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Foreign Investment in Coal Mining

Permitting 100% FDI in commercial coal mining is fraught with production and ecological risks.

The policy reform by the government now allows 100% foreign direct investment (FDI) under the automatic route for the sale of coal and for coal mining activities, including associated processing infrastructure subject to provisions of the Coal Mines (Special Provisions) Act, 2015 and the Mines and Minerals (Development and Regulation) Act, 1957, amended over time. Under the earlier policy, this was allowed only for captive consumption. Specifically, 100% FDI via the automatic route was allowed in coal and lignite mining for captive consumption by power, steel and cement units. Further, 100% FDI was allowed via the automatic route for the setting up of coal washeries. However, firms could sell washed coal only to those units that supply raw coal for processing and not in the open market. The changed policy regime, thus, allows foreign companies to extract coal for commercial purposes for sale in the open market and in "associated infrastructure" that include washeries, crushing, coal handling and separation.

The new policy regime governing the coal mining industry is of considerable significance due to several reasons. First, India has one of the largest reserves of coal, amounting to 286 billion tonnes. Coal mining in India, the third largest in the world, is an important industry that supplies the largest commercial source of primary energy. Coal, being a vital raw material, is mainly used by the power plants, and metallurgical and cement industries. Therefore, the industry plays a key role in the growth of the economy in general.

Second, India has been importing coal to meet its growing energy requirements, as domestic production by Coal India Ltd (CIL) has been unable to keep up with the demand for coal and also meet its production targets. Owing to insufficient supplies of coal, power plants had been operating below their installed capacity, necessitating imports to meet demand. But, imports of coal also had been made at a cost higher than the prices of domestic coal. In 2018–19, India imported 235 million tonnes of coal. It also spent about $8 billion on importing 125 million tonnes of coal for non-coastal thermal plants. The rising imports and higher prices in turn have had an adverse impact on the current account deficit. With the implementation of the liberalised policy enabling the entry of foreign coal mining companies, it is expected that domestic production would be augmented. It is also presumed to bring into India newer and efficient exploration technologies and methods for mining coal, especially high-end technology for underground mining used by global miners, which would also help in lowering costs.

Third, the policy would also enable the opening up of the industry to competition, which until now had been the monopoly of CIL, a public sector company. Only CIL could mine and sell coal in the country. Later, along with CIL, private and public sector companies with captive mines were allowed to mine and sell 25% of the coal in the open market. CIL, with a 70.96% government stake, produced over 83% of the coal in India in 2018–19, of which 81% catered to the needs of the power sector alone. To remain competitive, CIL, which is beset with the problems of low productivity, would therefore need to bring down its escalating operating costs.

Fourth, the new coal mining policy would also push forward the implementation of related policies such as those for auction and allocation of coal blocks, environment and forest clearances, land allocation, and so on. This is because the changed FDI norms alone may not meet the desired objectives of the policy. The entry of new companies would necessitate fast-tracking of approval processes in a time-bound manner to reduce uncertainties regarding regulations and clearances in order to avoid risks to production. This is because foreign firms usually avoid sectors in which the regulatory risks tend to be high, especially with regard to natural resources. These include risks involved in land acquisitions and other permits, which may prevent the entry of foreign firms.

Private investments in captive coal mines have been minimal due to risks to production. Entrants to the industry would have to acquire and develop new coal mines. This would lead to the need for a certain gestation period before the commencement of commercial operations that would also require large financial outlays. Additionally, bidding and environmental clearances, inadequate infrastructure, and issues regarding land availability would take time before 100% FDI in mining by new firms commences. Constraints on profitability could also discourage new entrants and investments.

However, from the perspective of sustainable development of natural resources there is a risk of creating imbalance in the environment and ecology that would be caused due to indiscriminate mining. Would the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which provides community rights over forest resources and other rules, be violated by states competing for foreign investments, further displacing and adversely affecting Adivasis and indigenous communities' livelihoods? Would the pursuit of foreign investments lead to a "race to the bottom"? To assuage such apprehensions and to further the larger objective of sustainable development, regulations and safeguards need to be strictly imposed on the mining firms so that they abide by environmental laws and regulations as well as health and safety norms for workers in mines.