



# Eurupee

Building a Strategic Partnership Between  
EU and India (2008-2013)





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## *Note To The Reader*

*For many years, one of the many responsibilities of MEDEF International has been to provide insights to the French business community to support its international development. To enable this knowledge sharing, it often plays the role of a think-tank to bring together and communicate expertise on hot topics.*

*In this context, we have been supporting the initiative of the MEDEF's European Commission, chaired by Jérôme Bédier, on the opportunities for developing and enhancing strategic partnerships between Europe and India. The involvement of a number of Europe and India experts has generated outstanding insight both in the analysis and in the recommendations that we would like to share with you.*

*We would especially like to thank Jacques-Etienne de T'Serclaes and Emmanuelle Butaud-Stubbs who have initiated this project. Their strong involvement convinced our different commissions to work on this topic and helped them successfully put together a superb task force. We would also like to acknowledge the great work done by the whole team involved in the project as well as Pauline Johanel, an intern at Medef, who helped with data consolidation and synthesis.*

*This report is the outcome of the accumulated experience and ideas of several professionals, each specialised in his/her domain of expertise. They have accepted to share their knowledge, working together to provide a consolidated perspective on how to build a lasting strategic collaboration between Europe and India.*

*By participating in this project, these professional firms have demonstrated their dedication to the French business community. We would like to thank the four companies which shared with us their expertise, Baker & McKenzie, The Boston Consulting Group, Fidal, PricewaterhouseCoopers and their lawyer network, Landwell & Associés.*

*Many thanks also to Jacques-Etienne and Emmanuelle, for their performance in coordinating this collaboration and to the team from The Boston Consulting Group who helped finalize this report.*

**Jean Burelle**  
Chairman, Medef International

**Guy de Panafieu**  
Chairman, India Committee



# *Eururopee: Building a strategic partnership between EU and India (2008-2013)*

Here we are, one year after the Council mandated the European Commission to prepare discussions about a Free Trade Agreement (FTA), and a few months before the French presidency of the EU.

There is a real opportunity for the business community to play an important role in the growing momentum of bilateral negotiation between India and the European Union ; in particular at a time when the Indian government does not seem prepared to open its market fully<sup>1</sup>. For this reason, we, at the European Commission of MEDEF<sup>2</sup>, believe it is important for MEDEF International to engage in the reflection on a strategic partnership between the EU and India.

In view of preparing for the Indian-European Summit in Marseille on September 29th and 30th, 2008, we constituted a group of experts from four professional service firms, Baker & McKenzie, The Boston Consulting Group, Fidal and PricewaterhouseCoopers/Landwell to share their experience on India. We also benefited from ongoing support from the Textile Federation's Director of Economics and International Affairs, Emmanuelle Butaud-Stubbs.

This pro-bono taskforce pooled its various specialities and skills to work on the issues and opportunities faced by European companies to enhance their development in India:

- Numerous opportunities have been identified for strategic partnerships between Europe and India from outsourcing services to the elaboration of Private Public Partnerships to develop Indian infrastructures.
- The study also highlights the fact that building these strategic partnerships requires a reflection on the legal and regulatory framework required to facilitate human flows and trade. In addition, a reflection on tax systems and opportunities to boost and secure mutual investment has also been performed.

“The nineteenth century belonged to Europe, the twentieth went to America, and many believe that the twenty-first century is likely to be Asia's.”<sup>3</sup>

India and Europe have a long-range history together: by the end of the seventeenth century and the beginning of the eighteenth century, most Western European maritime nations (with the exception of Spain), large and small, were in one way or another involved in trade with India.

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1 See the Negative list posted on the web site of the Indian Trade Minister on March 2008

2 Chaired by Jérôme Bédier

3 G. Das (2002). *The Elephant Paradigm: India Wrestles with Change*. New Delhi: Penguin Books



Today, India is emerging as a major player in the world economy. While drawing increasing interest from foreign investors and national governments in Europe, North America and Asia, it is also becoming an active participant in outbound investment, as proven by some recent acquisitions.

Trade relations between Europe and India have boomed in the past decade:

- Between 2000 and 2006, EU27 trade with India grew by around 80% and the EU surplus in trade with India rose from €1Bn in 2000 to €2Bn in 2006 despite a high level of tariff protection and numerous non tariff barriers.
- India, which was EU 27's 17th trading partner in 2000, became Europe's ninth trading partner in 2006.

However, the current trade relations remain unbalanced as Europe is still India's first trade partner. This may be revealing of the lack of common European perspective and approach to its partnership with India.

Europe, and especially the Euro zone, will have to take up the challenge to create the right conditions for efficient and effective partnerships with India from political, cultural and strategic perspectives.

Both the business community and institutional actors need to get involved and address those cultural and psychological differences. A win-win strategy has to be found between EU and India to make this happen.

The reflection has been initiated in the following report and we hope that this document will support companies and managers, governments and politicians of European countries in better understanding this great country and getting a glance at the opportunities for collaboration between our 'Old Europe' and today's 'vibrant' India.

Our goal to demonstrate the reality of the consensus emerging about Indians being closer to Europeans than they are to Asians. As someone once noted, "India for the future belongs to Europe, it has its place in the Indo-European world, it has its place in our own history, and what is the very life of history, the history of human mind"<sup>4</sup>.

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<sup>4</sup> Max Mueller (2000) *India: What Can it Teach us?* New Delhi: Penguin Books



# Executive Summary

## 1. Overview of India

### 1.1. A growing economy in a stable institutional environment

Present-day India witnesses an unprecedented growth and opportunities

- 10<sup>th</sup> largest and 2<sup>nd</sup> fastest growing economy in the world average GDP growth of 8% per annum.
- India is expected to be the fourth largest economy in the world by 2025.
- Large and growing market: mobile phones, automotive, textiles, etc.
- Extremely favourable demographics (70% of the population under the age of 35).
- Source of talent, labour surplus, top tier engineering/management schools.

India's institutional framework provides stability and ensures continuity of change

- Multiparty democracy where coalition governments are the norm.
- Independent legal system headed by the Supreme Court, supported by 18 High Courts, written constitution and codified law.
- All governments since 1991 have been committed to the reform process. There is a broad consensus across all stakeholders on the need to liberalize economy and integrate with the world.

### 1.2. The 'Next Billion' consumers

The 'Next Billion' consumers is a phenomenon particularly relevant in the Indian economy of today and tomorrow. An emerging and solvable wave of consumers is entering the market economy. Situated below the traditional middle-class in terms of income, they already represent a very large and growing share of the Indian households - 91 million HH - and contribute a significant portion of the increase in total consumer consumption. With still limited means, they have aspirations, needs and represent already a key source of economic growth and substantial business opportunity for the next 10 to 15 years.

The challenge is how to reach them, with innovative relevant offerings and distribution methods. Recent research show that serving the next billion requires creative business models that combine traditional elements and effective practices imported from more mature business environment. It is a real opportunity available not only to local champions that are fast addressing this emerging wave, but also to multinational players with deep knowledge of the consumers, relevant product and technologies.

*The Next Billion, a «Perspectives» published by the Boston Consulting Group*



## 2. Numerous opportunities of sourcing and trading between Europe and India

### 2.1. The leading place for outsourcing and off-shoring services and fast growing in industrial goods outsourcing

India has broadened its offering in outsourcing and off-shoring operations. From software development and call centres, India has moved on towards banking operations, or support functions like accounting, human resources or purchasing.

Global sourcing from India is an important component of European business competitiveness. EU and India governments have a significant role to play to pursue efficient collaboration.

On the Indian side, one can mention:

- **Investing in infrastructure:** roads, harbours, container transport, communications and public transport...
- **Reinforcing/accelerating “specific business zones” dedicated by “industry”:**
  - Focusing infrastructure and services investments in a few selected areas...
  - With a centralized administrative office
  - And easier access to land ownership
  - And maybe lower taxes for limited periods
- **Motivating students to learn languages from Continental Europe** such as French, German, Spanish, Italian...

From a European perspective also, a number of steps could be explored:

- **The first one is likely to be around mindsets:** understanding that India is much more than a source of job losses for European countries. It is a source of high quality and low cost resources, clearly, but also a huge and attractive market for European industries.
- **Anticipating the significant retirement wave** which will take place in Europe in 5 years time and the difficulties to recruit for some job types (back-offices in Financial Services for instance).
- **Proposing support pools in India** (a “EU office”) to provide local support to European companies, on administrative and legal issues, logistics...

Outlook n°1: *Global Sourcing in India* by Antoine Gourevitch, Nikolaus Lang and Arindam Bhattacharya from The Boston Consulting Group



## 2.2. Taking advantage of the booming of Indian Aerospace & Defence sector

In the field of defence, the third largest military force in the world represents an attractive partner. Considering the obsolescence of a significant part of the military equipment (70% of which is of Russian origin) and with the strategic objective of remaining a significant part of the military force in their region, the Indian government has just launched a US\$100 billion investment plan over the 2007-2012 period in order to renew the Armed forces equipment.

In the global civil aviation industry, growth is fuelled by the Asian market. The increasing number of airlines and the development of low cost airlines are driven by the Indian middle class' purchasing power. Significant investments will be required in airport facilities, training centres, ground handling personnel and maintenance facilities.

India represents a great opportunity for European A&D companies, both from its domestic market potential and from the cost advantage resulting from off-shoring. Each stakeholder can set-up a win-win strategy:

- **Prime contractors have to provide clarity to their SMEs subcontractors** in terms of business they are ready to bring them. They should provide them with advice and support to facilitate their development. The presence of SMEs will also become increasingly important for Primes in order for them to be able to meet their offset obligations.
- **Europe should clearly define a development plan in India for its A&D sector and promote co-development programs** in order to provide access to a fast-growing market and hence ensure the future of its A&D industrial base.
- **The Indian Government has to continue efforts towards the liberalization of A&D market in order to achieve the national goal of developing the A&D private industry.** The FDI and offset policies shall be relaxed and the Armed Forces must improve clarity in the communication of their needs.

*Outlook n° 2: As European Aerospace and Defence companies face harder times in their domestic markets, is India the answer?* by Guillaume Rochard and Dhiraj Mathur from PricewaterhouseCoopers

## 2.3. Developing infrastructures in India leveraging Public - Private Partnerships

India's lack of infrastructure is a concrete «roadblock» for Indian manufacturing and growth. Projects involving Public-Private Partnerships (PPP) are expected to help resolve this dead-lock situation by contributing operational efficiencies, world-class technology and high service standards, and injecting much-needed capital into the system.

Beyond the structural problems (such as scarce capital, misdirected subsidies and political lethargy),



there are several short-term solutions that can be implemented to facilitate and encourage PPP based projects:

- **Enable long-term sources such as Insurance and Pension Funds to invest in PPP projects** by benchmarking Indian investment grades in accordance with international standards.
- **Facilitate the raising of capital outside of India by accelerating FDI procedures for investing in holding companies** - a structure that is commonly used by Indian developers for combining several related infrastructure projects.
- **Building better planning procedures** - along the lines of projects carried out in the EU - would help generate smoother relationships with stakeholders and reduce delays related to conflicts of interest and unforeseen capacity deficit.

*Outlook n° 3: Developing infrastructures in India: leveraging Public - Private Partnerships by Guy Leclerc and Latha Ramanathan from PricewaterhouseCoopers*

#### **2.4. Opportunities for developing strategic partnerships between Europe and India**

Among the many sectors in which collaboration with Europe would be an obvious and attractive choice for India, we have identified the following as possibly requiring more active progress to fully build the bridges between the Indian and the European economies:

- **Building an education corridor** between EU and India, specifically in Business, Health Care and Engineering. Traditional and cultural links with the United States and the United Kingdom should be broadened to the Euro zone.
- **Facilitate the emergence of modern food retail** and of a more productive food supply chain. Through EU public and private partnerships, targeted by type of agricultural product or region, EU could provide support to Indian agriculture while supporting the entry of European food and retailing businesses in India.
- **Increase the exchange of tourist flows** between India and EU. With India's tourism growing 15 percent annually, 50 million Indians could be travelling abroad in 2020. The promotion of European travel could divert traffic from "shopping only" destinations such as Singapore or Dubai.
- **Develop India as a key supplier and partner of the European Luxury Goods industry**, leveraging local expertise and craftsmanship in some particular traditional categories.

*Outlook n° 4: Opportunities for Strategic Partnerships between Europe and India by Patrick Ducasse and Olivier Tardy from The Boston Consulting Group*



### **3. Facilitating human flows and trade between Europe and India requires legal and regulatory evolutions**

#### **3.1. Favouring Human Resources mobility**

The free flow of human resources, to, from and among countries within the European trade axis is conditioned by a number of factors, some of which are cultural and psychological, but many of them are government-created, through regulatory requirements and procedures.

- **About inbound mobility from India**, procedural regulation differs from one country to another. Benchmarking provides food for thought as to how the administrative streamlining can be improved.
- **About inbound to India**, foreign nationals intending to work in India must obtain an “employment” visa before entering India to work. But they face different logistic problems. For instance, the Indian Embassy does not give appointments by mail or phone and this leads to several visits. The timeframe which varies from case to case also hampers the schedule of travel plans.

**At the European level**, the discussion takes place in the context of the recent adoption by the European Commission of two proposals aimed at facilitating mobility within Europe:

- **The creation of a blue card** for highly qualified immigrants with the possibility for the worker to move to another EU country after two years of work.
- **Simplified procedure for non European Economic Area nationals** working in an EU Member State: implementation of a “single treatment”, recognition of the work permit by all EU Member states.

**Moreover, on March 14th the Council of the European Union declared economic migration can meet the need of the labour market and reduce skills shortages.** The council looks forward to the Commission’s proposals for a renewed social agenda. It invites the Commission to present a comprehensive assessment of future skills requirements in Europe up to 2020.

*Outlook n° 5: Human Resources Mobility* by William Phillips from Landwell, and K.R. Ganesh from PricewaterhouseCoopers

#### **3.2. Ensuring legal security for European investments in India**

##### **3.2.1. Facilitating data transfer through adoption of Personal Data Bill and implementation of Data Security Council of India (DSCI)**

There is no legal framework in India to ensure personal data protection despite the fact that India



is at the forefront of global outsourcing industry.

A personal data protection bill is under way: The Indian Data Protection Bill is strongly expected to be similar to the EU Data Protection Bill directive.

- **The adoption of the bill is now becoming urgent** to secure the transfer of data to India
- **The Data Security Council (DSCI), a self regulatory organisation, has to be implemented** to
  - Protect privacy and personal data
  - Enforce a code of ethics
  - Sanction any breach
  - Adopt the best global practices

*Outlook n° 6: Data transfer to India: a necessity to become a trusted sourcing destination by Denise Lebeau-Marianna from Baker & McKenzie*

### **3.2.2. Securing business deals by promoting Alternative Dispute Resolution (ADR)**

India has a strong tradition of mediation mechanisms: «Lok Adalat»/«Punchayat» are widely used in present-day India. Mediation and ADR are already accepted and practiced in India and it preserves the relationship and promotes mutual understanding.

An arbitration Act of 1996 is supportive of modern arbitration principles but is restricted in practice by the reluctance of Indian magistrates.

- **A reduction and a standardization of the role of the Indian judge are necessary at the different steps of arbitral proceedings** (constitution of the arbitral tribunal; enforcement of awards...)
- **International arbitration in India has to be promoted** by a training program aimed at young lawyers, under the auspices of EU and Indian Ministry of Justice. An « arbitration bar » could be created.
- **The development of Alternative Dispute Resolution (ADR) for commercial disputes could be encouraged.** A common EU-India conciliation and mediation centre taking into account the needs of business ventures. It could provide EU and Indian companies with a list of mutually accepted mediators.

*Outlook n° 7: Alternative Dispute Resolution: securing business in India by Isabelle Vaugon from Fidal*

### **3.2.3. Ensuring intellectual property protection in India**

India is member of various international treaties on Intellectual Property Rights (IPR) and has already a substantial legal framework to protect intellectual property



However, there is a wide variety of sectors concerned by IPR infringements because enforcement is not sufficient (piracy of copyrights and counterfeiting of trademarks, like pharmaceutical products, consumer durables or soft drinks...)

- **IP administration needs to be modernised.** For instance the awareness on counterfeiting and piracy has to be developed; the public officials could be trained to conduct raids and detection campaigns.
- **International cooperation programmes** with World Intellectual Property Organisation and EU must actively continue.
- **A single centralized body** could be created to coordinate IPR enforcement efforts by Indian states.
- **A specialized intellectual property court** could be established to handle both civil and criminal matters.

*Outlook n° 8: Intellectual property protection in India: a major concern for European companies by Denise Lebeau-Marianna from Baker & McKenzie*

## **4. Boosting and securing mutual investments**

### **4.1. Boosting investments from and into India by solving tax and regulatory issues**

In the field of tax and regulatory issues, PwC has provided a number of recommendations to boost inbound/outbound investments into/from India.

Three areas deserve particular attention here:

- **A mutual exemption from dividend withholding tax** (including the Indian Dividend Distribution Tax) should be considered in conditions similar to those agreed in the agreement between the EU and the Swiss Confederation. Indeed, taxation on the distribution of dividends between EU and India is particularly affected by the existing legislations of EU members' and of India.
- **In terms of free movement of capital, reorganizations such as mergers or the transfer of EU shares holding Indian companies should clearly not trigger additional taxation in India.**
- **Finance regulations should be modified.** For instance the setting up of financing companies for funding acquisitions in the EU should be allowed for Indian companies. And Indian regulations relating to foreign shareholders' loans should be relaxed.

*Outlook n° 9 and 10: Recommendations to boost outbound investments from India and Recommendations to boost inbound investments to India by Renaud Jouffroy and Jean Sayag from Landwell and Jayant Jain from PricewaterhouseCoopers*



## 4.2. Overcoming the difficulty of transfer pricing in India

Differences in the interpretation of transfer pricing guidelines may lead to double taxation situations. India is not a member of the OECD and does not follow its recommendations.

- **Common standards should be developed within a single work group.** India already participates in the work of the OECD's Committee on Fiscal Affairs and might take part in the work of the Joint Transfer Pricing Forum. This Forum seeks to encourage the uniformity and harmonization of Transfer Pricing rules within the EU.
- **Advance Pricing Arrangements ("APAs") could be adopted.** They provide tax certainty for intra-group transactions in at least one of the States involved in the intra-group flow.
- **An arbitration convention could be signed between the EU and India in order to guarantee the fiscal neutrality and economic security of cross-border transactions.** It would be modelled after multilateral convention 90/436, establishing:
  - An effective elimination of double taxations in the area of transfer pricing
  - A defined procedural time periods, limited to 3 years
  - Uniform tax provisions, to avoid the need to individually amend the tax treaties of each Member State

*Outlook n° 11: Transfer Pricing in India: Strengthening your bottom line by Nathalie Cordier from Fidal*

## 4.3. Harmonising tax treaties

A comparison of tax treaties concluded by India with several European countries reveals many important discrepancies.

A harmonization of the tax treaties with India within EU could lead to a better system.

- **A negotiation of a multilateral tax treaty between India and the EU members** could be considered instead of re-negotiating every national tax-treaty with India.
- **This negotiation could be included in the more global ACCIS project** (Assiette Commune Consolidée pour l'impôt des sociétés) consisting in a common consolidated tax basis within EU.
- **The generalization of a «most favoured nation» concept granted to each EU member could also be considered as a solution.**

Besides, the application of the tax treaties by the Indian authorities affects equally the investments of all European Member States.



- **Dysfunctions in the Indian application of the tax treaties could be reduced by**
  - A strict enforcement of the treaties
  - The clarification of the protocol dispositions

Outlook n° 12: *Difficulties of application of the OECD tax treaties in the context of relationship between European and Indian companies* by Albert Castro (bank Lazard) and Stéphanie Aufénil from Baker & McKenzie