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'India'

On 19 February the Indian government clarified that supply-chain disruption due to spread of Covid-19 in China or other countries will be covered within the force majeure clause of any contract that includes one. Without this clarification, it is possible that the pandemic may not have been treated as a “natural calamity” event.

The upsurge of Covid-19 in India has disrupted activities in every sector including the judiciary. Indian courts have taken prompt measures to prevent a breakdown of the justice system. On 6 April the Supreme Court of India, directed that:

- (i) All high courts shall ensure the functioning of the judicial system through video conferencing (VC) technology.
- (ii) District courts in every state shall adopt VC technology prescribed by the appropriate high court.
- (iii) Courts shall make VC facilities available for those litigants who do not have access to these facilities, including appointment of lawyers as *amicus curiae* and making VC facility available to advocates.
- (iv) Arguments can be heard on the VC both during trial and appellate stages. However, evidence shall not be recorded using VC except with the mutual consent of the parties.

On 18 April the Department of Promotion of Industry and Internal Trade, in its Press Note 3 of 2020 (PN-3), announced that prior government approval would be required for foreign direct investment from an entity based in a country bordering India or if the owner of the beneficial interest is situated in or a citizen of such a country. The government's intention is to curb opportunistic takeovers and acquisitions of Indian companies during the pandemic.

Prior to PN-3, Chinese did not require prior approval, except in sensitive areas such as telecom, defense and national security. While existing Chinese investments will not be impacted. However, any fresh infusion of funds by Chinese businesses will require government approval. Equally, any transfer of stocks by existing shareholders to Chinese buyers or to entities whose beneficial holding may be held by entities in China, will also require government approval. At this stage it is unclear if Hong Kong will be treated differently insofar as this new policy is concerned.