

Doing Business in India

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1 OVERVIEW

Possessors of a rich and ancient cultural heritage, and living in a nation that stretches from the Himalayas to the tropics, India's billion-plus people make up the world's largest democracy and one of the planet's biggest markets.

The country is a republic, with a political structure based on the British parliamentary system, and is made up of 29 states and six territories. Like Canada, it has three main government branches: an executive branch, a Parliament consisting of an upper and lower house, and an independent judiciary. Unlike Canada, it has dozens of national and state parties. The two major political players are the Indian National Congress Party and the Bhartiya Janata Party (BJP). Indian governments have tended to be stable, although they frequently need to form coalitions in order to stay in power.

1.1 India's economic liberalization

India's central government has been a strong participant in India's business life since 1947, when the country gained independence from Britain. The nation's full economic potential, however, remained largely untapped until 1991, when the government began a long-term liberalization process designed to loosen its control of the economy.

Among other reforms, the government deregulated industry, reduced tariffs, cut domestic taxes and simplified foreign investment rules. It also began investing heavily in sectors such as infrastructure and rural development, and began to allow more foreign participation in key industrial sectors. The result has been a period of expansion that has been continuing, with occasional slowdowns, for almost a quarter of a century, and has made India's economy one of the world's 10 largest.

1.2 Market characteristics

When considering India as a business destination, both exporters and investors should keep in mind that there is no single "Indian market." Instead, India contains many different marketplaces, each distinguished by factors such as religion, geography, ethnic group, income bracket, social status, occupation and political persuasion. As a result, the business and investment environments of one state can be very different from those of another—a situation that highlights the necessity of careful market research.

India's many markets are also highly competitive and price-sensitive, and local companies tend to be well managed, aggressive and very capable of competing with foreign competitors. In addition, Indian business connections are built on personal relationships in ways that are often unfamiliar to Canadians. Establishing such relationships is vitally important if you're going to succeed in India.

1.3 India's financial system

India's financial system consists of public, private and foreign banks, together with the various types of financial institutions that are common elsewhere in the world. The system is well regulated, with standards of disclosure and accounting that meet international best practices. The **Reserve Bank of India** (RBI) is the central bank and supervises all banking activities in the country, including foreign exchange regulations.

The Indian unit of currency is the rupee (INR). Indian publications sometimes state large sums in crore, an amount equal to 10 million rupees; thus a sale worth "Rs 5.5 crore" amounts to 55 million rupees. In early 2015, one Canadian dollar was worth about 50 rupees.

1.4 Economic trends and prospects

According to the Indian government's *Economic Survey 2014–2015*, the country's economic performance is improving substantially from the slump it experienced in 2012–2013. Inflation is down, industrial growth has picked up and the vital agricultural sector is doing well. As a result, the *Survey* forecasts that GDP should grow at a rate of 8.1–8.5 per cent during FY2015–2016. (Note that India recently switched to market-price calculation of GDP, and the *Survey* uses this method to arrive at these figures).

As for the 2015–2016 period, the most recent **Union Budget** (which lays out the country's economic, social and financial development blueprints) was released in February 2015. Its highlights include:

- Reduction of the corporate tax rate from 30 per cent to 25 per cent over four years, beginning in 2015.
- Major investments in agricultural infrastructure, including CAD 5 billion for the Rural Infrastructure Development Bank and CAD 1 billion for the Micro Irrigation Programme.
- Investments of CAD 14 billion in other infrastructure, especially roads and railways.
- Tax-free infrastructure bonds for projects in the railway, road and irrigation sectors.
- Proposals for up to five very large power projects, each of 4,000 MW.
- New renewable energy targets for 2022, consisting of 100,000 MW in solar, 60,000 MW in wind, 10,000 MW in biomass and 5,000 MW in small hydro.

1.5 Canada–India trade and investment

To most Canadians, including Canadian businesspeople, India is a distant and unfamiliar place. This has produced something of a disconnect between the two countries, neither of which knows much about the business potential of the other.

Even so, more and more Canadian companies are finding customers and partners in India. In 2014, according to Canadian **government statistics**, we shipped goods worth CAD 3.2 billion to the country and supplied almost CAD 700 million in services. For comparison, the corresponding 2010 figures were CAD 2.1 billion and CAD 442 million, representing increases of 52 per cent and 58 per cent respectively in the period 2010–2014.

Bilateral trade is also growing, with Canada and India exchanging CAD 6.3 billion in merchandise during 2014 as opposed to CAD 4.2 billion in 2010, an increase of 50 per cent. Bilateral trade in services in 2013 (the most recent year for which figures are available) was CAD 1.6 billion versus CAD 1.0 billion in 2010, for an increase of 60 per cent.

At the policy level, Canada and India have been discussing closer trade relations for several years, but no agreements have so far progressed beyond the negotiation stage.

1.6 The “Make in India” initiative

The “**Make in India**” infrastructure project is intended to expand India’s manufacturing capacity on an enormous scale. According to the official description:

The Government of India is developing the Delhi-Mumbai Industrial Corridor (DMIC) as a global manufacturing and investment destination utilizing the 1,483 km-long, high-capacity western Dedicated Freight Corridor (DFC) railway as the backbone. The objective is to increase the share of manufacturing in the GDP of the country and to create smart sustainable cities where manufacturing will be the key economic driver.

The plan is to develop new manufacturing cities, logistic hubs and residential townships along the DFC incorporating the philosophy of sustainability, connectivity and development; each manufacturing city will have world-class infrastructure, convenient public transport, power management and an efficient water and waste management system.

Twenty-four manufacturing cities are envisaged in the prospective plan of the DMIC project. In the first phase, seven cities are being developed, one each in the states of Uttar Pradesh, Haryana, Rajasthan, Madhya Pradesh and Gujarat and two in Maharashtra. The manufacturing cities will provide international and domestic

investors with a diverse set of vast investment opportunities. The initial phase of the new cities is expected to be completed by 2019.

Visit our India country page for more information on the [Indian Market](#).

For more detailed information on the Indian Market visit the [Trade Commissioner Service website](#).

2 PRIORITY SECTORS FOR CANADIAN EXPORTERS AND INVESTORS

To maintain the momentum of its development, India will need vast supplies of goods, services and investment for decades to come. The following sectors are likely to provide the best prospects for Canadian companies that are looking for opportunities in the country.

2.1 Automotive

As of 2014, India's automotive sector was the seventh largest in the world and was one of the biggest exporters of automobiles in Asia. With growth driven by an expanding middle class, a youthful population and India's large pool of skilled workers, it is on track to become the world's fourth-largest automotive market.

The industry includes five major subsectors: two-wheelers, cars and utility vehicles, commercial vehicles, tractors, and auto components. Leading global names such as Suzuki, Nissan, Piaggio, Volkswagen, Renault, Hyundai, GM, BMW, Ford and Toyota operate manufacturing facilities in India, both for the domestic market and for exports to Europe and North America.

Much of the industry's recent growth has rested on the two- and three-wheeled segment, which increased by an estimated 12.9 per cent in 2014 (13.5 million units). Sales growth of passenger vehicles was only a little less, at around 10 per cent (nearly 200,000 units), followed by a rise in the sale of commercial vehicles of well over 8 per cent. The auto component industry has also been expanding, with an annual growth rate of over 8 per cent between 2008 and 2014.

These growth patterns are projected to continue, with passenger vehicles posting an annual growth rate of 16 per cent from 2013 to 2020, and sales of two- and three-wheelers rising by 9 per cent annually over the same period. Canadian companies may find opportunities for exports, technology transfers, strategic alliances, financial collaborations and joint ventures across the sector.

2.2 Energy (oil, gas and power)

India is the fourth-largest consumer of oil and gas in the world. Although it is a net importer of crude oil, the country has become a net exporter of petroleum products by investing in export-targeted refineries. This has turned India into the

second-biggest refiner in Asia after China. It also relies heavily on imported liquid natural gas; these imports are expected to increase at a rate of 33 per cent annually until at least 2017.

Securing India's primary energy supply has been a top priority for successive governments, which have been encouraging investment in the sector. Foreign Direct Investment (FDI) of up to 100 per cent, for example, is permitted in most of the oil and gas industry's activities (although it is restricted to 49 per cent for government-owned refineries). Current government plans include the establishment of a Petroleum, Chemicals and Petrochemicals Investment Region in the state of Madhya Pradesh, with an investment of around USD 15 billion.

Much of India has not yet been explored for oil, so there is huge potential for Canadian participation in India's oil exploration and development programs. India also imports a large percentage of its oil and gas field equipment and supplies, and is expanding its pipeline network to support its economic growth. Some of the key opportunities for Canadian businesses are:

- enhanced oil recovery technologies, including specialty chemicals and services for improved production
- exploration services and equipment technologies
- integrated exploration and production solutions
- oil field services and equipment such as drilling rigs and surface facilities
- gas transmission and engineering equipment and services
- oil and gas education and training services

On the electrical power side, India's generating capacity has reached over 230 GW but is still unable to meet demand—almost 400 million people are still not connected to the grid. As a result, the government has been working to add a capacity of 88.5 GW between 2012 and 2017, and a further 86.4 GW between 2017 and 2022. Well over half of the country's power comes from coal, however, with its associated environmental concerns, and the government is seeking alternatives in renewable energy (for more on renewables, see "Clean technologies" in section 2.4).

Because of the very high distribution losses across the national power grid, India will be investing USD 18 billion over the next few years to upgrade its transmission lines, substations and control centres, and to adopt smart grid technology wherever feasible.

2.3 Information and communications technologies (ICT)

With 900 million subscribers, India is the world's second-largest mobile device market. Competition has been driving down the cost of usage, allowing mobile to continue being the ICT sector's fastest-growing market segment. In the broader perspective, the government has been steadily deregulating and liberalizing the sector as a whole, which has also contributed substantially to its growth. The telecom authorities are also concentrating on broadband, with Internet penetration increasing rapidly and providing major opportunities for growth.

Among the best bets for Canadian companies are value-added services, especially in data, games, music, sports and commerce systems such as mobile payment. Others are telecom infrastructure (such as chipsets and networking devices), alternate power technologies (for powering telecom towers), security infrastructure (such as firewalls and encryption) and cloud computing. Also needed is health care IT (for more on this, see section 2.5).

2.4 Infrastructure

Canadian companies may find excellent opportunities for both exports and investment in two major infrastructure sectors: transportation and clean technology.

- **Transportation**

Much of India's transportation infrastructure remains dilapidated and needs a great deal of investment. The government is acutely aware of this and, under the current Five-Year Plan (2012–2017), allocated CAD 85 billion to highway development, CAD 70 billion to railways, CAD 15 billion to airports and CAD 34 billion to maritime ports (all figures approximate). To encourage foreign participation, India allows 100 per cent FDI in most segments of this sector.

One very large transportation project is the development of the Delhi-Mumbai Industrial Corridor (DMIC), mentioned earlier as the basis of the "Make in India" initiative. This involves the development of industry and infrastructure in a 200-km-wide band on each side of a dedicated railway freight corridor between the two cities. The project is intended to generate new industrial clusters along the DMIC with connectivity via rail, road, sea and air.

This enormous undertaking, together with many other projects of various sizes, presents a broad range of opportunities for Canadian companies. To help meet their targets, Indian companies are looking for seasoned foreign firms with international experience in project planning and management, engineering and implementation, and feasibility and environmental impact studies.

In the air transport segment, for example, there are opportunities in communications upgrades, in navigation and surveillance systems, and in air traffic management. In rail, possibilities include the modernization of coaches and traffic signal systems, and new passenger terminals and logistic parks. The needs of maritime ports include the upgrading and construction of multipurpose berths and of container, dry bulk and liquid terminals. India's overburdened urban mass transit systems will present additional opportunities.

- **Clean technologies**

India's rapid economic growth has come with some major costs to its environment and to the health of its population. The government is trying to alleviate these impacts by investing in areas such as renewable energy, better water and wastewater management, and new ways of dealing with solid and hazardous wastes.

- **Renewable energy**

In the renewable energy segment, the market is estimated at around USD 500 million yearly, with an annual growth rate of 25 per cent and investment of about USD 3 billion annually. The current Five-Year Plan (2012–2017) proposes to increase overall capacity by nearly 30,000 MW, including 15,000 MW from wind, 10,000 MW from solar, 2,100 MW from small hydro and 2,700 MW from biomass and waste-to-energy.

- **Water and wastewater**

Lack of clean water is one of the country's worst environmental problems, and much of the clean technology market is devoted to products and services related to the water supply. Opportunities include technologies for water conservation and purification, wastewater treatment, water recycling and desalination.

- **Solid waste**

Dealing with municipal solid waste is becoming an acute concern, especially since much of it is simply dumped on the outskirts of urban areas. There is, consequently, a demand for technologies and services for waste collection, transportation, treatment and disposal.

- **Hazardous waste**

Hazardous waste management will be another growth sector, especially since Indian industries have little expertise in managing it. India will need facilities, equipment and know-how for storing, transporting and disposing of these substances, as well as resources for monitoring them and for environmental project management.

2.5 Life sciences and health care

Under the current Five-Year Plan, the government has committed to increasing annual health expenditures from 1.4 per cent to 2.5 per cent between 2012 and the end of 2017. Although statistics for India's health care/life sciences sector are not well documented, this could increase the size of the market from its estimated 2013 level of USD 65 billion to around USD 100 billion for 2015. The investment will improve the health infrastructure by upgrading and increasing the number of hospitals, clinics and clinical laboratories in both urban and rural areas.

Several sectors within the industry may offer opportunities for Canadian companies:

- **Pharmaceuticals**

India's pharmaceutical industry is the world's third largest in volume and is the biggest single component of the life sciences sector. It concentrates on manufacturing generics, so R&D does not receive a large amount of funding. The contract research and manufacturing subsectors, however, are growing briskly.

- **Biotechnology**

India is one of the world's top 12 countries for biotechnology, with considerable strength in the bio-pharmaceuticals, bio-services, bio-agriculture, bio-informatics and bio-industrial segments. The fastest growing of these has been bio-agriculture, with recent annualized growth of up to 30 per cent. By some estimates, the value of the country's biotechnology sector could rise to USD 10 billion by 2018.

- **Medical devices**

According to Indian industry analysts, the value of this subsector could reach USD 11 billion by 2013. Currently, medical supplies and disposables are manufactured in India, while advanced, expensive devices are imported; imports, in fact, supply more than 50 per cent of the subsector's needs. The strongest growth segments include specialist medical instruments and appliances, orthopaedic/prosthetic goods, high-end electromedical devices and diagnostic kits.

- **Neutraceuticals**

Indian consumers are becoming increasingly aware of the influences of food on health. This is producing a steady increase in the consumption of neutraceuticals such as food supplements and vitamin/mineral supplements. According to a recent survey, the market could grow to USD 4 billion by 2018, with an average annual growth rate of 17 per cent.

- **Health care IT**

India has the fastest-growing health care IT market in Asia, with recent surveys suggesting it could reach USD 1.5 billion by 2018. The sector needs expertise, services and systems that can help establish standards, lower implementation costs, encourage IT adoption, train staff and improve vendor and infrastructure support.

2.6 Agriculture and agri-food

There are opportunity areas for Canadian companies in subsectors such as:

- **Wood products**

Although tariffs on imported wood products remain high, there is such a strong demand from the housing, furniture and construction sectors that India has become a major market for these goods.

- **Pulses**

India is the world's largest importer of pulses (peas, lentils and beans). In 2013, Canada was India's major supplier of these commodities and shipped an estimated CAD 740 million-worth of them to the country.

- **Packaged foods**

The increasing disposable income of the middle class has stimulated a demand for packaged and processed foods. Overall sales in the subsector increased by 19 per cent annually from 2009 to 2013, with a further increase of about 16 per cent projected to 2018. Within this category, the best-performing segment was meal replacements, followed by sweet and savoury snacks.

- **Agri-food supply chain infrastructure**

India's agri-food sector is plagued by an inadequate preservation, storage and distribution infrastructure, and the government is trying to remedy this by encouraging investment in areas such as cold chains, abattoirs and faster food transport systems. In addition, as the demand for packaged and processed food rises, so will the industry's need for production and packaging technology.

3 INVESTING IN INDIA

India is much more open to FDI than it used to be. Investment procedures are being simplified, foreigners can now invest in most sectors and investment ceilings are gradually being lifted or removed. Other factors encouraging FDI include India's fast-growing domestic and financial markets, its large population of English speakers and its political stability.

That said, there are still some areas of concern for foreign investors, such as high taxes, lingering FDI caps and a shortage of low-cost financing. The government is not ignoring these concerns, however, and is slowly taking steps to improve the overall business environment.

Investing in India can be a complex undertaking, so you should always use professional assistance to avoid legal, tax and accounting pitfalls.

3.1 Investment policies and procedures

There are two basic procedures governing FDI in India: the automatic approval route and the government approval route. The **RBI** provides a useful **FAQ** that answers some basic questions about investing in the country.

- **Automatic approval route**

Most sectors fall under the automatic route. This means that the investment does not require prior approval by the government, although various notifications about remittances and shares must be submitted to the RBI. FDI of up to 100 per cent is allowed in these sectors.

- **Government approval route**

FDI in areas not covered under the automatic route requires government approval, which is granted on the recommendation of the Foreign Investment Promotion Board. This category includes:

- Industries with compulsory licensing (alcoholic drinks, tobacco products, explosives, hazardous chemicals, and electronic, aerospace and defence equipment).
- Industries manufacturing items that the government has reserved for the small-scale sector.
- Industries manufacturing with location restrictions (some kinds of manufacturing require an industrial licence if they are within a certain distance of specified urban areas).

You should use your Indian legal counsel to help you apply for an industrial licence if you need one.

- **Prohibited sectors**

In a few industries, FDI is completely prohibited. These include: gambling, betting and lottery enterprises; atomic energy; retail trading; and agricultural activities excluding a number of subsectors such as floriculture, horticulture and vegetable cultivation.

3.2 Exchange controls

Exchange controls are regulated under the *Foreign Exchange Management Act*. Except for a small number of specific restrictions, the rupee is fully convertible for trade and current account transactions. Exchange control laws and regulations apply equally to both foreign-invested and locally incorporated companies—there is no preferential treatment for either.

3.3 Foreign trade zones

India has established several types of foreign trade zones that provide incentives for overseas investors. These include the following:

- **Special Economic Zones**

These are treated as foreign territory. Companies operating there are not subject to customs regulations or FDI equity caps, are exempted from various industrial licensing requirements and enjoy a range of tax breaks.

- **Export Processing Zones and Software Technology Parks**

These are industrial zones with incentives for foreign investors in export-oriented businesses.

- **Export-Oriented Units**

This classification applies to companies that export their entire production, and such businesses can be established anywhere in India. Incentives include the duty-free import of intermediate goods, income tax holidays, a waiver on sales taxes and exemption from excise tax on capital goods, components and raw materials.

3.4 Taxes

Tax regimes tend to be works in progress, so be sure to consult legal and accounting professionals before you make assumptions about how Indian taxes will affect you. For more detail, refer to the [Income Tax Department](#) of the Ministry of Finance. For information on the current Indian budget, refer to the [Union Budget](#) website.

- **India's tax system**

India's central government levies direct taxes (such as corporate taxes) as well as indirect taxes that include customs duties, excise taxes and sales taxes. The fiscal and corporate tax year begins on April 1 and runs to March 31.

A business is considered a resident of India if it was incorporated there, or if the management of its affairs was situated solely in India during the tax year. If it satisfies neither of these conditions, it is a non-resident company.

If you've incorporated an Indian affiliate, it will be taxed as a resident Indian company and will pay corporate taxes on the income it receives from all sources worldwide. If your business presence is a non-resident one, it will be taxed as a foreign company, but only on the income it earns in India.

- **Corporate taxes**

For resident Indian companies, the basic corporate tax rate for 2013–2014 was 30 per cent. Added to this was an education cess of 3 per cent, plus a surcharge of 5 per cent (if income is over INR 10 million) or 10 per cent (if income is over INR 100 million).

For non-resident companies, the basic corporate tax rate for 2013–2014 was 40 per cent. Added to this was an education cess of 3 per cent, plus a surcharge of 2 per cent (if income is over INR 10 million) or 10 per cent (if income is over INR 100 million).

Canada and India have signed a taxation treaty so that Canadian companies doing business in India won't have to pay taxes in both countries. This removes any threat of double taxation.

- **Other taxes**

Several other taxes are levied within India, including the value-added tax (VAT), the central sales tax (CST), the central value-added tax (cenvat) and the service tax. This complex system is eventually to be replaced by an integrated goods and services tax, but the date of implementation is uncertain.

4 CONTRACTS AND LEGALITIES

Canada and India share a legal heritage based on English common law, and in some respects our legal systems are similar. But there are also considerable differences, and Canadian companies doing business in India will need to use local expertise if they want to avoid difficulties.

4.1 Contracts and due diligence

Your first line of defence against contract problems is stringent due diligence. Especially with a new customer, always find out about the company's creditworthiness, its financial record, the quality of its management, its business history and its reputation in the Indian and international marketplace. To help with this, you can consult EDC's representatives in India and the Trade Commissioner Service's teams there. Other information sources include the customer's Indian bank, your own bank and Canadian firms that may have dealt with the company. You can also pay a credit-reporting firm to provide an assessment of your prospective Indian customer.

It can be difficult to enforce contracts in India, so each clause in the contract should be very carefully written and thoroughly reviewed by legal counsel familiar with Indian business and financial practices. Due diligence and clearly written contracts will substantially reduce your risk of business disputes.

4.2 Corporate social responsibility

Proper due diligence should include checking the corporate social responsibility (CSR) background of your potential Indian customer or partner. For example: Does the Indian firm have a good public image in this area, or has it received negative media coverage? Are there any CSR-related lawsuits against it? Does it have a CSR policy that aligns with yours? Does it implement that policy effectively? Is it environmentally accountable? Does it deal responsibly with the health and safety effects of its operations? If the answers to such questions come back positive, you are much less likely to experience unpleasant surprises when you do business with the company.

Note that India's *Companies Act, 2013* has substantially changed the country's CSR policy. The legislation requires a minimum level of CSR spending by large, profitable companies, as well as the formation of CSR committees by company boards of directors. The law applies not only to Indian companies but also to affiliates of foreign companies operating in India.

4.3 Business disputes

If you find yourself in a business dispute with an Indian customer or partner, do your best to avoid litigation—going to court will be time-consuming, expensive and possibly not in your best interest, no matter how justified

your position. It is almost always better to seek arbitration, so your contracts should always include an arbitration clause that specifies how and where the arbitration will be carried out.

4.4 Protecting your intellectual property

India's intellectual property (IP) laws and regulations are strong enough in themselves, but enforcement tends to be rather weak. IP theft is consequently not uncommon, so you should always protect yourself as comprehensively as you can. In particular, if a contract calls for licensing IP to an Indian client, be sure that the wording on what the licensee can and can't do with the IP is precise. Being vague about this can lead to serious problems and possibly major loss.

Note that IP protections registered in Canada, such as patents, trademarks, designs and copyrights, do not extend to India. To secure your IP in the latter country and avoid disputes over its use, you'll have to register and enforce these rights under Indian law. Always do this with the help of Indian legal counsel specializing in IP protection.

4.5 Ensuring payment

For exporters, the best way of ensuring payment by an Indian customer is to use a letter of credit (LC) and to stipulate this method of payment in the sales contract. LCs are very common in international trade because they use banks to receive and check shipping documents and to guarantee payment, and this provides a high degree of security for both buyer and seller.

LCs can also be confirmed or unconfirmed. For example, a Canadian bank can confirm an LC issued by a foreign bank, thus guaranteeing that the Canadian bank will pay you even if the foreign bank doesn't. This kind of LC is obviously much better for you than the unconfirmed kind.

LCs can also be irrevocable. This means they can't be cancelled or amended without your approval. The most secure form of LC is one that is both confirmed and irrevocable.

5 ESTABLISHING YOUR PRESENCE IN INDIA

The most common ways of entering the Indian market include setting up a wholly owned Indian affiliate, establishing an office of some type and forming a joint venture with an Indian company. To avoid legal, tax and accounting pitfalls, always use professional assistance when establishing your Indian presence.

5.1 Wholly owned affiliates

You can establish a wholly owned Indian affiliate by incorporating a company under the provisions of the *Companies Act, 2013*. For more information, refer to

the **Ministry of Corporate Affairs**, especially the procedure for **registering a new company**. The chief advantage of an affiliate is that it's treated as an Indian company and can be the most effective way of doing business in India.

5.2 Joint ventures

India promotes joint ventures between Indian and foreign firms because they encourage capital investments, imports of capital goods and transfer of technology. If you choose the wrong partner for your joint venture, though, it can be a very expensive mistake, so be sure that both parties to the venture know in advance what will be expected of them. Needless to say, you should carry out very careful due diligence into your prospective partner's experience, business record, creditworthiness, financial stability, CSR record and management quality.

5.3 Limited liability partnerships (LLPs)

LLPs enjoy the benefits of a limited liability company while providing their members with the flexibility of a partnership agreement. An LLP must have at least two partners who are individuals, and one partner must be an Indian resident.

5.4 Offices

If you don't want to set up an affiliate, you may find that an office in India will be enough to serve your needs. **RBI** approval is required for establishing an office, except (under some conditions) project offices. You will also have to register the office with the Registrar of Companies within 30 days of setting it up. Your Indian legal counsel will help you with these requirements.

There are three main types of offices:

- **Liaison or representative offices**

Liaison offices are restricted to collecting market information and providing information to prospective Indian customers. They cannot carry out any commercial activities nor earn income in India.

- **Branch offices**

These may carry out activities such as importing and exporting goods, acting as your company's buying and selling agent, promoting technical and financial collaborations between Indian and foreign companies, providing IT services and software development services and providing technical support for products supplied by your Canadian company. Branch profits can be remitted outside India, subject to taxes and RBI guidelines.

- **Project offices**

If your company is planning to carry out a project in India, it can set up a project office. The office can only undertake activities related to the project.

5.5 Agents and distributors

An agent is an individual or firm you employ, usually on commission, to sell your product or service. A distributor, in contrast, buys your product from you and then sells it on to the end users. Either type of representative, if you get the right one, will be familiar with local Indian conditions and can help you find customers, arrange distribution channels, handle documentation, clear your goods through customs and provide after-sales service. If your sale involves complex contracts, a representative is almost a necessity.

Finding the right representative will take some effort. Contacts at trade fairs are one avenue, and you should also check with sources such as the Canadian Trade Commissioner Service, your sector's trade associations and the various Indo-Canadian business associations referred to in Chapter 8.

Again, due diligence is vital and should include detailed checks into the potential representative's finances, reputation and creditworthiness. If your products are highly technical, you should also ensure that the representative has the expertise and facilities necessary to market and support them.

Read these **five tips** to help guide your decision about how and when to expand your company into a new market.

6 REGULATIONS

Your Indian customers are the importers of your goods and consequently should be responsible for clearing them through Indian customs. You should never agree to take this upon yourself—if you do, you will have to resolve any problems that the Indian customs authorities have with the shipment. It's much better to have the sales contract stipulate that your responsibility ends when the goods reach your customer's port of entry. And never, under any circumstances, agree to move the goods within India itself, as this can become a logistical nightmare.

The situation is different, of course, if you've established an Indian affiliate and the affiliate brings goods into the country. In this case, your affiliate will be considered the importer and you'll have to comply with all Indian customs and import requirements. It is highly advisable to use a customs broker to handle your affiliate's imports, but be sure the broker has been licensed by India's Central Board of Excise and Customs.

The **Directorate General of Valuation** provides detailed information about Indian customs and **customs clearance**.

6.1 Tariffs

India levies the following import tariffs:

- **Basic customs duty (BCD)**

This is a standard tax that applies to all goods imported into India. It may be calculated either as a percentage of the value of the goods or at a specified rate that depends on the type of goods.
- **Countervailing duty (CVD)**

This is used to protect Indian industries. It is levied on the cost of imported goods and equals the excise duty applied to the same goods when manufactured domestically. An additional countervailing duty may be levied but can't exceed 4 per cent of the BCD.
- **Anti-dumping duty**

Anti-dumping duty applies to specific goods imported from specific countries and is intended to prevent harm to domestic industries.
- **Safeguard and protective duties**

These can be imposed if imports of a particular product increase until they threaten serious damage to Indian producers of directly competitive products.
- **Education Cess and Higher Education Cess**

These taxes are used to fund education and health care initiatives. The Education Cess is levied at 2 per cent of the aggregate customs duties, and the Higher Education Cess at 1 per cent of this aggregate.
- **Customs handling fee**

The Indian government assesses a 1 per cent customs handling fee on all imports.

6.2 Customs documentation

The basic import document is the Bill of Entry, which certifies the description and value of goods entering the country. The importer can submit this to customs either electronically, through the Electronic Data Interchange system, or on paper. If the Bill of Entry is submitted on paper, additional documents are required, including:

- a signed invoice
- a packing list

- a bill of lading or delivery order/air waybill
- a completed GATT declaration form
- an importer declaration
- insurance documents
- a certificate of origin, if claiming a preferential rate of duty

Depending on the goods being imported, customs may require further documents, such as import or industrial licences, or a letter of credit or bank draft.

6.3 Standards, labelling and licensing

Your goods will avoid problems with Indian customs if they meet relevant standards, are properly labelled and, if required, have the applicable import licences.

- **Standards**

Standards certification requirements ensure that imported goods meet a country's health, safety and quality standards. In India, more than 100 products (such as food additives and electrical appliances) must be certified by the **Bureau of Indian Standards** before they can enter the country. Obtaining certification is the manufacturer's (not the importer's) responsibility.

- **Labelling**

Indian customs strictly enforces all labelling requirements, and goods that don't comply can't enter the country. The best way to ensure that the labels on your products are correct is to ask your customer what is required.

To protect yourself contractually, you can also get sample labels approved as part of the sales contract.

If you're an agri-food exporter, your products must be labelled according to the regulations set by the **Food Safety and Standards Authority of India** (FSSAI). This body is responsible for establishing standards for food products and for regulating their manufacturing, processing, distribution and sale.

- **Licensing**

Most imports can enter India without a licence. There are some exceptions, which fall into three classes: prohibited items; restricted items requiring an import licence; and "canalized" items that only a state-owned enterprise can import. The importer is responsible for obtaining any required licences.

7 PAYMENTS AND FINANCING

EDC can provide many kinds of assistance for Canadian investors and exporters who do business in India or who want to operate there. To learn more about the EDC solutions outlined below, please [contact us](#).

7.1 Receivables insurance

This will typically cover up to 90 per cent of your losses resulting from risks such as refusal to pay, refusal to accept goods, bankruptcy or insolvency, or contract cancellation.

7.2 Financing

EDC offers a range of [financial solutions](#) that can help you finance your exports, arrange financing for your Indian buyers or support your investment plans in India.

Please note, however, that EDC's financing services for India, including potential loans to Indian buyers of Canadian capital goods and machinery, must follow the RBI's guidelines on [External Commercial Borrowings](#) (see [here](#) for the full text of the circular). This may limit the use of funds and eligible borrowers.

In addition, as a foreign lender, EDC is unable to structure transactions in Indian rupees. Companies that may need help with such transactions should discuss them with EDC as early as possible in the financing process.

7.3 Bonding and guarantees

Obtaining bonds or guarantees usually means tying up your working capital as collateral for your surety provider. You can avoid this by obtaining various types of EDC [guarantees](#), which will allow your provider to issue the bond or guarantee without requiring you to provide collateral.

7.4 Insuring against political risk

EDC's [Political Risk Insurance](#) can protect your Indian assets by insuring up to 90 per cent of losses caused by political events such as government action, civil unrest or the inability to convert or transfer currency.

Visit edc.ca/products to learn more about all of the products and services EDC offers.

8 KEY RESOURCES FOR DOING BUSINESS IN INDIA

8.1 Export Development Canada

- **Head Office**

Export Development Canada
150 Slater Street
Ottawa, ON, K1A 1K3
1-800-229-0575

- **EDC offices in Canada and abroad**

- **EDC representatives in India**

Nathan Nelson
Chief Representative
NNelson@edc.ca

Sandeep Bhatt
Regional Manager
SBhatt@edc.ca

Vibhav Agarwal
Regional Manager
VAgarwal@edc.ca

Leena Subramanian
Associate Regional Manager
LSubramanian@edc.ca

8.2 Canadian Trade Commissioner Service

The Canadian Trade Commissioner Service (TCS) has offices across Canada and in 161 locations around the world, including several in India. **These offices** can provide Canadian exporters and investors with India-specific market intelligence, qualified contacts, partnership opportunities and practical advice that can help them achieve their goals in the country.

8.3 Government of India

- **High Commission of India in Ottawa**
- **Directorate General of Commercial Intelligence and Statistics**
- **Directorate General of Foreign Trade**
- **Ministry of Commerce and Industry**
- **Indian Government Directory**

8.4 Indian and Indo-Canadian business organizations

- The **Associated Chambers of Commerce and Industry of India** has a membership of tens of thousands of companies and professionals across the country.
- The **Canada-India Business Council** (C-IBC) is Canada's only private-sector, national association of Canadian companies doing business in India.
- The **Confederation of Indian Industry's** web site provides news and resources about India's industrial sectors.
- The **Federation of Indian Chambers of Commerce and Industry** is an association of 1,500 corporations and more than 500 chambers of commerce and business associations.
- The **India Brand Equity Foundation** (IBEF) is a public-private partnership between the Ministry of Commerce and Industry, the Government of India and the Confederation of Indian Industry. The IBEF web site provides a wide variety of guides and sector information.
- **Indo-Canadian Business Chamber** (ICBC) is dedicated to the promotion of Indo-Canadian economic and bilateral relations.
- The **Indo-Canada Chamber of Commerce** (ICCC) promotes trade and commerce between Canada, India and other countries by creating links with global business organizations.

Financing. Asset protection. Risk management.

EDC can help you with all these and more:

- Need financing to grow your international business? We can help you **find it**.
- Want to protect your foreign receivables? We can help you **secure them**.
- Need to manage risks abroad? We can help you **control them**.

To find out more, call our Solutions toll-free number at 1-800-229-0575, or go online and **submit a question**. We'll answer your inquiries within one business day, weekdays between 9 am – 5 pm EST.

For more information, please visit edc.ca

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