study of India; it discusses the functioning of MIGA in India and its cooperation with the public and private players in the field and the extent of benefit to India. The last chapter contains salient findings of the study and makes concluding

remarks with reference to the performance of MIGA, especially in the context of India.

The study uses both primary [official records and document of the World Bank and MIGA] and secondary (books, journals and research papers etc.) sources. It relies on the case-study method as India has been studied to analyse and generalise the insurance of foreign investments. Resources available on the website of various think tanks, international organisations, foundations and research papers of seminars, conferences and articles in newspaper have also been consulted. This research uses descriptive and analytical tools of research.

Chapter 2: Political Risks in International Investment

Introduction

The globalization of the world economy has created a path for the easier movement of investment among countries. Opening or reforming their economies, developing countries have witnessed rapid economic growth (Lechner and Boli 2004: 180). But along with the increasing amount of capital available for investment, the political risks in host developing countries have also been increasing. This has resulted in a concentration of added investment in a particular state or region that is favourable to the investors. In this context it is important to examine the causes and consequences of international political risks with regard to international investment.

At the same time, the need for investment in the developing countries is gradually increasing. For example India has targeted its foreign direct investment (FDI) inflows from US$5 billion in 2006 to US$15 billion by 2007-08. Further, in order to achieve its targeted goal of 8% gross domestic product (GDP) growth rate, it had also set the goal to reach US$1.5 trillion FDI inflows for the period of 2006-10 (Investment Committee Report 2006: 1-4). But political risks like political and policy-related instability etc. are the concerns of the investors, acting as a deterrent to FDI flows.

International Political Risks

Politically motivated actions may create problems for the functioning of foreign and private enterprises in a given society. These obstacles may take different forms such as restrictions on currency convertibility, expropriation, breach of contract and internal disturbances like civil war etc. Such non-commercial risks are called 'political risks'. Generally investments from abroad are subject to the host country's socio-political and economic systems. Alon and Martin (1998) have developed a normative model for political risk assessment by pointing out deficiencies of early definitions of political risk that lay emphasis on adverse governmental actions only. They develop a qualitative and structured model for analyzing political risk and for them, the sources of political risk are "... internal and external and related to societal, governmental, and economic factors" (Alon and Martin 1998: 11). Other prominent authors state:

> ... all non-commercial risks, are inherent and often hidden in a country's political, business and cultural environment. They can have financial, operational, security and reputational impacts. Corruption, direct action, bureaucracy, poor stakeholder relations, political shifts, terrorism, legal and regulatory irregularities, religion and health can all be sources of such risks (Maltby and Horrox 2004: 4).

'Political risk' could be understood as the probability of disruption of activities of multinational enterprises (MNEs) by political forces or events. Such events could occur in the home country, resulting from direct restrictions on investment destinations and outward investments, or in the host country in terms of uncertainty of actions of governments and political institutions including various social movements. Such events could also result from changes at the global level. The political risk insurance industry, however, has a narrow definition of 'political risk'; it focuses on actions that take place in host countries only, such as (a) currency convertibility and transfer (b) expropriation (c) political violence (d) breach of contract by a host government and (e) the non-honouring of sovereign financial obligations (MIGA 2009: 28).

Political risk can also result from the instability of governments or their policies. Policy instabilities depend on the prevalent notion of political theory and specific notions about political economy of controls on international business. But in developing countries, governmental changes have less impact on policy changes that may influence the operations of multilateral corporations in their countries (Brewer 1983: 147-54). Sedeh K. and M.H. Safizadeh (1989) have argued that the instability in a country depends on various factors like income inequality, social welfare, the country's infrastructure, and membership in international financial institutions like the International Monetary Fund (IMF) etc. The instability in a given country also cannot be determined in a point in time and it depends on examination of events over a period of preferably some years for the investors to get into that markets. For them, political risk means "negative perceptions emanating from internal instability, intergovernmental relationships, anticipated or unanticipated government actions, or government discontinuities all brought about by social, economic, political imperatives existing in a country's internal or relevant external environment" (Sedeh K. and Safizadeh 1989: 4-10).

As Howell notes in Jarvis (2008: 2), "... 'political risk' refers to the possibility that political decisions or events in a country will affect the business climate in such a way that investors will lose money or not make as much money as they expected when the investment was made". For Howell, this involves an analysis of history or current events that might lead to a "projection of circumstances under which harm occurs. The purpose of making such a projection is to prepare the investor for dealing with such risks".

The objective of political risk analysis is thus clear; whatever possible harm political forces and their decisions can pose on investors is the subject of the study. Howell quotes David Schmidt, who defines 'political risk' as the host government policies that constrain the business operations of a given foreign investment. For Schmidt, 'political risk' is divisible into three sub-categories: "transfer risk," defined as risk to capital payments or profit repatriation; "operational risk," referring to issues surrounding local sourcing and content or production/business continuity; "ownership control risk," referring to issues concerning expropriation or confiscation (Jarvis 2008: 3).

Jarvis argues that understanding the concept of political risk is complex as various scholars understand and view it in different ways. For political scientists, the main focus is on negative consequences of the use of state power for individuals, populations, nation-states and the international system. The exercise of power for immoral purposes such as the use of force and armed aggression, or the making of war, is needed to be further explored (Jarvis 2008: 1). In that sense political risk also represents the conflict between states. It may be in the form of war or threat to peaceful coexistence among states. One can also take it as instability in the internal polity of a given society or instability at the global level. On the other hand, for students of political modernization and development, "political risk is normally defined in relation to the maturity, transparency and the capacity of state based political institutions to effectively administrate the needs of the national people, adjudicate and balance the interests and demands of competing constituencies, the independence of statutory bodies like the judiciary, the probity of financial and economic administration of national accounts, and the transparency of electoral systems" (Jarvis 2008: 4).

Evolution of International Political Risk

The process of political risk analysis involves understanding the threatening processes and events of the existing order or the disruption in the normal practices of international investment, trade and commerce. Direct investments at the international level are broadly of two types – (i) 'portfolio investments' or investments by the residents of a country in a foreign company with effective control over it and (ii) foreign direct investments (FDI) or investments made by corporations across the world. Increasing presence of MNEs' overseas activities and its share in the world GDP is up from less than 5% in 1970 to 10% in 2003, representing the growing importance of overseas commerce despite some interruptions caused by the global economic meltdown in 2000 and the terrorist attacks in 2001 (Jarvis and Griffith 2007: 5). UNCTAD expects foreign investments at the global level to increase and reach more than $1.2 trillion in 2010 and rise further to $1.3 -1.5 trillion in 2011 (UNCTAD 2010).

Despite having a prominent role in international business, MNEs never have a free hand in overseas investments. Historically, they have always had to face risks relating to various international political events such as the Korean War 1953, the Suez crisis of 1956, the Cuban missile crisis of 1962, the oil embargo of 1973 and the debt crisis of 1982. In the recent times, widely debated changes are September 11, 2001 and the war in Iraq (2003). These are powerful reminders of the importance of the international aspect of political risk. Examining the causes and consequences of these events helps gain an understanding of the evolution of political risk (Clark and Tunaru 2005: 2).

During the 1970s, initial opposition to foreign investment by the ruling elite of many developing counties gave way to utilization of foreign investment for development and poverty reduction purposes. Policies of modernization and industrialization became the dominant *mantra* for achieving domestic political legitimacy and regime stability. The ruling elite in most emerging economies shifted their focus to attracting FDI in order to supplement their developmental projects. This shift was particularly visible in the Asian continent, where the newly industrialized countries like Singapore, Hong Kong, Thailand and Malaysia experienced high growth and massive inflows of FDI (Jarvis and Griffith 2007: 8).

Nevertheless, foreign investments continued to experience threats or political risks, among which the risk of expropriation was a prominent one. During these times, states were more sensitive about natural resources and other industries, resulting in tight control of MNE operations in their territories. In the 1980s, most of the states were permitted foreign investments but certain restrictions were imposed. There is evidence that large scale transfer restrictions occurred because of balance of payment crises. During the same phase, the Latin American debt crisis began in Mexico in 1982 and spread throughout Latin America, Africa, and some parts of Southeast Asia including Indonesia, Thailand and Philippines. The liberalization of economies in the 1990s, entailing floating exchange rate regimes and banking sector reforms allowing relaxation of capital controls, resulted in a decline in transfer and expropriation risks in this period (Clark and Tunaru 2005: 1-34).

The increasing openness to foreign investment was evident as governments (of developing countries, in particular) adopted national laws that created more favourable conditions for foreign investments into their countries. Many countries went beyond these efforts, offering incentives; investment promotion programs were initiated to attract foreign investments. The developing countries initiated reduction of barriers on FDIs which resulted in increasing flow of FDI at the global level and developing countries in particular. Although many surveys show that most MNEs are concerned about political risks while entering business operations in the developing countries, the notion seems to be changing that developing countries are riskier than industrial countries for investors as foreign investors enter into new states and regions of the developing world (MIGA 2009: 28-43).

However, it is not as though the problems relating to the internal governance structures of the developing countries disappeared in the 1990s. The absence of transparency created obstacles to foreign investors. In Indonesia, the decentralisation process created numerous avenues for immoral activities by corrupt provincial officials. At the same time, bureaucratic inertia created administrative and legal roadblocks for foreign investors. The problems of governance, institutional capacity, and the inadequacy of regulation in emerging markets posed a series of new, crucial risks throughout the 1990s.

The most recent political risk stems from the events surrounding 11 September 2001 and the turbulence associated with the terrorist attacks in the Middle East, Jakarta, Kenya, Yemen, Istanbul, Madrid and London, and the instability in Afghanistan and Iraq. The events of 11 September 2001 caused losses to most leading companies – not just technical losses but more importantly the loss of human capital and irreplaceable institutional capacity (Jarvis and Griffith 2007: 9-10).

MNEs based in developing countries like India and Brazil have been increasing investments abroad mainly in developing countries and are subjected to political risks, resulting in demands for political risk insurance for South based investors (MIGA 2009: 28-43). India, like other developing states, needs investments to implement its developmental policies. The economic reforms undertaken in 1991 have influenced Indian industrial policies and external financial relations. Further, delicensing, removal of trade restrictions and liberalising foreign investment regime are some of the reforms that helped Indian business (Kohli 2006: 1361). In recent times, India has also become an investor abroad and Indian investors face similar political risks there such as breach of contract, currency restrictions, corruption, administrative hurdles and lack of infrastructure facilities. In the subsequent chapters these aspects are discussed in detail.

Theoretical Perspectives on International Political Risk

Why do states want to control private or foreign investments in their territories? What are the driving forces that restrict MNEs' business operations and pose challenges for them as political risks? What are the theoretical issues relating to international political risk? These questions will be dealt with in this section.

The process of development in the world, and the role of various actors in that project has been debated from three perspectives, focusing on the role of the state – whether state should play a prominent role or leave things to the market. The experience of Peoples' Republic of China's economic development shows that the state could play a prominent role in economic development, which is also evidenced by the developmental projects of Japan and East Asia (Potter 1995: 155-60). Whenever a particular MNE enters into a state, it has to operate in the very complex nature of the given state's social and political

environment and the political and social actors have an impact on the MNE's operations in that society. Here one can see the differing interests of the state and the MNEs, the latter always driven by profit motives and the state having to take welfare measures, depending upon regime type of that state. In this sense conflict between the state and the MNEs seems inevitable.

Simon (1984: 123) provides an understanding of political risk and the foundations for the development of theory by pointing out the social and political complexities of the state in which MNEs must operate and how those political actors could have a say in the formation of political risk. His profound argument is that if there is no theory, then every crisis will demand the assessment of risk. He also discusses the obstacles in theory-building, such as the demand for immediate results and the lack of boundaries for the discipline.

Previously, there was no systemic study at the international level as the nature of the problem is multidisciplinary. To assess political risk, he mainly focuses on the relationship between the host government and the MNE. In this process of development of theory, he points out some pre-theoretical aspects related to controlling foreign business in the territories of the host countries while considering national interest, sovereignty and the national identity. He says that the local business groups and opposition parties will have an important role to play. Simon's work is important to understand the relations between investor and host country and its socio-political conditions (Simon 1984: 143).

The concepts of political risks like extortion and expropriation have a long history in international relations in general and international investment and trade in particular – very far back to the ancient Greek and Roman Empire to the 20th century armed aggression and invasion in Europe, Africa, Asia and Latin America. But it has received very little attention in the academic discipline of International Relations. During the cold war days, all academic debate or theoretical enquiry mainly was around inter-state warfare and nuclear confrontation. In addition to that, the state and primacy of state system has framed the dominant approaches to IR, while non-state actors such as MNEs

and their role have been marginalised. Although there was strong criticism against these actors from the quarter of new-left and dependency approaches of 1960s and 1970s, who viewed them an agents of powerful states specifically the US or as instruments of capitalism.

However, some scholars chose to view IR theories through the eyes of MNE actors and they have explored political risk as a mediating relationship between states and non-state economic actors. In the era of globalisation, emergence of transnational regimes and increasing institutionalisation of international norms which governs the nature of international relations was witnessed. In modern or liberalised economies, removal of capital controls has influence to break the laws resulting into political risk (Jarvis and Griffith 2007: 7-8). The above discussion indicates that despite having international norms for protection of foreign investments, states are still using their discretionary powers to regulate FDIs and the concept of the political risks in the world is not going to vanish in the near future.

Different Approaches to Political Risks

The scholars of investment theories and political risks have defined the problem from divergent perspectives. These can be broadly summarised into two dominant approaches – one is concerned with political risks as they affect MNEs and another approach is closely related with the theories of peace and conflict studies and International Relations, which mainly focuses on avoidance of conflict and state failure. However, there is scarcity of significant literature on the latter perspective. Hence, the focus is mainly on the first approach.

The above discussion about the definitional understanding of political risk identification and assessment has been concentrated around some factors namely political stability, type of political system, policy continuity, institutional stability and probity, the rule of law, governance and transparency. This diverse nature of understanding of political risk has led to various types of methodological approaches to the theoretical perceptive of political risk.

In this context, Darryl Jarvis,[1] a Professor at National University of Singapore (2007 and 2008) has developed the four generations of approaches towards political risk. They are: First Generation Political Risk Approaches (The Catalogue School), Second Generation Political Risk Approaches (The System–Event School), Third Generation Political Risk Approaches (Method versus Theory) and Beyond Third Generation Approaches, A Fourth Generation of Political Risk Assessment Techniques.

First Generation Political Risk Approaches: The Catalogue School

The basic premise of this school is related with the actions of governments, agencies or political actors that adversely affect the operations, value or profitability of MNEs in the host countries. This approach of political risk forms the work of Catalogue School. Proponents of this school try to develop the lists of possible negative activities of governments in the host countries and their impact on the investors. This approach dominated the initial wave of literature relating to political risk that emerged in the early 1950s but it is still a significant approach for understanding political risks.

By reviewing the then existing literature, Stephen (1979) has come to the conclusion that first, the phenomenon of political risk was not defined in such a manner that allows the events which were concerned and which were not for unambiguous classification of environmental events. Second, both decision-makers perspectives on uncertainty versus political risk and environmental processes about continuous versus discontinuous change, the two processes were not explicitly linked in a manner that facilitated integration into investment decision making. Third, the concentration on discontinuous change or uncertainty limits unnecessarily the scope of political analysis. Finally, the assumption of more emphasis on the negative consequences of government interventions on investment markets may not be universally valid. He also indicates the need for emphasis on the only events which may arise from political authority which may affect the firms' operations, but one should not emphasise on the events he states. One more thing related to the negative events against firms is that one should focus more on potential manifestation as those events may constrain foreign investors. For example events like restriction on profit

1 Along with Jarvis there are other scholars like Martin Griffith (2007), Anaam Hasmi and Turgut Guvenli (1992) and Stephen Kobrin (1979), but here emphasis has been paid on Jarvis because of his extensive work on the subject.

repatriation and forced divestment of ownership of the firms. These may arise from both the factors political as well as economic, while analysing political risk, one should make a distinction between these events (Stephen 1979: 69-71).

The Catalogue school presumes that markets are not mixed with states in the broader socio-political environment and they want that markets should be separate from state for efficient operations. This school also predicts all political activities as negative, market distorting and detrimental to business profitability. According to the catalogue school, political risks exist because of political activities and governments only, thus for them those risks could be mitigated by limiting the powers and regulatory authority of the governments.

For Jarvis, the first generation approach to political risk seems conceptually imperfect and has limited methodological value and assumes a very simplistic view of political processes and markets. The flaws in this approach are: first, it assumes that markets are self regulated, well functioning, perfect or near perfect and prone to equilibrium. Second, it also assumes that markets are independent entities that are forced to interact with non-market actors and non market indications but remain separated by political systems. What is missing in this approach is that in practical markets, there are various types of practices like monopoly and transparency and the organizational perceptions also need to be examined (Jarvis and Griffith 2007:11).

Thus, first generation approaches to political risks highlight the inseparable role of the state in the operations of markets. The state and its regulatory agencies have to take certain measures in the functioning of the markets like they must ensure transparency in functioning of markets and their regulation. In the case of 1997 Asian financial crises, the presence of the state and its agencies became crucial for sound economic outcomes and low intensity of political risks. Moreover, with the international financial institutions (IFIs), the World Bank and the recent emphasis of the International Monetary Fund (IMF) on good governance and focusing on the institutional capacity to support the market functioning, transparency denotes the crucial role the state has to play. Thus state and its role in the functioning of the market is very important. However, relatively the

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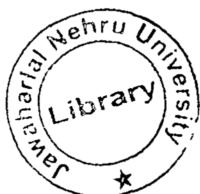


first generation approach leaves little scope to develop methods.

Second Generation Approaches: The System-Event School

Second Generation approaches recognise the limitations of the catalogue school and focus on the correlation between political systems and political risks. States which show instability are more prone to negative activities like crime, corruption and regime change etc. Different political systems have different political risk profiles. The analysis of different types of political structures and their functioning gives sense of the political environment and the strengths and weakness inherent in them (Jarvis and Griffith 2007: 13).

Unlike first generation approaches, second generation political risk approach implies the mutual constitutive role of political systems and markets. It also emphasises that economic growth is not an indicator of low political risk. Economic development without political development, inability of political system to tackle the demands of their various sections of the society may lead to political crisis and radical political change.

Second generation approaches adopt the political modernization theory and articulate that the emerging states or fragile states (or newly independent ones in the aftermath of the Second World War), lack political development, political culture and institutional capacities. But the approaches for political modernization, institutional development, and political culture to support economic systems are debatable due to varying nature of the political systems of the nascent nations. This school focuses on the identification of events that have an impact on regime stability and system's characteristics which facilitate the emergence of political events and also detract from system stability and legitimacy. Political risks associated with events such as political unrest, expropriation, labour problems associated with strikes, problems of currency control, or events such as imposition of import restrictions may be found in a political system that lacks commitment of policy makers to implement the policies which are good for the state's long term interests.

For this school, political risks and political instability correlate with the level of political modernization and adaptability of the political system. Thus it assumes that to avoid

political risks, one must identify the system type into which the country falls, then design investment strategies that reflect the political risk profile of the country. This school suggests use of short term investments in the case of dictatorships because of the low level of legitimacy, the prevalence violence and sudden regime change or popular uprising. In the case of developed countries, conversely, there are chances of least political risks which may invite long term investments and they have the ability to support higher sunk costs and multifold investment exposure (Jarvis and Griffith 2007: 15).

Critics, however allege that these approaches have ethnocentric leanings and neo-imperialist attitudes. This school also displays an unpredictable understanding of political risk and political stability. Political risk need not always stem from regime change. Political stability interrupted by sudden system change to replace dictatorship, generally signifies a reduction in political risk, greater political transparency and can be the basis for less autocratic intervention into the economy. Likewise, sudden political events such as regime change are not always harmful to business activity or the operations of MNEs. Second generation approaches seem to be an improvement over the catalogue school as they attribute low political risks and high political stability that are evident in the developed systems that are predominantly western, liberal democratic and capitalist. They also argue second generation approaches to political risk seem to be at political events and systems structure, but cannot ascertain direct correlations between these events and their impact upon firms (Jarvis 2008: 30-32).

System-events school treats foreign investment as an omnipresent category without allowing for variation in investment type. At the same time, it is also true that the different investment types interact with regulatory regimes, political systems, political coalitions, and political elites differently, and that causes different political risk. System wide correlations and universal theory ignores the fact that not all political events have the same risk implications for foreign investments. Another problem is the limited comparative application of this theory, which questions the generalisation of political instability in one country. Also the concept of political instability needs to be clarified as a regime change may not necessarily result into policy changes. If that will be the case,

there is no need to focus on regime change as such. For that matter, radical policy changes can occur in situation of political instability and it can replicate regime legitimacy and strong state and institutional capacity.

The system-events school does provide a few successful predictions. While there seems to be a failure in forecasting in social sciences as a whole because one of the greatest 20th century political events was the collapse of the Soviet Union which went without any insight on the part of political scientists or IR scholars. These events include, the fall of Suharto in Indonesia, the popular revolution in Philippines which led to disposal of President Marcos, the fall of the Shah in Iran (1979), political disruptions in the wake of Asian financial crises etc.

Third Generation Political Risk Approaches: Method versus Theory

The third generation approaches to political risk have been influenced by the positivist theories of political science which enjoyed extensive application from the 1950s to the 1970s. They had a strong belief in the infallibility of rationalist-empirical epistemologies. Political risk analysis depends on approaches highly aimed at greater predictive power. This has stemmed from the nature of political events occurring in developing regions, and political risks typically encountered by foreign investors. Expropriation, nationalisation of foreign investments dominated political risk for the greater part of the post war period. By the 1980s, changes in the host government attitudes towards foreign investments witnessed a shift in the types of political risks (Jarvis and Griffith 2007:17).

As a result, most of the developing states now competing for FDI set in place policies that attract investors, which have been led to withdrawal features of large risk events such as expropriations, ideologically motivated coups, mercantilist trade policies, or tariff based protectionist measures in international political economy. These developments have created poor analytical outcomes to political risks and then the emphasis has changed towards microanalysis and added emphasis on the importance of context and project level analysis (Jarvis and Griffith 2007:18).

Third generation approaches could not develop methods to evaluate the risk environment in relation to specific project applications. Rather they gave more importance to methods

than theory as they were empirical in nature. Numerous firms have developed various risk analysis techniques and all are claiming superior insights to give directions towards avoidance of political risk. Those firms' main focus seems to be on construction of quantitative models with testable propositions those may help to develop the data sets to relate accurate probability indices to specific political events, policy changes, and political settings of the specific political system. The correlations of risk with structural features of a given political systems, political compositions, political practices of the states, and procedural norms that comprise of their markets, and social, political and judicial systems need to be traceable (Jarvis 2008: 41-52).

New Fourth Generation Approaches

The advancements in information technology leads to numerous attempts to develop risk databases which attempt to correlate the specific political events with particular political risks. Here, a diverse range of projects attempt to develop systemic methodologies for identifying points which trigger various international risks (Jarvis and Griffith 2007:19). The 'country indicators for foreign policy' (CIFP) is one of the organisations that has been working to develop methods to analyse the political risk by data collection. It also seeks to establish sufficient data in order to develop leading indicators to regime instability, conflicts, humanitarian crisis, or any other severe events (www.carleton.ca/cifp). The CIFP also looks beyond political risk analysis and has been developing early warning systems for Canadian humanitarian approach to international affairs. Similar activities also have been done by the organisation named, International Crisis Group (ICG), which has a network of operations across the globe and tries to maintain continuous monitoring protocols based on field analysis and high level of advocacy to prevent and resolve severe conflicts (IGC www.crisisgroup.org).

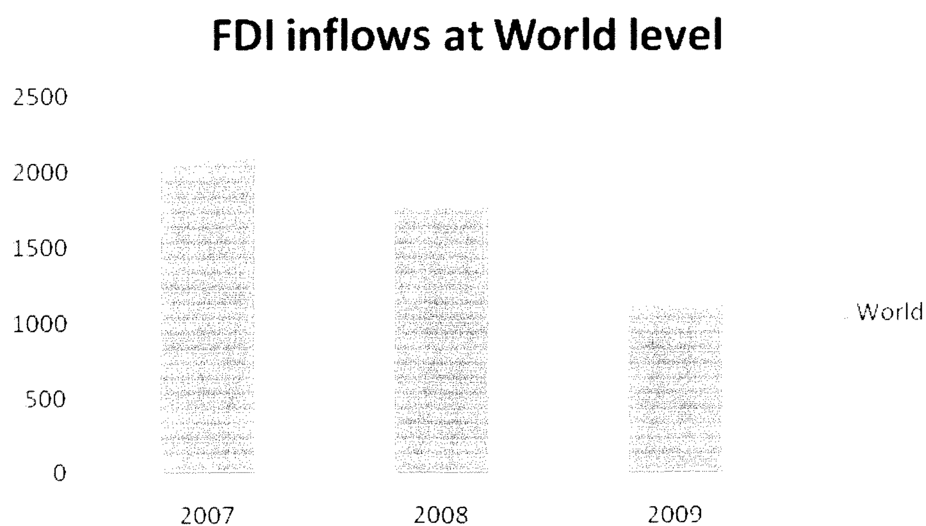
Over a period of time, political risk analysis has expanded beyond its narrow scope; from its focus being on overseas corporate expansion, now it seems to incorporate the concerns of a diverse range of actors. Besides MNEs, it has also generated an increasingly sophisticated set of methodological techniques to compensate for the drawbacks of earlier generations of political risk analysis.

State of Investments Worldwide

The following figures indicate the global FDI flows and provide a comparison between developed countries and developing countries.

Table2.1 FDI Inflows at World level 2007-09

	2007	**2008**	**2009**
World	2100	1771	1114



Source: UNCTAD World Investment Report 2010: 31

Table 2.2 FDI flows between Developed and Developing Countries, 2007-2009 (in US$ billions)

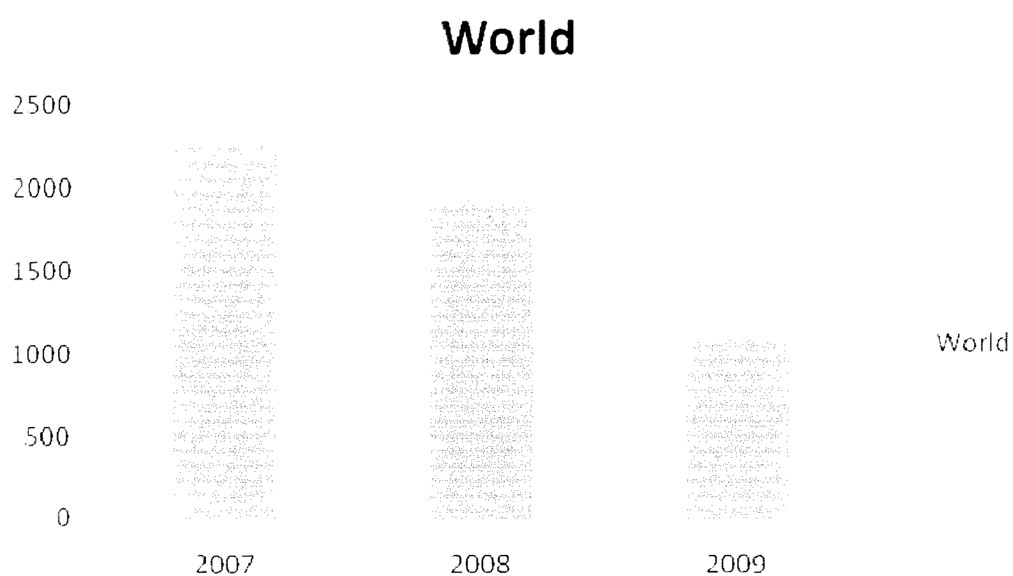
	2007	2008	2009
Developed economies	1444	1018	566
Developing economies	565	630	478

Source: UNCTAD World Investment Report 2010:31

Source: UNCTAD World Investment Report 2010:31

Table 2.3 FDI Outflows at World Level, 2007-2009 (US $ billions)

	2007	2008	2009
World	2268	1929	1101



Source: UNCTAD World Investment Report 2010: 31

Table 2.4 FDI Outflows between Developed and Developing Countries, 2007-2009 (US $ billions)

	2007	**2008**	**2009**
Developed economies	1924	1572	821
Developing economies	292	296	229

Source: UNCTAD World Investment Report 2010: 31

The above figures indicate that the nature of FDI itself is an indicator of existence of political risks at the global level. FDI flows are clearly more concentrated in the developed as compared to the developing countries. The relatively low level of FDI inflows and outflows of the developing countries indicates the need for a specific understanding and analysis of political risks. At the same time the, risk mitigation tools should be found to further investment in the developing countries. Not only is a quantitative increase in FDI inflow important for the developing countries, but also of concern is the nature or quality of the investments in terms of productivity and contribution to the development of domestic needs.

Clearly, recognizing the existence of political risk, understanding its nature, and providing insurance against it is one of the key components in assuaging the fears of prospective investors and promoting enhanced investment flows in regions that are most in need of development-related investment. At the multilateral level, this task is taken on by the MIGA, which supplements the development work of the World Bank by fulfilling the specific function of providing insurance against political risk. The role that is played by the MIGA in managing international political risk is discussed in the next chapter.

Chapter 3: MIGA's Role in International Political Risk Management

Introduction

The industrial revolution marked a watershed in the life of the global political economy – it led to an increased production and business in the developed world and resulted in a search for new markets. This search ended in what today constitute the developing countries. They provided the necessary resources in terms of manpower as well as the raw material to the industrialized countries. Right up to the Second World War, Great Britain had the edge in the economic and political fields due to its colonial expansion and industrial and technological advancement. However, Britain had to pay heavy price in the Second World War II and soon, the United States rose as a major power. The world had witnessed the destructive nature of the two major wars and the leaders at that point of time wanted to come out with concrete solutions to the war created problems. They foresaw solutions in the form of instituting international organizations, which would bring peace and development in the world. This resulted in the formation of the United Nations in 1945.

At the same time, for the reconstruction and development of devastated Europe, the developed countries led by the United States had initiated the process of reconstruction and development by providing funds and also laid the foundation for the formation of the *International Bank for Reconstruction and Development* (IBRD) popularly known as the World Bank along with the *International Monetary Fund* (IMF) in 1944 at the Bretton Woods Conference in the US. Both these institutions are also known as the Bretton Woods twins. In the course of time, the World Bank shifted its focus to the developing and newly independent countries to provide financial and technical assistance for their betterment. To implement its developmental projects much more effectively and to expand its scope of activities, the World Bank created various affiliates such as the *International Development Association* (IDA), *International Finance Corporation* (IFC), the *International Centre for Settlement of Investment Disputes* (ICSID) and the *Multilateral Investment Guarantee Agency* (MIGA), all of which together are known as the 'World Bank Group' (Marshall 2008: 9).

Establishment of the Multilateral Investment Guarantee Agency

As a part of post war reconstruction, US initiated the Marshall Plan and the IBRD provided loans to help Europe. Then the World Bank focus shifted to the developing countries. While most of the developing countries lacked capital and technology, they also had problems like debt and internal instability which led to reluctance of private and foreign investors to invest in these countries. But they badly needed financial and technical assistance. In this context, proponents of the free market suggested that the free flow of Foreign Direct Investment (FDI) into these countries could help them. During the period of 1960s and 1970s, some developing countries showed their opposition to foreign investments because of the exploitative nature of the foreign companies. But gradually these countries realized how such investments could be utilized as well as regulated. At the same time various investors and Multinational Corporations (MNC) were willing to take their business activities in these territories. This had happened mainly because of the large markets were available for the foreign investors to make profits. This resulted in increasing flow of FDIs into developing countries.

FDI in Less Developed Countries (LDCs) grew from US $13 billion in 1987 to $22.5 billion in 1989 (in contrast FDI in LDCs had declined from $19 billion in 1981 to $9.5 billion in 1986). The reasons for the sudden increase in flow of FDI into the LDCs identified by Rowat (1992) are (a) increasing macroeconomic stability; (b) industrial deregulation and increasing regulatory framework in the area of tax, labor, investment laws etc; (c) infrastructure development and availability of qualified human capital and (d) political stability (Malcolm 1992: 103-4). But by the end of the 1980s, in practice it became the other way round; expected investments into all these developing countries could not be realized because the major industrial countries like US focused on a handful of developing countries only (Kebschull 1986: 46-47). Amongst the developing countries, China, India, Nigeria, Bangladesh and Ghana were in the forefront in attracting FDIs. Mainly, because it seems that these countries had not become more vulnerable by the 1982 debt crisis and Mexican crisis of 1994. Impressively, China received 86% of the total FDI to the low income countries, while it received averagely US$2.5 billion per year from 1982 to 1991, while, Ghana received averagely US$ 11.7 million FDI for the period of 1986-92 (ODI 1997: 2-3).

All flaws like lack of investment capital, technology, instability, insecurity to the foreign investors in these countries can be called 'political risks' or 'non commercial risks' which are basically state interventions or societal changes like risks resulting from nationalisation, the blockage of payments, restrictions on transfer of funds or currency inconvertibility and war, armed conflicts, revolutions etc. Political risks may be a minor concern for investors who may be investing in a liberal western country having stability and good track record of protecting property rights but a foreign investor investing in a country unstable and hostile to property rights has no assurances and has to face greater political risks. For example an investor investing in US could have greater safety for his investments than for say in most volatile states like Afghanistan.

To mitigate such risks, most industrial countries have their own national level investment insurance agencies as well as Bilateral Investment Treaties (BIT). These treaties are supposed to protect FDI and establish certain principles such as giving national treatment to those investments in situations like expropriation of properties, repatriation of funds and settlement of disputes (Comeaux and Kinsella 1994: 5). To mitigate the above-mentioned political risks, investors can purchase political risk insurance (PRI) through various sources including nationally sponsored insurance agencies, private insurers and most prominently, the Multilateral Investment Guarantee Agency (MIGA), a World Bank Group affiliate.

The World Bank recognized the need for a multilateral insurance agency long back and there were no less than twelve initiatives launched in the early 1960s for the establishment of a multilateral institution to mitigate political risks and to supplement the existing insurers. In 1973, the World Bank came up with the proposal for an *International Investment Insurance Agency* (IIIA) and in 1981, UNIDO proposed an *International Insurance System*; all these proposals culminated in the establishment of MIGA. In 1985 at Seoul, the foundation for MIGA was laid when the Board of Governors adopted the Convention establishing the Agency (Kebchull 1986: 49). Initially the MIGA Convention was ratified by 15 Category I countries (developed) and five Category II countries (developing) (Chatterjee 1987: 76). MIGA started functioning from 1988 and by July 2011, it had 175 members including 25 industrialized countries (*See* Annexure II).

What explains this long period taken for the establishment of the MIGA? The reasons seem to include an initial opposition from national insurance agencies. The national level insurance agencies could see the disadvantages in the field of customer relations. They asserted that in the multilateral insurance regimes there would be no confidentiality in investment information, decision making and relations with the home countries. Another criticism was that national insurance agencies cost less and provided more favourable terms than multilateral programs.

While providing guarantees to the investors, the American entity OPIC considers other issues of national concern for US such as trade and labour issues, i.e. OPIC guarantees need the approval of the US government. On the contrary, MIGA does not have the provision of approval of home country, and its independence would allow the MIGA to insure investments only on the basis of development criteria. At the same time the Agency has no need to act as an agent to the US and would not make decisions according to any member country national level concerns including US. In this sense the US had to compromise some of their concerns in order to participate in the MIGA, the OPIC allowed the US to participate and the OPIC could see the legal protections to their national investors in case of any investment related dispute occurring, there was a provision of a common regime for arbitration that could help in investment protection (The World Bank Investment Guarantee Agency 1986: 103-4).

Proponents of the multilateral approach argued that the advantage of this approach would be uniformity and codification of the legal protection of the investors. This could be true when there would be huge participation by the host counties and existence of a common entity to the arbitration to resolve the investment related disputes. The setting up of MIGA was a step forward in improving the flow of FDI into developing countries. MIGA is the first multilateral institution dealing with political risk insurance. Previously, such insurance was carried out at the national or bilateral levels. MIGA supplements the objectives of the World Bank as it contributes to increased investment flows to the developing countries by offering insurance to investors. MIGA's main focus is on insuring FDI against political risks and encouraging the private sector in the transition economies (Article 2, MIGA Convention).

FDI may constitute large amounts of money, goods or services and it is distinguishable from 'portfolio investments' Investments those investors can make in different types of portfolios. In the case of FDI, investors have a greater stake in an investment and need much more control over it, thus intensifying the importance of political risks and political risk insurance. At the same time, it is debatable whether such investment can address the concerns of the developing counties, such as achieving full employment, price stability, balance of payments stability and adequate growth. It has been argued that such investments cannot help the host country's economy and that sometimes they can make host country situations worse by changing their national level employment policies etc. Thus, agencies such as the MIGA need to take care of developing countries' concerns as well.

Structure of MIGA[2]

MIGA's aim is to encourage the flow of foreign investment amongst its member countries preferably developing countries by providing technical assistance and mitigating political risks. The membership in MIGA is open to all the members of the World Bank (MIGA Convention Art. 4). The business affairs of the MIGA are directed by a Council of Governors in which each member has one representative, a Board of Directors elected by the Council, and a Chief Executive Officer selected by the Board and responsible for the day-to-day business operations. It is a self sufficient and autonomous institution [MIGA Convention Art. 32(b), 33(b)]. MIGA's relationship with the World Bank has been described as symbolic although the President of the World Bank is Ex Officio Chairman of MIGA's Board of Directors and nominates MIGA's Chief Executive Officer [MIGA Convention Art. 5(a)].

MIGA was initially supposed to have a share capital of one billion Special Drawing Rights (SDR) [MIGA Operational Regulations, Para 1.15-6, (2001)]. This subscription was to be based on relative economic strength as measured by the subscribers' allocation of shares to the capital of the World Bank. The MIGA became operational after one third of its total capital was subscribed.

[2] For details of establishment, purpose, structure and function, refer to Annexure 1.

Eligibility for Insurance by MIGA[3]

The MIGA provides insurance against only political risks. Eligible investors include nationals of a member country, entities incorporated and having their principal place of business in a member country and entities having a majority of their shares owned by nationals of the member countries. In case of joint application by the investor and the host country, the Board of Directors of the MIGA by special majority may extend eligibility to the nationals of the host countries. The MIGA considers new investments to provide guarantees, but it does not mean that eligibility is limited to only new investments. It will also consider applications for coverage to be applied to the expansion and modernization of the existing companies. Moreover MIGA-assisted investments must be commercially healthy and must contribute to the development of the host country (MIGA Convention, Art. 12(d)).

Risks Coverage[4]

The various political risks under the MIGA guarantee scheme are enumerated in the Convention: (1) Currency Transfer; (2) Expropriation and similar measures; (3) Breach of Contract; and (4) War and Civil Disturbances. These are the four broad categories of risks covered. Along with these, there is also a provision for covering guarantees to country, and then Broad of Governors may consider that particular application [MIGA Convention 1985: Art. 11(b)].

MIGA started working in 1988 and its first insurance agreement was in 1990; since then the Agency has been trying to expand its scope and to reach the expectations of its member countries. In the initial period of ten years from 1988 to 1998, MIGA membership increased to 145 from its 29 founding members. In this same period of ten years the MIGA claimed to have provided foreign investment in 54 developing countries of the amount of about US$ 22 billion and has issued 320 guarantee contacts totalling US$ 1.7 billion insurance coverage (MIGA News Summer 1998).

At the same time, MIGA has been encouraging widespread privatization and its main

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[3] For details of eligibility of MIGA guarantees, *See* Annexure 1.

[4] *See* Annexure 1.

focus was on infrastructure development projects in the developing countries and the same has evidenced the fast growth rate of the MIGA's portfolio from four percent in 1990 to 19 percent in 1997. To meet the fast growing demands for investment insurance MIGA has started establishing close ties with the private insurers in the market and initiated the Cooperative Underwriting Program (CUP) in the form of coinsurance with the private insurers. The CUP is mainly aimed at increasing cooperation among MIGA and private insurers and this mechanism provides a combination of coverage from public and private insurers and they can provide up to US$ 300 million per project, where MIGA can work with private insurers and along with its own guarantee provisions.

Under the CUP MIGA signed a coinsurance agreement with Brockbank Syndicate Management Ltd., of Lloyd's of London, to provide up to US$100 million in additional insurance per project on an ad hoc basis. MIGA also signed its first contract with Zurich-American Political Risk, under the CUP, for a power project in Argentina. Through a reinsurance agreement, MIGA issued its largest guarantee to date to cover a shareholder loan by *Banque Nationale de Paris* for expansion of its branch in St. Petersburg. The US$90 million guarantee was also MIGA's first reinsurance contract with *la Compagnie Française d'Assurances pour le Commerce Extérieur* (COFACE) of France(MIGA Web site:www.miga.org). Under this arrangement, MIGA provides insurance for private insurers along with its own coverage, effectively its status as a multilateral entity and as a member of the World Bank Group.

MIGA also set up its first mobile offices overseas, in response to investors' demand for the Agency to extend its field presence. To improve more interaction with clients and to reach Agency's guarantee program and investment marketing service for this end in July and October 1997, MIGA organized two week work programs in the Caribbean and India (MIGA News Fall 1998). Another interesting development in this period was providing better technical assistance to the developing countries emphasis on capacity building of public and private investment agencies, equipping them with knowledge, skills and tools to promotion of more foreign investments. MIGA also created the IPAnet (www.ipanet.net) and the PrivatizationLink (http://www.privatizationlink.com) to provide information relating to investment conditions and opportunities. Increasing the

capital of the MIGA was also evidenced in this period; US$1 million was added as the recapitalization for the MIGA (MIGA news Summer 1998:1-10).

MIGA's limits of amount of guarantee provisions per project and per country have also increased gradually. With the inflow of US$150 million in capital in April 1998, and an expected US$850 million over to 2000, MIGA's Board of Directors approved in February 1999, an increase in its per project limit from US$50 million to US$110 million and its per country limit from US$250 million to US$350 million. Then the Board further increased the per country limit to US$385 million. The combination of expanded reinsurance and an increase in its per country and per project limits now allows MIGA to offer up to US$200 million of gross coverage to a single project, and a total of at least $655 million in a country (The World Bank 2001: 207-227).

At the same time perhaps the most important development in the investment insurance marketplace in 1999 is the increased cooperation among investment insurers in large projects, especially infrastructure projects. According to the MIGA Convention mandate to complement other investment insurers in facilitating investment into developing countries it has signed the projects in reinsurance guarantees with British, Canadian, French, Japanese, Norwegian, and U.S. National agencies. MIGA has also participated in coinsurance arrangements with a large number of private and public insurers. Basically coinsurance means sharing the insurance amount which may be provided to the investors. Such collaboration among insurer effectively increases the available insurance capacity for project developers and enhances the benefit for both insurers and insured (The World Bank 2001: 207-227). As a result of the increasing cooperation among insurers, there is a trend toward the standardization of policy provisions against political risks.

Argentine Crisis and 11 September 2001 Attacks: Challenges to the MIGA

In its actual working, MIGA has already had to face several challenges as the PRI industry is in a state of flux. Often, it has fallen short of the expectations of host countries, investors, and insurers. This is evidenced by two factors – on the one hand, FDI flows in general to developing countries have fallen and those small amounts of FDI that do come to these countries are again concentrated in a handful of countries.

The investment inflows in 2000 increased by 18 percent over 1999 levels to $1.3 trillion. But by contrast, as the MIGA FDI Survey 2002 indicates, FDI out flows would fall by 40 percent and that was below the 1999 levels to around $760 billion, the survey quotes UNCTAD World Invest Report to have predicted. One more negative sign in FDI flows was that the major share of investment flows was concentrated in the developed world, which only goes to show in 2000 more than $ 1 trillion of $1.3 trillion went to developed countries. Outside of the developed countries FDI flows were concentrated in a handful of developing countries that too in the area of cross border mergers and acquisitions and Greenfield investments were in a stagnant position, it has resulted in no scope for development and job creation in the developing countries (the MIGA 2002:1).

On the other economic instabilities in the developing countries mainly economic crisis in Argentina and 11 September 2001 attacks have had a severe effect on FDI flows and have made the transitional economies riskier destinations for FDI. The economic crises in the developing countries changed the nature of political risk. The economic crises in these countries also compelled them to take such extreme steps like outright expropriations, inconvertibility, or breach of contract. In the era of increasing privatization of public sector entities some governments at the center level and also provincial level governments may act as private entities in terms of receiving or supplying goods and services. So the difference between commercial and non commercial risks is blurring. Because crises in developing countries have made an adverse impact in various ways investors became reluctant to invest in these countries, especially in Latin America; banks have withdrawn their support to the investors. While equity sponsors in these countries had demanded new political risk mitigation tools such as coverage in local currency and breach of contract coverage (The MIGA 2002: 1-20).

In Argentina, the financial crisis in 2001 resulted in increasing governmental activism at the global level, creating new challenges and significant variations between investors and host state relations. Where the privatization projects in Argentina during 1990s have made commendable progress in commercial sectors, in basic service sectors like in water, private investor operations witnessed inefficiencies even though there were regulators backing private investors still they couldn't make required progress. Argentina had taken

the regulatory steps such as nationalization and expropriations for the benefit of their people. The crisis in Argentina was witnessed mainly because of changes in economic policies which were especially in the form of foreign investment regulations. Currency board regime was successful in abating inflation because it had to ensure macro-economic and financial stability in Argentina. But shifting to floating exchange rate regime, led to political and institutional crisis (Burdisso et.al 2002:1-27). Above mentioned regulatory measures in Argentina posed new challenges to MIGA's political risk insurance coverage.

The Argentine crisis also raised the question of whether the political risks arose because of commercial or political events; because the state was more concerned about stabilization and regulation of its economy. Argentina was badly affected even before the September 11 attacks but the insurers could not anticipate that it would be such a prolonged crisis. In the Latin American region Argentina was a central power to US policies. When Argentina suffered its crisis, observers of international politics expected US and multilateral intervention, but 11 September shifted its focus. Argentine crisis had nothing to do with 11 September attack but it was a matter of conjecture in the political risk insurance literature. However Argentina crisis was the major test case for the PRI market providers and it has posed the question of insolvency and currency devaluation coverage, which were excluded by the insurers. Insolvency of borrowers and confiscation of funds has been treated as currency inconvertibility and started more focus on providing PRI against inconvertibility (Theodore 2004: 26-31).

The terrorist attacks in US on 11 September 2001 resulted in an increased demand for pure terrorism PRI coverage and the private sector providers showed reluctance to provide insurance. It has also highlighted the role of the public sector political risk providers. Here the public sector providers have an advantage over private sector, because they can take help of their respective governments. Where the question may arise about the conflict between private and public providers and there will be a need of an entity to encourage the cooperation between public and private insurers, like Berne Union which is the union of public and private insurance providers at the global level can promote the synergies between public and private sectors insurers. The events of

September 11 and Argentine crisis has also created an environment for smaller coverage by the private providers for example the Lloyd's London, the private insurers remarkably decreased its supply and it also shortened the insurance coverage tenure from 10 years to 7 years, 7 years to 5 years, 5 years to 3 years (Theodore 2004: 7-14).

In this context the importance of the public insurance providers like the MIGA has increased for filling this gap and providing the guarantees and supplementing the private providers. The threat of terrorist attacks may have their relevance in future and could pose challenge to providing PRI by MIGA and other insurers. It may have happened mainly because American interests have increasingly coming under the microscope especially in developing countries. The changes in US international relations may instigate more loss to the PRI providers and terrorism will command the focus of their attention. After the September 11 attacks some private insurers could see the problems in providing guarantees and in future they have to look forward to cooperating with the public sector PRI providers especially the MIGA and they have to have agreements with reinsurers. By 2006-7 investments into developing countries were increasing and the annual growth rate was been projected as 6 percent in both years. The emerging countries led by China remain an attractive destination for FDIs amongst the states of India and Middle East. The dominant sectors for investment were energy, real estate, and manufacturing. In Latin America natural resources sector was dominated in Argentina and Chile, while investments in *Republica Boliviana de Venezuela*, and Brazil were decreasing because of their leaders like President Chavez, Palacio, and Morale's deliberate actions have strengthened the perception of expropriation and resulted in an increased demand for PRI (Moran et.al 2008: 16-17).

At the same time some newer areas of investors concern for insurance have emerged, those are protection of intellectual property rights of the investors, another most prominent area of bribery and corruption, and devaluation of currency were unmet need of the investors. In the review of its operations in 2005 the MIGA set its strategies for the next three years that was FY 2005-08. The strategy was guided by evaluation of the external environment in the area of FDI flows and development of the political risk market in private sector, to strengthen it position in the market by using its comparative

advantage in flow of FDI and development, and it has learned the lessons from the review. In this direction MIGA has declared its focus areas were improving investments in infrastructure, more investments in frontier markets, investment focus on conflict-afflicted areas, and encouraging investments among developing countries or South-South investments.

In 2004 to improve the MIGA's financial and operational sustainability in the long term, it launched a New Business Model and accordingly started focusing on more risky markets and areas where it has more comparative advantage. This consisted of three principal elements focusing on proactive marketing and complementary products; development of a comprehensive risk management frame work; and stepped-up collaboration with the World Bank Group members to respond to clients needs effectively (World Bank 2005: 1-20).

Recent Developments in Functioning of the MIGA

In the recent times, particularly in 2008, the financial crisis in the developed world mainly in U.S. and in Europe hit the world and investment flows to the developing countries decreased. Despite having their governmental bailout packages, the financial institutions in the West could not show improvements in credit flows. This also adversely impacted the developing countries where foreign investors were unable to begin new projects. In this background to boost the foreign investments into developing countries become very significant, especially the role of the political risk insurance providers in supporting the developing countries by helping create flow of new investments. This also signified the greater need of the MIGA as the multilateral agency to cope with broader coverage and resources to help out investment flows to the developing world. Moreover in doing so, MIGA had to work in cooperation with other insurance entities like public, private and reinsurers. For that the Agency focused on collaboration with reinsurers, which resulted in increasing share of reinsurance in aggregate portfolio coverage. By 2008 December the MIGA had reinsured around 47 percent of its total portfolio exposure (The World Bank 2009: 111).

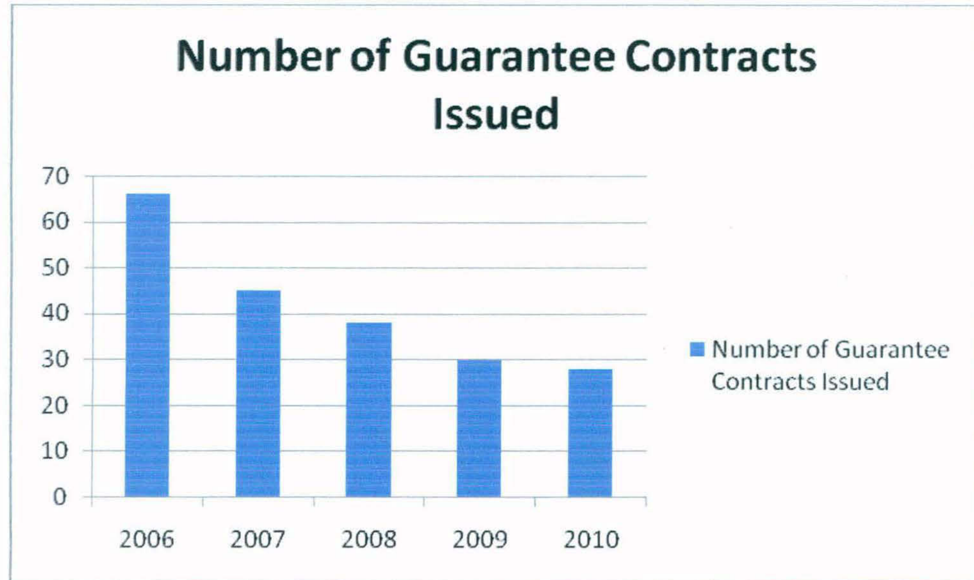
In 2010, MIGA saw the recovery of the world economy as it showed some improvements in its functioning. In the same year MIGA issued guarantees of the amount of $1.5 billion to the projects in its developing member countries, a slight increase over its previous year's issuance by $1.4 billion. In this, the highest share of guarantees went to the IDA eligible countries a total of $342.6 million and 16 percent of share were registered (MIGA 2010: 6).

MIGA in order to maximize its developmental impact has recently declared priorities for the year 2009-11. Which are different from the previous priorities for 2005-08. MIGA also reiterated its commitments to encourage investments in IDA Countries and in conflict affected environments (both these categories apply in the African region). It also talked of support for complex deals, especially those involving project finance, environmental considerations and social issues (such as in infrastructure and extractive industries) and support for South-South investments (MIGA 2009: 20).

The following figures show MIGA's operational effectiveness in practice in terms of the projects that it has guaranteed from 2006-2010.

Table 3.1 Number of Guarantee Contracts Issued by MIGA 2006-10

	2006	2007	2008	2009	2010
Number of Guarantee Contracts Issued	66	45	38	30	28



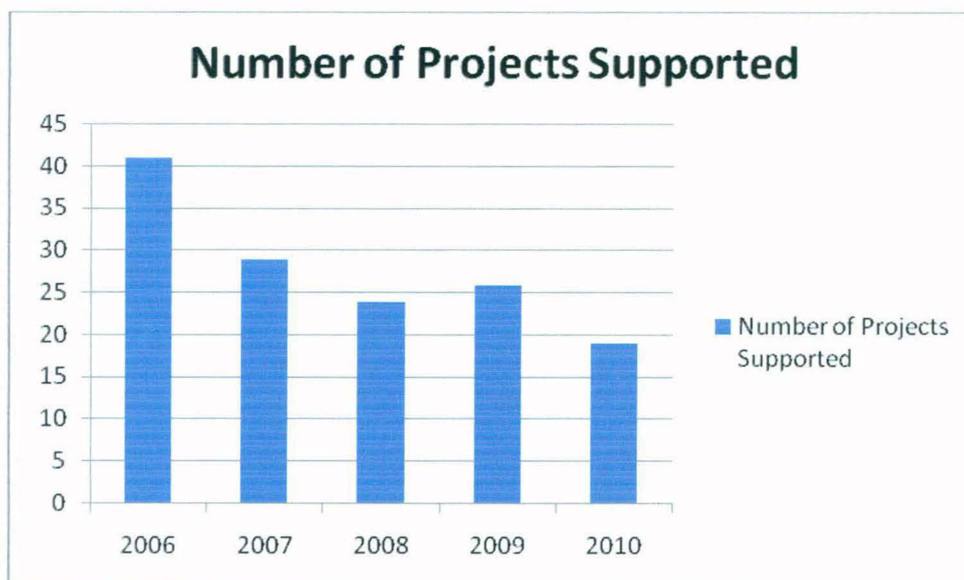
Source: MIGA Annual Report 2010:6

The above figure shows that although MIGA had big strategies to increase its effectiveness, in practice it has not been able to effectively implement its mandate. The number of guarantee contracts has been decreasing since 2006. In 2006, MIGA has issued 66 guarantee contracts which reduced to 28 in 2010.

The following figures illustrate the status of the MIGA supported projects and also show that the number of projects is gradually decreasing. In 2006 the MIGA supported 41 projects and the number has come down to only 19 in 2010.

Table 3.2 Number of Projects Supported by MIGA 2006-10

	2006	2007	2008	2009	2010
Number of Projects Supported	41	29	24	26	19

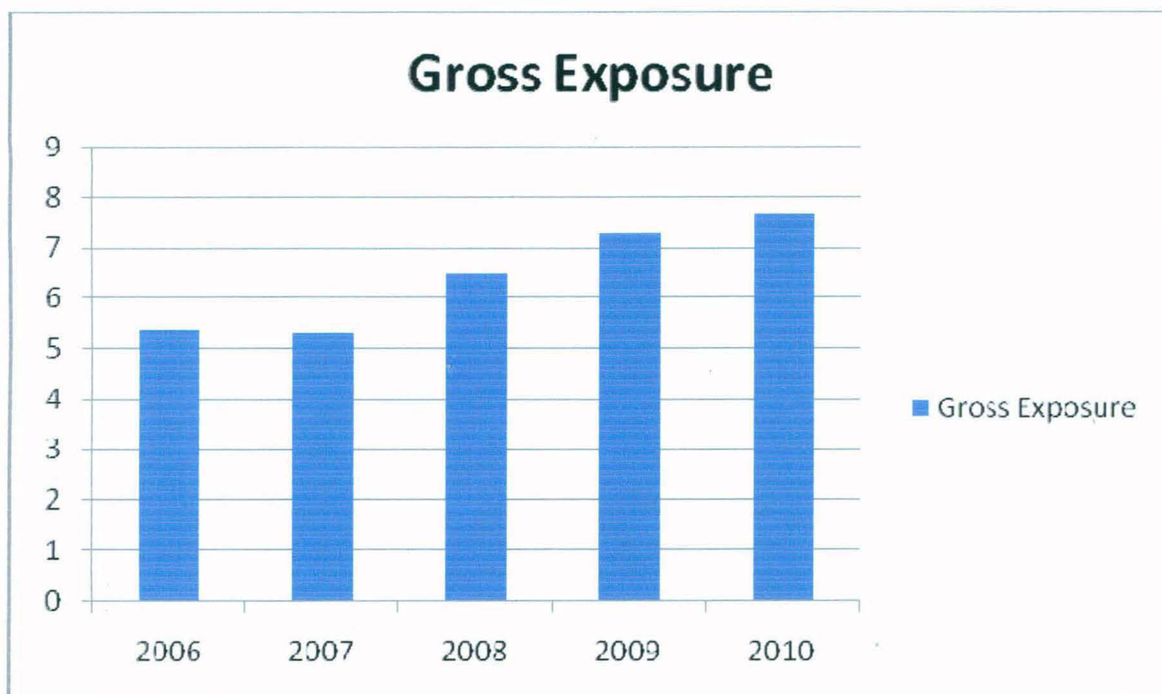


Source: MIGA Annual Report 2010:6

The following figure demonstrates that MIGA provided (guarantees gross exposure) in various projects. The gross exposure denotes the maximum aggregate liability or burden which the MIGA has completed. Here the gross exposure is gradually increasing, that means it has been providing more guarantee in amounts on lesser number of projects. Here one can argue that instead of increasing in amount, it may be better to raise the guarantee provisions and number of projects. Then it may claim a wider presence in various states of the world.

Table 3.3 Gross Exposure of the MIGA Guarantees 2006-10 (US$ Billion)

	2006	2007	2008	2009	2010
Gross Exposure	5.4	5.3	6.5	7.3	7.7

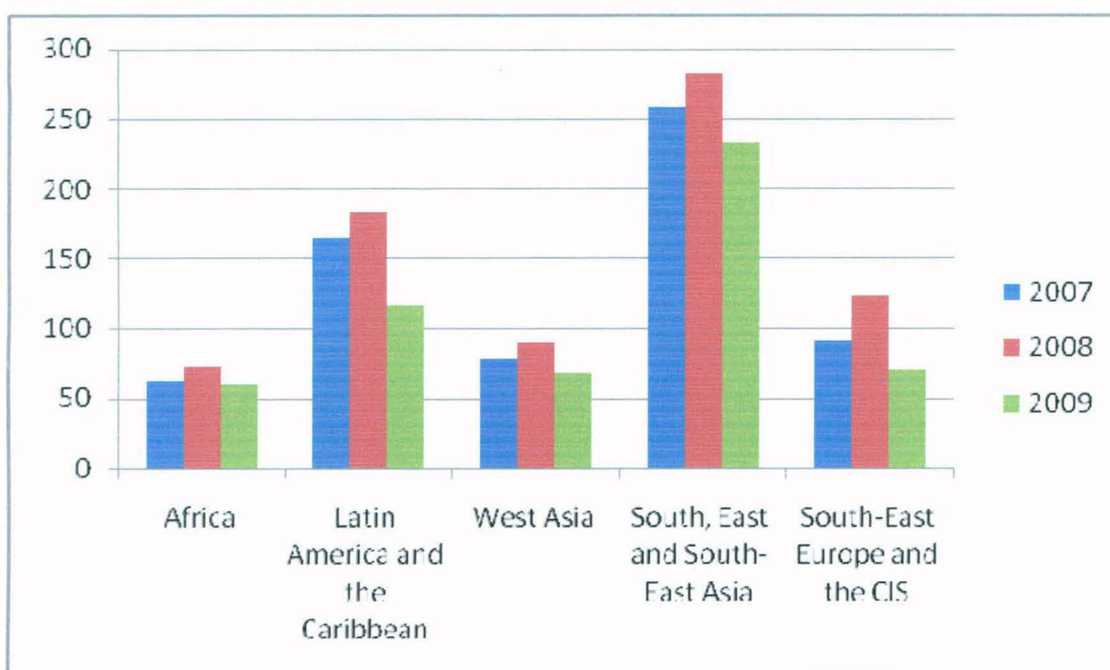


Source: MIGA Annual Report 2010:6

The following figures show the FDI inflows into various countries and FDI out flows from those states by regions at the global level.

Table 3.4 FDI inflows Region Wise (US$ Billions)

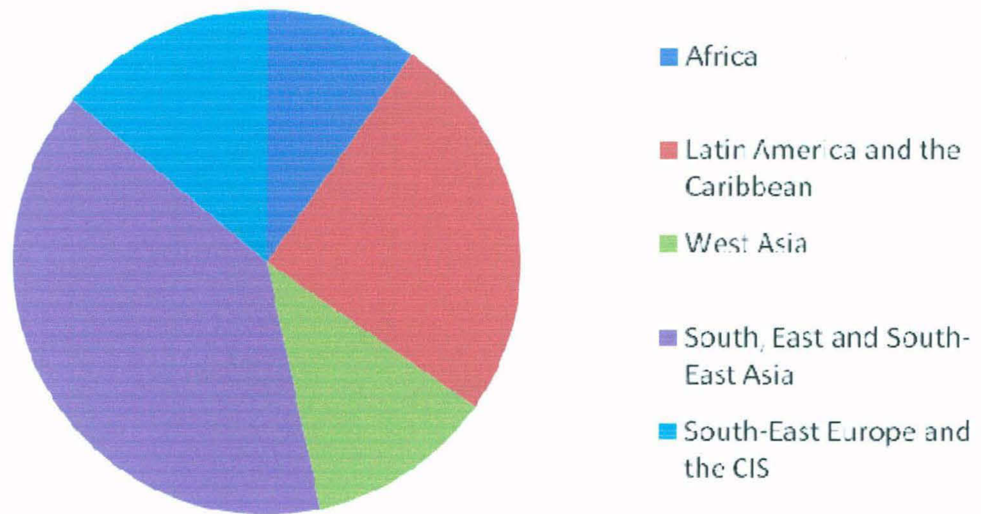
	2007	2008	2009
Africa	63	72	59
Latin America and the Caribbean	164	183	117
West Asia	78	90	68
South, East and South-East Asia	259	282	233
South-East Europe and the CIS	91	123	70



Source: UNCTAD World Investment Report 2010:31.

3.5 FDI Inflows Region Wise 2007-09 (US$ Billions)

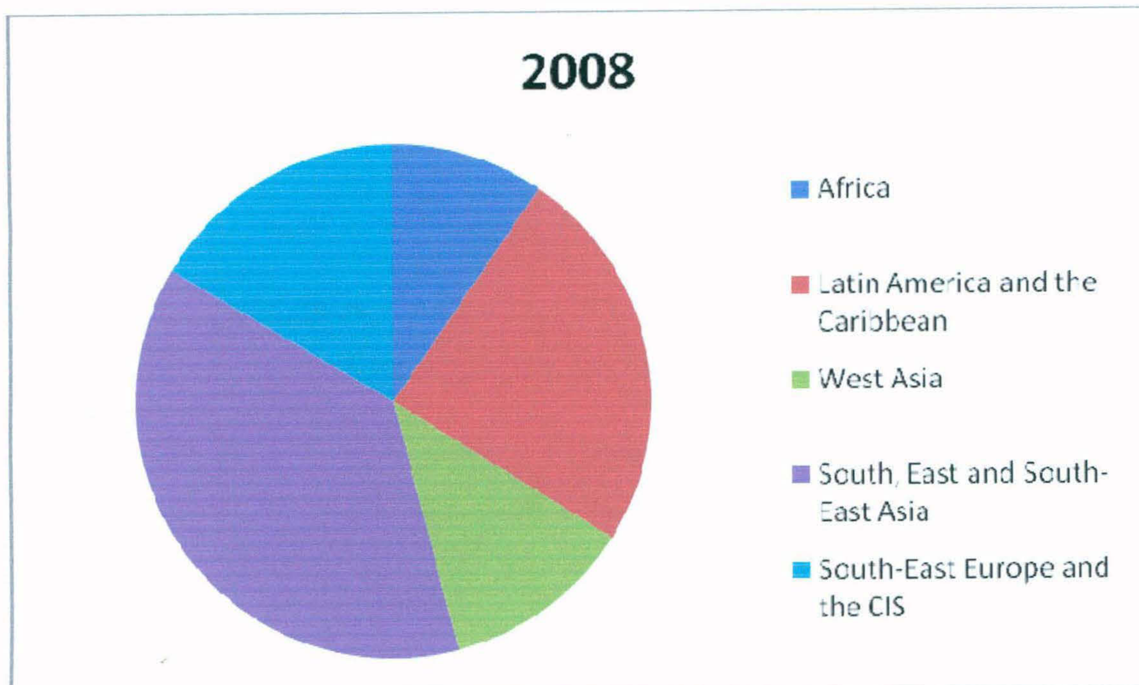
	2007-09
Africa	63
Latin America and the Caribbean	164
West Asia	78
South, East and South-East Asia	259
South-East Europe and the CIS	91



Source: UNCTAD World Investment Report 2010: 31.

Table 3.6 FDI in flows Region Wise 2008 (US$ billion)

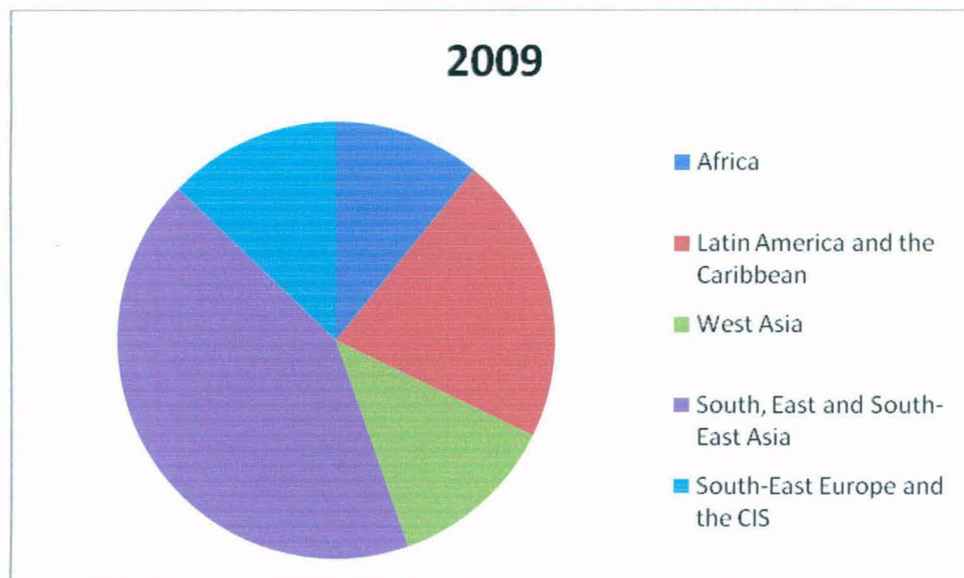
	2008
Africa	72
Latin America and the Caribbean	183
West Asia	90
South, East and South-East Asia	282
South-East Europe and the CIS	123



Source: UNCTAD World Investment Report 2010: 31.

Table 3.7 FDI in flows Region Wise 2009 (US$ billions)

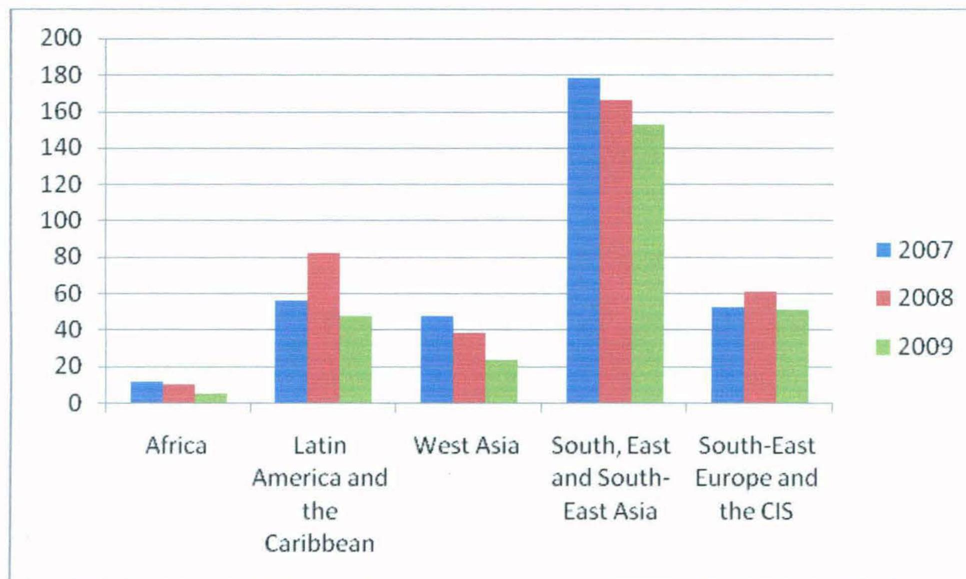
	2009
Africa	59
Latin America and the Caribbean	117
West Asia	68
South, East and South-East Asia	233
South-East Europe and the CIS	70



Source: UNCTAD World Investment Report 2010: 31.

Table 3.8 FDI Outflows Region Wise 2007-09

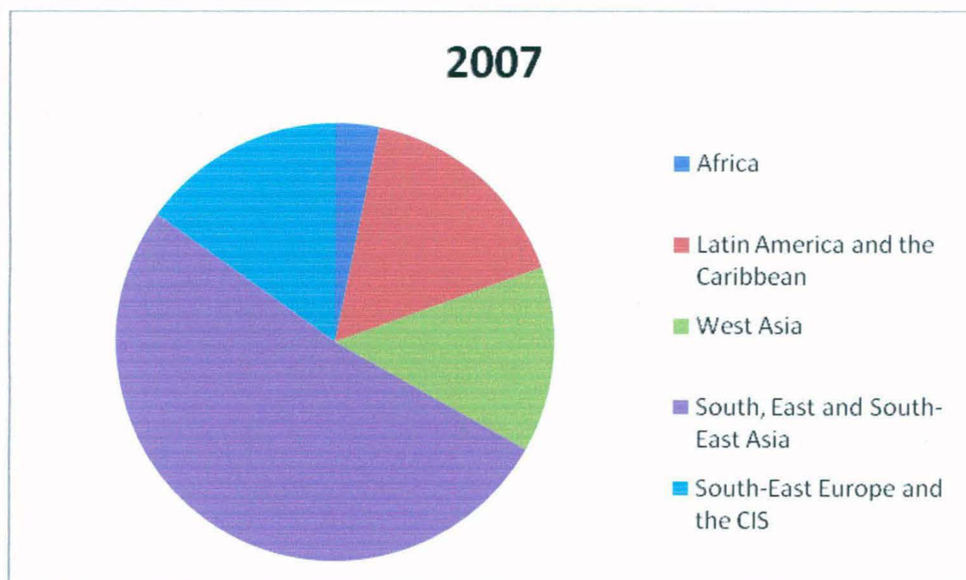
	2007	2008	2009
Africa	11	10	5
Latin America and the Caribbean	56	82	47
West Asia	47	38	23
South, East and South-East Asia	178	166	153
South-East Europe and the CIS	52	61	51



Source: UNCTAD World Investment Report 2010: 31.

3.9 FDI Outflows Region wise in 2007 (US$ billion)

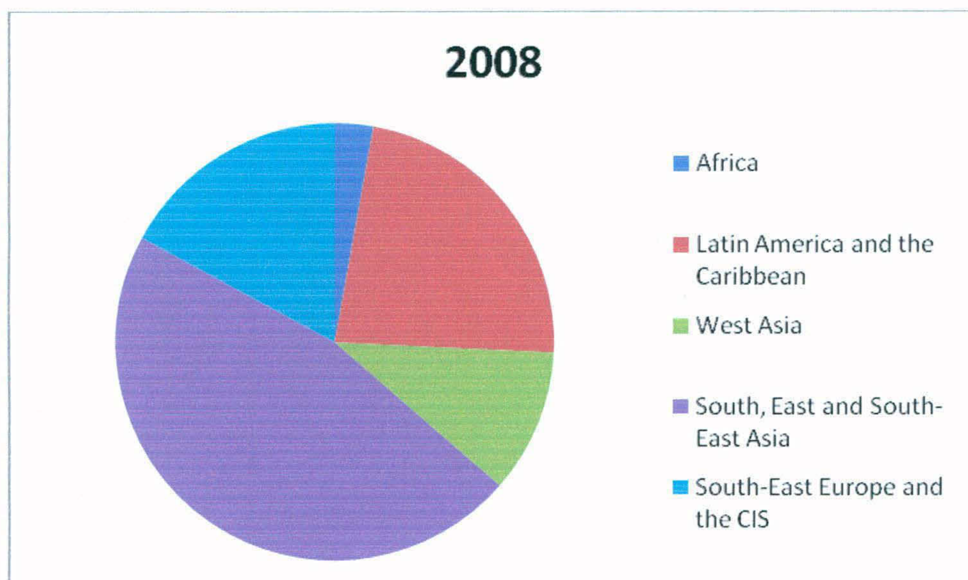
	2007
Africa	11
Latin America and the Caribbean	56
West Asia	47
South, East and South-East Asia	178
South-East Europe and the CIS	52



Source: UNCTAD World Investment Report 2010: 31.

3.10 FDI out flows Region wise in 2008 (US$ billions)

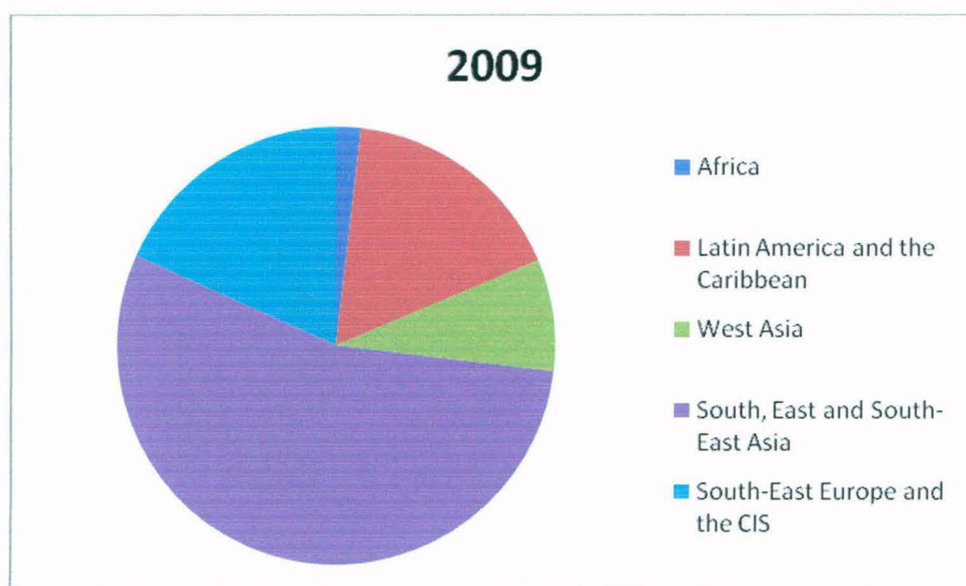
	2008
Africa	10
Latin America and the Caribbean	82
West Asia	38
South, East and South-East Asia	166
South-East Europe and the CIS	61



Source: UNCTAD World Investment Report 2010: 31.

3.11 FDI out flows Region wise in 2009 (US$ billions)

	2009
Africa	5
Latin America and the Caribbean	47
West Asia	23
South, East and South-East Asia	153
South-East Europe and the CIS	51



Source: UNCTAD World Investment Report 2010: 316.

Relation with the World Bank Group Members

The MIGA Convention Article 2 clearly states its objective as encouraging flow of investments into its developing member countries for productive purposes and supplementing the IBRD or the World Bank, International Finance Corporation and other international development financial institutions. Article 35 of the Convention also states its cooperation with other international organizations including the United Nations, other inter governmental organizations in particular the World Bank and the International Finance Corporation. In the direction of its mandate the Agency has been working with another World Bank group affiliate the IFC, which is a private sector encouraging entity.

In recent times as part of its mandate the MIGA and the IFC, came out with an agreement of business development and partnership of MIGA-IFC and created a special post for coordination in 2009 aimed to promote FDIs to the developing countries (MIGA News July 28 2009). In recent times the MIGA has worked in collaboration with the World Bank Group members for the sustainable development of the developing countries by expanding markets and issuing guarantees to investors and providing advisory services to

the developing countries. In this area the World Bank, IFC and MIGA are working very closely through joint projects and programs.

Cooperation and Collaboration among Investment Insurers

The Public Insurance Agencies and the MIGA

Article 19 of the MIGA Convention provides for the Agency's cooperation with national and regional entities with a view to maximizing their efficiency of services and strengthening flow of foreign investments. Some developed countries have their own national level insurance agencies. These public insurers work at the global level and have the backing of their respective governments. Some of the prominent ones are: OeKB Austria, OND Belgium, EDC Canada, COFACE France, C&L Germany, SACE Italy, EID/MITI Japan, NCM Netherlands, COSEC Portugal, CESCE Spain, ECGD United Kingdom and OPIC United States. These insurance agencies help the investment strategies of the industrial countries in the developing countries. In collaboration with these national level insurance agencies the MIGA is supplementing their activities and it can make agreements to provide coinsurance and reinsurance.[5]

The MIGA and the OPIC

The *Overseas Private Investment Corporation* (OPIC) is an important national level insurance agency which has been working since much before the inception of MIGA. The OPIC was established in 1969 to encourage American overseas private investments, creating American jobs, increasing U.S. exports and investing in sound business projects thereby improving U.S. global competitiveness. The risk coverage covered by the OPIC includes both new investments and expansion of existing ventures. It can cover equity investments, technical assistance agreements, and leases etc. The eligible investor must be a U.S. citizen and in case a foreign business at least 95% owned by U.S. citizens or associations owned by U.S. citizens only (Paul E. and Stephan 1994: 25-27). Unlike OPIC, the MIGA provides guarantees to investors including U.S. investors and all its member countries can apply for political risk insurance. But apart from the OPIC coverage of guarantees against currency inconvertibility, expropriation, political

[5] For more details refer to http://www.pri-center.com/directories/subindex.cfm?typenum=661,681

violence, the MIGA also provides insurance against breach of contract and terrorism.

The MIGA and the Private Insurance Agencies

Article 21 of the MIGA Convention provides the mandate to collaborate with private insurers in member countries. It may make arrangements with them and enhance its operations of providing non commercial risks in developing member countries. This private insurance industry is mainly concentrated in the U.S. and U.K. and the most experienced private political risk insurer is the Lloyd's of Landon. Other insurers including American International Group (AIG), Citicorp International Trade Indemnity (CITI), Professional Indemnity Association (PIA, New York), Pan Financial (Landon and New York), Chubb Group (New Jersey), and *Poole de Assurance de Riques Internationaux et Speciaux* (P.A.R.I.S.) (Comeaux Paul E. and Kinsella Stephan 1994: 34).

MIGA and the Berne Union

The Berne Union is the leading association of both public and private insurers and export credit agencies (ECAs) and was founded in 1934 with two main objectives: to promote international acceptance of sound principle in export credit insurance and investment insurance; and the exchange of information relating thereto. The national and multilateral members of the Union's Investment Insurance Committee, currently numbering 24, provide investment insurance coverage against political risks. Currently the 48 members of the Berne Union cover over US$1.4 trillion worth of business in 2010, which is about 10 percent of the world's total export trade. Members are both private companies, offering worldwide risk management solutions, and state backed export credit agencies, focusing upon the support of national exports and outward investments. (Berne Union Press Release 14 April 2011). In partnership with the BU, the MIGA provides supplementary role with other national insurers and cooperates with the private insurers to mitigate political risks.

Conclusion

As discussed above, MIGA has in the span of its existence, steadily been expanding its sphere of work. As a multilateral agency, it has comparative advantages in various areas

and has accordingly shown improvements in its functioning. Although it has not been able to fully rectify the situation of FDI flows concentrating in a few developing countries, it has been able to improve this situation. It has, in its work, espoused the developing countries' perspectives, working on the principle that whatever investments come into these countries should have positive developmental effects and meet the needs of the local people. The agency seems to best fulfil its task in a situation of partnership, wherein it works alongside other public and private insurers in order to achieve its ends.

Chapter 4: MIGA's Role in India

Introduction

This chapter discusses the involvement of the Multilateral Investment Guarantee Agency (MIGA) in India since the start of its membership in the Agency in 1994. Its main focus is on MIGA's functioning in India in collaboration with the public and private Political Risk Insurance (PRI) providers in order to help foreign investment inflows into India. It also discusses Indian outward investment trends. Finally it evaluates whether and how far MIGA's engagement with India has benefited India.

Towards Membership in MIGA

After its independence, India adopted a cautious economic strategy and focused on building internal capabilities and encouraging heavy industries. India protected its domestic industry and implemented high tariffs and import duties on foreign goods, although it never fully restricted the inflow of foreign direct investment. The capabilities built by India were found insufficient by the policy makers and by the end of the 1950s the Government of India (GoI) started mutually advantageous steps for both for foreign investors and India, in relation to FDI inflows. The positive measures for attracting foreign investment included national treatment but still there was not full deregulation of FDI. In the 1960s, foreign investors started coming to India though regulation of FDI continued to remain in place. In 1973, India initiated the *Foreign Exchange Regulatory Act* (FERA), according to which all foreign investors functioning in India needed to register under the Indian legislation and there was a limit of 40% foreign equity (Kumar 1998: 1321-2).

However, India started doing well in the 1980s in terms of achieving fairly high growth rates of output with an average annual rate of 5.8 percent. At the same time, high population growth at around 2.1 per cent per annum acted as an obstacle on improving the growth rate of per capita income at satisfactory levels (Wadhva 2000: 208). Towards the end of the 1980s, it became clear that this high growth rate was unsustainable. The rapid growth of domestic public debt and the soaring bill of interest payments resulted in a near internal debt trap. Very low rates of return on huge investments made in the public

sector and excessive growth of external debt caused the low level of investment inflows to India. However, the growth rate since the 1980s has made India a favourable destination for foreign investors and today it has become one of the fastest growing economies in the world.

During the period of the 1980s, some policy actions taken by the then governments worsened the situation. For instance, the over-regulatory economic regime extended to virtually all sectors of the economy and was responsible for shortages and created a non-competitive industrial sector. Unbridled corruption was a regular feature in the over-regulated economy, particularly among the grassroots levels. The governmental system of providing licenses or 'license-permit' raj added to delays and created problems for the investors (Wadhva 2000: 208).

India finally got into an unprecedented balance of payments crisis in 1990-1. The then government led by Prime Minister P.V. Narasimha Rao and Finance Minister Dr. Manmohan Singh took this as an opportunity for introducing far reaching economic reforms. The Government of India took a conditional loan from the International Monetary Fund (IMF) for balance of payments support to the Indian economy in 1993. This loan was considered necessary to facilitate India's transition to a private sector led, more open and competitive market oriented economy through structural reforms.

The general components of such transformation in the post-1991 period were, as Wadhva (2000: 211) has put it, in three major directions:

(i) Substantive deregulation and allowing free participation by private enterprises for industrial development;

(ii) Opening of industries to international competition through more liberal imports combined with tariff cuts, and through foreign investment in various industries; and

(iii) Disinvestment in incremental steps of selected Public Sector Undertakings (PSUs). The 'License-Permit Raj' was largely abolished, with only six broad groups of industry (such as atomic energy) reserved for the public sector.

In this reform phase, India encouraged FDI mainly in infrastructure, high-tech, and export oriented industries. Governments at the centre and at the state level recognized the critical supportive role of FDI in mobilising funds for financing the needs of modernising India's infrastructure. The large amount of required investment was not available in India, even if the resources of the Indian public and the private sectors were put together.

India's interaction with MIGA dates back to 1985 when B.L. Jalan of India elaborated the proposal for establishment of an international investment insurance scheme (Shihata 1988: 32). Given this background, India became a member of the MIGA in order to facilitate foreign investment and ease inflows of FDI. There were different views on India's membership within the country, where some political parties held that a supranational entity to favour foreign investors was not required. However, the government of India signed the MIGA Convention in 1992, and it became the 115th member with 3048 shares effectively from 6 January 1994. BM (1992) argues that any secret agreement on MIGA would cause a loss to the people at large. By accepting the external conditionalities required by MIGA, India would have to bring out changes or abandon various existing investment laws in order to satisfy foreign investors, making the Indian economy much more vulnerable to external pressures (BM 1992: 1117-18).

After India became a member of MIGA, accordingly to protect foreign investors, the 1973 *Foreign Exchange Regulatory Act* was amended in 1993 and restrictions faced by foreign investors were removed. The Indian government started a new initiative by setting up a *Foreign Investment Promotion Board* (FIPB) to provide single window clearance to foreign investors. All these efforts resulted in increasing FDI inflows. FDI worth US$200 million in 1991 increased to US $3.2 billion by 1997 (Kumar 1998: 1325). Further, in order to protect foreign investors, the Indian government completely replaced FERA by the *Foreign Exchange Management Act* (FEMA) which came into effect in 2000. That move led to further liberalisation of the economy in a systematic manner (CAA 2002).

The following figure indicates the growth of FDI inflows into India since the start of financial reform in 1991-92 to 2005-06. The FDI inflows started at US$ 1.5 billion in 1991-92 and increased to US$ 29.08 billion in 2000-01. This positive development indicates that the encouraging results of economic reforms and the membership into MIGA also played a role in this constructive development. While, the FDI inflows into India have further reached 37.54 billion in the year of US$ 2004-05 and US$ 55.49 in 2005-06 the highest level of this period.

Table 4.1 FDI Inflows in India 1991-2006 (in US$ billions)

4.1

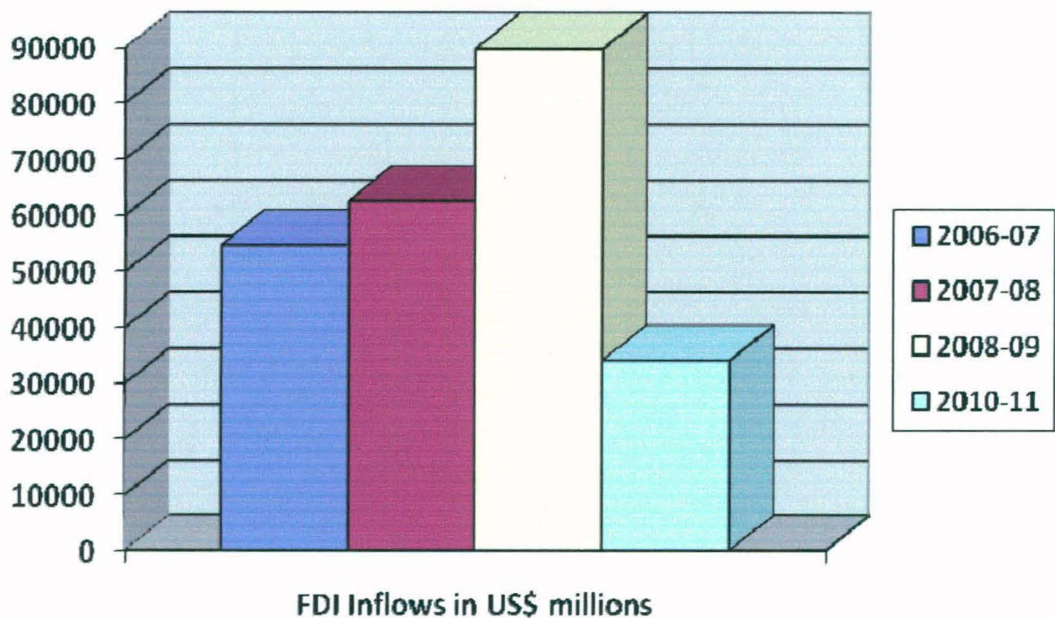
Year	US $ billion
1991-92	1.65
1992-93	3.93
1993-94	6.54
1994-95	13.74
1995-96	21.41
1996-97	27.7
1997-98	36.82
1998-99	30.83
1999-00	24.39
2000-01	29.08
2001-02	42.22
2002-03	31.34
2003-04	26.34
2004-05	37.54
2005-06	55.49

Source: Ministry of Commerce, Department of Industrial Policy & Promotion year wise FDI fact sheets.

Table 4.2 Recent Trends in FDI Inflows (US$ in millions)

Year	FDI Inflows in US$ millions
2006-07	54628
2007-08	62509
2008-09	89819
2010-11	34139

Source: Ministry of Commerce year wise FDI fact sheets



Source: Ministry of Commerce, Department of Industrial Policy & Promotion year wise FDI fact sheets.

The above figures illustrate the gradual increase in FDI flows into India (leaving aside the crisis-hit years), indicating that it is becoming a more attractive destination for foreign investors. These inflows increased from US$ 54628 million in 2006-07 to US$ 89819 million in 2009-10. In 2010-11 those inflows decreased to US$ 34139 million, mainly

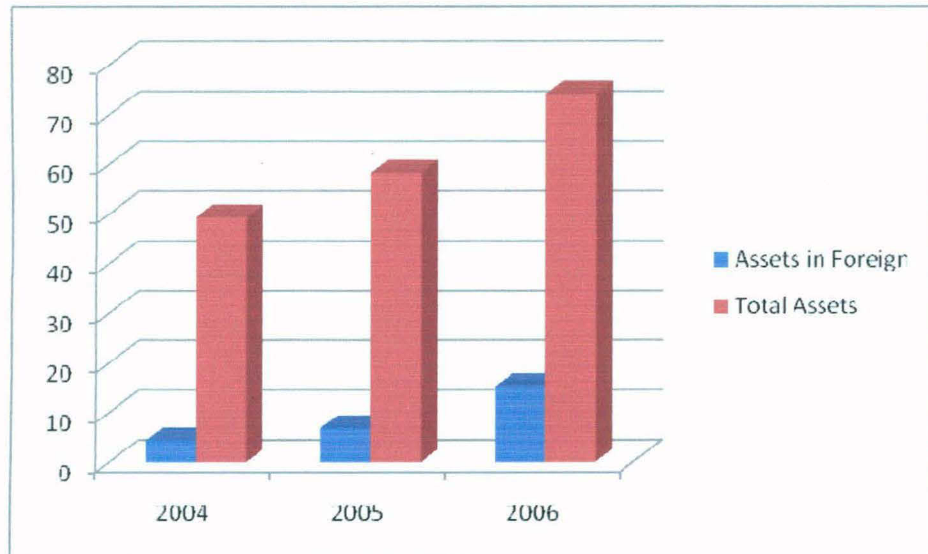
because of the slow recovery from the recent financial slow down in the developed world.

Indian Investment Abroad

In recent times, not only are investment inflows increasing in India but outward investments are also growing, signifying India's increasing presence abroad mostly in other developing countries. India is emerging as a significant global player because of its economic libaralisation policies and changing international geo-politics. This is evident from the presence of Indian multinational enterprise (MNEs) added investments overseas. In the year 2000, Indian MNEs' overseas investment rose from US$ 0.7 billion to US$ 11 billion (PRI Centers 2007).

In 2009-10 financial years from April to December 2009, Indian overseas investments increased to US$ 14.3 billion (IBEF 2010). Further improvements in Indian MNEs' overseas investments appeared in the survey conducted in 2009 by the Indian School of Business (ISB), Hyderabad in collaboration with Vale Colombia Center on Sustainable International Investment (VCC) which identified top 24 Indian MNEs doing well overseas. Amongst these, Oil and Natural Gas Corporation (ONGC) acquired the first position with foreign assets worth US$ 4.7 billion in 2006, while Tata Group of Companies, with US$ 4.2 billion, followed. India has emerged as the fifth largest outward investments country amongst BRIC countries (Brazil, Russia, India and China) and Hong Kong in 2006. Total sales of these 24 MNEs were US$ 13 billion and they employed 60,000 workers abroad (ISB-VCC 2009). Further Investments by domestic companies overseas stood at US$ 10.3 billion during 2009-10. In terms of destinations, Singapore, Mauritius, the Netherlands, the US and the British Virgin Islands accounted for 67 per cent of total outward foreign direct investment (FDI). Singapore and Mauritius remains top destinations with more than 48 per cent share of the investments during 2009-10 (IBEF 2011).

Table 4.3 Assets of Selected 24 Indian MNEs Operating Overseas (in US$ in billions)

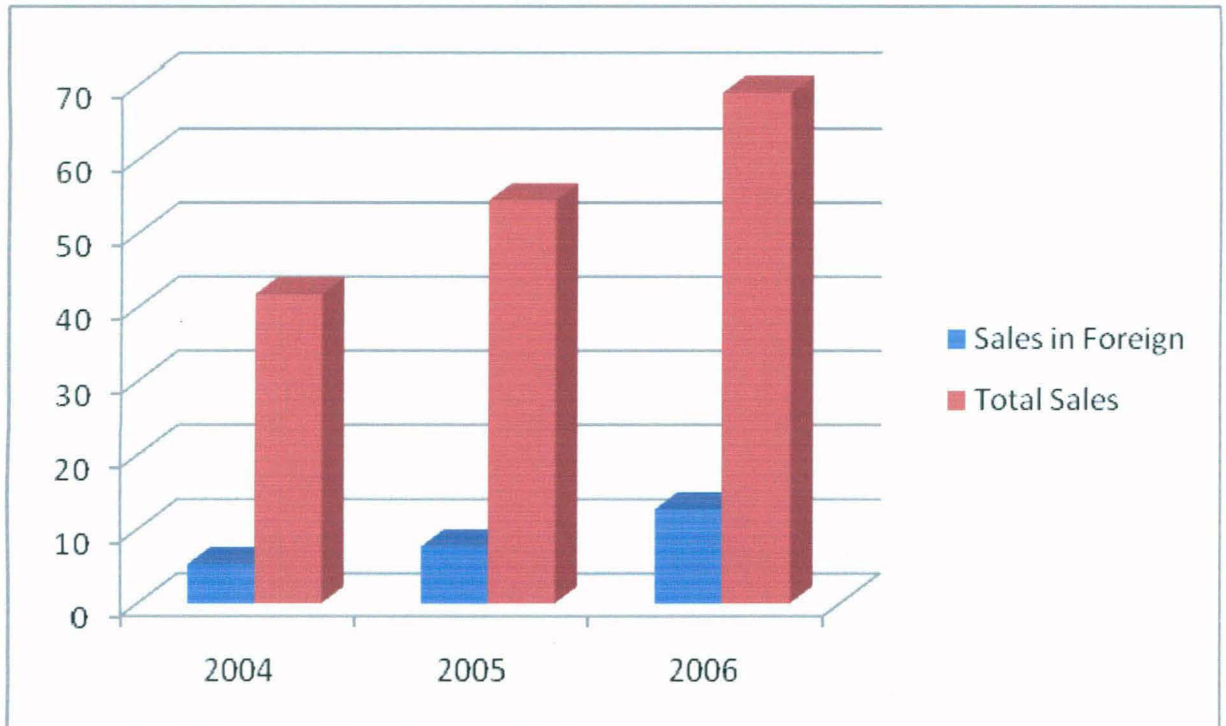


Source: Indian School of Business Vale Columbia Center: Ranking of Indian Multinationals

Table 4.4 Employment generated by the Selected 24 Indian MNEs operating overseas (in thousands)

Source: Indian School of Business-Vale Columbia Center: Ranking of Indian Multinationals

Table 4.5 Sales of Selected 24 Indian MNEs Operating Overseas (in US$ in billions)



Source: Indian School of Business Vale Columbia Center ranking of Indian Multinationals

Table 4.6 Snapshot of the 24 selected MNEs, 2004-2006

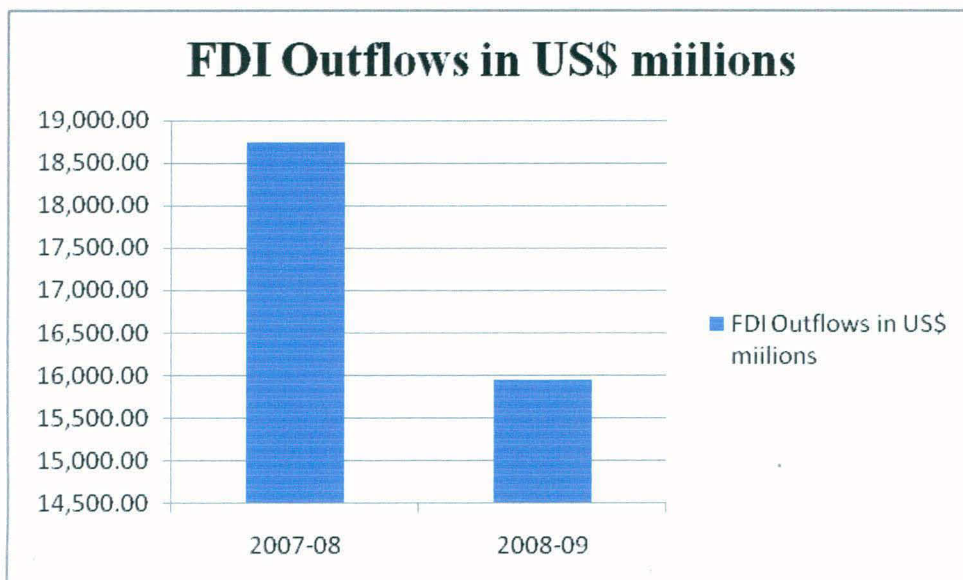
(Billions of US$ and thousands of employees)

Variable	**2004**	**2005**	**2006**	**% Change in 2005-2006**
Assets				
Assets in Foreign	4.4	6.9	15.3	122%
Total Assets	49.3	58.2	74.1	27%
Share of Foreign in Total	9%	12%	21%	
Employment				
Employment created in Foreign	27	42	60	43%
Total Employment	306	376	458	22%
Sales				
Sales in Foreign	5.3	7.7	12.7	65%
Total Sales	41.7	54.4	68.9	27%
Share of Foreign in Total	13%	14%	18%	

Source: Indian School of Business Vale Columbia Center: Ranking of Indian Multinationals.

The FDI outflows from India in recent times increased to US$ 18,749 million in 2007-08, and decreased to 15,947.80 in 2008-09. That decrease seems mainly because of slow recovery of the developed countries from the recent financial slow down, as the following figure indicates.

Table 4.7 FDI Outflows in US$ Millions



Year	FDI Outflows in US$ millions
2007-08	18,749.00
2008-09	15,947.80

Source: RBI Monthly Bulletin July 2009

Political Risks in India

In India, the gradual increase in investment flows has added to the government's enthusiasm to provide more facilities to private and foreign investors. Mainly from 1991, with the opening of the Indian economy and its integration with the capitalist global market economy, the commitment to encourage foreign investors has increased.

By liberalising its economy India has become a favourable destination to the western developed countries and their multinational corporations to make more profits, especially in the area of natural resources. One of India's less developed states, Orissa, which is a mineral rich state, has been attracting a large number of mineral resources investments. In order to make more returns those investors are mainly investing in the area of natural resources like bauxite-aluminium, iron and iron ore steel. However, as Dash and Kishor (2008) argue, those investments in Orissa are creating problems like little scope for employment, destroying the natural resources, polluting the environment and displacing the tribal and poor people. Largely, they are sceptical that the process of globalisation, liberalisation and privatisation is leading to imperialistic globalisation and industrialisation is exploiting the natural resources in Orissa (Dash and Kishor 2008: 627).

There are primarily three ways in which India gets investment flows into the country: (i) through bilateral investment treaties (BITs) (ii) official aid from various governmental agencies in the world and (iii) international financial institutions (IFIs). Official Development Assistance (ODA) from all donors in 1990 was US$ 1398.9 million and it increased to US$ 2107.7 million in 2008 (Townsend 2010: 3). World Bank lending to India has been increasing in recent times; US$ 2886 million in 2005 increased to US$ 9266 million in 2010 [these amounts include loans from the *International Development Association* (IDA), which provides interest free loans and the *International Bank for Reconstruction and Development* (IBRD)]. India, by June 2011, had completed 84 bilateral investment treaties, which helped to increase investment inflows into India. BITs typically provide more safeguards to the investors than if they come without BIT arrangements. They basically require national treatment and most favored nation treatment by a host country. They also provide contractual rights and rights to transfer

profits in hard currency to the home states. In case of any dispute between investor and host, it has to go through international arbitration and not to the host country's domestic jurisdiction (Zachary et.al. 2006: 814). In case of official development aid, the recipients have to support donors' interests in various international forums. In case of loans from the IFIs, there are conditionalities attached including economic policy advice.

In case of India, as Utsa Patnaik (2010) has argued, implementing the IMF and the World Bank policy advice on cutting down on governmental expenditure has resulted in reducing the activity of the economy and material productive sectors have gone down. On the contrary, Indian growth rate in non material productive sectors like service sectors is expanding; at the same time the Indian agricultural sector is in a depression (Patnaik 2010: 202). Here, the important point is that the increasing investment inflows need to be made more productive and helpful to the development of the common people of India.

In recent times, India is increasingly making its presence felt on a regional and global basis as it assumes its position as the world's second most populous country. Economically, it is already among the top fifteen largest economies and top five if GDP is viewed on 'purchasing power parity' (PPP) basis. Economic growth continues to expand at a rate second only to China among major developing countries. However well known risks faced by exporters and investors in India include corruption, bureaucratic delays and deficiencies in critical infrastructure. Though, these risks are not as grave as those in India's neighbours like Pakistan and Sri Lanka, the fact is that these risks are being identified by public or private entities active in the political risk insurance market. This has been evidenced in the increasing cooperation among MIGA and Indian insurance agencies and financial institutions like Export Credit Guarantee Corporation (ECGC) and EXIM Bank of India to encourage foreign investment flows into India and FDI out flows from India (EXIM Bank 2004: 10).

Coalition politics has also had an effect on the level of political risk in India. The nature of political risks in India can be seen from the context of rise of the regional parties and their influence at the Central level. The large number of small and regional parties take part in the formation of coalition governments at the centre whether it is the *Bharatiya*

Janata Party (BJP) led National Democratic Alliance (NDA) in 1999 or Congress led United Progressive Alliance (UPA) government in 2004 and 2009. This affects the rule-making and implementation. The dispersed nature of political power at the Centre has led to the need for the government to rule through compromise. Given the number of parties needed to be persuaded and the vast differences in their demands which stem from the needs of their constituencies or regional aspirations, creates difficulties for the government. For example, the NDA regime has faced many problems in maintenance of fiscal deficit and privatisation process including disinvestment (Echeverri-Gent 2001: 7-8).

Thus the proliferation of regional parties in India is leading to diverse policies in the area of promotion of foreign investments and its regulation. In addition to the political complexities associated with the regionalization and coalition maintenance, other challenges continue to affect India's political and investment environments. There are a number of political risks that investors and exporters need to be aware of when doing business in India. These include labour activism, political violence and corruption. Labour activism is relatively high in states like West Bengal and Kerala. Ideological differences play a key role where the Communist or Left Parties are a dominant force. These parties may sometimes adopt policy measures that are inimical to the normal functioning of the market.

On the corruption front, the country's notoriety in this area is evident in various surveys. According to the Transparency International survey for 2009, India is ranked 84th in the 180 countries list and scored 3.4 points (Transparency International 2009: 49). In 2010 global corruption barometer, India has been placed amongst the highest petty bribery nations like Afghanistan, Uganda, Cambodia in a recent survey conducted on nine basic services regarding whether the people had to pay bribes (Transparency International 2010: 12). At the same time, proponents of deregulation of markets in India may argue that Corporate India or various private business houses are much less corrupt than government run business entities. In practice, the recent corporate scandals like Satyam Computers Services involving irregularities of funds of Rs.8000 crores in 2009 is recorded as the biggest corporate scam in India (The Hindu, January 08, 2009).

Another aspect in this area is increasing operational administrative problems which may cause corruption. On this front, the burgeoning Public-Private Partnership (PPP) phenomenon in India which is proving to be a popular vehicle for infrastructure development projects is considered as being integral to India's continued economic development. However, this is an area susceptible to corruption that requires considerable oversight. Although operational difficulties are often rooted in political risks – for example corruption can be partially responsible for bureaucratic delays and if that be the case the companies may face problems in smooth functioning of business operations. At the same time, the scarce resource for development of infrastructure facilities in India, where the corrupt practices may cause losses to the exchequer which the government earmarks for these projects if the funds are diverted. A discussion of operational challenges in India usually begins and ends with the infrastructure deficit issue. Highways, railroads, airports, ports and energy and water distribution systems are several examples of infrastructure areas that are in great need of investment. In India not only governmental projects for infrastructure development are crucial but also there is a great need of private sector participation. Towards that end, to attract foreign investment in infrastructure has made significant progress, yet at the same time more needs to be done (Kapila and Kapila 2002: 32).

In addition to the question of infrastructure, the lack of land and of adequately skilled labour is another important impediment to further economic growth in the country. This is an irony where India's territorial size is seventh largest in the world and population is second highest in the world. The shortage of skilled labour has results in intense competition between employers, exaggerated salaries, and imbalance in employment levels in India. This is an area of concern for foreign investors; further development of human resources is needed for attracting more FDI.

The shortage of land has implications for political risk in investments in these regions as land is one of the most highly politicised investment-related matters at the moment. Given the continued prominence of agriculture in the Indian economy, land remains integral to the population, particularly in rural India. As a result, all land related matters are highly politicised and attract national attention. The umbrella policy governing land

issues in India is the colonial-era Land Act of 1894, an outdated law determining the current land debates in India. In addition to this, the federal nature of Indian polity has given a certain degree of autonomy to the states, and the land is under the states' purview to make legislations, thus leading to jurisdictional confusion and overlap across states. To solve this difficulty, the outdated regulatory system which has been regulating land governance is in need of revamping to ensure an investor friendly environment (Kumara 2006). Land acquisition for industries has become much politicized and has led to violent clashes between local communities, private developers and armed groups. For instance Nandigram and Singur in West Bengal is one of the more well-known examples of violence stemming from the proposed development of a Special Economic Zone (SEZ). Where the land was acquired by then CPI (M) led Left Front government, it faced stern opposition from the farmers.

An area of concern in the SEZ development issue is that of Rehabilitation and Resettlement (R&R). To provide reasonable R&R, the central government passed the *National Policy on Rehabilitation and Resettlement* in 2007. The provisions of the policy include land-for-land, preference for employment in the project that required the land, training, transitional employment and infrastructural facilities in the resettlement. However, there are very serious concerns of the affected families; policies that allow acquisition of their land without their consent in the name of 'public purpose' which ends up providing for private gain needs to be reviewed. There are also questions related to the state's role in the development process – whether it will help the powerful and force land acquisition and disempowering the weaker sections of the society (ACHR 2007). Another dispute related to the issue is in the eastern state of Orissa, where several high-profile companies including Alcan, the South Korean firm Poscos and Tata operate. The government of India is yet to come out with a law which may require broad based consensus for encouraging FDI inflows in India (Dash and Kishor 2008: 630).

Increasing political risks in India have been evident in a study in 2008 conducted by the Hong Kong based Political and Economic Risk Consultancy (PERC) which indicated that political risks in India were highest among Asia-Pacific countries in 2009. The study has given to India the high political risk score of 6.87 points on a 10 point scale. The PERC

study prediction it mostly based on the factors of internal instability, volatile neighbour Pakistan as a threat on security front and uncertainty on 2009 general elections, rising communal violence and increased militant attacks (PERC 2007). However, these seem to have less impact on India as it has recorded increasing FDI inflows in that same year and thereafter.

MIGA and Political Risk Insurance in India

All the above mentioned political risks in India provide an idea about the nature of political risks as well as the need for finding mitigation measures. For the purpose of providing political risk insurance there are various entities operating in India along with MIGA, such as the public sector *Export Credit Guarantee Corporation* (ECGC), EXIM Bank, etc. In addition, there are 24 non life insurance companies including various private insurers operating in India that are all approved by the *Insurance Regulatory and Development Authority* (IRDA) which is the Indian government body that regulates and provides recognitions. Amongst these agencies, some prominent ones are in the private sector Bajaj Allianz; ICICI Lombard General Insurance Co.Ltd; IFFO-Tokio General insurance Co. Ltd; National Insurance Company Ltd; New India Assurance Co. Ltd, etc. (IRDA 2011).

India became a member of MIGA in 1994 and the Agency started its guarantee activity in 1997. In this process then MIGA's Executive Vice President, Mr. Akira Iida led a delegation of MIGA executives to the Berne Union's Investment Insurance Committee, held in New Delhi on October 13-14, 1997. At the time of this visit, MIGA and the Export-Import Bank of India (EXIM Bank) conducted a special two week program with the objective of discussing how MIGA's guarantee and technical assistance services could benefit Indian investors interested in expanding their businesses abroad mainly in other developing countries.

There was a lot of interest in MIGA's technical assistance services. For example, in Bangalore, MIGA staff conducted a special live-feed presentation, through the website of IPAnet, the Agency's internet-based investment promotion network. The session drew a large audience of prospective investors interested in gaining access to information on

investment opportunities, sources of finance, investment laws and regulations, market intelligence and business news. MIGA staff met with representatives of some 80 multinationals and other corporate sponsors during the course of these sessions. The initiative helped to develop close ties with the investor community in India and signalled the need for more assistance of investments from the subcontinent to other developing countries (MIGA Annual report 1998: 1-8).

MIGA in India

In its first project in India, MIGA issued a guarantee totalling US$9.6 million to Motorola, Inc. in 1998 for an investment to establish a mobile cellular network in Punjab and Karnataka. MIGA guarantee covered Motorola's equity against the risks of transfer restriction, expropriation, and war and civil disturbance. On this occasion Mr. Akira Iida, the Agency's Executive Vice President, commented on the project:

> India joins 52 other developing countries that have benefited from MIGA guarantees. MIGA hopes to continue to serve India, as well as assist prospective Indian investors interested in investing abroad (MIGA News, Winter, 1997-98).

The cellular network has expected to use the Global System for Mobile Communications technology which was the digital radio telephone system that was supposed to provide roaming facilities. That facility could provide signal compatibility enabling subscribers to move freely and communicate throughout different locations by using that technology. The project was also estimated to provide better telecommunications facilities to some 235,000 subscribers in the two states where it provides services and was expected to employ over 650 Indian nationals (MIGA Annual report 1998: 18).

MIGA and Indian Overseas Projects

In recent years, India has also become an overseas investor. Indian companies have gradually increased their global presence. MIGA has gained importance for India also from the point of view of Indian companies investing abroad. Several Indian companies are insured by MIGA for their overseas investments. Beekay Engineering and casting Limited (BECL), an Indian company has started investment in Zambia, which was financed by EXIM Bank of India. It has obtained insurance of US$ 1.6 billion from

MIGA. This is also the first outward investment from India insured by MIGA. BECL is the first Indian company to obtain MIGA cover. This insurance cover has added significance as India becomes investor as a developing country in another developing country. The investment was also an example of South-South cooperation in investment and trade (MIGA Annual report 1998: 1-18).

The Exim Bank and MIGA, have also moved towards increasing cooperation. Exim Bank has had a Memorandum of Understanding with MIGA for business cooperation, exchange of information, promotion of direct investment in developing countries since 14, March 1996. Exim Bank has organised three series of promotional seminars for the benefit of Indian companies addressed by MIGA officials in 1996 and 1997.

Beekay Engineering and Castings Limited (BECL), a steel castings and mining equipment manufacturer based in Bhilai has acquired 98.47% of the equity capital of SCAW Limited, the only producer of steel mill balls and castings in Zambia. The government enterprise, Zambian Consolidated Copper Mines (ZCCM) was privatised by Zambian Government, for consideration of US$ 2 million and the Exim Bank of India financed for the acquisition around 80% of the total cost of that acquisition. Exim Bank also introduced BECL to MIGA and facilitated the abstraction of the insurance cover. That insurance was covered against political risks including Transfer Restriction, Expropriation and War and Civil Disturbance (Exim Bank 1997).

Another case is that of Rockland Steel Trading (P) Ltd investing by India in collaboration with United Kingdom and financial assistance provided by the State Bank of India (SBI) in a project Aarti Steel Nigeria Limited (ASNL). It was selected for insurance of US$ 11.4 million in 2007 from MIGA in manufacturing sector in Nigeria (MIGA Annual Report 2009: 31).

MIGA has also issued the additional coverage of $12.83 million in supporting an expansion of an existing steel galvanizing facility located in Otta, Ogun State of Nigeria. The Aarti Steel Nigeria Limited has constructed a greenfield manufacturing plant for steel galvanizing in Ogun State. This facility has a manufacturing capacity of 50,000 tons a year, and produces galvanized steel coils, galvanized plain steel sheets, and galvanized

corrugated steel sheets for roofing. By setting up an additional galvanizing line, the expansion necessitates an increase in the manufacturing capacity to 100,000 tons a year. The increased capacity of the plant will allow ASNL to meet the growing demand for processed steel goods in Nigeria and neighbouring countries (MIGA Annual Report 2005: 47).

Nigeria's increasing wealth and population is driving market demand for galvanized plain and galvanized corrugated steel sheets. Galvanised corrugated sheets are used as roofing material on nearly all houses in Nigeria and the surrounding region. The plain metal sheeting has also been used in a variety of industries including agricultural implements, consumer durable goods, hardware for domestic and industrial construction, railways, and machinery manufacturing. The project was also expected to bring modernized and efficient processes to Nigeria's emerging manufacturing sector (MIGA Annual Report 2005: 47).

The project also meets MIGA's priorities of supporting South-South investments and investments in sub-Saharan Africa. This project will also be helpful to Nigeria's strategy to develop the non-oil private sector. The MIGA also claims it as the World Bank Group's Country Partnership Strategy and also the country's reform efforts which identifies increased foreign direct investment in the non-oil private sector as a critical element.

In Africa another project Congo International Company SPRL in infrastructure sector has investment by the Indian company AMCO Fabrics Private Limited, India in Congo Democratic Republic. MIGA has provided the guarantee of US$ 0.63 million in 2008 and covers the risk against War and Civil disturbance, transfer restrictions and expropriation. This project has expected to provide 25 lakh wage labour employment in that country and through the local sourcing of goods and services mainly related to transportation, fuel, utilities, housing costs. MIGA considers this project as a part of its support to South-South investment in Sub Saharan Africa and conflict affected countries (MIGA Annual Report 2008: 21).

The MIGA in recent times in India has been working in close collaboration with the ECGC which is the public agency that provides political risk insurance to foreign

investors in India and Indian investors abroad. The significant move in the MIGA, ECGC and EXIM Bank of India's cooperation was evidenced in their new partnership agreement, which was formed on 17 November 2004 in Mumbai. That partnership was basically aimed at providing political risk mitigation services to the Indian investors overseas. This move demonstrates the significant presence of the increased outward investments of the Indian corporate firms in other developing countries. The partnership has provided the financial support by EXIM Bank and co-insurance and re-insurance services by MIGA and ECG against political risks like currency inconvertibility; expropriation; war, terrorism and civil disturbance; and breach of contract. Further it states "by providing financing and risk mitigation tools, this partnership will fill the gap in the market, and provide a platform for reaching investors more effectively, allowing them to consider opportunities in countries that they might otherwise view as too risky", and where the MIGA declares its partnership importance as "MIGA's involvement can protect investments, and in the event that disagreement does occur between investors and host governments, MIGA can mediate disputes and prevent claims from arising and disrupting projects." (EXIM Bank 2004: 10).

MIGA has been more active in providing political risk insurance to Indian investors abroad than foreign investors in India. Those guarantees provided by MIGA are mostly of in the African region. This also can be taken as an indicator of Indian investments increasing in that region. The above discussion indicates that MIGA's role in India is limited and there is a scope to further expansion.

Conclusion

The Indian State, after independence, opted for a mixed type of economy having elements of both socialist and capitalist economy. The continuous corruption, bureaucratic hurdles and the brittle state of Indian economy demanded a review of the government policies by 1980s. India being a developing country requires more investments in furthering its development efforts. In 1980s, India has slowly started liberalising its economy and attracting and encouraging foreign investments into the economy. Up to the last of 1980s, India had more inward-looking policies and protected domestic industries. India was not a safe and profitable destination for the foreign

investors due to various restrictions. The new economic policies, which came in a bunch of policies and programmes by the Rao government since 1991, encouraged investments in various sectors.

Although India adopted the new economic policies and tried to woo investors, the problems which persisted since independence have not vanished away overnight. All the political risks that exist in India have mostly to do with governance issues and lack of financial resources, corruption, bureaucratic delays, and infrastructure. To attract more foreign investments, India opted for the membership of MIGA despite domestic opposition. India's interaction with MIGA started formally from 1992 when has signed the MIGA convention. By fulfilling all requirements, India acquired the membership from 6 January 1994. India started to make the domestic environment conducive to the requirements of the foreign investors and established national level political risk insurance agencies which include both public and private players.

The above discussion on the nature of political risks in India shows that these are complex issues involving high risks to the investors. Corruption and bureaucratic delays can be considered as operational risks which can be partially mitigated by ensuring transparency and accountability. The lack of infrastructure, which includes land and inadequate skilled labour, is a very serious concern for the investors. To solve these problems more investments and proper operational measures are required. The risks related to political stability and decision making problems are related with coalition politics and increasing influence of regional parties at national level.

To mitigate the ensuing risks and providing guarantees to the investors, the role of MIGA is crucial. For this end, MIGA has been operating in collaboration with Indian national insurance agencies ECGC and Exim bank of Indian and financial support by the State Bank of India. So far MIGA mainly focuses more on the outward investments by India. It has shown evidence in India's increasing capacity as an investor abroad. All guarantees provided by MIGA to the Indian investors are mainly concentrated in the African region. This indicates that India's interaction with MIGA is helpful in making its presence at global level as an investor specifically in Africa.

Chapter 5: Conclusion

The process of globalisation has led to an increase in the flow of international capital. Technological developments have helped enhance efficiency at low costs and increased production, resulting in an overall expansion of the global economy and the availability of more capital for investment. Increasing removal of entry barriers to investment provides new opportunities for investors. The competition has increased both in industrialised and developing countries. Developing economies like China and India have enhanced their standing at the global level and have equipped themselves to derive more benefits from the globalisation process. At the same time, some states in Africa are still at the margins of the process of development.

Developing countries are dependent on industrialised economies for financial and technical support due to lack of sufficient financial resources to advance their economies. At the same time, developed countries and their investors and Multinational Enterprises face certain risks in investing in these countries. These stem from market fluctuations as well as governmental and political actor interventions. The latter category risks are known as 'political risk', which occur mainly because of domestic problems of the investment destinations.

Some economic and political risks appear due to external changes in the international economy and also result from the process of globalisation as it does not provides equal benefits to all countries. The industrialised economies benefit more than developing countries as they are more integrated in to the global economy than the developing ones. That this irreversible process does not provide benefits to the developing states is evident from crises like the 1997 Asian financial crisis. Thus, although the globalisation process has generated more capital for development-related investment, it has also led to an increased level of social, economic, cultural and political risks. More and more external changes are now beyond states' control and international capital is much more mobile as well as volatile.

The need for mitigating these political risks is evident and the role of the Multilateral

Investment Guarantee Agency (MIGA) at the international level is worth examining. This study reveals that though the idea behind the establishment of this international organization is sound, in practice, there is scope for further development of its activities in India and other developing countries.

The existing reality of international political risk and the analysis of risk mitigation measures are becoming increasingly significant. In the process of political risk mitigation measures various public, private, national guarantee agencies are providing political risk insurance to the investors against various political risks including expropriation, currency inconvertibility, breach of contract, war and civil disturbances and terrorism. Among these insurance agencies, the World Bank affiliate – MIGA – is the multilateral institution that has been a significant player at the global level to provide political risk insurance against political risks since 1988. MIGA has been focusing on increasing investment flows among its 175 member countries and is mandated to take special care of its developing member countries.

The concept of 'political risk' has been defined variously by different scholars and it has been broadly understood as the negative consequences of governmental policies and interventions in market functioning. It is identified with the restrictions placed on foreign investors. These negative actions may also emerge from not only governments but also social, political actors of the given society. This study has examined various types of political risk analysis methods developed by scholars of international political economy, international political risk and broadly international relations (IR).

The Indian economy, which displays elements of both a socialist and a capitalist economy, was characterized by corruption and bureaucratic hurdles etc., leading to a demand for the review of government policies by the 1980s. India being a developing country requires more investment for furthering its development efforts. In 1980s, India slowly started liberalising its economy and attracting and encouraging foreign investment into the economy. Up to the end of the 1980s, India had more inward-looking policies and protected its domestic industries. India was not a safe and profitable destination for foreign investors due to various restrictions. The new economic policies, which were

introduced by the Rao government in 1991, encouraged investments in various sectors. Despite this directional change, however, investors have continued to face a variety of political risks in India and required risk mitigations measures. The problems which persisted since independence have not vanished overnight.

The political risks that exist in India are mostly to do with governance issues and lack of financial resources, corruption, bureaucratic delays, and infrastructure. To attract more foreign investments, India opted for the membership of political risk insurance provider MIGA despite domestic opposition. India's interaction with MIGA started formally in 1992 when it signed the MIGA convention. By fulfilling all requirements, India acquired the membership from 6 January 1994. India started to make the domestic environment conducive to the requirements of foreign investors and established national level political risk insurance agencies which include both public and private players.

Corruption and bureaucratic delays can be considered as operational risks which can be partially mitigated by ensuring transparency and accountability. The lack of infrastructure, which includes land and inadequate skill labour, is a very serious concern for the investors. To solve these problems more investments and proper operational measures are required. The risks related to political stability and decision making problems are related with the coalition politics and increasing influence of regional parties at national level. These can be a serious matter of concern for foreign investors.

To mitigate the ensuing risks and providing guarantees to the investors, the role of MIGA is crucial. For this end, MIGA has been operating in collaboration with Indian national insurance agencies ECGC and Exim Bank of India and financial support by the State Bank of India. So far MIGA mainly focuses on the outward investments by India. It has shown evidence in India's increasing capacity as an investor abroad. All guarantees provided by MIGA to the Indian investors are mainly concentrated in the African region. This indicates that India's interaction with MIGA is helpful in making its presence at global level as an investor specifically in Africa.

MIGA as an international organization, works within the context of its location inside the World Bank Group. Thus it is mandated to complement and supplement the World

Bank's developmental objectives. In this process, it works in collaboration with the World Bank and its other affiliates such as the IFC. A brief analysis of MIGA's work shows that MIGA's operational objectives are far from met and there is significant scope for enhancing the role of MIGA. In the current age of uncertainty and increasing political risks worldwide and especially in the developing world, the role of a multilateral insurer like the MIGA cannot be overstated.

Annexure I: Convention Establishing the Multilateral Investment Guarantee Agency

PREAMBLE

The Contracting States

Considering the need to strengthen international cooperation for economic development and to foster the contribution to such development of foreign investment in general and private foreign investment in particular;

Recognizing that the flow of foreign investment to developing countries would be facilitated and further encouraged by alleviating concerns related to non-commercial risks;

Desiring to enhance the flow to developing countries of capital and technology for productive purposes under conditions consistent with their development needs, policies and objectives, on the basis of fair and stable standards for the treatment of foreign investment;

Convinced that the Multilateral Investment Guarantee Agency can play an important role in the encouragement of foreign investment complementing national and regional investment guarantee programs and private insurers of non-commercial risk; and

Realizing that such Agency should, to the extent possible, meet its obligations without resort to its callable capital and that such an objective would be served by continued improvement in investment conditions,

Have agreed as follows:

CHAPTER I

Establishment, Status, Purposes and Definitions

Article 1. *Establishment and Status of the Agency*

(a) There is hereby established the Multilateral Investment Guarantee Agency (hereinafter called the Agency).

(b) The Agency shall possess full juridical personality and, in particular, the capacity to:

(i) contract;

(ii) acquire and dispose of movable and immovable property; and

(iii) institute legal proceedings.

Article 2. ***Objective and Purposes***

The objective of the Agency shall be to encourage the flow of investments for productive purposes among member countries, and in particular to develop member countries, thus supplementing the activities of the International Bank for Reconstruction and Development (hereinafter referred to as the Bank), the International Finance Corporation and other international development finance institutions.

To serve its objective, the Agency shall:

(a) issue guarantees, including coinsurance and reinsurance, against non-commercial risks in respect of investments in a member country which flow from other member countries;

(b) carry out appropriate complementary activities to promote the flow of investments to and among developing member countries; and

(c) exercise such other incidental powers as shall be necessary or desirable in the furtherance of its objective.

The Agency shall be guided in all its decisions by the provisions of this Article.

Article 3. ***Definitions***

For the purposes of this Convention:

(a) "Member" means a State with respect to which this Convention has entered into force in accordance with Article 61.

(b) "Host country" or "host government" means a member, its government, or any public authority of a member in whose territories, as defined in Article 66, an investment which has been guaranteed or reinsured, or is considered for guarantee or reinsurance, by the Agency is to be located.

(c) A "developing member country" means a member which is listed as such in Schedule

A hereto as this Schedule may be amended from time to time by the Council of Governors referred to in Article 30 (hereinafter called the Council).

(d) A "special majority" means an affirmative vote of not less than two-thirds of the total voting power representing not less than fifty-five percent of the subscribed shares of the capital stock of the Agency.

(e) A "freely usable currency" means (i) any currency designated as such by the International Monetary Fund from time to time and (ii) any other freely available and effectively usable currency which the Board of Directors referred to in Article 30 (hereinafter called the Board) may designate for the purposes of this Convention after consultation with the International Monetary Fund and with the approval of the country of such currency.

CHAPTER II
Membership and Capital

Article 4. ***Membership***

(a) Membership in the Agency shall be open to all members of the Bank and to Switzerland.

(b) Original member shall be the States which are listed in Schedule A hereto and become parties to this Convention on or before October 30, 1987.

Article 5. ***Capital***

(a) The authorized capital stock of the Agency shall be one billion Special Drawing Rights (SDR 1,000,000,000). The capital stock shall be divided into 100,000 shares having a par value of SDR 10,000 each, which shall be available for subscription by members. All payment obligations of members with respect to capital stock shall be settled on the basis of the average value of the SDR in terms of United States dollars for the period January 1, 1981 to June 30, 1985, such value being 1.082 United States dollars per SDR.

(b) The capital stock shall increase on the admission of a new member to the extent that the then authorized shares are insufficient to provide the shares to be subscribed

by such member pursuant to Article 6.

(c) The Council, by special majority, may at any time increase the capital stock of the Agency.

Article 6. ***Subscription of Shares***

Each original member of the Agency shall subscribe at par to the number of shares of capital stock set forth opposite its name in Schedule A hereto. Each other member shall subscribe to such number of shares of capital stock on such terms and conditions as may be determined by the Council, but in not event at an issue price of less than par. No member shall subscribe to less that fifty shares. The Council may prescribe rules by which members may subscribe to additional shares of the authorized capital stock.

Article 7. ***Division and Calls of Subscribed Capital***

The initial subscription of each member shall be paid as follows:

(i) Within ninety days from the date on which this Convention enters into force with respect to such member, ten percent of the price of each share shall be paid in cash as stipulated in Section (a) of Article 8 and an additional ten percent in the form of non-negotiable, non-interest-bearing promissory notes or similar obligations to be encashed pursuant to a decision of the Board in order to meet the Agency's obligations.

(ii) The remainder shall be subject to call by the Agency when required to meet its obligations.

Article 8. ***Payment of Subscription of Shares***

(a) Payments of subscriptions shall be made in freely usable currencies except that payments by developing member countries may be made in their own currencies up to twenty-five percent of the paid-in cash portion of their subscriptions payable under Article 7 (i).

(b) Calls on any portion of unpaid subscriptions shall be uniform on all shares.

(c) If the amount received by the Agency on a call shall be insufficient to meet the

obligations which have necessitated the call, the Agency may make further successive calls on unpaid subscriptions until the aggregate amount received by it shall be sufficient to meet such obligations.

(d) Liability on shares shall be limited to the unpaid portion of the issue price.

Article 9. ***Valuation of Currencies***

Whenever it shall be necessary for the purposes of this Convention to determine the value of one currency in terms of another, such value shall be as reasonably determined by the Agency, after consultation with the International Monetary Fund.

Article 10. ***Refunds***

(a) The Agency shall, as soon as practicable, return to members amounts paid on calls on subscribed capital if and to the extent that:

(i) the call shall have been made to pay a claim resulting from a guarantee or reinsurance contract and thereafter the Agency shall have recovered its payment, in whole or in par, in a freely usable currency; or

(ii) the call shall have been made because of a default in payment by a member and thereafter such member shall have made good such default in whole or in part; or

(iii) the Council, by special majority, determines that the financial position of the Agency permits all or part of such amounts to be returned out of the Agency's revenues.

(b) Any refund effected under this Article to a member shall be made in freely usable currency in the proportion of the payments made by that member to the total amount paid pursuant to calls made prior to such refund.

(c) The equivalent of amounts refunded under this Article to a member shall become part of the callable capital obligations of the member under Article 7 (ii).

CHAPTER III
Operations

Article 11. ***Covered Risks***

(a) Subject to the provisions of Sections (b) and (c) below, the Agency may guarantee

eligible investments against a loss resulting from one or more of the following types of risk:

(i) *Currency Transfer*

any introduction attributable to the host government of restrictions on the transfer outside the host country of its currency into a freely usable currency or another currency acceptable to the holder of the guarantee, including a failure of the host government to act within a reasonable period of time on an application by such holder for such transfer;

(ii) *Expropriation and Similar Measures*

any legislative action or administrative action or omission attributable to the host government which has the effect of depriving the holder of a guarantee of his ownership or control of, or a substantial benefit from, his investment, with the exception of non-discriminatory measures of general application which the governments normally take for the purpose of regulating economic activity in their territories;

(iii) *Breach of Contract*

any repudiation or breach by the host government of a contract with the holder of a guarantee, when (a) the holder of a guarantee does not have recourse to a judicial or arbitral forum to determine the claim of repudiation or breach, or (b) a decision by such forum is not rendered within such reasonable period of time as shall be prescribed in the contracts of guarantee pursuant to the Agency's regulations, or (c) such a decision cannot be enforced; and

(iv) *War and Civil Disturbance*

any military action or civil disturbance in any territory of the host country to which this Convention shall be applicable as provided in Article 66.

(b) Upon the joint application of the investor and the host country, the Board, by special majority, may approve the extension of coverage under this Article to specific non-commercial risks other than those referred to in Section (a) above, but in no case to the risk of devaluation or depreciation of currency.

(c) Losses resulting from the following shall not be covered:

(i) any host government action or omission to which the holder of the guarantee has

agreed or for which he has been responsible; and

(ii) any host government action or omission or any other event occurring before the conclusion of the contract of guarantee.

Article 12. ***Eligible Investments***

(a) Eligible investments shall include equity interest, including medium- or long-term loans made or guaranteed by holders of equity in the enterprise concerned, and such forms of direct investment as may be determined by the Board.

(b) The Board, by special majority, may extend eligibility to any other medium- or long-term form of investment, except that loans other than those mentioned in Section (a) above may be eligible only if they are related to a specific investment covered or to be covered by the Agency.

(c) Guarantees shall be restricted to investments the implementation of which begins subsequent to the registration of the application for the guarantee by the Agency. Such investments may include:

(i) any transfer of foreign exchange made to modernize, expand, or develop an existing investment; and

(ii) the use of earnings from existing investments which could otherwise be transferred outside the host country.

(d) In guaranteeing an investment, the Agency shall satisfy itself as to:

(i) the economic soundness of the investment and its contribution to the development of the host country;

(ii) compliance of the investment with the host country's laws and regulations;

(iii) consistency of the investment with the declared development objectives and priorities of the host country; and

(iv) the investment conditions in the host country, including the availability of fair and equitable treatment and legal protection for the investment.

Article 13. ***Eligible Investors***

(a) Any natural person and any juridical person may be eligible to receive the Agency's guarantee provided that:

(i) such natural person is a national of a member other than the host country;

(ii) such juridical person is incorporated and has its principal place of business in a member or the majority of its capital is owned by a member or members or nationals thereof, provided that such member is not the host country in any of the above cases; and

(iii) such juridical person, whether or not it is privately owned, operates on a commercial basis.

(b) In case the investor has more than one nationality, for the purposes of Section (a) above the nationality of a member shall prevail over the nationality of a non-member, and the nationality of the host country shall prevail over the nationality of any other member.

(c) Upon the join application of the investor and the host country, the Board, by special majority, may extend eligibility to a natural person who is a national of the host country or a juridical person which is incorporated in the host country or the majority of whose capital is owned by its nationals, provided that the assets invested are transferred from outside the host country.

Article 14. ***Eligible Host Countries***

Investments shall be guaranteed under this Chapter only if they are to be made in the territory of a developing member country.

Article 15. ***Host Country Approval***

The Agency shall not conclude any contract of guarantee before the host government has approved the issuance of the guarantee by the Agency against the risks designated for cover.

Article 16. ***Terms and Conditions***

The terms and conditions of each contract of guarantee shall be determined by the Agency subject to such rules and regulations as the Board shall issue, provided that the Agency shall not cover the total loss of the guaranteed investment. Contracts of guarantee shall be approved by the President under the direction of the Board.

Article 17. ***Payment of Claims***

The President under the direction of the Board shall decide on the payment of claims to a holder of a guarantee in accordance with the contract of guarantee and such policies as the Board may adopt. Contracts of guarantee shall require holders of guarantees to seek, before a payment is made by the Agency, such administrative remedies as may be appropriate under the circumstances, provided that they are readily available to them under the laws of the host country. Such contracts may require the lapse of certain reasonable periods between the occurrence of events giving rise to claims and payments of claims.

Article 18. ***Subrogation***

(a) Upon paying or agreeing to pay compensation to a holder of a guarantee, the Agency shall be subrogated to such rights or claims related to the guaranteed investment as the holder of a guarantee may have had against the host country and other obligors. The contract of guarantee shall provide the terms and conditions of such subrogation.

(b) The rights of the Agency pursuant to Section (a) above shall be recognized by all members.

(c) Amounts in the currency of the host country acquired by the Agency as subrogee pursuant to Section (a) above shall be accorded, with respect to use and conversion, treatment by the host country as favorable as the treatment to which such funds would be entitled in the hands of the holder of the guarantee. In any case, such amounts may be used by the Agency for the payment of its administrative expenditures and other costs. The Agency shall also seek to enter into arrangements with host countries on other uses of such currencies to the extent that they are not freely usable.

Article 19. ***Relationship to National and Regional Entities***

The Agency shall cooperate with, and seek to complement the operations of, national entities of members and regional entities the majority of whose capital is owned by members, which carry out activities similar to those of the Agency, with a

view to maximizing both the efficiency of their respective services and their contribution to increased flows of foreign investment. To this end, the Agency may enter into arrangements with such entities on the details of such cooperation, including in particular the modalities of reinsurance and coinsurance.

Article 20. ***Reinsurance of National and Regional Entities***

(a) The Agency may issue reinsurance in respect of a specific investment against a loss resulting from one or more of the non-commercial risks underwritten by a member or agency thereof or by a regional investment guarantee agency the majority of whose capital is owned by members. The Board, by special majority, shall from time to time prescribe maximum amounts of contingent liability which may be assumed by the Agency with respect to reinsurance contracts. In respect of specific investments which have been completed more than twelve months prior to receipt of the application for reinsurance by the Agency, the maximum amount shall initially be set at ten percent of the aggregate contingent liability of the Agency under this Chapter. The conditions of eligibility specified in Articles 11 and 14 shall apply to reinsurance operations, except that the reinsured investments need not be implemented subsequent to the application for reinsurance.

(b) The mutual rights and obligations of the Agency and a reinsured member or agency shall be stated in contracts of reinsurance subject to such rules and regulations as the Board shall issue. The Board shall approve each contract for reinsurance covering an investment which has been made prior to receipt of the application for reinsurance by the Agency, with a view to minimizing risks, assuring that the Agency receives premiums commensurate with its risk, and assuring that the reinsured entity is appropriately committed toward promoting new investment in developing member countries.

(c) The Agency shall, to the extent possible, assure that it or the reinsured entity shall have the rights of subrogation and arbitration equivalent to those the Agency would have if it were the primary guarantor. The terms and conditions of reinsurance shall require that administrative remedies are sought in accordance

with Article 17 before a payment is made by the Agency. Subrogation shall be effective with respect to the host country concerned only after its approval of the reinsurance by the Agency. The Agency shall include in the contracts of reinsurance provisions requiring the reinsured to pursue with due diligence the rights or claims related to the reinsured investment.

Article 21. ***Cooperation with Private Insurers and with Reinsurers***

(a) The Agency may enter into arrangements with private insurers in member countries to enhance its own operations and encourage such insurers to provide coverage of non-commercial risks in developing member countries on conditions similar to those applied by the Agency. Such arrangements may include the provision of reinsurance by the Agency under the conditions and procedures specified in Article 20.

(b) The Agency may reinsure with any appropriate reinsurance entity, in whole or in part, any guarantee or guarantees issued by it.

(c) The Agency will in particular seek to guarantee investments for which comparable coverage on reasonable terms is not available from private insurers and reinsurers.

Article 22. ***Limits of Guarantee***

(a) Unless determined otherwise by the Council by special majority, the aggregate amount of contingent liabilities which may be assumed by the Agency under this Chapter shall not exceed one hundred and fifty percent of the amount of the Agency's unimpaired subscribed capital and its reserves plus such portion of its reinsurance cover as the Board may determine. The Board shall from time to time review the risk profile of the Agency's portfolio in the light of its experience with claims, degree of risk diversification, reinsurance cover and other relevant factors with a view to ascertaining whether changes in the maximum aggregate amount of contingent liabilities should be recommended to the Council. The maximum amount determined by the Council shall not under any circumstances exceed five times the amount of the Agency's unimpaired subscribed capital, its reserves and such portion of its reinsurance cover as may be deemed appropriate.

(b) Without prejudice to the general limit of guarantee referred to in Section (a) above, the Board may prescribe:

(i) maximum aggregate amounts of contingent liability which may be assumed by the Agency under this Chapter for Guarantees issued to investors of each individual member. In determining such maximum amounts, the Board shall give due consideration to the share of the respective member in the capital of the Agency and the need to apply more liberal limitations in respect of investments originating in developing member countries; and

(ii) maximum aggregate amounts of contingent liability which may be assumed by the Agency with respect to such risk diversification factors as individual projects, individual host countries and types of investment or risk.

Article 23. ***Investment Promotion***

(a) The Agency shall carry out research, undertake activities to promote investment flows and disseminate information on investment opportunities in developing member countries, with a view to improving the environment for foreign investment flows to such countries. The Agency may, upon the request of a member, provide technical advice and assistance to improve the investment conditions in the territories of that member. In performing these activities, the Agency shall:

(i) be guided by relevant investment agreements among member countries;

(ii) seek to remove impediments, in both developed and developing member countries, to the flow of investment to developing member countries; and

(iii) coordinate with other agencies concerned with the promotion of foreign investment, and in particular the International Finance Corporation.

(b) The Agency also shall:

(i) encourage the amicable settlement of disputes between investors and host countries;

(ii) endeavor to conclude agreements with developing member countries, and in particular with prospective host countries, which will assure that the Agency, with respect to investment guaranteed by it, has treatment at least as favorable as that agreed by the member concerned for the most favored investment guarantee agency or State in an agreement relating to investment, such agreements to be

approved by special majority of the Board; and

(iii) promote and facilitate the conclusion of agreements, among its members, on the promotion and protection of investments.

(c) The Agency shall give particular attention in its promotional efforts to the importance of increasing the flow of investments among developing member countries.

Article 24. ***Guarantees of Sponsored Investments***

In addition to the guarantee operations undertaken by the Agency under this Chapter, the Agency may guarantee investments under the sponsorship arrangements provided for in Annex I to this Convention.

*** *** ***

Annexure II – List of MIGA Members (as of July 2011)

Source: www.miga.org

Member	Date of Membership
Afghanistan	Jun 16, 2003
Albania	Oct 15, 1991
Algeria	Jun 4, 1996
Angola	Sep 19, 1989
Antigua and Barbuda	Sep 26, 2005
Argentina	Feb 11, 1992
Armenia	Dec 5, 1995
Australia	Feb 10, 1999
Austria	Dec 16, 1997
Azerbaijan	Sep 23, 1992
Bahamas, The	Oct 4, 1994
Bahrain	Apr 12, 1988
Bangladesh	Apr 12, 1988
Barbados	Apr 12, 1988
Belarus	Dec 3, 1992
Belgium	Sep 18, 1992
Belize	Jun 29, 1992
Benin	Sep 26, 1994
Bolivia	Oct 3, 1991
Bosnia and Herzegovina	Mar 19, 1993
Botswana	May 15, 1990
Brazil	Jan 7, 1993
Bulgaria	Sep 23, 1992
Burkina Faso	Nov 2, 1988
Burundi	Mar 10, 1998
Cambodia	Dec 1, 1999
Cameroon	Oct 7, 1988
Canada	Apr 12, 1988

Cape Verde	May 10, 1993
Central African Republic	Sep 8, 2000
Chad	Jun 11, 2002
Chile	Apr 12, 1988
China	Apr 30, 1988
Colombia	Nov 30, 1995
Congo, Democratic Republic of	Feb 7, 1989
Congo, Republic of	Oct 16, 1991
Costa Rica	Feb 8, 1994
Cote d'Ivoire	Jun 7, 1988
Croatia	Mar 19, 1993
Cyprus	Apr 12, 1988
Czech Republic	Jan 1, 1993
Denmark	Apr 12, 1988
Djibouti	Jan 12, 2007
Dominica	Oct 7, 1991
Dominican Republic	Mar 7, 1997
Ecuador	Apr 12, 1988
Egypt, Arab Republic of	Apr 12, 1988
El Salvador	Dec 20, 1991
Equatorial Guinea	Oct 27, 1994
Eritrea	Sep 10, 1996
Estonia	Sep 24, 1992
Ethiopia	Aug 13, 1991
Fiji	Sep 24, 1990
Finland	Dec 28, 1988
France	Dec 28, 1989
Gabon	Mar 26, 2003
Gambia, The	Sep 11, 1992
Georgia	Dec 29, 1992
Germany	Apr 12, 1988
Ghana	Apr 29, 1988

Greece	Aug 30, 1993
Grenada	Apr 12, 1988
Guatemala	Jul 11, 1996
Guinea	Oct 5, 1995
Guinea-Bissau	Jul 12, 2006
Guyana	Jan 18, 1989
Haiti	Dec 11, 1996
Honduras	Jun 30, 1992
Hungary	Apr 21, 1988
Iceland	Sep 25, 1998
India	Jan 6, 1994
Indonesia	Apr 12, 1988
Iran, Islamic Republic of	Dec 15, 2003
Iraq	Oct 6, 2008
Ireland	Oct 27, 1989
Israel	May 21, 1992
Italy	Apr 29, 1988
Jamaica	Apr 12, 1988
Japan	Apr 12, 1988
Jordan	Apr 12, 1988
Kazakhstan	Aug 12, 1993
Kenya	Nov 28, 1988
Korea, Republic of	Apr 12, 1988
Kosovo	Jun 29, 2009
Kuwait	Apr 12, 1988
Kyrgyz Republic	Sep 21, 1993
Lao People's Democratic Republic	Apr 5, 2000
Latvia	Aug 21, 1998
Lebanon	Oct 19, 1994
Lesotho	Apr 12, 1988
Liberia	Apr 12, 2007
Libya	Apr 5, 1993

Lithuania	Jun 8, 1993
Luxembourg	Aug 29, 1991
Macedonia, FYR of	Mar 19, 1993
Madagascar	Jun 8, 1988
Malawi	Apr 12, 1988
Malaysia	Dec 6, 1991
Maldives	May 19, 2005
Mali	Oct 22, 1992
Malta	Sep 12, 1990
Mauritania	Sep 8, 1992
Mauritius	Dec 28, 1990
Mexico	Jul 1, 2009
Micronesia, Federated States of	Aug 11, 1993
Moldova	Jun 9, 1993
Mongolia	Jan 21, 1999
Montenegro	Jan 18, 2007
Morocco	Sep 17, 1992
Mozambique	Nov 23, 1994
Namibia	Sep 25, 1990
Nepal	Feb 9, 1994
Netherlands	Apr 12, 1988
New Zealand	Apr 22, 2008
Nicaragua	Jun 12, 1992
Nigeria	Apr 12, 1988
Norway	Aug 9, 1989
Oman	Jan 24, 1989
Pakistan	Apr 12, 1988
Palau	Dec 16, 1997
Panama	Feb 21, 1997
Papua New Guinea	Oct 21, 1991
Paraguay	Jun 30, 1992
Peru	Dec 2, 1991

Philippines	Feb 8, 1994
Poland	Jun 29, 1990
Portugal	Jun 6, 1988
Qatar	Oct 22, 1996
Romania	Sep 10, 1992
Russian Federation	Dec 29, 1992
Rwanda	Sep 27, 2002
Samoa	Apr 12, 1988
Saudi Arabia	Apr 12, 1988
Senegal	Apr 12, 1988
Serbia	Mar 19, 1993
Seychelles	Sep 15, 1992
Sierra Leone	Jun 20, 1996
Singapore	Feb 24, 1998
Slovak Republic	Jan 1, 1993
Slovenia	Mar 19, 1993
Solomon Islands	Oct 27, 2005
South Africa	Mar 10, 1994
Spain	Apr 29, 1988
Sri Lanka	May 27, 1988
St. Kitts and Nevis	Sep 21, 1999
St. Lucia	Jul 25, 1988
St. Vincent and the Grenadines	Sep 10, 1990
Sudan	Nov 7, 1991
Suriname	Jul 2, 2003
Swaziland	Apr 18, 1990
Sweden	Apr 12, 1988
Switzerland	Apr 12, 1988
Syrian Arab Republic	May 14, 2002
Tajikistan	Dec 9, 2002
Tanzania	Jun 19, 1992
Thailand	Oct 20, 2000

Timor-Leste	Jul 23, 2002
Togo	Apr 15, 1988
Trinidad and Tobago	Jul 2, 1992
Tunisia	Jun 7, 1988
Turkey	Jun 3, 1988
Turkmenistan	Oct 1, 1993
Uganda	Jun 10, 1992
Ukraine	Jul 19, 1994
United Arab Emirates	Oct 20, 1993
United Kingdom	Apr 12, 1988
United States	Apr 12, 1988
Uruguay	Mar 1, 1993
Uzbekistan	Nov 4, 1993
Vanuatu	Jul 27, 1988
Venezuela, Republica Bolivariana de	May 9, 1994
Vietnam	Oct 5, 1994
Yemen, Republic of	Mar 12, 1996
Zambia	Jun 6, 1988
Zimbabwe	Apr 10, 1992
Total	**175**

BIBLIOGRAPHY

(* indicates primary sources)

Akinsanya, S. (1987), "International Protection of Direct Foreign Investments in the Third World", *The International and Comparative Law Quarterly*, 36(1): 58-75.

Alon, Ilon and Matthew A. Martin (1998), "A Normative Model of Macro Political Risk Assessment", *Multinational Business Review*, Fall 1998, 10-19.

Alsop, R. Richard (1986), "Notes the World Bank's Multilateral Investment Guarantee Agency", *Columbia Journal of Transnational Law*, 25: 101-136.

Anaan, M. Hasmi and Turgut Guvenli (1992), "The Importance of Political Risk Assessment Function in US Multinational Corporations", *Global Finance Journal*, 3(2): 137–144.

Asian Centre for Human Rights (2007), "India's Failed National Rehabilitation and Resettlement Policy, 2007", *Weekly Review*, [Online: web] Accessed 24 September 2010, URL: http://www.achrweb.org/Review/2007/198-07.html

Audit Committee Leadership Network in North America (2006), "Risk in Major Emerging Markets", Issue 16, *Tapestry Networks*, November 06, 2006, Online: web] Accessed 21 September 2010, URL: http://www.tapestrynetworks.com/documents/Tapestry_EY_ACLN_Nov06_View15.pdf

Avlin, G. Wint Jr. and Wells Louis T. (2000), "Marketing a Country Promotion as a Tool for Attracting Foreign Investment", (Revised ed.), *Foreign Investment Advisory Service,* Occasional Paper 13, Washington D.C.: World Bank.

B. M, (1992), "Clandestine Surrender on MIGA", *Economic and Political Weekly,* 27 (22): 1117-8.

Baker, J. C. (1999), *Foreign Direct Investment in Less Developed Countries: The Role of ICSID and MIGA*, Newport, CT: Quorum Books.

Benhard, Wiliam and Leblang, David (2000), "Democratic Processes, Political Risk, and Foreign Exchange Markets", *American Journal of Political Studies,* 46 (2): 316-33.

Berne Union (2011), "$1.4 Trillion of Global Trade and Investment Supported by Berne Union Members in 2010", *Press Release*, April 14 2011, [Online Web] Assessed on October 20 2011, URL: http://www.berneunion.org.uk/pdf/Press%20Release%20April%202011.pdf

Bradnock, Robert W. (1998), "Regional Politics in Globalising World: Kashmir in Geopolitical Perspective" *Geopolitics,* 3(2): 1-29.

Brewer, Thomas L. (1983), "The Instability of Governments and the Instability of Controls on Funds Transfers by Multinational Enterprises: Implications for Political Risk Analysis", *Journal of International Business Studies,* 14(3): 147-57.

Brown, Michael D. (2006), "Managing Political Risk through Increased Local Participation: Innovations in Water Sector PSP from Tirupur, India", Massachusetts Institute of Technology, [Online Web] Assessed on October 20 2011, URL: http://dspace.mit.edu/handle/1721.1/34408

Bunn, D.W. and M.M. Mustafaoglu (1978), "Forecasting Political Risk", *Management Science*, 24(15): 1557-67.

Busse, M. and Hefeker C. (2007), "Political Risk, Institutions and Foreign Direct Investment", *European Journal of Political Economy*, 23: 397-415.

Buster, Kirt C. and Domingo Castelo Joaquin (1998), "A Note on Political Risk and Required Return on Foreign Direct Investment", *Journal of International Business Studies,* 29 (3): 599-607.

Byrne, John et.al (2006), *Transforming Power: Energy, Environment and Society in Conflict*, New Jersey: Transaction Publishers.

Chartered Accountant Association (2002), "From FERA to FEMA", (Online Web), Assessed on 20 June 2011, URL: www.lexsite.com/services/network/caa/fema1.shtml.

Chatterjee, S.K. (1987), "The Convention Establishing the Multilateral Investment Guarantee Agency", *The International and Comparative Law Quarterly*, 36 (1): 76-91.

Chermak, J.M. (1992), "Political Risk Analysis: Past and Present", *Resources Policy*, 18 (3): 167-178.

Clark, Ephraim and Radu Tunaru (2005), "The Evolution of International Political Risk 1956-2001", [online: Web] Accessed 10 January 2011, URL: http://ideas.repec.org/p/mmf/mmfc05/37.html#provider.

Comeaux Paul E. and N. Stephan Kinsella (1994) "Reducing Political Risk in Developing Countries: Bilateral Investment Treaties, Stabilization Clauses, and MIGA & OPIC Investment Insurance", *New York Law School Journal of International and Comparative Law*, 15 (1): 1-48.

Country Indicators for Foreign Policy (2011), [Online: web] Accessed on 20th January 2011, URL: http://www.carleton.ca/cifp/cra.htm.

Das, Raju (2010), "Political Economy of India", *New Political Economy,* 6(1): 103-117.

Dash, C. Kartik and Kishor C. Samal (2008), "New Mega Projects in Orissa: Protests by Potential Displaced Persons", *Social Change,* 38(4): 627-44.

Diamonte, L. Robin, et.al. (1996), "Political Risk in Emerging Markets", *Financial Analysts Journal,* 52 (3): 71-76.

Dietrich, K. (1986), "Thoughts on the Establishment of the Multilateral Investment Guarantee Agency", *Intereconomics*, 46-52.

Donovan, Patrick, J. (2003), "Creeping Expropriation and MIGA: The Need for Tighter Regulation in the Political Risk Insurance Market", *Gonzaga Journal of International Law*, Vol. 7: 1-29.

Drabek, Zdenek (1998), "A Multilateral Agreement on Investment: Convincing the Sceptics", [online: web] Accessed 10 September 2010, URL: www.wto.org\english\res_e_pera905.doc.

Echeverri-Gent, John (2001), "Political Economy of India's Fiscal and Financial Reform" Working Paper No. 105, *Center for Research on Economic Development and Policy Reform*, Stanford University, [online: web] Accessed 10 September 2010, URL:http://www.stanford.edu/group/siepr/cgi-bin/siepr/?q=system/files/shared/pubs/papers/pdf/credpr105.pdf

Elkins Zachary et.al (2006), "Competing for Capital: The Diffusion of Bilateral Investment Treaties, 1960-2000", *International Organization,* 60(4): 811-846.

Emery, James J. (2000), "Administrative Barriers to Foreign Investment: Reducing Red Tape in Africa" *Foreign Investment Advisory Service Occasional Paper 12*, Washington D.C., [online: web] Accessed 18 September 2010, http://www-wds.worldbank.org/servlet/WDS_IBank_Servlet?pcont=details&eid=000094946_00081906124430

Energy and Resources Institute (2006), "Alternative Development Paths: Scope for Mobilising International Resources for Funding the Power Sector in India", The Energy and Resources Institute, New Delhi: TERI Press India.

Erb, B. C. et. al. (1996), "Political Risk, Economic Risk, and Financial Risk", *Financial Analysts Journal,* 52(6): 29-46.

Exim Bank, (2008) "Developing Countries: Globalisation through Overseas Investment", [online: web] Accessed 10 November 2010, URL: www. fdi.net/documents/WorldBank/databases/india/EXIM07

Fatehi, Sedeh K. and M.H. Safizadeh (1989), "The Association between Political Instability and Flow of Foreign Direct Investment", *Management International Review,* 29 (4): 4-13.

Fitzpatrick, Mark (1983), "The Definition of Political Risk in International Business: A Review of the Literature", *The Academy of Management Review*, 8 (2): 249-54.

Froystad, Kathinka (2009), "Communal Riots in India as a Transitory form of Political Violence: Three Approaches", *Ethnic and Racial Studies,* 32(3): 442-459.

*Government of India, (2006), *Investment Strategy for India: Investment Commission Report 2006*", New Delhi: Government of India.

Iida, Akira (1997), *MIGA: The Standard -Setter*, Washington D. C.: The World Bank.

India Brand Equity Foundation (2010), "Indian Investment Abroad", (Online: web) Assessed 24 November 2010, URL: www.ibef.org/economy/indianinvestments abroad.aspx

India Brand Equity Foundation (2011), "Indian Investment Abroad" (online: web) Assessed 8 July 2011, URL:www.ibef.org/economy/indianinvestmentsabroad.aspx

Indian School of Business-Vale Columbia Center (2009), "The Growth of Indian Multinationals", Survey Report, Hyderabad and New York.

Insurance Regulatory and Development Authority (2011), "Updated Non-life Insurers in India", (Online: Web) Accessed on 20 June 2011, URL: www.irda.gov.in/ADMINCMS/cms/NormalData_Layout.aspx?page=PageNo264&mid=3.2.10.

Jensen, Nathan M. and Daniel J. Young (2008), "A Violent Future?: Political Risk Insurance Markets and Violence Forecasts", *Journal of Conflict Resolution*, 52: 527-547.

Kale, Sunila (2010), "Political Economy of India's Second Generation Reforms", *Journal of Strategic Studies*, 25(4): 207-225.

Kapila, R. and Uma Kapila (2002), *India's Economy in the 2ist Century*, New Delhi, Academic Foundation.

Kaviraj, Sudipta (1997), "Religion and Identity in India", *Ethnic and Racial Studies*, 20 (2): 325-344.

Keohane, Robert O. and Van Doorn Ooms (1975), "The Multinational Firm and International Regulation", 29(1):160-209.

Kumar, Nagesh (1995), "Industrialisation, Liberalisation and Two Way Flows of Foreign Direct Investments Case of India", *Economic and Political Weekly*, 30 (50): 3228-3237.

Kumar, Nagesh (1998), "Liberalisation and Changing Patterns of Foreign Direct Investments: Has India's Relative Attractiveness as a Host of FDI Improved?", *Economic and Political Weekly*, 33 (22): 1321-29.

Kumara, Kranti (2006), "West Bengal's Left Front Regime Suppresses Protests against Land Seizures", (Online: Web) Accessed on 18 June 2011, URL: www.wsws.org/articles/2006/dec2006/beng-d12.shtml.

Lechner, Frank J. and Jhon Boli (2004), *The Globalization Reader*, II Edition, London: Wiley-Blackwell Publisher.

Levis, Mario (1979), "Does Political Instability in Developing Countries Affect Foreign Investment? An Empirical Explanation", *Management International Review*, 19 (3): 59-68.

Lorraine, Eden (1991), "Bringing the Firm Back In: Multinationals in International Political Economy", *Millennium: Journal of International Studies*, 20 (2): 197–224.

Louis W. Pauly and Simon Reich, (1997), "National Structures and Multinational Corporate Behaviour: Enduring Differences in the Age of Globalization", *International Organization*, 51 (1) 1–30.

Makar, Eugene M. (2007), *An American Guide to Doing Business in India: A Practical Guide to Achieving Success in the Indian Market*, Avon, U.S.A: Adams Media

Maltby and Horrox (2004), "Political Risk Analysis and Investment Decisions", The Institute of Risk Management, (Online: Web) Accessed on 18 June 2011, URL: http://www.theirm.org/riskforum/documents/irm_risk_forum__d11_control_risks_group.pdf

Marshall, Katherine (2008), *The World Bank from Reconstruction to Development to Equity*, New York: Routledge.

*MIGA (1998), *Annual Report*, Washington D.C: MIGA.

*MIGA (2001), *Investment Insurance and Developmental Impact Evaluating MIGA's Experience*, Washington D.C: MIGA.

*MIGA (2005), *Annual Report*, Washington D.C: MIGA.

*MIGA (2008), *Annual Report*, Washington D.C: MIGA.

*MIGA (2009a), *Global Investment Promotion Benchmarking 2009,* Summary Report, Washington D.C: MIGA.

*MIGA (2009b), *Operational Directions FY 2009-11,* Washington D.C: MIGA.

*MIGA (2009c), *Annual Report*, Washington D.C: MIGA.

*MIGA (2010), *Annual Report*, Washington D.C: MIGA.

Minor, S. Michael (1994), "Demise of Expropriation as an Instrument of LDC Policy, 1980-1992", *Journal of International Business Studies,* 25(1): 177-188.

*Ministry of Commerce and Industry (2003), *Manual on Foreign Direct Investment in India Policy and Procedures,* New Delhi: Government of India.

*Ministry of Commerce and Industry (2011), "Invest Inflows Year wise fact sheets", New Delhi: Government of India.

*Ministry of Finance (2009-10), *Annual Report 2009-10*, New Delhi: Government of India.

Misra, Sanjay and P.K. Yadav (2009), *International Business Text and Cases*, New Delhi, PHI Learning Private Limited.

Moran, T.H. (1998), *Managing International Political Risk*, Malden and Oxford: Blackwell Publishing.

Narula, Rajneesh and Sanjaya Lall (eds.) (2006), *Understanding FDI-Assisted Economic Development*, New York: Routledge.

Political & Economic Risk Consultancy (2008), *Political Risks in Asia Survey*, Hong Kong.

Raja S. Ramkishen (2004), "Measures to Attract FDI: Investment Promotion, Incentives and Policy Intervention" *Economic and Political Weekly*, 39 (1): 12-16.

Ramamurthy R. (2010), "The Obsolescing 'Bargaining Model'? MNC-Host Developing Country Relations Revisited", *Journal of International Business Studies,* 32(1): 23-39.

*Reserve Bank of India (2009), *Monthly Bulletin, July*, Mumbai: Reserve Bank of India.

Sader, Frank (1999), "Attracting Foreign Direct Investment into Infrastructure: Why is it So Different", *Foreign Investment Advisory Service Occasional Paper 12*, Washington D.C., (Online Web) Assessed on 20, June 2011, URL: http://www.eicontractors.de/media/uploads/attachment/eic_document_fi_0006_1.pdf

Shihata, F. I. Ibrahim (1985), "The New Proposal for Establishing a Multilateral Investment Guarantee Agency", *Third World Quarterly*, 7 (2): 365-389.

Shihata, F. I. Ibrahim (1986), "The Settlement of Disputes regarding Foreign Investments: The Role of the World Bank Particular Reference to ICSID and MIGA" *Arab Law Quarterly*, 1 (3): 265-279.

Shihata, F.I. Ibrahim (1988), *MIGA and Foreign Investment*, The Hague: Martinus Nijhoff.

Shihata, F.I. Ibrahim (1995), *The World Bank in a Changing World: Selected Essays and Lectures*, The Hague: Martinus Nijhoff.

Simon, Jeffery D. (1984), "Theoretical Perspective on Political Risk", *Journal of International Business Studies*, 15 (3): 123-143.

Sinn, Stefan (1986), "Second Thoughts on MIGA", *Intereconomics*, 21 (6): 269-276.

Skipper, Harold D. and W. Jean Know (2009) *Risk Management and Insurance Perspectives in Global Economy*, New Delhi: Wiley India.

Stephan, H. Robock (1971), "Political Risk Identification and Assessment", *Columbia Journal of World Business*, 6 (4) 6–20.

Stephen, Kobrin (1979), "Political Risk: A Review and Reconsideration", *Journal of International Business Studies*, 10 (1) 67–80.

Stiglitz, Joseph E. (2003), *Globalization and its Discontents*, New Delhi: Penguin Books.

Tamara, B. et.al, (2002), "The Argentine Banking and exchange rate crisis of 2001: Can we learn some new from Financial Crises?" Central Bank of Argentina, May, 1-27, (Online Web) Assessed on 20, June 2011, URL: http://www.depeco.econo.unlp.edu.ar/semi/semi160802.pdf

The Hindu (2009), "Satyam is India's Enron", January 08 2009, New Delhi. (Online Web), Assessed on 20 June 2011, URL: www.hindu.com/2009/01/08/stories/2009010859951500.htm

Townsend, Ian (2010), "India: Development Aid from the UK and other Donors", *House of Commons Library*, U.K., Assessed on 21 June 2011, URL: http://www.parliament.uk/briefing-papers/SN05578.pdf

*Transparency International (2010), *Annual Report 2009*, New York: Transparency International.

*Transparency International (2010), *Global Corruption Barometer, 2010*, New York: Transparency International.

Tummal, Krishna K. (2006), "Regime Corruption in India", *Asian Journal of Political Science*, 14(1): 1-22.

*United Nations (2010), *World Investment Report 2010: Investing in a Low Carbon Economy*, New York: United Nations.

*United Nations Conference on Trade and Development (2011), "World Investment Report 2010", New York and Geneva: United Nations.

Utsa, Patnaik (2010), "The World Bank and its Impact on Food Security" in Michele Kelley and Deepika D'Souza (ed.) (2010), *The World Bank in India Undermining Sovereignty Distorting Development*, Hyderabad: Orient Blackswan.

Vickers, Steve (2009), *Operational Risk and Security Outlook for India 2010*, 14 December 2009, Hong Kong: FTI- International Risk.

Wadhva, Charan D. (2000), "Political Economy of Post-1991 Economic Reforms in India", *Journal of South Asian Studies*, 23(1): 207-220.

Whelan, Peter (2008), "Political Risk in India: Complex yet Manageable", *Political Risk Assessment Department Trip Report*, Export Development Canada.

Williams, S. L. (1993), "Political and Other Risk Insurance: OPIC, MIGA, EXIM BANK and Other Providers" *Pace International Law Review*, 5 (1): 59-112.

*World Bank (1985), "*Convention Establishing Multilateral Investment Guarantee Agency*", Washington D.C.: The World Bank.

*World Bank (2002), *the Foreign Direct Investment Survey*, Washington D.C.: The World Bank.

*World Bank (2004), *An Evolution of MIGA Investment Climate Activities*, Washington D.C.: The World Bank.

*World Bank (2004), *International Political Risk Management the Brave New World*, Washington D.C.: The World Bank.

*World Bank (2005), *The MIGA's Strategic Directions for FY05-08*, Washington D. C.: The World Bank.

*World Bank (2008), *Environmental Sustainability: An Evolution of World Bank Group Support*, Washington D.C.: The World Bank.

*World Bank (2008), *International Political Risk Management: Needs of the Present and Challenges of the Future*, Washington D. C.: The World Bank.

*World Bank (2009), *Annual Review of Development Effectiveness Achieving Sustainable Development*, Washington D. C.: The World Bank.

*World Bank (2009), *Investing with the Confidence: Understanding the Political Risk Management in the 21st Century*", Washington D.C.: The World Bank.

*World Bank (2009), *The World Bank Group Guarantee Instruments 1999-2007,An Independent Evaluation*, Washington D. C.: The World Bank.

*World Bank (2010), *2009 World Investment and Political Risk World Investment Trends,* Washington D. C.: The World Bank.

*World Bank (2010), *MIGA: Guaranteeing Investments in Manufacturing Projects, Manufacturing Brief*, Washington D.C.: World Bank.

*World Bank (2011), *2010 World Investment and Political Risk World Investment Trends*, Washington D. C.: The World Bank.

*World Bank (2011), the MIGA *Annual Report 2010*, Washington D. C.: The World Bank.

World Economic Forum (2006), *India @ Risk: A Briefing*, Confederation of Indian Industry and Global Risk Network, Geneva: WEF, Assessed on 20 June 2011, URL: https://members.weforum.org/pdf/india/RisksIndia.pdf