



India: landslide election heralds optimistic business climate

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The unprecedented victory by Narendra Modi in the world's biggest democratic elections in India has created what can only be described as a wave of optimism, with many hoping that the country's economic and business climate will now take a similarly dramatic turn for the better.

Foreign investors are watching closely in the hope that the country's new Prime Minister is able to move swiftly to implement much needed change. This optimism isn't without foundation: there have already been promises to make India more investor friendly and resolve ongoing issues plaguing several foreign companies. Core supporters were amongst the business and enterprise classes, thanks to the visible changes achieved in the state of Gujarat where Modi was the Chief Minister for the last 12 years.

Akil Hirani, managing partner of Indian law firm Majmudar and Partners and Vice-Chair of the IBA Asia Pacific Regional Forum, said the Modi has already shown potential for turning the country back onto a growth path. 'Changes were achieved in Gujarat in terms of better roads, greater electricity connectivity and foreign investment. With a resounding majority, the government is well poised to bring about the same changes nationwide,' Hirani says.

The 'Modi Wave' was born out of widespread frustration at corruption scandals and India's inability to sustain growth. To show that Asia's third-largest economy is open for business and on the right track, action is needed quickly. 'Steps such as making the tax environment more friendly, working towards a time bound implementation of the Goods and Services Tax, cleaning up the balance sheets of state-owned banks, are needed initially,' says Hirani.

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‘The stock markets, though not a perfect barometer of real change, have displayed positive market sentiment. When the Union Budget is announced, it will be a bellwether for what is in store’

Vivek Kathpalia

Nishith Desai Associates, Mumbai; member of the IBA Asia Pacific Regional Forum

But there needs to be more than words and promises: movement in a consistent direction over a long period is vital for the country’s economic success. ‘Modi has specifically mentioned that governance needs to build further on what has already been built so far. Sustained economic progress is not feasible if inconsistent or even mutually opposing policies are adopted [...] Momentum for equitable development takes a long time to build in a country the size of India,’ says Devangshu Dutta, the Chief Executive of Indian management consultancy company Third Eyesight.

India’s tax battles against foreign companies have been attracting headlines and raising concerns with potential investors for some time: uncertainty about taxes and regulation in India has discouraged companies from expanding into the country. There are a considerable number of examples. Vodafone has been fighting a multi-billion tax bill through courts in connection with its 2007 purchase of the Hong Kong based Hutchinson Whampoa’s India operations. Nokia is another well-known case: the Finnish company is alleged to have wrongly claimed exemptions for software imports and is taking its legal challenge against a judgment of the Delhi High Court to India’s Supreme Court.

The list goes on: Royal Dutch Shell, General Electric and Microsoft are just few of the household names that are fighting tax cases in India.

Companies have now begun seeking assistance from bilateral pacts and pursuing international arbitration. But help may be on its way as Subramanian Swamy, widely expected to take a key policy role in the new government, announced recently that his top priority will be to change tax regulation, which experts agree could aid India’s return to economic growth.

‘They should repeal the retrospective amendment that was introduced after the Vodafone decision,’ says Vivek Kathpalia, partner at the Mumbai-based law firm Nishith



Narendra Modi, Indian Prime
Minister
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Desai Associates and a member of the IBA Asia Pacific Regional Forum. 'This will send a very positive message to the world that India is open for business and that there exists regulatory certainty.'

Kathpalia added: 'The other is the introduction of the Goods & Services Tax. The government has said that they will try and build a consensus for this amongst all the states of India. Once implemented, this alone will add around two per cent to India's GDP.'

India's new Government has promised it will try to create a level playing field for all investors by limiting bureaucracy. 'Modi's aim is to have more governance and less government, and to this end, he has reduced the number of ministries and ministers in his government. In addition, he seeks accountability, responsiveness and results from his team members, which will benefit everyone,' says Hirani.

India also needs more foreign direct investment (FDI). The previous government did introduce a slew of economical reforms, such as changes in the banking and retail sectors that were hailed as successes. But, in order to achieve a steady flow of FDI, the government needs to implement further reforms, and not just focus on the stock market performance. 'They have understood that for India to creep back to a growth rate of 8–10 per cent, development is the only solution,' says Kathpalia.

The new government's upcoming budget will be closely watched and may give indications of what's to come. 'The stock markets, though not a perfect barometer of real change, have displayed positive market sentiment,' says Kathpalia.