

Waiting Game Pharma dept moots proposal to address pending cases

FIPB may be Allowed to Clear Foreign Buys in Pharma Cos

KHOMBASINGH
NEW DELHI

The Department of Pharmaceuticals has mooted a proposal to allow the country's foreign investment approving body to continue clearing stake purchases by foreign firms in Indian drug companies, as it seeks to end the uncertainty that has stalled the investment plans of MNCs and foreign investors in the sector.

"The Department of Pharmaceuticals has sought approval from the Prime Minister's Office. The PMO has forwarded the proposal to both the Department of Industrial Policy and Promotion (DIPP) and health ministry for their views," said a government official familiar with the development. Senior officials from the Department of Pharmaceuticals met their DIPP counterparts last week to enlist support for their proposal to avoid further delay in clearing the deals. As ET reported last week, four foreign investment proposals involving stake sales are pending with the government.

For the last decade, foreign invest-

ment in the drugs sector was automatically cleared by the government. But following a spate of high-profile acquisitions by multinational drug companies, concerns were raised by health groups and some local companies about foreign domination of the Indian pharma sector, possibly resulting in spiralling medicine prices in the country.

In October, an inter-ministerial group headed by the prime minister

decided to make the Competition Commission of India (CCI) the approving body for foreign investments in the sector. It was also decided that the Foreign Investment Promotion Board (FIPB)

would approve investment proposals for an interim six-month period, which ended in April. The CCI and DIPP were tasked with the responsibility of framing guidelines for foreign investments in the sector.

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Major Buyouts

Japan's Daiichi buys Ranbaxy
In June '08 for \$4.6 b

France's Sanofi buys Shantha
Biotech in July '09 for €550 m

Abbott Labs buys Piramal's
domestic formulation biz in
May '10 for \$3.7 b

TIMELINE

Aug 2010: DIPP and commerce min concerned over foreign takeovers of domestic pharma firms

July 2011: Govt asks plan panel to examine if buys by foreign firms impact drug availability, increase dependence on imports

Oct 2011: Govt for scrutiny of brownfield projects by fairplay panel; FIPB to clear during interim 6-month period

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17-5-2012

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But confusion persists over when the authority will shift to CCI and when the new guidelines will be finalised. Experts say it may take several months before necessary amendments are made to empower the CCI to approve buyouts.

Meanwhile, the FIPB stopped clearing foreign investment proposals on the grounds that specific conditions for considering cases of brownfield foreign investment in the pharma sector were under formulation. The matter has got further complicated by the fact that the FIPB's six-month window for considering foreign investment proposals in this sector is over. To end this confusion, the department of pharmaceuticals has proposed that the FIPB continues to clear proposals.

The unnamed government official quoted above said the inter-ministerial group's decision was not legally binding and there would be no problems if FIPB continued to approve pharma M&A deals for some more time, till new rules are put in place. "Otherwise

pending applications will pile up," the official said. The Organisation of Pharmaceutical Producers of India (OPPI), the industry body that represents foreign drugmakers in the country, said there appeared to be some issues that were making it difficult to route brownfield investments through CCI even after six months.

"Till such time a proper mechanism of clearance of M&A applications by the CCI is put in place, the government should revert to the system of 100% FDI in pharmaceuticals through automatic route, instead of holding such application for an indefinite period," said OPPI director-general Tapan Ray.

The applications that are stuck include Mauritius-based Ambrose Pvt Ltd's plans to buy 40% stake in Sutures India for ₹199 crore, Spain's Chemo Group's plans to buy a 100% stake in Ordain Healthcare Global for ₹58 crore, Ankur Drugs' plans to raise about ₹40 crore from NRIs and Plethico Pharma's plans to raise ₹490 crore by diluting 22% stake via FCCBs.