Retail Market Update

Construction & Property Prospects 2004 Seminar

11 February 2004 - Orchard Hotel

By Mr Danny Yeo
Executive Director (Retail)
Knight Frank Pte Ltd

Building and Construction Authority

REDAS

Knight Frank

RETAIL MARKET UPDATE

REDAS Seminar
Wednesday, 11 February 2004

Delivered by

Danny Yeo, Executive Director
Knight Frank Singapore

Knight Frank Grubb & Ellis
Global Alliance

Outline of Presentation

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- Happenings in the Retail Market
- Looking Into 2004 and Beyond
- Conclusion

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Looking Into 2004 & Beyond

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- Potential Supply.
- Occupancy Rate.
- Rental & Price Index.
- Retail Sales Index (RSI) vs GDP.
- Retail Sales (Turnover) vs Retail Space Chart.
- Consumer Confidence – Singapore Market and Other Major Markets
- Which Way Is Our Retail Market Heading ?

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Happenings in the Retail Market

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- Department Stores As an Anchor Tenant ?
- Shopping Malls – Staying Relevant.
- Shopping Malls – Change in Ownership.
- Reserved Sites for Retail Development.

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Conclusion

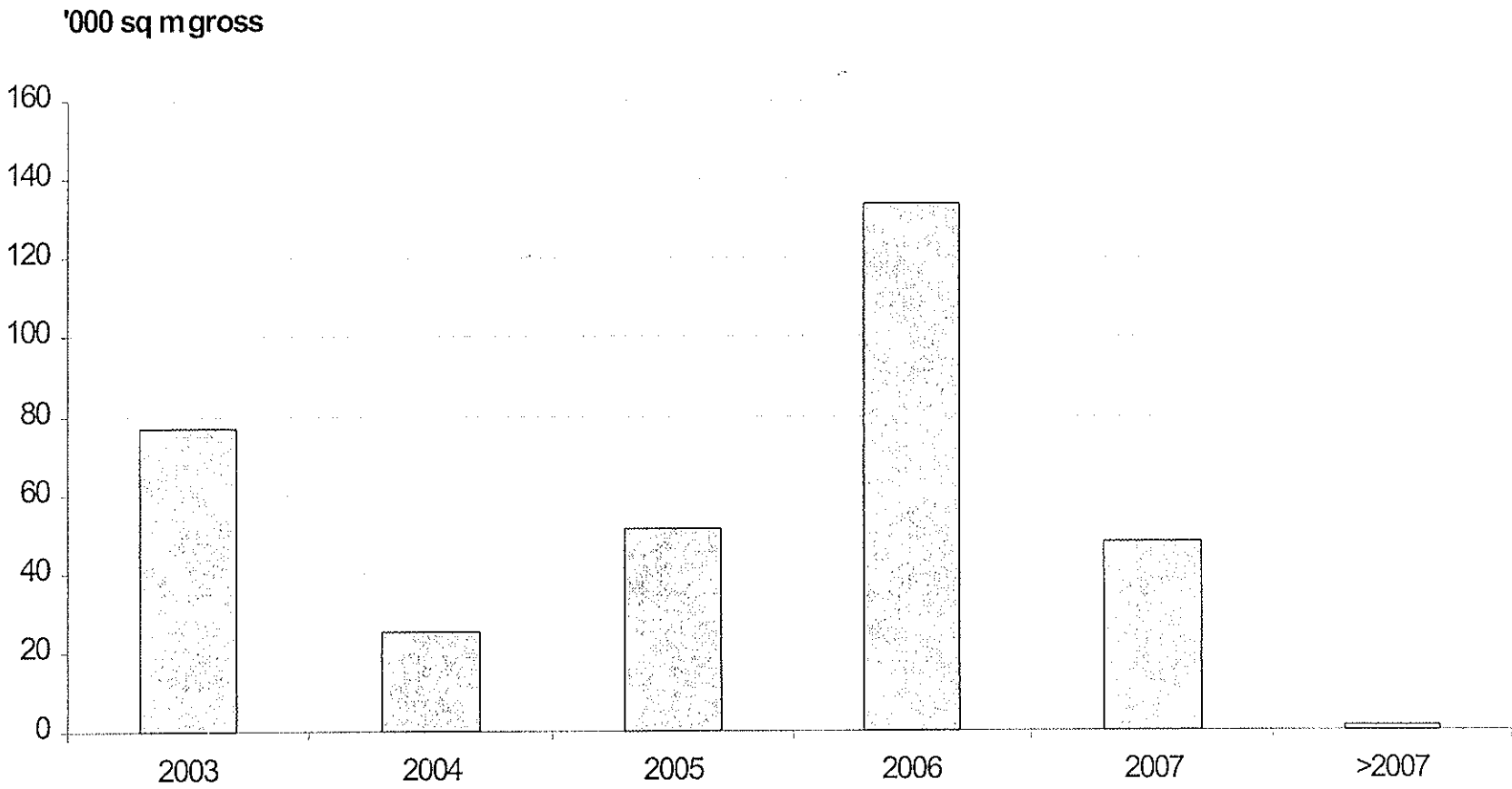
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- Will Commercial Strata-title Properties Be Suitable for Repositioning ?
- Is Singapore Ready for a Super Regional Mall ?

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Potential Supply

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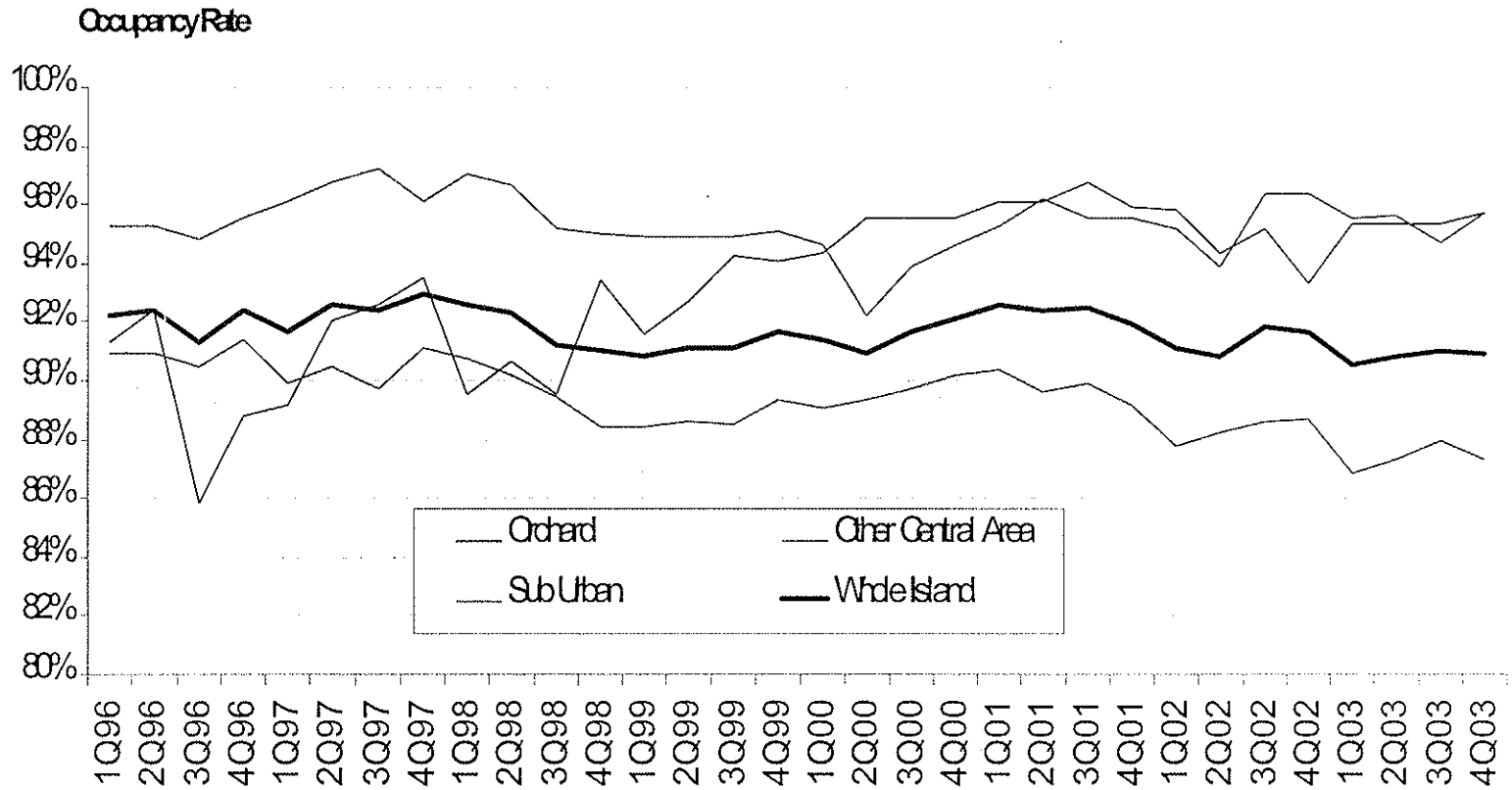


Source: URA

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Occupancy Rate of Retail Space



Source: URA

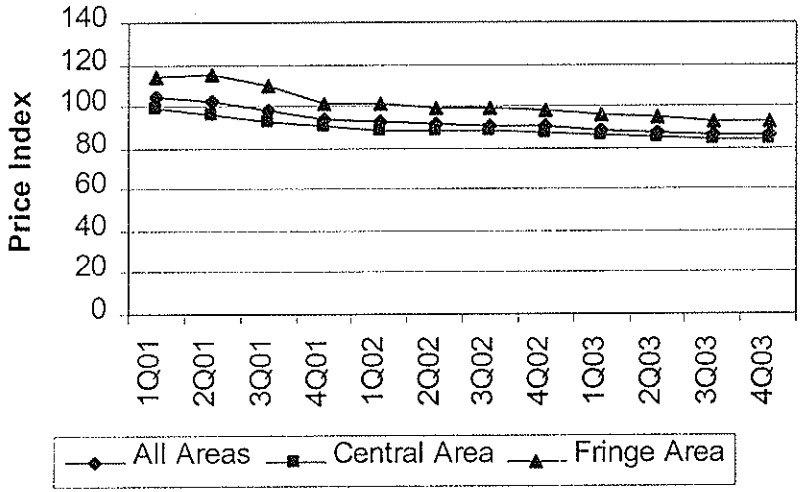
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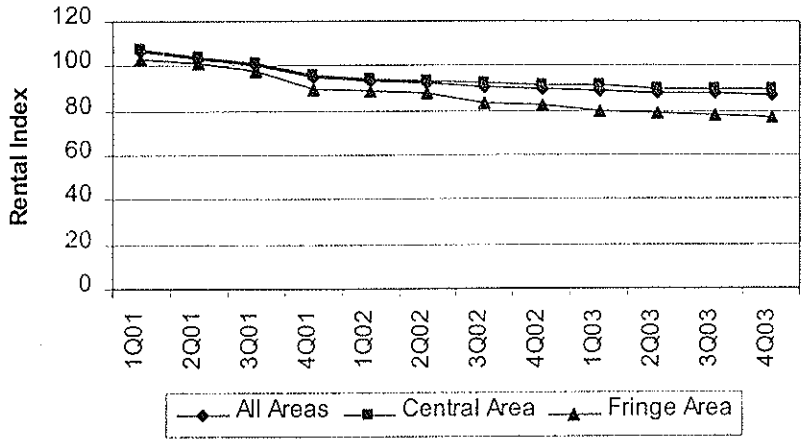
Price and Rental Index

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Price Trends of Retail Space



Rental Trends of Retail Space

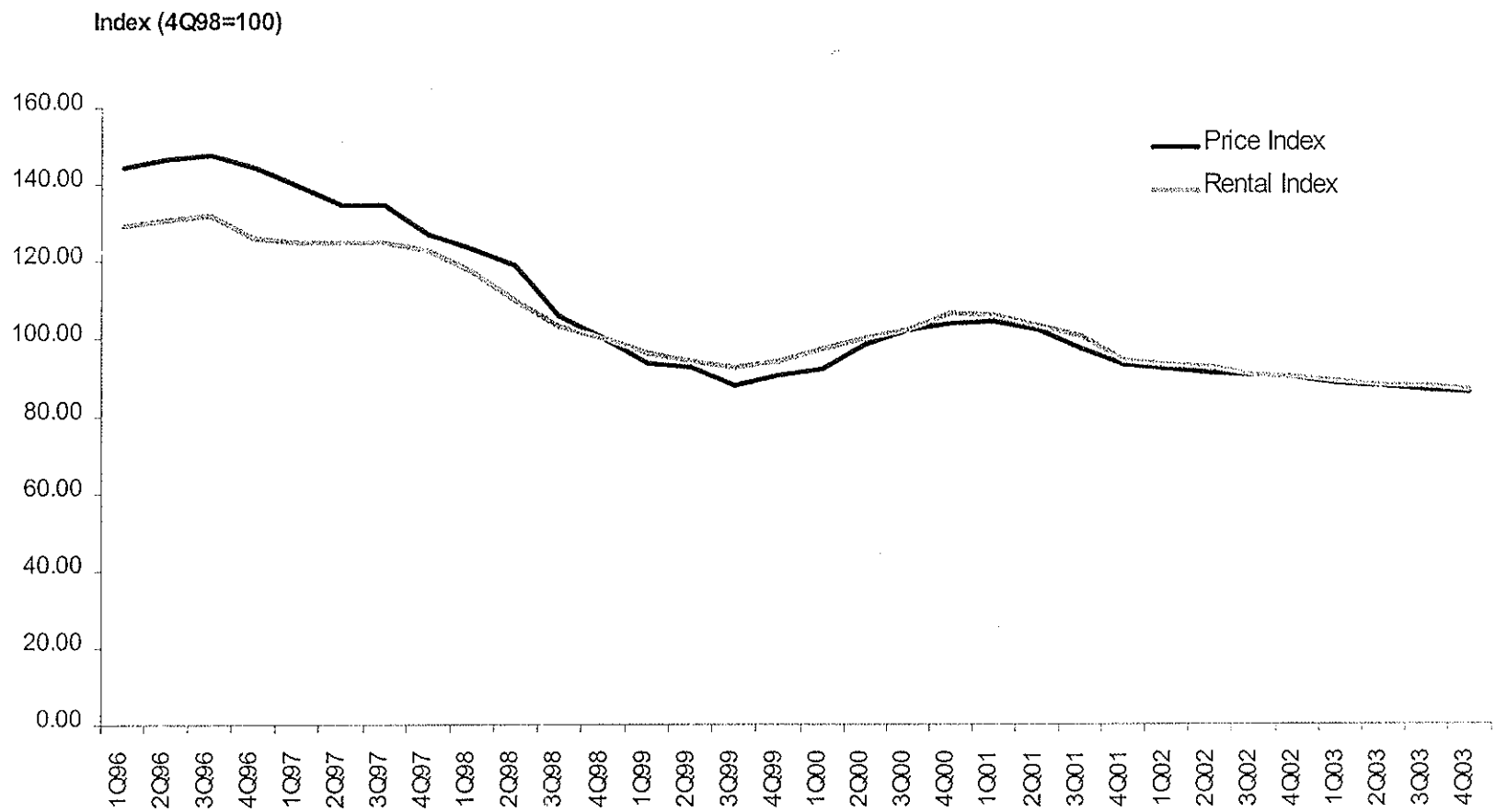


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Rental & Price Index

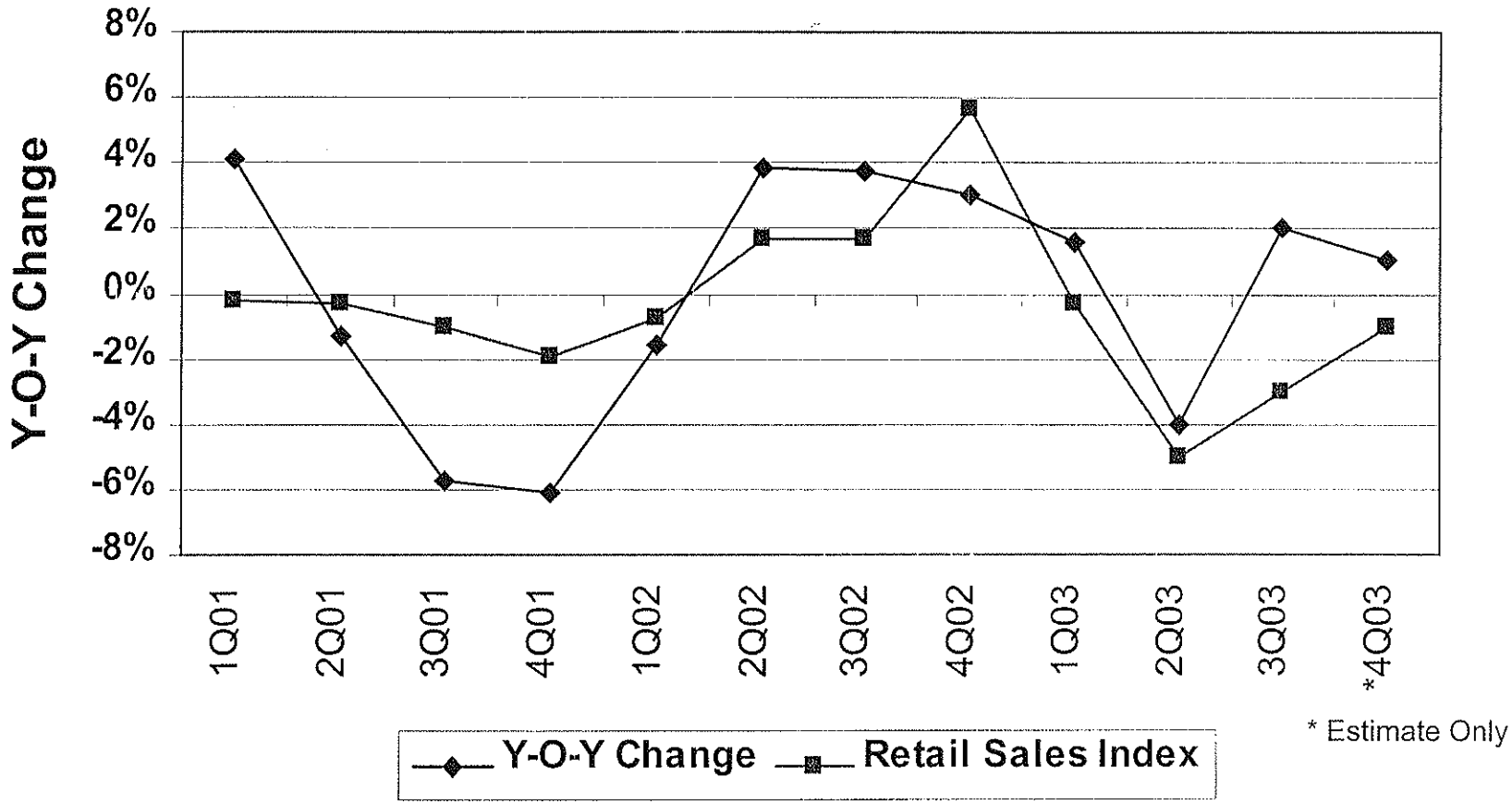
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Retail Sales Index vs GDP



* Estimate Only

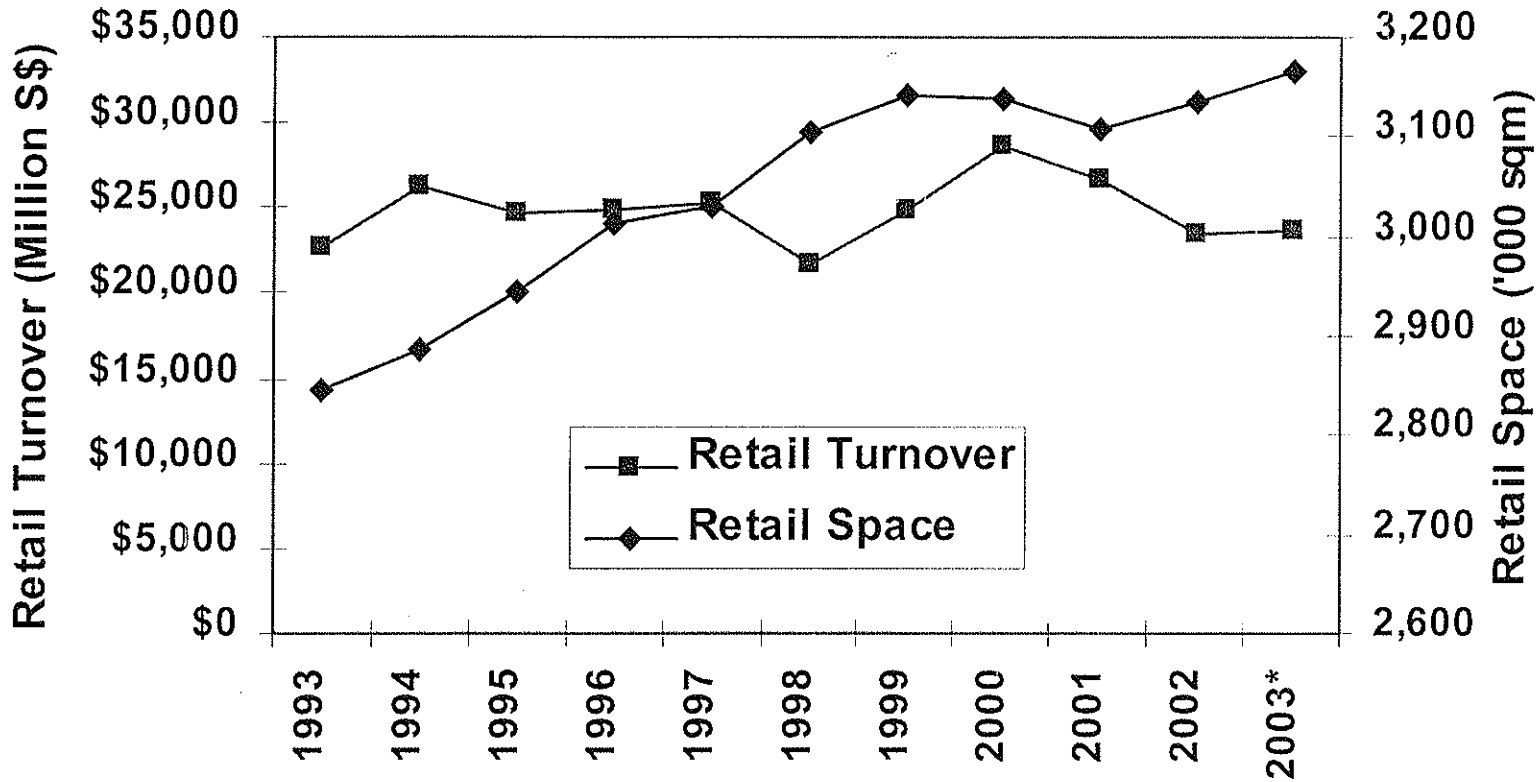
Source: URA

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Retail Sales (Turnover) vs Retail Space Chart

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* As at November 2003

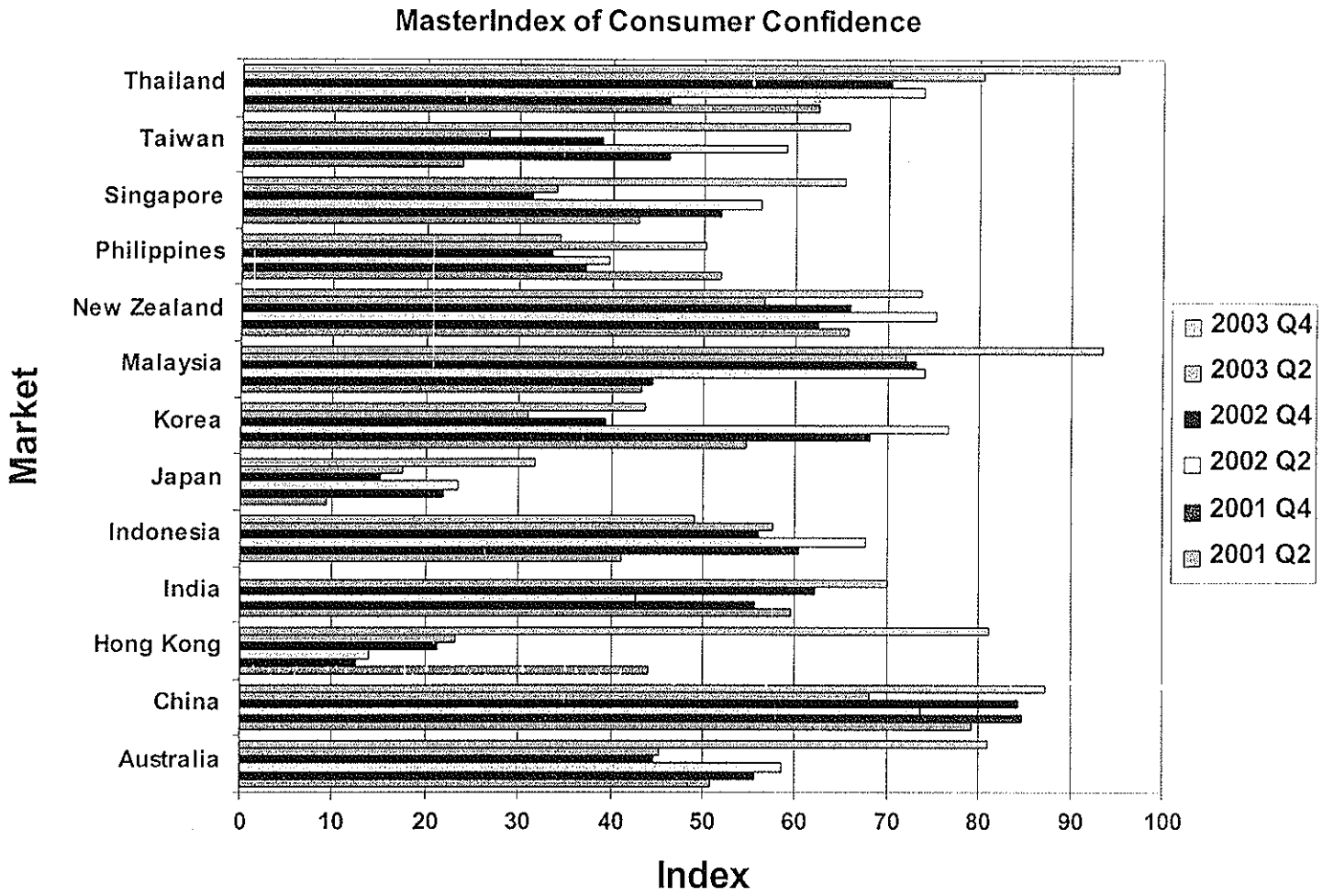
Source: URA

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Consumer Confidence

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Source : Business Times

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A Recovering Office Market?

Construction & Property Prospects 2004 Seminar

11 February 2004 - Orchard Hotel

By Mr Calvin Yeo
Director (Commercial Leasing)
Colliers International (Singapore) Pte Ltd

Building and Construction Authority

REDAS

A RECOVERING OFFICE MARKET?

Mr Calvin Yeo
Director of Commercial Leasing

11 February 2004

COLLIERS INTERNATIONAL

Agenda

- Office Market in the Last Decade
- Demand Indicators
- Supply In the Pipeline
- BFC & Regional Competitions
- Conclusion

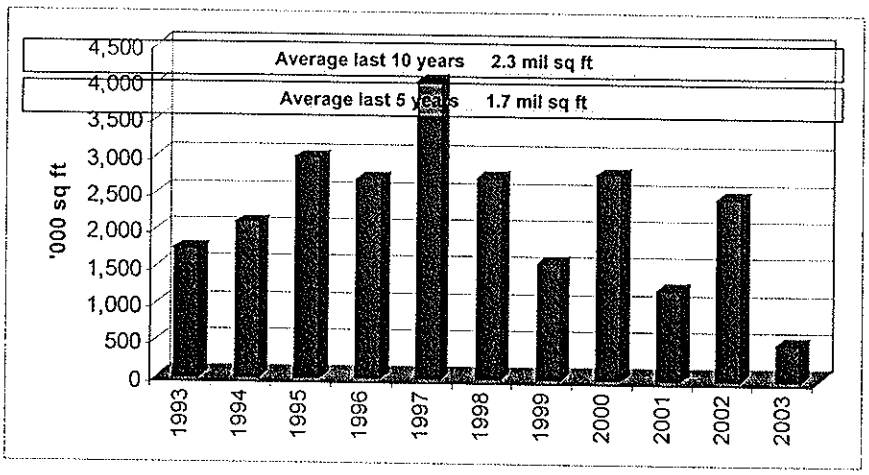


The Office Market

1993 - 2003

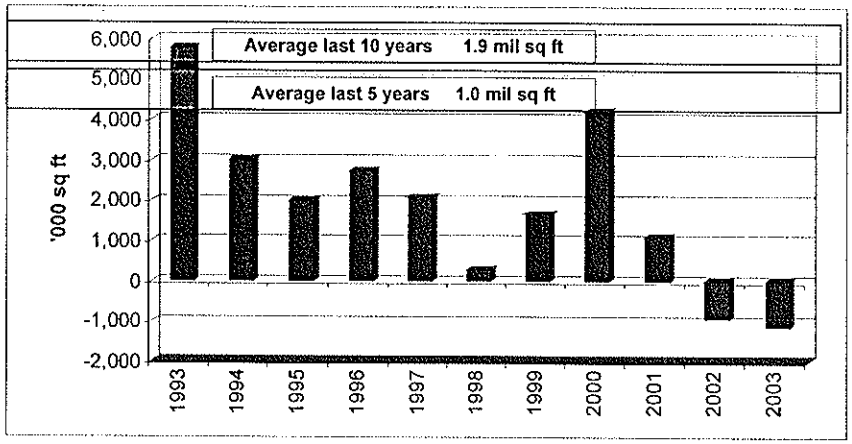


Net New Supply



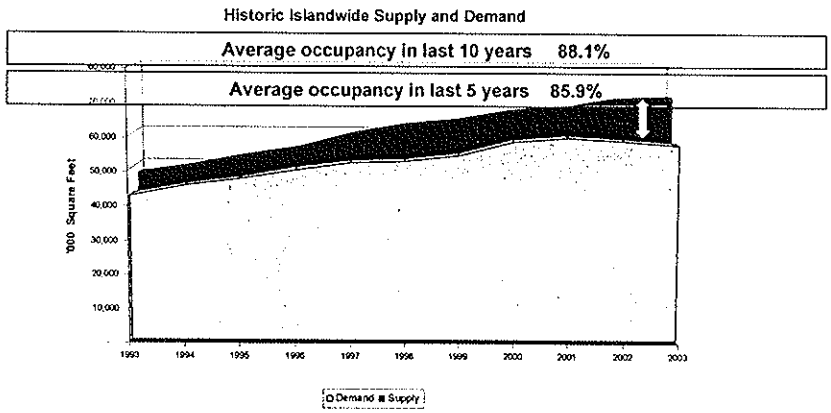
Source: Colliers International Singapore Research / URA

Net Absorption Rate



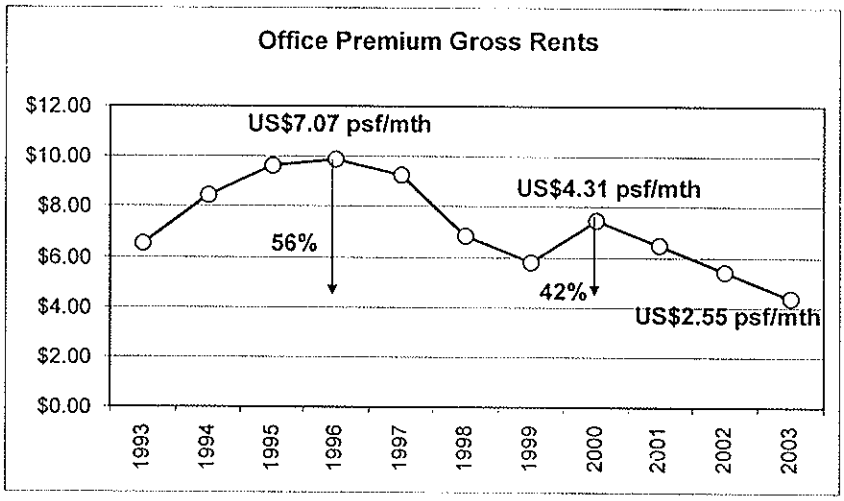
Source: Colliers International Singapore Research / URA

Occupancy Trend



Source: Colliers International Singapore Research / URA

Rental Trend



Source: Colliers International Singapore Research

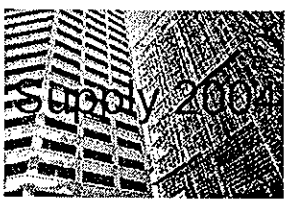
Where Are We?



70.2 mil sq ft



12.6 mil sq ft



0.8 mil sq ft

Where Are We Heading?

The Office Market

2004



Demand Indicators (GDP)

- **"We are looking at around 5.5% growth next year, which is above the government's estimate of 3% to 5%"**

  Source: IDEAglobal, ChannelNewsAsia

- **"ABN Amro predicted a high (GDP) expansion of 6.3%"**

  Source: The Straits Times, 6 January 2004

- **"A buoyant US economy and a sustained boom in China will cause world gross domestic product to grow 3.2% next year, up from 2.4%"**

  Source: Economist Intelligence Unit (EIU), BT, 17 December 2003

Demand Indicators (Hiring)

- **"In terms of job creation, a total of 16,900 new jobs are expected to be created ... nearly 6,200 new jobs from services."**

  Source: Economic Development Board

- **"The executive demand index (was) 144 in December 2003, more than double the 63 in December 2002 ... Hiring demand was fuelled largely by finance and management positions."**

  Source: EL Consult Singapore, BT, 7 January 2004

Demand Indicators (Hiring)

Which industries are hiring?

- **"I am talking to a lot of services sector people."**

  Roger Wilson, MD at Boyden

- **"We are definitely seeing an improvement in banking, finance, consumer (retail), marketing communications, advertising and a bit of an improvement in travel and tourism."**

  Stephanie Cross-Wilson, General manager at TMP/Hudson Global Resources

Source: The Edge, November 3, 2003

Tenant Survey - January 2004

Findings:

- Business Conditions
  - 81.4% expect business conditions to improve
  - 6.3% expect no change in business conditions
  - 2.3% expect business conditions to deteriorate
- Space Take-Up
  - 62.8% expect no change in space take-up
  - 25.6% expect to increase space take-up
  - 11.6% expect to decrease space take-up

Source: Colliers International Singapore Research

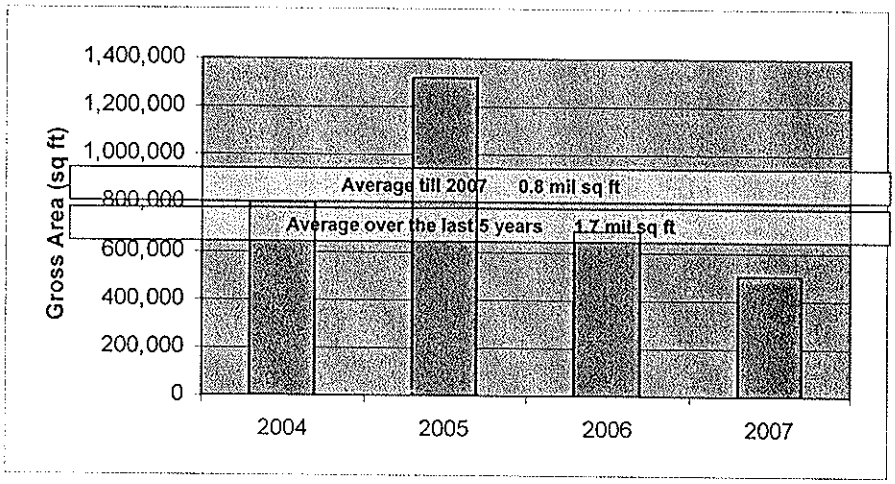
Tenant Survey - January 2004

Findings (cont'd):

- Reasons for not increasing office take-up
  - 34.9% currently occupying excess area
  - 23.3% improved productivity
  - 18.6% outsourcing or relocating

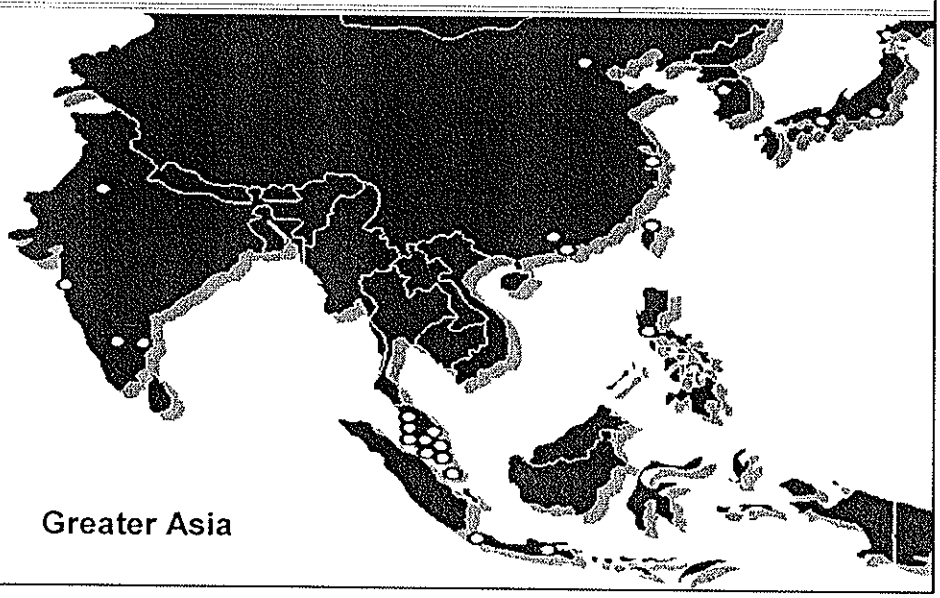
Source: Colliers International Singapore Research

Supply in the Pipeline



Source: Colliers International Singapore Research / URA

BFC & Regional Competition



BFC & Regional Competition

- **"Current office facilities may not be able to compete with those in other major cities in vying for big financial institutions – based on feedback culled by Mapletree." "Many bank activities nowadays are not necessarily location-sensitive. So they can be anywhere and you have to attract them with the strengths of your place."**

  Khoo Teng Chye, ex-CEO of Mapletree

BFC & Regional Competition

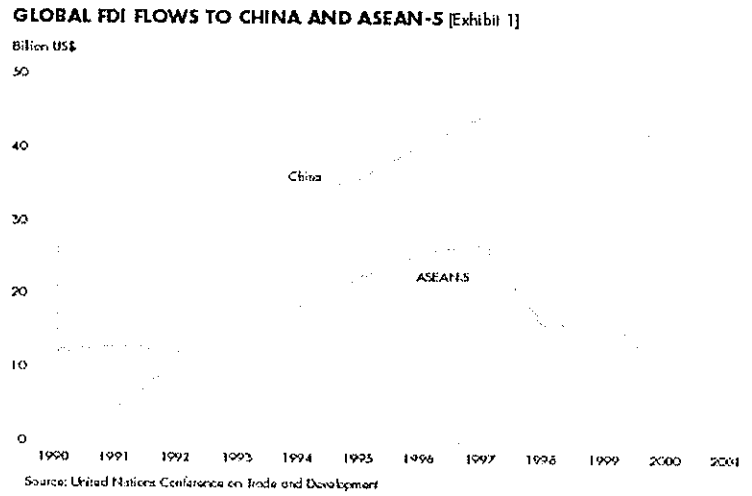
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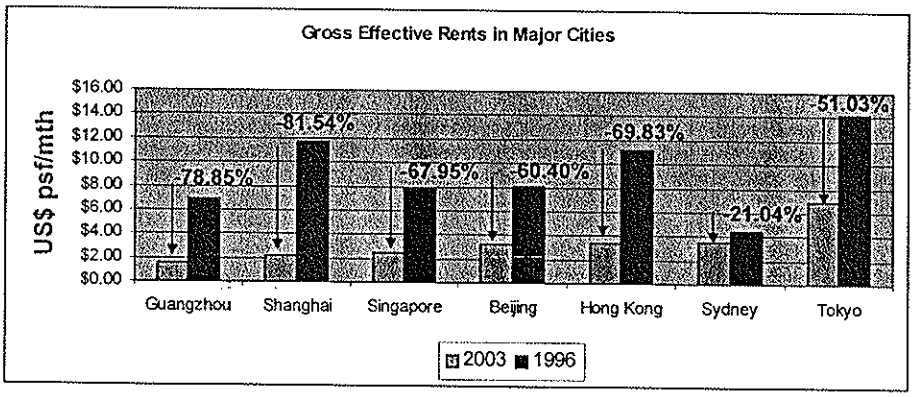
- **"Regional rivals including Shanghai, Seoul and Dubai are racing to build their own BFCs. I don't think we can afford to ignore this need. We want to make sure we are in the game and don't lose out."**

  National Development Minister, Mah Bow Tan

How Real is the Competition in the Region?



Regional Gross Effective Rents



Source: Colliers International Singapore Research

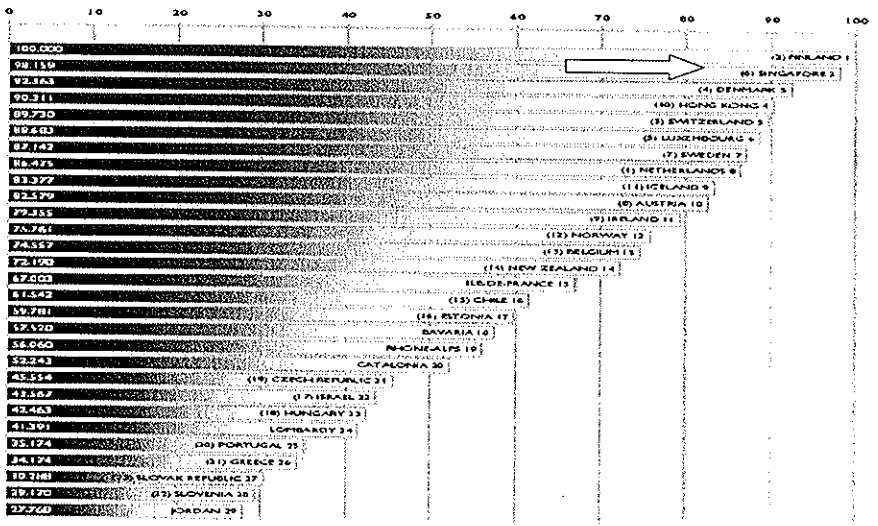
How Real is the Competition in the Region?

UNCTAD INWARD FDI PERFORMANCE INDEX [Exhibit 2]

	1988–1990		1998–2000	
Country	Value	Rank	Value	Rank
Singapore	13.8	1	2.2	18
Hong Kong	5.4	4	5.9	2
Malaysia	4.4	8	1.2	44
Thailand	2.6	25	1.3	41
Myanmar	1.9	36	0.6	82
Philippines	1.7	39	0.6	89
Vietnam	1.0	53	2.0	20
Taiwan	0.9	58	0.3	112
China	0.9	61	1.2	47
Indonesia	0.8	63	-0.6	138
South Korea	0.5	93	0.6	87
Japan	0.0	128	0.1	131
Asia	1.07	–	0.85	–

Source: World Investment Report 2002, UNCTAD

IMD World Competitiveness Yearbook 2003
(For Category – Population less than 20 million)



Conclusion

- Office market is at its lowest point in the last decade
- A promising recovery in the short term
- Longer term growth will depend on Singapore remaining competitive



Construction & Property Prospects

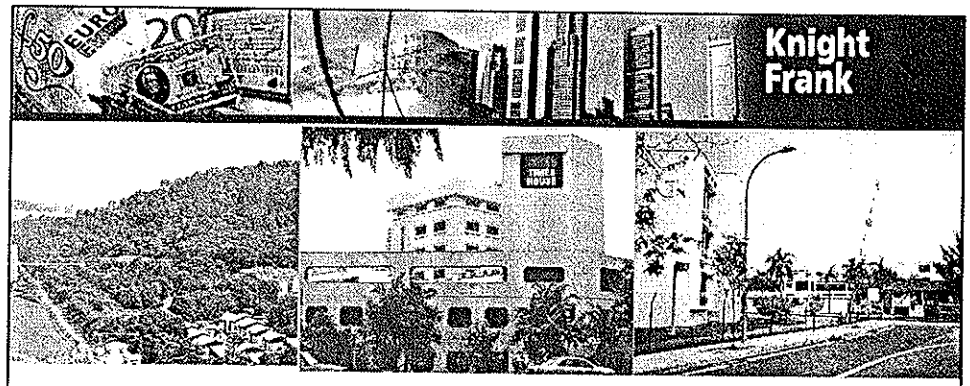
Real Estate Investment

11 February 2004 - Orchard Hotel

By Dr Amy Khor
Executive Director (Investment)
Knight Frank Pte Ltd

Building and Construction Authority

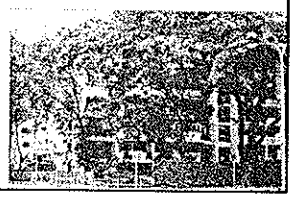
REDAS



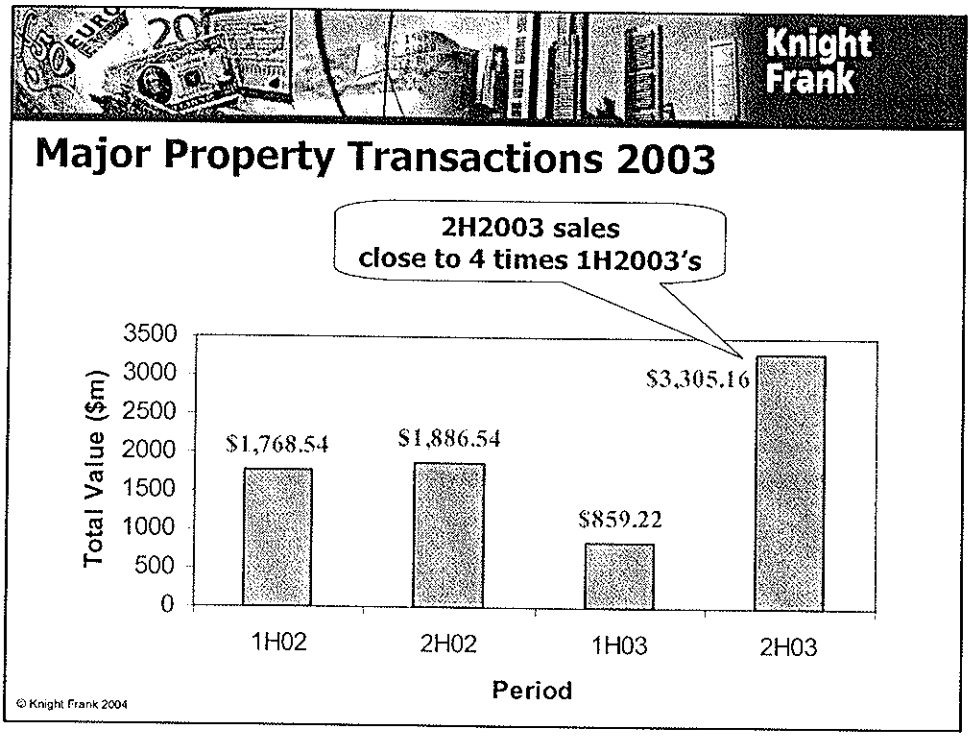
INVESTMENT SALES MARKET

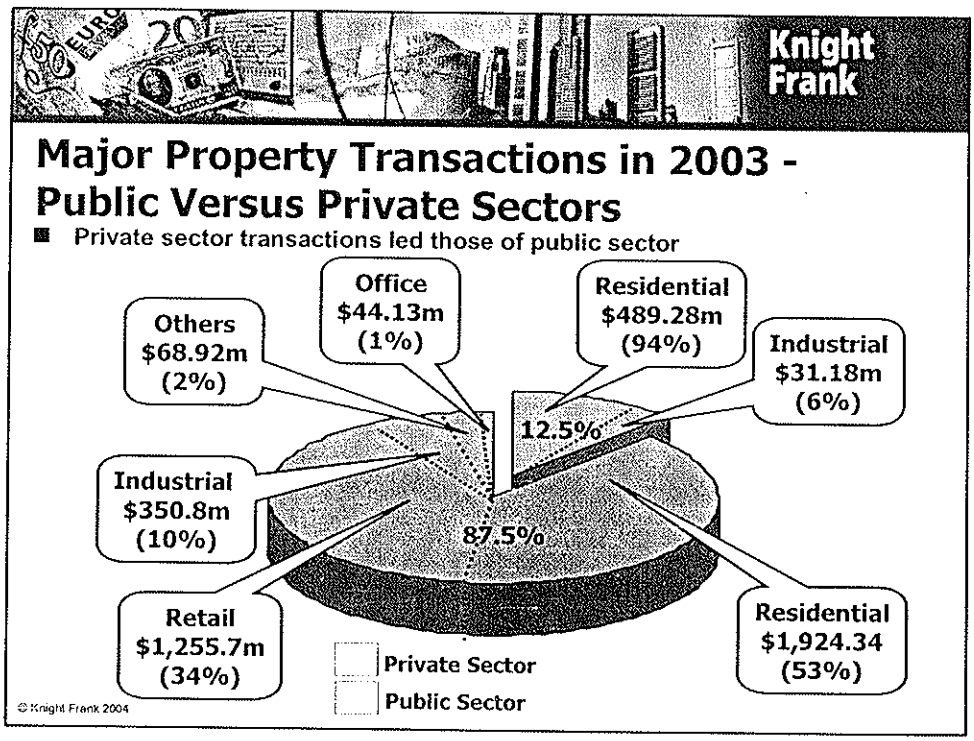


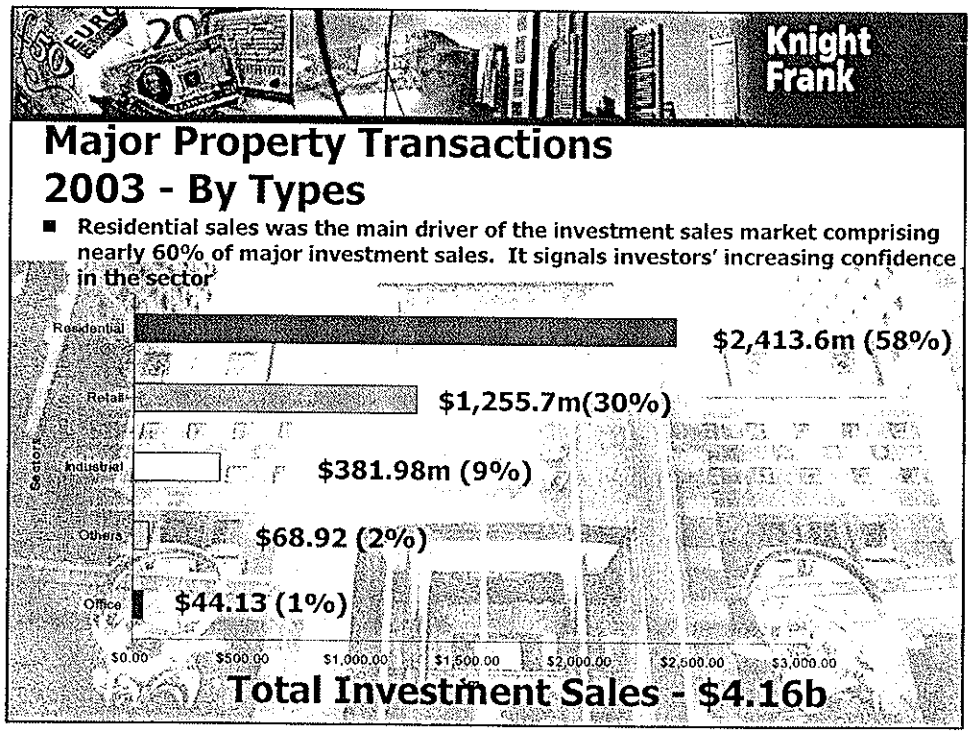
Dr Amy Khor
Executive Director
Investment Sales
Knight Frank Pte Ltd

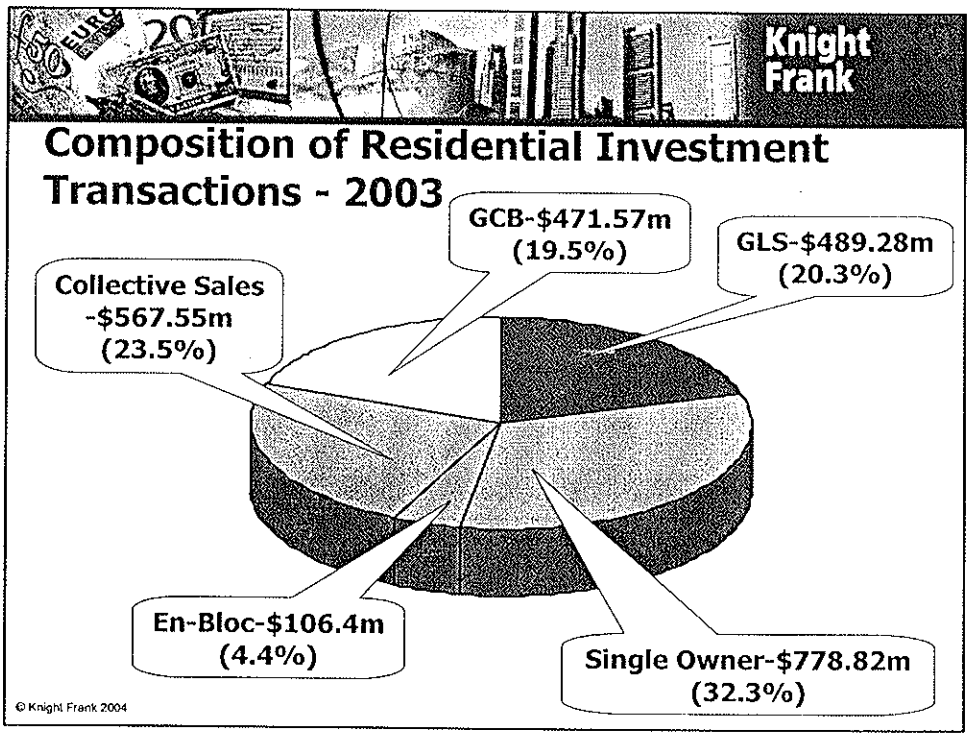


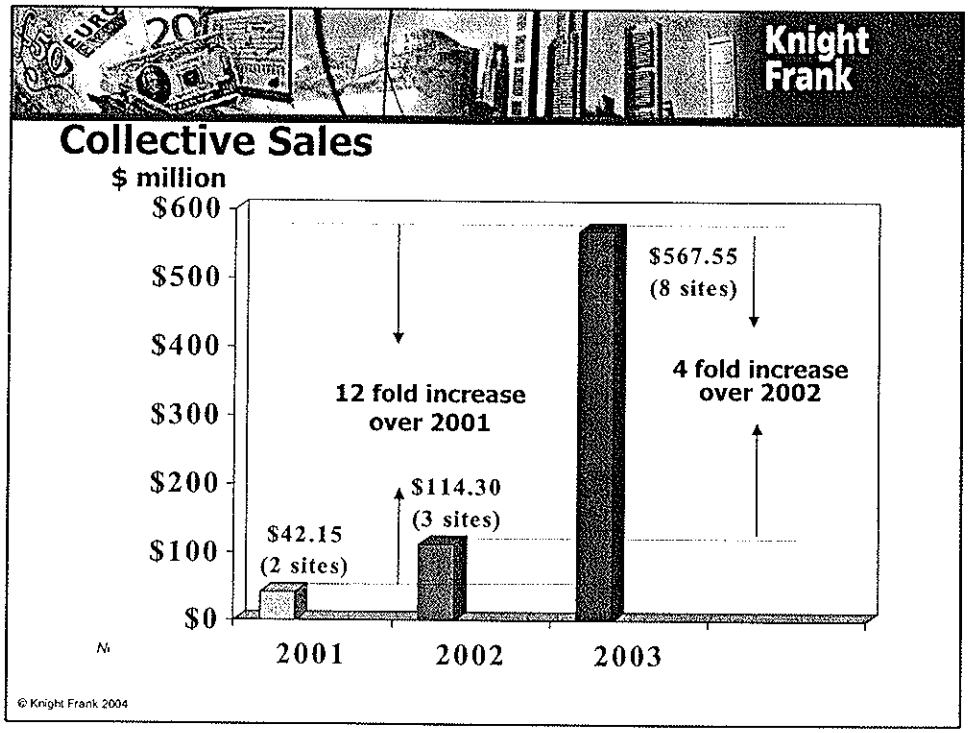


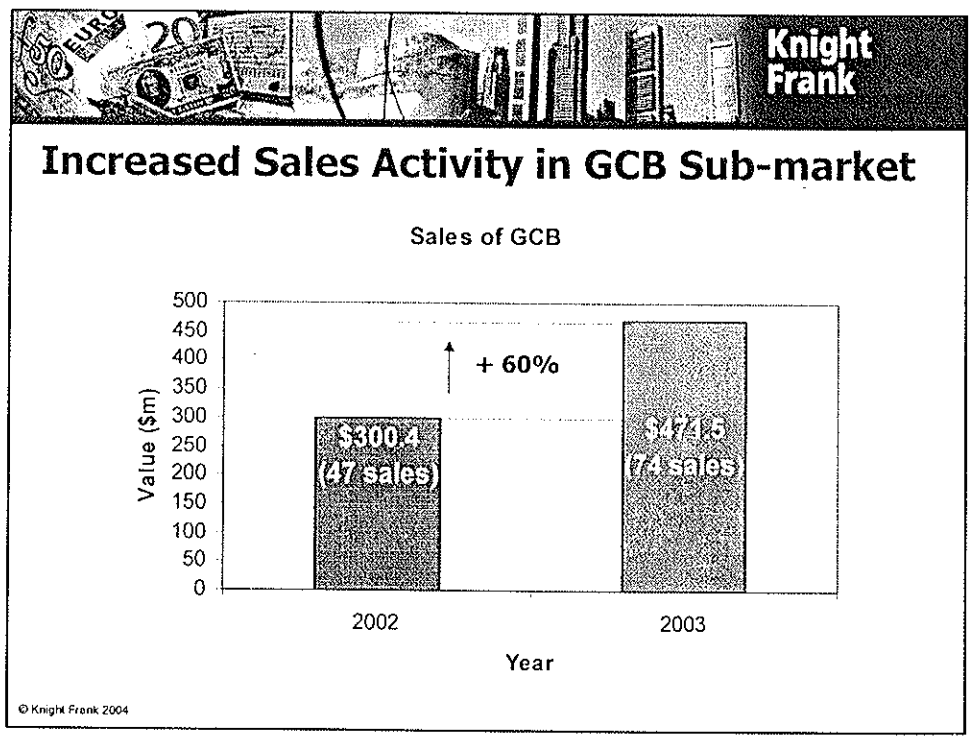

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Major Property Transactions 2003
2H2003 sales close to 4 times 1H2003's
Total Value ($m)
3500
3000
2500
2000
1500
1000
500
0
$1,768.54
$1,886.54
$859.22
$3,305.16
1H02
2H02
1H03
2H03
Period
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Knight Frank
Major Property Transactions in 2003 - Public Versus Private Sectors
Private sector transactions led those of public sector
Office $44.13m (1%)
Residential $489.28m (94%)
Others $68.92m (2%)
Industrial $31.18m (6%)
12.5%
Industrial $350.8m (10%)
87.5%
Retail $1,255.7m (34%)
Residential $1,924.34 (53%)
Private Sector
Public Sector
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Knight Frank
Major Property Transactions 2003 - By Types
Residential sales was the main driver of the investment sales market comprising nearly 60% of major investment sales. It signals investors' increasing confidence in the sector
Residential
$2,413.6m (58%)
Retail
$1,255.7m(30%)
Industrial
$381.98m (9%)
Others
$68.92 (2%)
Office
$44.13 (1%)
Sector
$0.00
$500.00
$1,000.00
$1,500.00
$2,000.00
$2,500.00
$3,000.00
Total Investment Sales - $4.16b


Knight Frank
Composition of Residential Investment Transactions - 2003
GCB-$471.57m (19.5%)
GLS-$489.28m (20.3%)
Collective Sales -$567.55m (23.5%)
En-Bloc-$106.4m (4.4%)
Single Owner-$778.82m (32.3%)
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Knight Frank
Collective Sales
$ million
$600
$500
$400
$300
$200
$100
$0
$42.15
(2 sites)
$114.30
(3 sites)
$567.55
(8 sites)
12 fold increase
over 2001
4 fold increase
over 2002
2001
2002
2003
© Knight Frank 2004


Knight Frank
Increased Sales Activity in GCB Sub-market
Sales of GCB
Value ($m)
500
450
400
350
300
250
200
150
100
50
0
+ 60%
$300.1
(47 sales)
$474.5
(74 sales)
2002
2003
Year
© Knight Frank 2004

Other Indicators

Site	Successful Bidders	Bid Price ($m)	$psf/GPR
Condo	Ho Bee Developments Pte Ltd	$109.88	$350
Terrace Parcel T12	Ho Bee Developments Pte Ltd	$5.44	$228
Terrace Parcel T13	Hai Leck Development Pte Ltd	$4.02	$238
	Highest Bidder	Bid Price ($m)	$psf/GPR
Terrace Parcel T14	Act Seaview Homes Pte Ltd	$7.34	$189

~~For tender closing Dec 2003~~

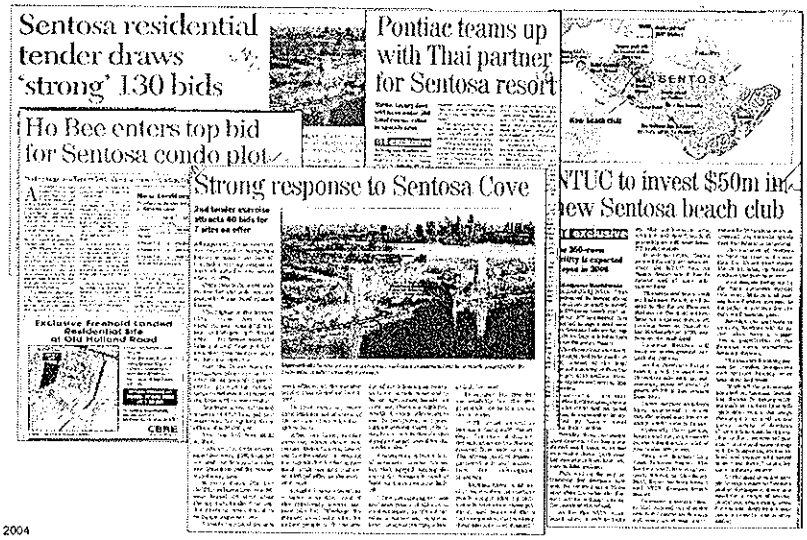
Bungalow plots – highest bids of $260 to $456 psf

~~For tender closing Feb 2004~~

Bungalow plots – highest bids kof $305 to $450 psf

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Response to Sentosa Cove



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Key Drivers of Residential Investment Sales Market in 2003

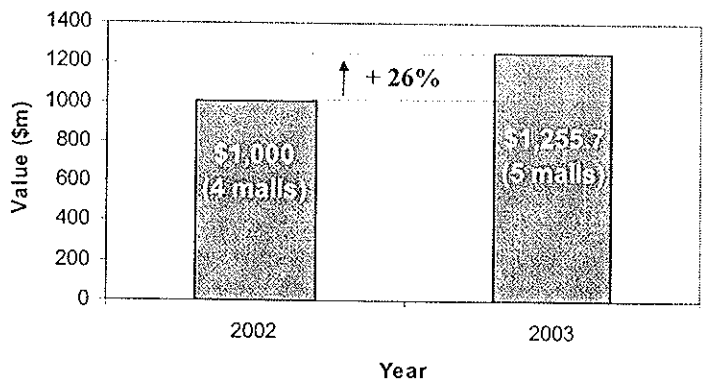
- Stock market rebound in 2H 2003
- Improved economic performance of major trading partners US and even Japan, leading to better local economic performance
- Improved business confidence
- Continued low interest rate environment
- Realistic expectations and asking prices

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Keen Investors' Competition for Well-Located Shopping Malls

Recent Sales of Retail Space



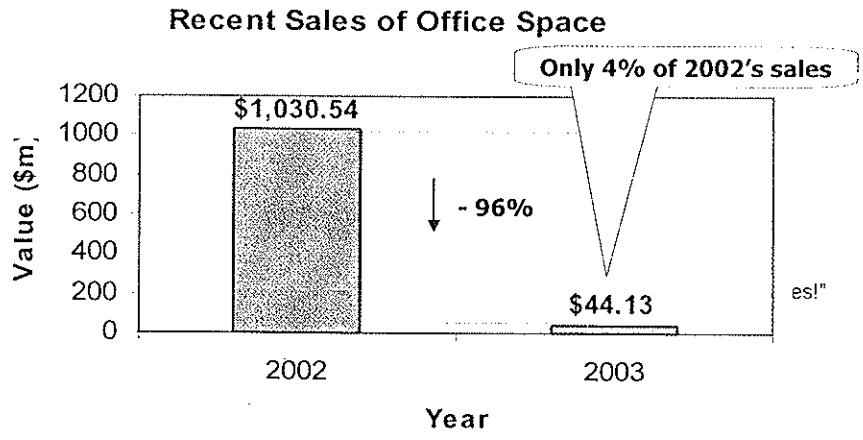
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Key Drivers for Retail Property Transactions

- Limited stock of well-located shopping malls especially sub-urban malls and prime malls in Orchard Road
- Limited new supply coming on-stream
- Highest yielding property asset class that is able to meet institutional investors' hurdle rate
- Entry of CapitalMall Trust and CapitalRetail

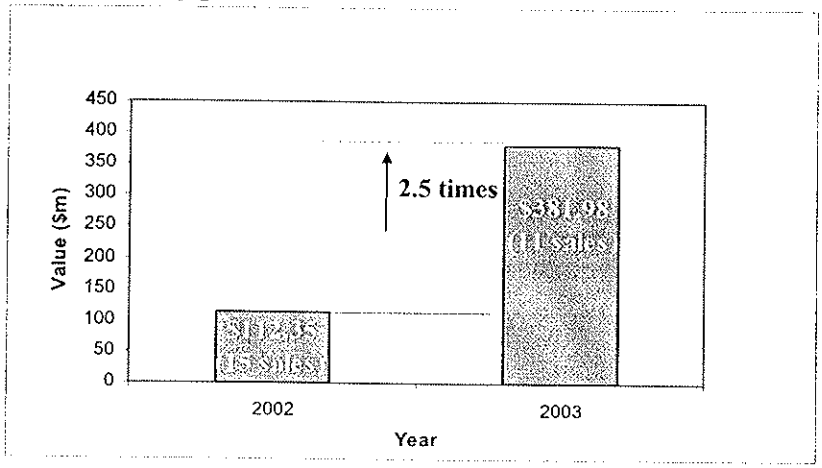
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Major Office Transactions: 2002 -2003



© Knight

Major Industrial Property Transactions : 2002 -2003



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Going Forward .....



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Brightening Economic Outlook

- Signs of strengthening US economy
- Japanese economy also appear to be on the mend
- 3% to 5% growth forecast for local economy
- Positive business confidence
- Lower unemployment rate
- Expectations of continued benign interest rate environment

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Brightening Economic Outlook

Significant job recovery seen later in the year

EYE ON THE ECONOMY

3-5% growth in 2004 within reach

Less damaging

EYE ON THE ECONOMY

Manufacturing index hits 3-year high in Dec

US economy on track to grow 4.4% this year

Singapore job market could recover in three months

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Investment Sales Market in 2004 (1)

- Investment sales market's performance contingent on better economic prospects and business expectations as well as performance of the end-purchaser market
- Residential sector likely to lead market's performance again

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Investment Sales Market in 2004 (2)

- Further astute purchases of residential land from both private sector and the GLS programme
- Investment interest in retail development should remain strong
- Highly selective opportunistic buying in the office and industrial markets

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Future Investment Landscape

- To Reit or not to Reit?
- More innovative deals via capital markets
- Business Financial Centre (BFC) - Will investors/developers bite?
- Pensions Funds - Deepening of Market ???

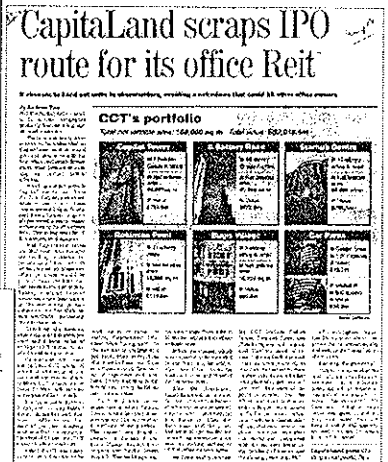
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Fortune Reit looking at 2 more HK malls

A-Reit boosts portfolio with $50m deal

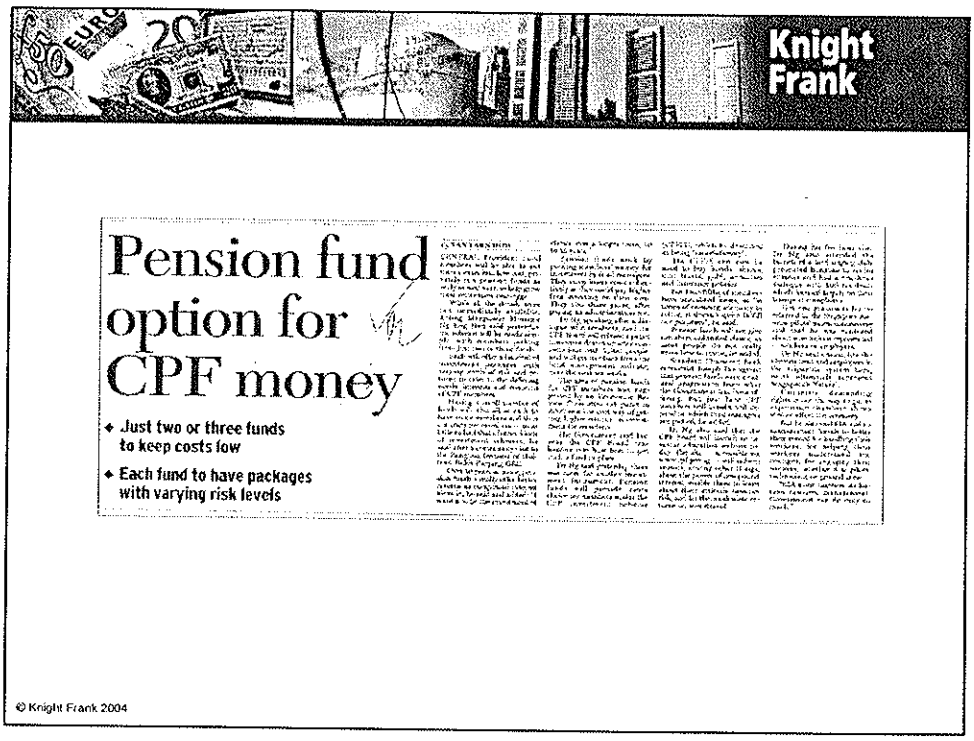
CapitaLand may expand Singapore property trust


CapitaLand scraps IPO route for its office Reit

CCT's portfolio

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BFC launch may be delayed further: consultants
Release of Marina Bay office site delayed — again
Worried about glut, landlords glad that prime site's release is postponed a second time due to uncertain economy
All eyes on BFC sales launch
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Knight Frank
Pension fund option for CPF money
Just two or three funds to keep costs low
Each fund to have packages with varying risk levels
© Knight Frank 2004



ahead ?

THANK YOU

Regional Property Markets: Roar of the Tigers

Construction & Property Prospects

2004 Seminar

11 February 2004 - Orchard Hotel

By Mr Tay Kah Poh
Executive Director (Consultancy & Research)
Knight Frank Pte Ltd

Building and Construction Authority

REDAS



REDAS Construction & Prospects Update 2004

Tigers Roaring...Again?

Prospects For
Selected ASEAN Markets

Orchard Hotel

12 February 2004

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SE Asia: Horrid Past 7 Years

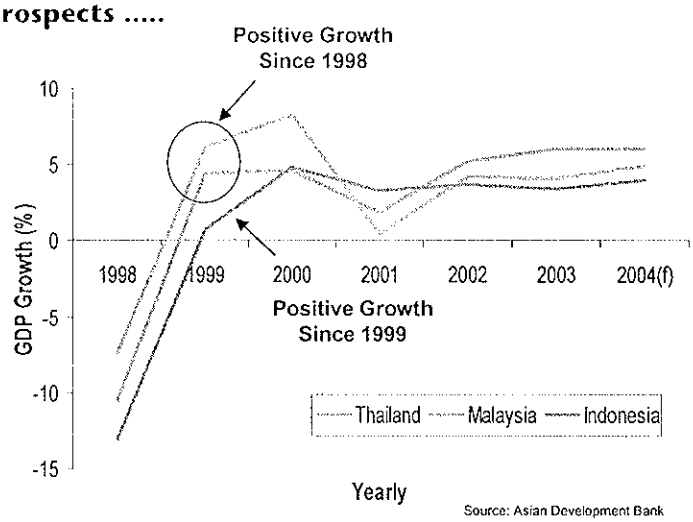
- Battered by 1997 Asian crisis - currencies weakened
- IMF-imposed discipline, creating social unrest
- Twin terrors - Islamic militancy & SARS
- Internal strife
- BUT NOW THEY ARE SENDING OUT THE RIGHT SIGNALS.....

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Good Growth Prospects .....

ADB forecasts

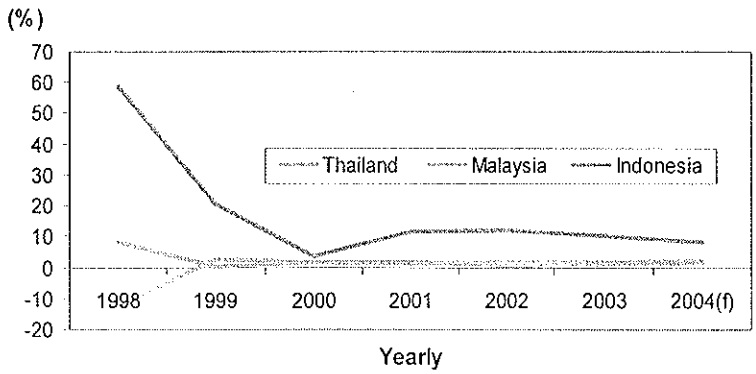
- 6% for Thailand
- 5.1% for Malaysia
- 4% for Indonesia



Source: Asian Development Bank

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Inflation Easing.....

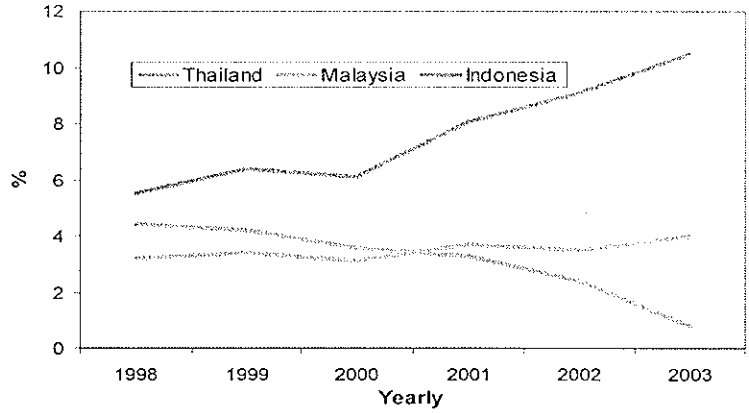


Source: Asian Development Bank

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Unemployment Rate falling (except in Indonesia).....

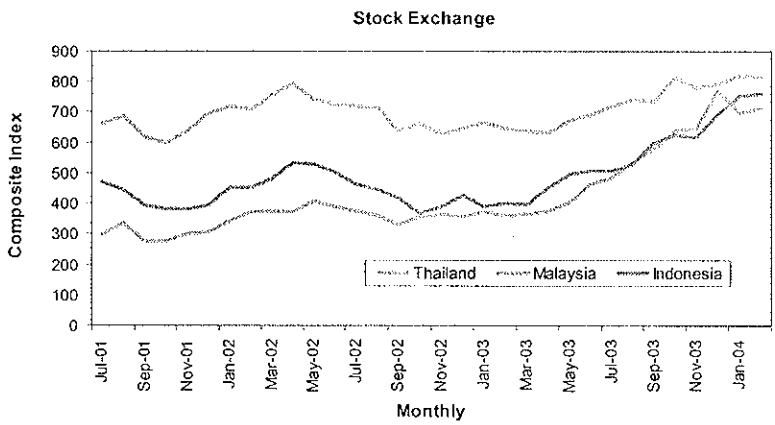


Source: EIU Forecast (2003)

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Stock Market Reflecting The Mood.....



Source: Yahoo Finance

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Beyond The Economic Numbers -- A Huge Consumer Base In Each Country

- Malaysia – 25 million
- Thailand – 60 million
- Indonesia – 144 million

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Thailand

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Thailand : What's Going Right?

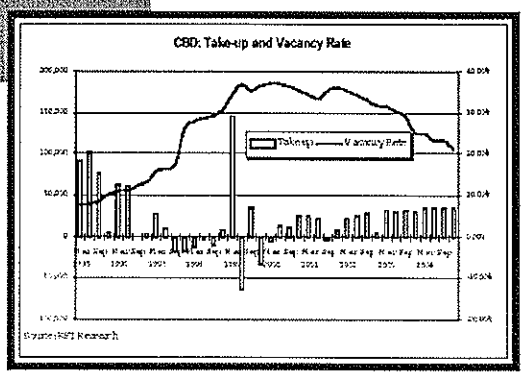


- Pro-business "CEO" Thaksin
- On-going restructuring of Corporate & banking sectors
- Banking & automotive industries growing strongly
- Strengthening Baht
- Strong domestic consumption
- Residential, serviced apartments, retail, resort projects are all doing well

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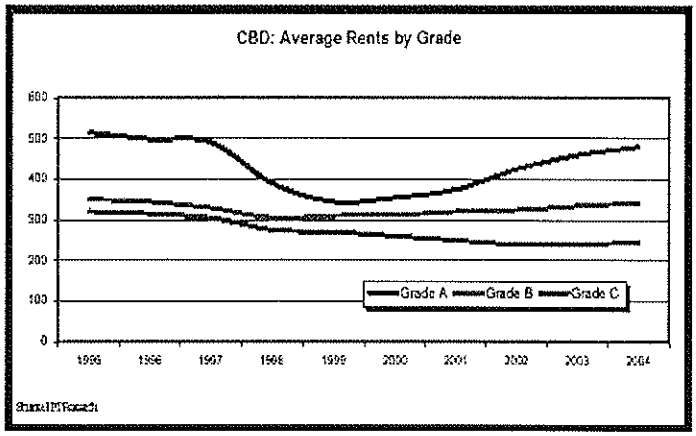
Bangkok Office Sector

- Decline in vacancy rate, especially Grade A
- Limited new supply
- Expansion of existing tenants



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Bangkok Office Sector: Improving Rental Rates



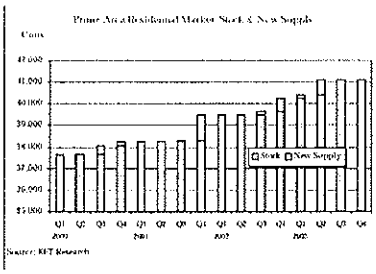
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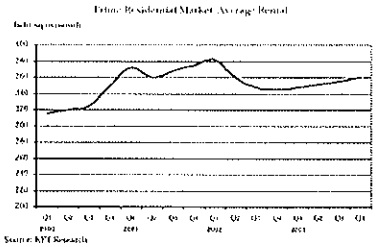
Retail Sector

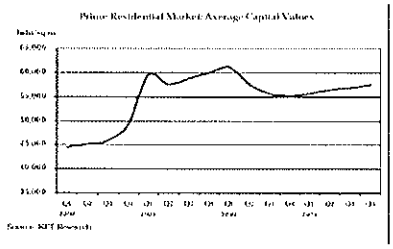
- Limited new supply
- Domestic consumption boosted by low interest rates, and improved economic outlook
- Discount stores & hypermarkets growing rapidly
- Vacancy rate ↓ as consumer sentiment continues to improve.

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Residential Sector







Detached house and condominiums sales expanding 30-35% in 2003

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Challenges that lie ahead.....

- Foreign property investors - Thai laws limiting purchase of land and access to cheap funding
- Balance of payments has improved, but foreign debt as a % of GDP remains high.
- Bird flu and its impact on government
- NEVERTHELESS, 2004 SHOULD BE A GOOD YEAR FOR PROPERTY

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Malaysia

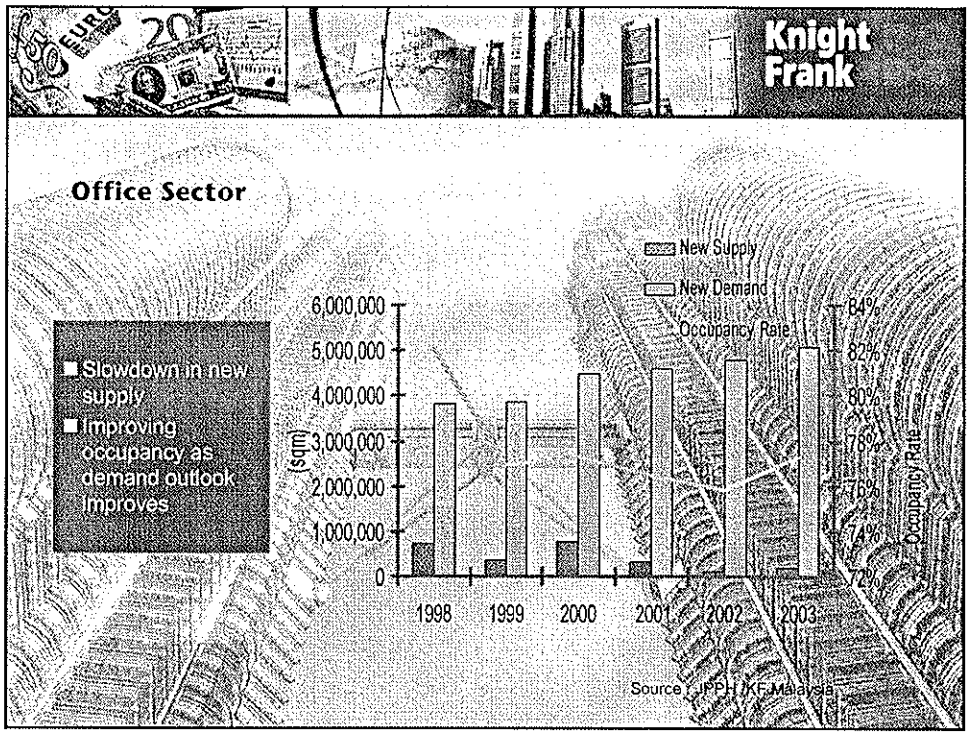
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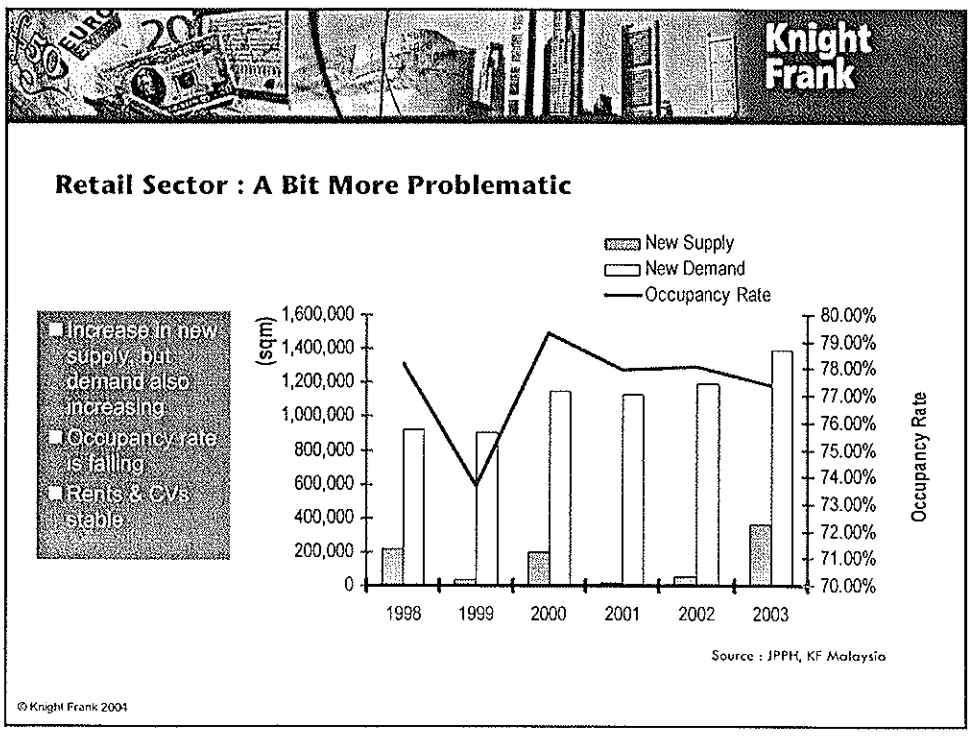


Malaysia: Moving More To Moderation

- Smooth political transition so far & high expectations from new PM
- Greater corporate transparency - cronyism is out
- Greater focus on economic fundamentals (e.g. agriculture sector) and less on mega projects
- Low interest rates & housing loan competition

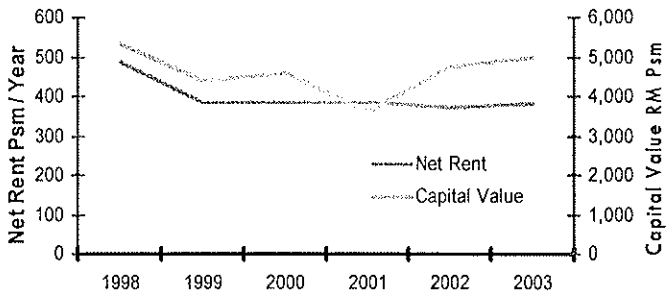
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Knight Frank
Office Sector
Slowdown in new supply
Improving occupancy as demand outlook improves
New Supply
New Demand
Occupancy Rate
(sqm)
Occupancy Rate
6,000,000
5,000,000
4,000,000
3,000,000
2,000,000
1,000,000
0
84%
82%
80%
78%
76%
74%
72%
1998
1999
2000
2001
2002
2003
Source : JPPH, KF Malaysia


Knight Frank
Retail Sector : A Bit More Problematic
Increase in new supply, but demand also increasing
Occupancy rate is falling
Rents & CVs stable
New Supply
New Demand
Occupancy Rate
(sqm)
Occupancy Rate
1,600,000
1,400,000
1,200,000
1,000,000
800,000
600,000
400,000
200,000
0
80.00%
79.00%
78.00%
77.00%
76.00%
75.00%
74.00%
73.00%
72.00%
71.00%
70.00%
1998
1999
2000
2001
2002
2003
Source : JPPH, KF Malaysia
© Knight Frank 2004

Residential Sector

- Capital values increasing
- Net rents holding firm
- Increasing volumes from govt measures to boost demand, e.g lowering of eligible prices for foreigners



Source : JPPH / KF Malaysia

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Risk Factors

- Possibility of a divisive and damaging power struggle within UMNO
- Adherence to fixed exchange rate against US$ significantly restricts the flexibility of economic policy
- Malaysia vulnerable if there was serious unrest in Indonesia producing a large-scale exodus from the archipelago

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Indonesia

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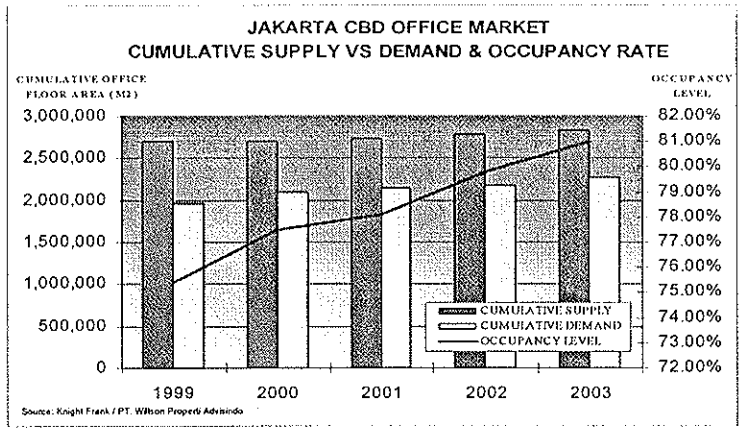


Indonesia: A Nation In Transition

- Indonesia will not renew IMF funding arrangement upon expiry in December 2003
- Reducing budget deficit
- Conducive interest rate environment
- Rupiah appreciation and stable food prices
- Privatisation on-going, with fairly strong foreign interest

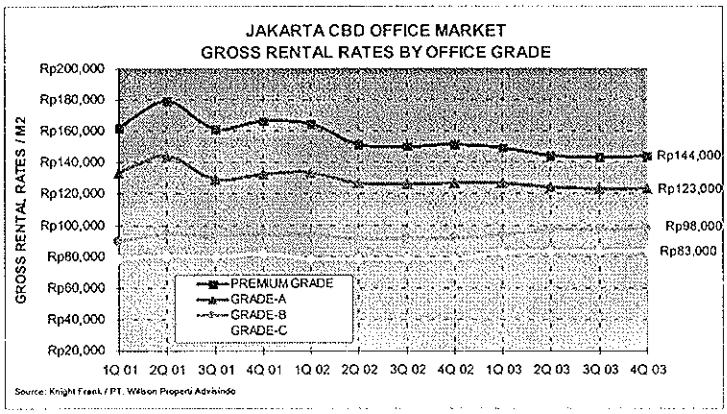
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Greater Jakarta Office Sector



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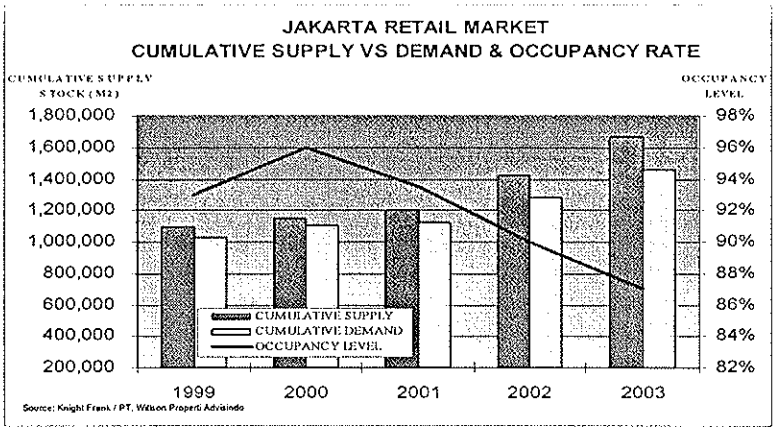
Jakarta CBD Office : Rents Stable



- Despite the strengthening of Rupiah rate, premium grade offices still charge floating US$ rental rates

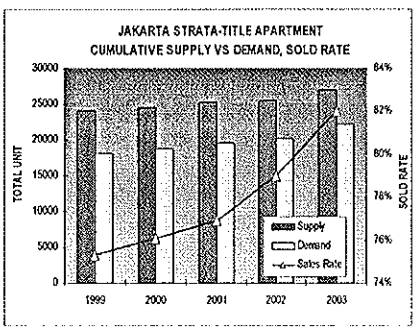
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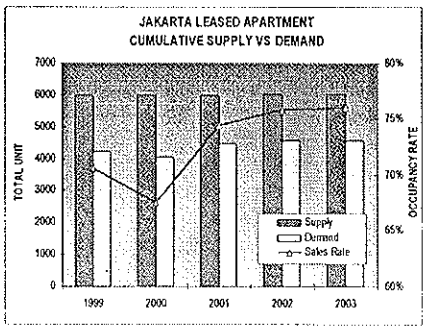
Greater Jakarta Retail



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Greater Jakarta Residential





Source: Knight Frank / PT Willson Properti Advisindo / PricewaterhouseCoopers

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Risk Factors

- Unemployment is still at around 15% -- social consequences
- Real sector growth is still stagnant, trade and investment recovery is slow, because of political uncertainties (legislative elections in April & presidential elections in June)
- Still some excesses in the economy

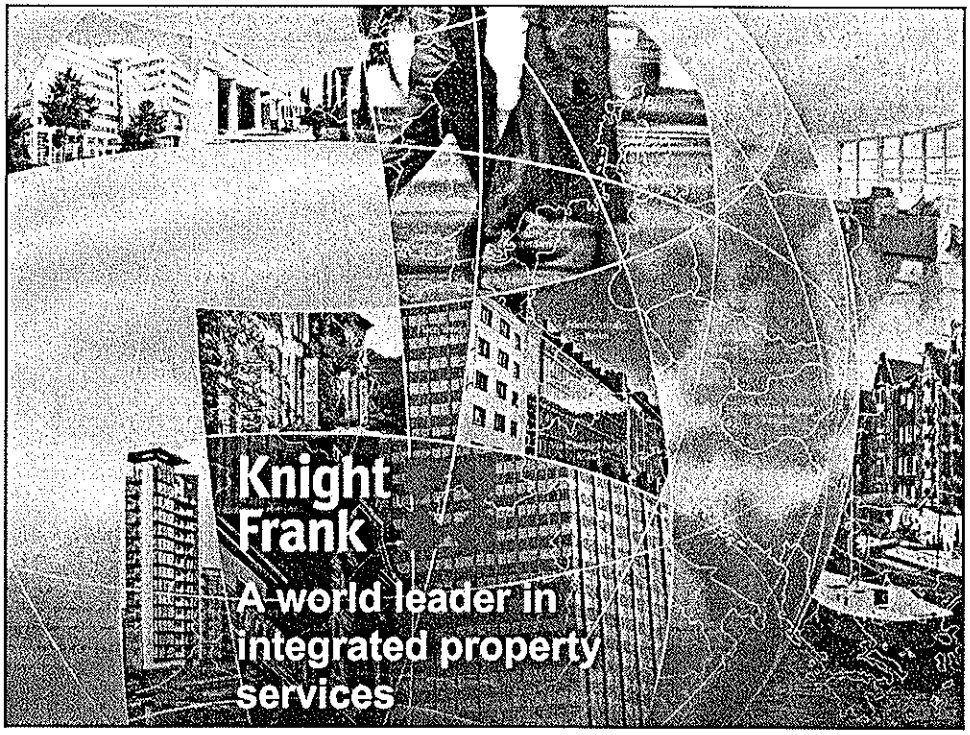
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The Sum of the Matter

- China and India – whirlpool sucking investments and getting attention from all over the world
- Opportunities in our own backyard – ASEAN
- Still risky, especially in Indonesia, but prospects decidedly better now
- Thailand and Malaysia – promising
- Watch out for the ASEAN Tigers roaring again!

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services

Construction Prospects 2004

Construction & Property Prospects 2004 Seminar

11 February 2004 - Orchard Hotel

By Mr Low Chin Min
Director
Building and Construction Authority

Building and Construction Authority

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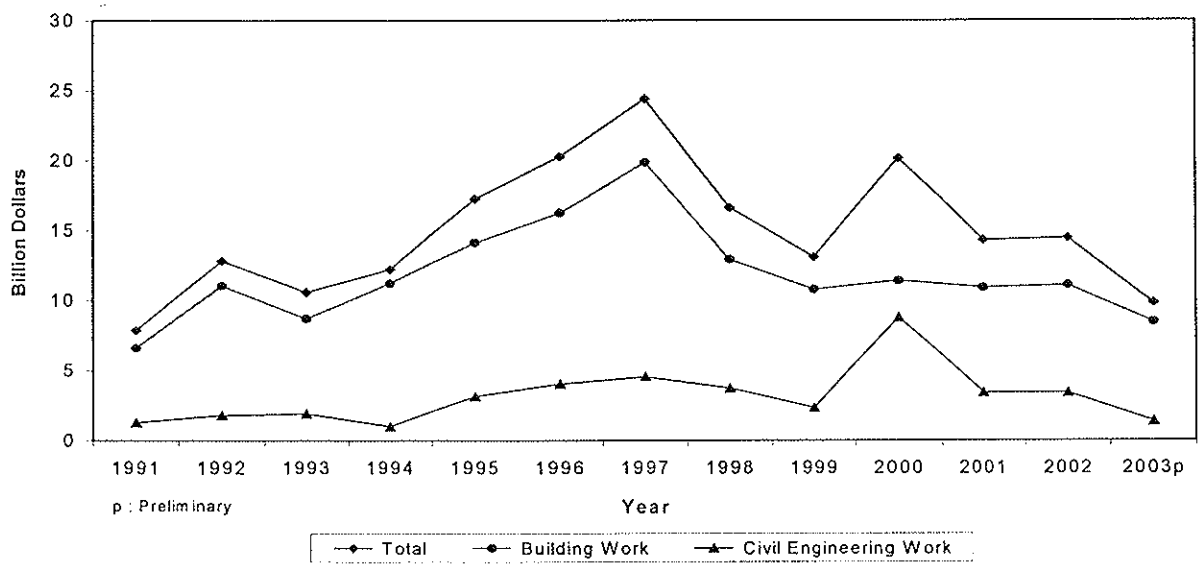
SINGAPORE CONSTRUCTION PROSPECTS 2004

By
Mr Low Chin Min
Director
Business Development Division
Building and Construction Authority

CONSTRUCTION DEMAND REVIEW FOR 2003

1. The growth of construction demand in 2002 could not be sustained in 2003 (Chart 1). Our preliminary estimate for the total contract value in 2003 is about $10 billion[1] (see Annex), which is weaker than the earlier projected $11-$12 billion and also the lowest in the last decade. This was largely due to the slowdown in property developments resulting from a weak economy hit by the effects of the Iraq war, SARS outbreak as well as unfavourable global conditions in the first half of 2003. The awarding of a few major projects was also delayed as a result.

Chart 1: Construction Demand, 1991-2003



Public Sector

2. Total value of public sector construction orders in 2003 was $5.3 billion, a 45% year-on-year decrease from the 2002 value. Both building and

[1] All currencies stated in this paper are in nominal Singapore dollars unless stated otherwise.

infrastructure developments slowed down with fewer projects being awarded last year. The public sector's share of construction projects (in terms of total contract value awarded) also decreased from 67% in 2002 to 53% in 2003.

Building Projects

3. $4.1 billion worth of building projects were awarded by the public sector in 2003, a drop of 36%. Except for public housing construction orders, demand for all other types of building developments recorded negative growth, with industrial building developments showing the biggest decline of 65%.

4. The total contract value of public housing construction orders had stayed at around $1 billion per year for the last three years. In 2003, various HDB upgrading projects (such as the main and interim upgrading, and lift upgrading projects) constituted about half of the total public housing construction orders. In addition, a few new and redevelopment public housing projects were also awarded in Punggol, Geylang and Sengkang.

5. Following the positive growth in 2002, construction orders for public sector commercial developments in 2003 returned to the 1999 and 2000 level of about $130 million. Food center upgrading projects formed the bulk of retail developments. Government office construction orders were largely due to two major upgrading projects at Environment Building and MAS Building.

6. Industrial building construction orders dropped to $600 million, slightly more than a third of 2002's level. The industrial building construction demand in 2003 was largely contributed by a few M&E contracts by PUB for the Changi Water Reclamation Plant. Due to the supply glut of industrial space in the market, JTC's flatted factories, in particular, experienced the highest termination (in terms of floor space) by tenants last year. Consequently, JTC put off new conventional industrial developments in 2003 and focused mainly on the construction of the basement of Fusionpolis at One-North.

7. Construction orders for institutional and other buildings declined to a more sustainable level at $2.3 billion in 2003, 32% lower than the record high in 2002 (which resulted from the award of Changi Airport Passenger Terminal 3). A few significant projects were awarded during 2003, for example CAAS's upgrading of the Changi Airport Passenger Terminal 2. The fifth polytechnic, the Republic Polytechnic at Woodlands, was also awarded. Other major institutional projects awarded included the Law Enforcement Academy and its training village, SCDF's Basic Rescue Training Centre, History Museum redevelopment and a new Jurong West sport complex.

Civil Engineering Projects

8. Civil engineering construction has been an important pillar in the construction industry, as well as the Singapore economy. Despite the slowdown in awards to $1.2 billion in 2003, a few crucial contracts were awarded to strengthen the infrastructure in Singapore. MRT tunnelling and M&E contracts for the Circle Line Stages 2 & 3, worth $520 million, accounted for the lion's share of the public sector civil engineering construction orders. Furthermore, road construction projects, totalling $360 million, also constituted about 30% of the overall infrastructure construction demand. Major road projects awarded included the construction of the remaining portions of Kallang/Paya Lebar Expressway and its M&E related works.

Private Sector

9. Total value of construction orders in the private sector moderated to $4.7 billion in 2003. Performances of the construction orders for various development types in the private sector were mixed, with industrial and institutional projects bucking the trend and posting positive growths. On the other hand, both residential and commercial developments were affected by the state of the economy and the uncertain outlook of developers, registering lower volumes of contracts.

Building Projects

10. Demand for private sector residential building construction continued to fall, dropping by 25% to $1.9 billion in 2003. Direct home sales totalled about 5,600 units[2] in 2003, a result of the impact of the Iraq war, SARS and changes in home-financing policies. As a result, residential building construction orders were also affected. Some of the major projects awarded last year included Edelweiss at Upper Changi Road North, Visioncrest at Oxley Rise, the Quintet at Choa Chu Kang and Draycott at Draycott Drive.

11. Commercial construction orders were the worst hit in the private sector, falling by 60% to $400 million. The depressed market for office leasing, coupled with surging vacancy rates, has shaken investors' confidence in the office market. Nevertheless, 2003 saw a few retailers actively refurbishing their premises. The largest commercial contract awarded last year was the major makeover of the Marina Square complex, costing close to $100 million. Other shopping centres like Bishan Junction 8, Wisma Atria, Plaza Singapura and Ngee Ann City, as well as hotels like Grand Hyatt, also geared up to revamp their premises.

12. Private sector industrial construction orders doubled to $1.5 billion in 2003. Although the demand for conventional industrial space remained weak last year, three major Engineering, Procurement and Construction (EPC) projects by Schering-Plough, Powerseraya and Hyflux boosted the overall industrial building construction demand.

13. Likewise, institutional building construction demand in 2003 increased to almost $700 million, reversing its downward trend since 2001. This was underpinned by the construction of the Singapore Management University's campus, which awarded two building projects at Bras Basah area.

Civil Engineering Projects

14. Private sector civil engineering construction demand was estimated at about $200 million. The largest private sector civil engineering project was the transmission-tunnelling project from Harbour Drive to Labrador awarded by Powergrid.

CONSTRUCTION DEMAND FOR 2004

15. After a year of weakened construction market performance, 2004 is expected to see a moderate expansion in construction orders, on account of a brighter outlook for the economy. According to BCA's Development Plan Survey, total construction demand in 2004 is expected to increase to between $10 billion and $11 billion. Public civil engineering and private residential projects will be key areas supporting the projected upturn in 2004.

Public Sector

16. Total construction orders for the public sector is forecasted to reach between $5.4 billion and $6.1 billion in 2004. Building construction demand is expected to slow down while civil engineering jobs are likely to generate a higher demand.

Building Projects

17. About $3.1 billion to $3.5 billion worth of building projects are expected to be awarded by the public sector this year. This will represent a $700 million reduction over 2003. Residential and commercial developments may remain unchanged. However, non-residential developments, like industrial and institutional building construction orders are expected to be lower.

---

[2] The total home sales by developers in 2003 included units sold under private residential properties and executive condominiums.

18. Public housing construction demand is estimated to be between $1.0 billion and $1.3 billion. Close to 40% of the public sector residential construction orders will come primarily from upgrading projects. If the response to the demand of HDB's units under Build-To-Order system is favourable, HDB will commit to more public housing developments.

19. Between $100 million and $200 million worth of commercial building contracts are expected to be awarded this year. Hawker centre upgrading by HDB and NEA at various locations are likely to feature strongly. In addition, STB is also planning to convert some vacant HDB's flats at Tiong Bahru into a budget hotel.

20. Overall industrial construction orders are likely to drop to around $450 million this year. As demand for conventional industrial space is expected to remain sluggish, construction orders for factory or warehouse developments are likely to be minimal this year. Nevertheless, the development of sophisticated business parks is expected to take the lead. JTC's superstructure work for Fusionpolis at One-North is likely to be the main contributor in the industrial category in 2004.

21. Institutional and other building construction demand is expected to drop to $1.6 billion this year. Apart from upgrading and rebuilding schools, MOE is expected to award the project to build a new LaSalle-SIA multi-storey city campus at Rochor Area in 2004. To support the Government's pump-priming measures announced last year, MOE will also bring forward some of its PRIME (Programme for Rebuilding and IMproving Existing Schools) Phase 6 projects this year. NUS is also expected to be a major contributor to institutional educational building projects. On top of its usual campus-upgrading programme, the focus of this year will be the development of its High School at Clementi. NTU, moreover, is expected to commence the superstructure work for its One-North campus and Alumni Clubhouse early this year.

22. Other major institutional and building projects in the pipeline include the relocation of the Police Coast Guard Headquarters from Kallang to Brani Road and a new community club at Jurong West.

Civil Engineering

23. Infrastructure construction demand is expected to pick up this year, with $2.3 billion to $2.5 billion worth of projects scheduled for awarding in 2004. This represents a jump of at least $1 billion over 2003 figure. This should be boosted by LTA's Circle Line Stages 4 and 5 projects, which cover 13 stations from the Thomson area to HarbourFront.

24. Road construction will remain a major contributor for infrastructure developments in 2004. Apart from LTA, JTC and HDB will also release road-improvement projects. A few projects are expected to be brought forward under the pump-priming exercise, such as the widening of PIE from Kranji to Jalan Ahmad Ibrahim, upgrading of West Coast Highway and Jalan Buroh, and widening of Farrer Road.

Private Sector

25. Barring any unforeseen shocks to the economy, construction demand in the private sector is likely to improve this year. Construction orders for some development types are expected to be more bullish. Prospects for building developments are generally more upbeat than last year whereas civil engineering construction is likely to stay unchanged at last year's level.

Building Projects

26. Encouraging signs of economic recovery, coupled with low interests, paint a promising picture for the real estate sector. However, due to the current oversupply in the market, the rebound is expected to be moderate. Construction demand for residential projects is thus likely to improve modestly to $2.2 billion. Some developers are also buoyed by the positive sentiments.

For instance, City Developments is expected to award a 1,100-unit residential project at Marina Boulevard. Furthermore, Far East is also expected to award its Lakeshore construction project in view of satisfactory sales volume.

27. Commercial building construction demand is also expected to pick up this year, with $600 million to $900 million worth of projects likely be awarded for the whole year. In January this year, the mega HarbourFront Mall in the Maritime Square worth $250 million was awarded. Furthermore, if the recovery in the hotel industry continues, the development of a luxurious 6-star hotel at Tanglin road is likely to proceed in the later part of this year, which would raise the overall volume towards to the upper range. However, substantial turnaround for this category is not expected till land sales at Business and Financial Centre (BFC) site at New Downtown take off.

28. Although the industrial property market shows signs of bottoming out, it would take some time before this translates to demand for new real estate development. Construction demand for conventional industrial developments remains low due to an oversupply. Development of high-tech industrial plants will feature in the industrial building construction market, boosting the overall construction orders to between $1.2 billion and $1.3 billion. One of the major highlights expected this year will be Island Power's New Power Station at Jurong Island.

29. Institutional and other building construction orders for the private sector is likely to be lower this year, with volumes returning to 2002 level of about $400 million. Some of the projects likely to go ahead include nursing homes and religious buildings.

Civil Engineering

30. Private sector civil engineering construction demand is projected to reach a similar level to that in 2002 and 2003. Utilities projects by Powergrid will be the key component in this category.

CONSTRUCTION OUTLOOK FOR 2005

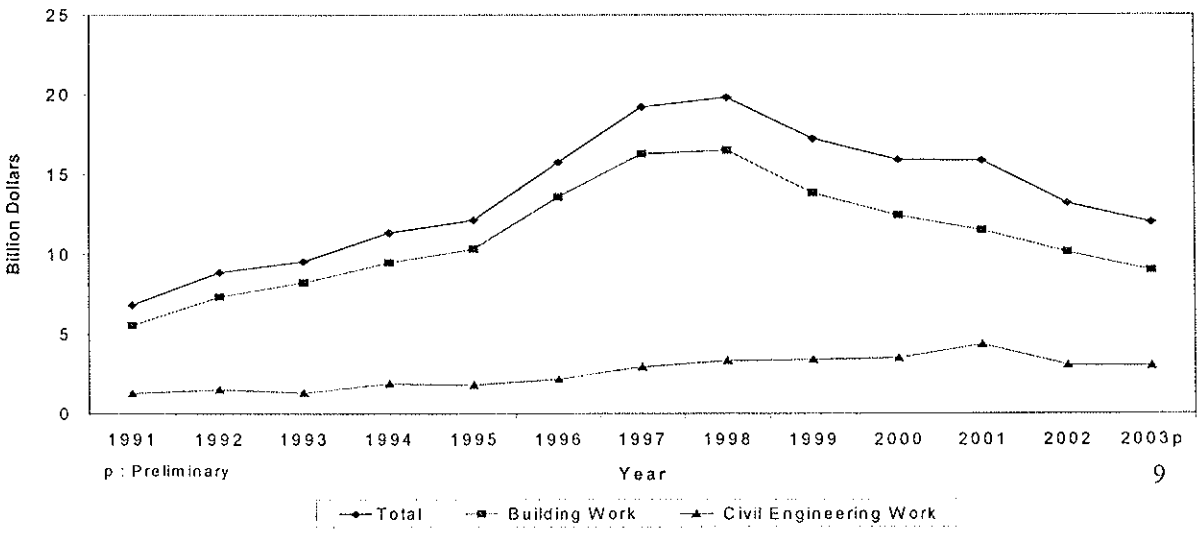
31. Construction demand is a derived demand that lags behind economic growth. Therefore, the expected economic growth this year is likely to boost the recovery of private sector construction demand and result in higher construction demand in 2005. Major projects expected to be awarded in 2005 include the upgrading of Changi Airport Terminal 1; construction of MRT Extension; additional cluster developments for Changi Prison Complex; expansion of Singapore Expo; Seletar-Serangoon Reservoir Scheme; construction of a 170m high observation wheel at Marina Bay; and a mixed development at Jalan Besar/Serangoon Road.

IMPACT OF CONSTRUCTION DEMAND

Construction Output and GDP

32. Due to the slowdown in construction orders for the whole year 2003, construction output is estimated to ease to about $12 billion in 2003 (Chart 2). This would translate into a 10.4% drop in construction GDP for 2003. The smaller negative growth, as compared to -10.8% in 2002 would be due to the relatively higher construction orders prior to 2003. Looking ahead, construction output for 2004 is expected to continue shrinking, given the weak construction demand last year.

Chart 2 : Construction Output, 1991-2003



Construction Productivity

33. Construction labour productivity growth is estimated to remain unchanged last year. The continued contraction of the construction GDP hindered the recovery in productivity. However, this was mitigated to some extent by the reduction in construction workforce. Productivity growth this year is likely to hover around the zero in anticipation of slow construction activity.

CONSTRUCTION MATERIALS

34. In tandem with the lower construction output, demand for basic construction materials contracted further in year 2003. On average, demands for basic construction materials dropped by 3% to 12% on a year-on-year basis. Average prices of cement and bricks moved up due to rising import costs throughout the year. Steep rises in international raw materials and freight costs led to sharp hikes in steel prices towards the end of 2003. Ready-mixed concrete and granite average prices remained relatively stable.

35. The expected continued contraction in construction activities in 2004 is likely to affect demand for construction materials. Prices are expected to increase, particularly for steel and cement, which are expected to follow closely rising international price trends.

Cement

Demand and Supply

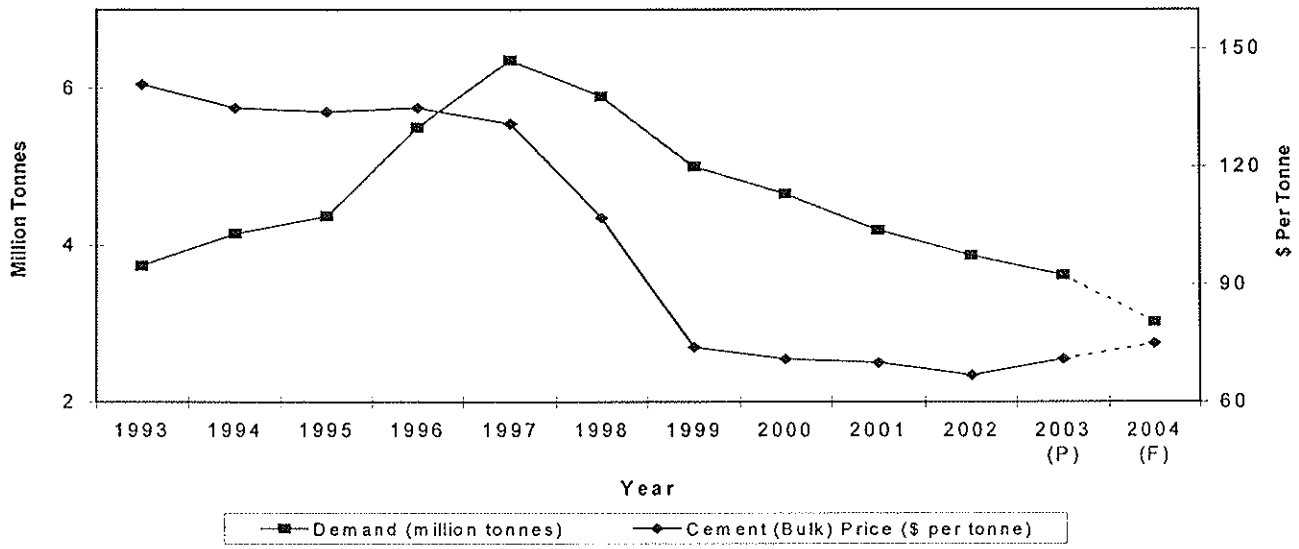
36. Demand for cement continued to decline for the sixth consecutive year, dropping by 6% to 3.6 million tonnes in 2003. More than 91% of cement was imported, with the remaining 9% produced locally. Japan continued to be the main source for cement imports, contributing 51% of total cement imports, followed by Taiwan and Malaysia, whomade up 22% and 15% respectively.

37. For 2004, consumption of cement is expected to further decline to 3 million tonnes. High freight costs will possibly continue to determine the source of cement imports.

Price of Cement

38. Average prices of both bulk and bagged cement increased steadily due to increasing import costs. Bulk cement prices dipped temporarily towards the end of 2003, resulting from strong competition for HDB's cement tenders, which were priced at more than 10% below prevailing market rates. Despite weakened demand, rising international import costs are likely to drive prices further up in 2004 (Chart 3). In fact, new price quotes for bulk cement in January 04 have already surpassed December's average price of $72 per tonne.

Chart 3: Demand and Price Trend of Cement



Steel Reinforcement Bars

Demand and Supply

39. Demand for steel reinforcement bars was 0.88 million tonnes in 2003, a 3% drop from 2002. Dependency on Turkish imports has diminished

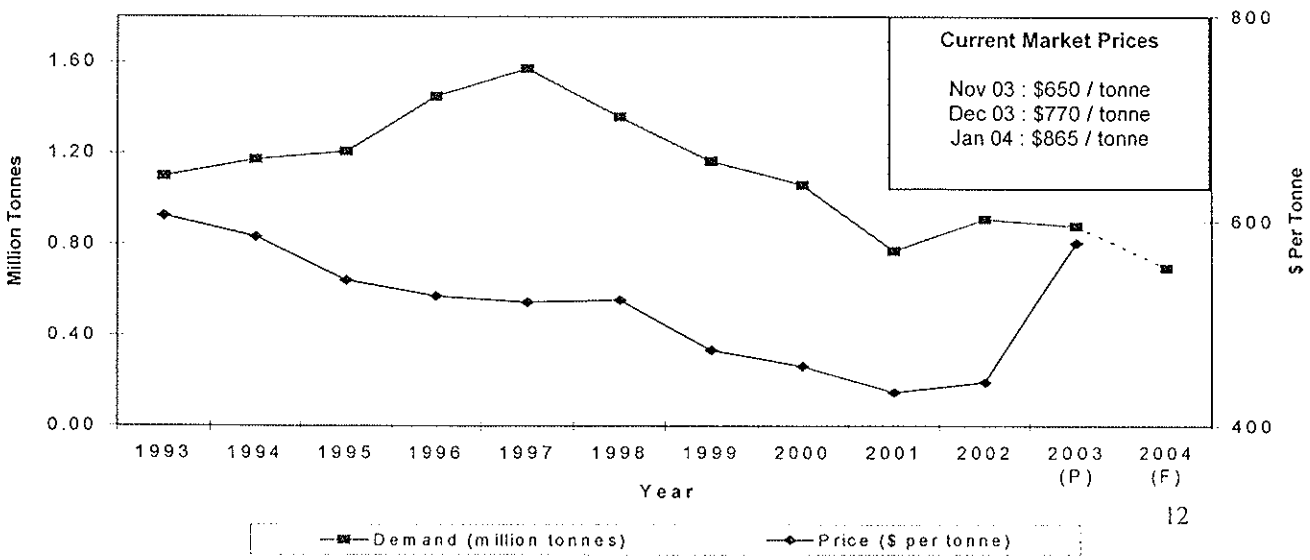
substantially from 70% in 2002 to 37% in 2003, as Turkish exporters focused on more lucrative markets like US, Europe, Middle-East and China. Imports from Malaysia increased steadily to 21% in 2003. Local steel importers were also active in exploring new emerging sources such as Ukraine, India and Brazil.

40. Demand for rebars in 2004 is estimated to be 0.7 million tonnes. In anticipation of more volatile international prices in the coming year, import trends for steel are likely to respond more sensitively to international price movements than to local demand.

Price of Steel Reinforcement Bars

41. Following a short cool-off period after the US-Iraq war, international steel prices went back on uptrend towards the fourth quarter of 2003, led by steep increases in raw material prices. The sharpest hike took place in November to December 2003 when export prices of billet from CIS countries and Turkey went up by about 14% over the month. As a result, the current market price for steel rose sharply from $650/tonne in Nov 03 to $770/tonne in Dec 03, a hefty increase of 18%. The surge in scrap and billet prices is driven mainly by strong growing demand in East Asia, particularly China, resulting in tightening of supply in raw materials for steel. This is compounded by higher freight costs internationally. Due to the unstable price levels, steel suppliers have been very cautious with longer term supply contracts.

Chart 4: Demand and Price Trend of Steel Bars



42. The indicative current price level in Jan 04 was $865/tonne, another 12% increase from Dec 03 (Chart 4). Looking at the international price trend, which showed clear signs of upward movement, local steel prices are expected to escalate further in 2004.

Bricks

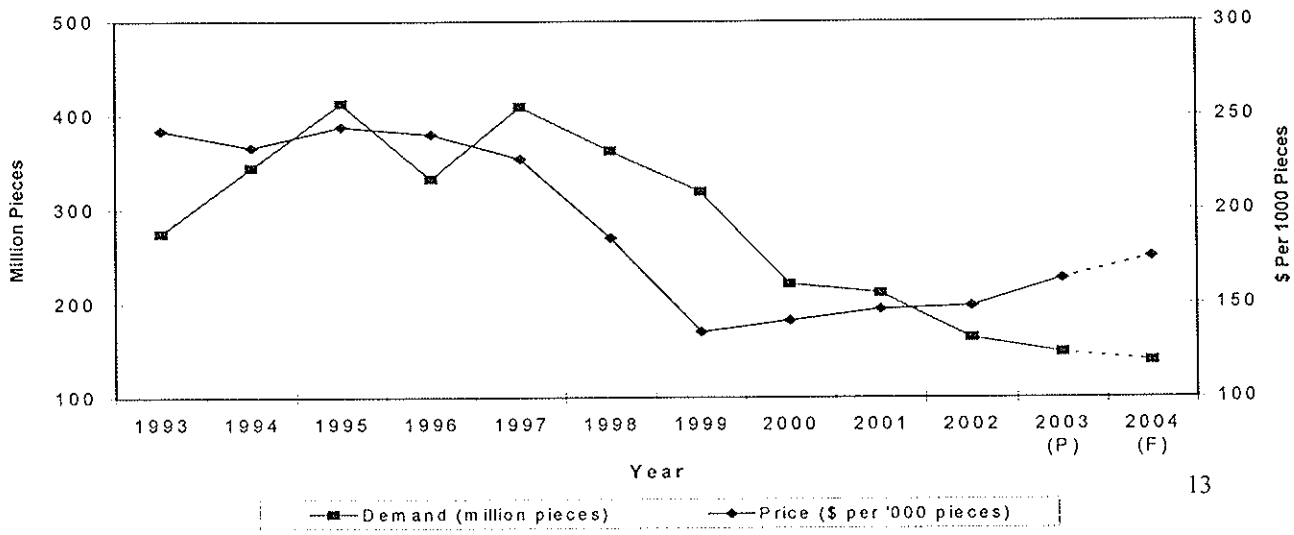
Demand and Supply

43. In tandem with the drop in construction volume, demand for bricks contracted by 10% to 148 million pieces over the year. The industry has been fully dependent on imports, mainly from Malaysia, since the last local brick factory, Goh Bee Brickworks & Co Pte Ltd, ceased production in the first quarter of 2003. The projected demand for bricks in 2004 is 140 million pieces.

Price of Bricks

44. In the first three quarters of 2003, the average price of bricks was driven by increasing import prices resulting from rejuvenated domestic demand in Malaysia, our main import source for bricks. At the start of the fourth quarter, prices began to soften as the demand in Malaysia began to stabilise. Over the year, the average price for bricks rose by 10% to $163.4. The average price of bricks is likely to increase in 2004, although this is likely to be mitigated by weak demand (Chart 5).

Chart 5: Demand and Price Trend of Bricks



Granite

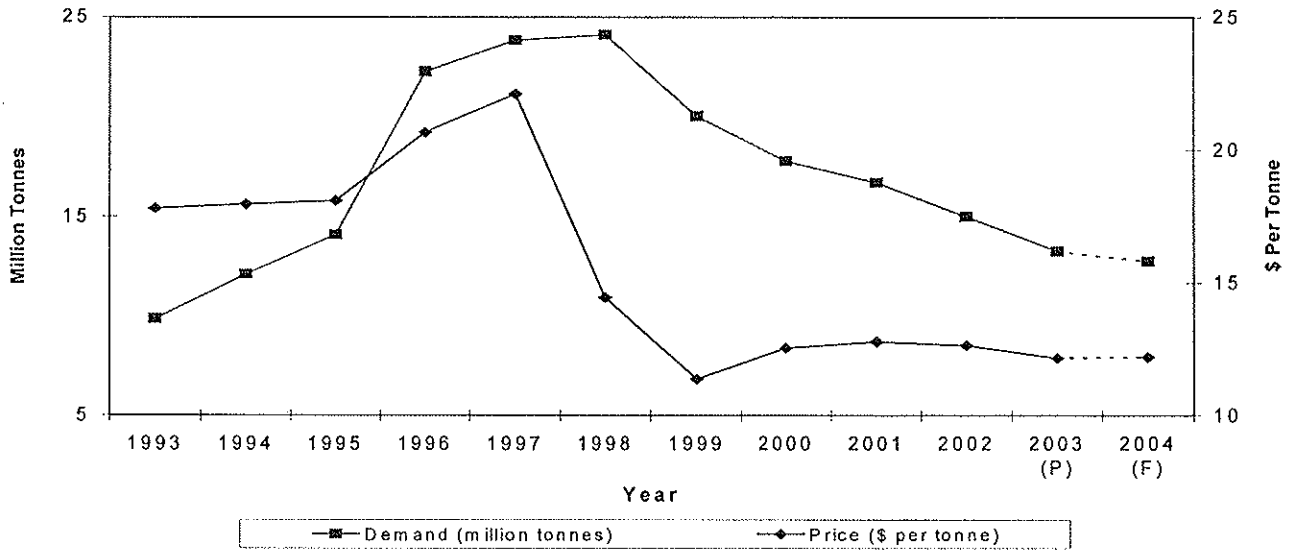
Demand and Supply

45. Demand for granite registered a drop of 12% to 13.3 million tonnes in 2003. The projected granite demand for 2004 is 12.8 million tonnes.

Price of Granite

46. Overall, the price of granite remained stable in 2003, at an average of $12.2 per tonne. The latest HDB bulk tender price of $11 per tonne for granite has put some downward pressure to the average granite price in the last quarter of 2003. The price of granite is likely to be subjected to upward forces in 2004 (Chart 6).

Chart 6: Demand and Price Trend of Granite



Ready-Mixed Concrete

Demand and Supply

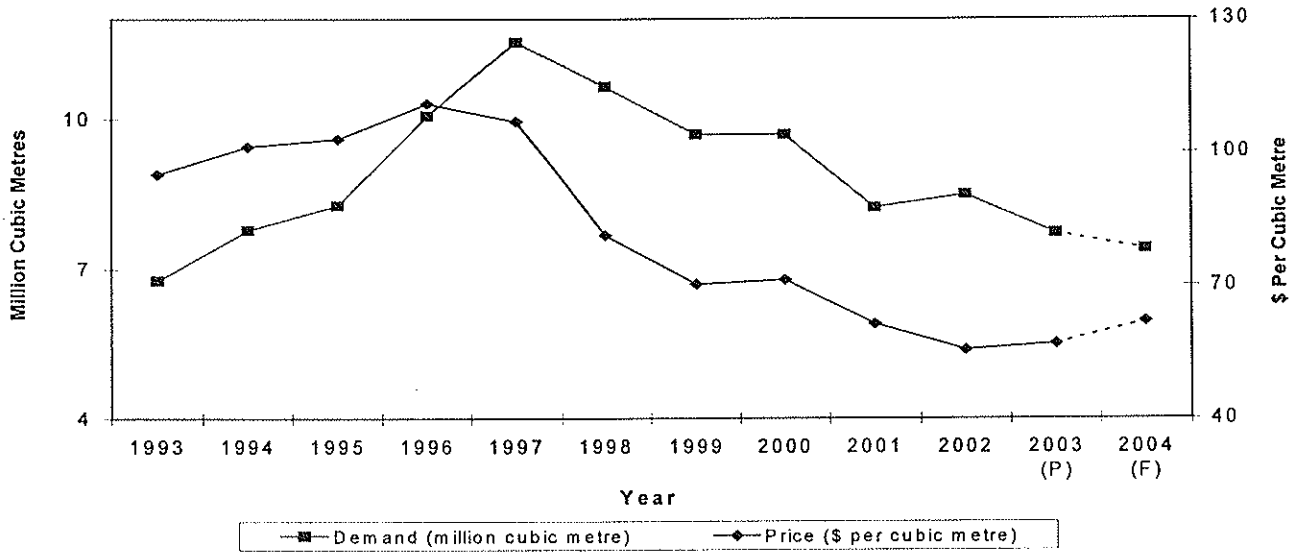
47. Competition in the ready-mixed concrete industry remained intense as industry consolidation continued to take place. The latest was the acquisition of the ready-mixed arm of Hanson Building Materials Pte Ltd by RDC

Concrete Pte Ltd in November 2003. Demand for ready-mixed concrete shrunk by 9% to 7.7 million cubic metres last year. Projected demand for 2004 is in the range of 7.4 million cubic metres.

Prices of Ready-mixed Concrete

48. Ready-mixed concrete prices were offset by tight competition over the year. Despite marked rising costs, prices for Grade 30 RMC averaged at $57 per cubic metres. The average price for Grade 35 and Grade 40 RMC fluctuated marginally to $59 and $62 per cubic metres respectively. For 2004, the new higher prices quoted by ready-mixed concrete suppliers in January this year seemed to indicate that prices are on the upswing. (Chart 7).

Chart 7: Demand and Price Trend of Ready-Mixed Concrete



Construction Materials Outlook for 2004

49. Basic construction materials demand outlook for 2004 is likely to remain weak due to the continued contraction in construction volume. Despite the decline in activities, average material prices are expected to increase, following an increase in international prices.

CONSTRUCTION COST

50. As a result of the general price increase for most materials, in particular steel bars, the aggregate Basic Material Cost Index (All Buildings) rose by about 30% in 2003. The Labour Cost Index (All Buildings), on the other hand, stabilised at around the 2002 level.

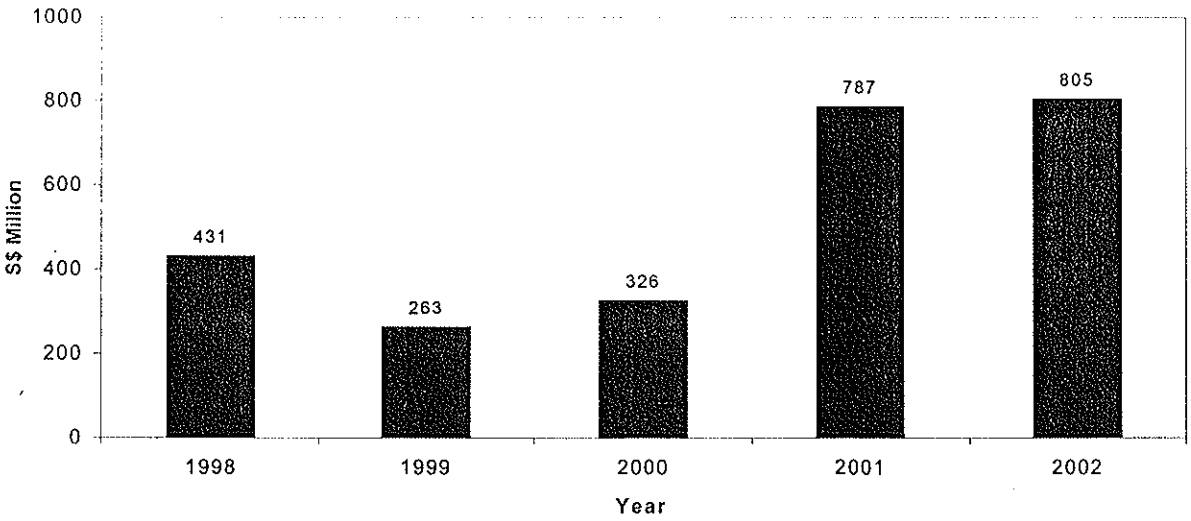
51. The increases in material costs have pushed up corresponding tender prices. Total construction cost, measured by the aggregate Tender Price Index (All Buildings), rose by 6% in 2003. This increase was felt most acutely by public residential buildings, which reported a surge in tender prices, as compared to other building types.

52. In view of expected material price increases, as well as possible reinstatement or increase of wages following the economic recovery, the aggregate Tender Price Index is likely to increase in 2004.

CONSTRUCTION EXPORTS

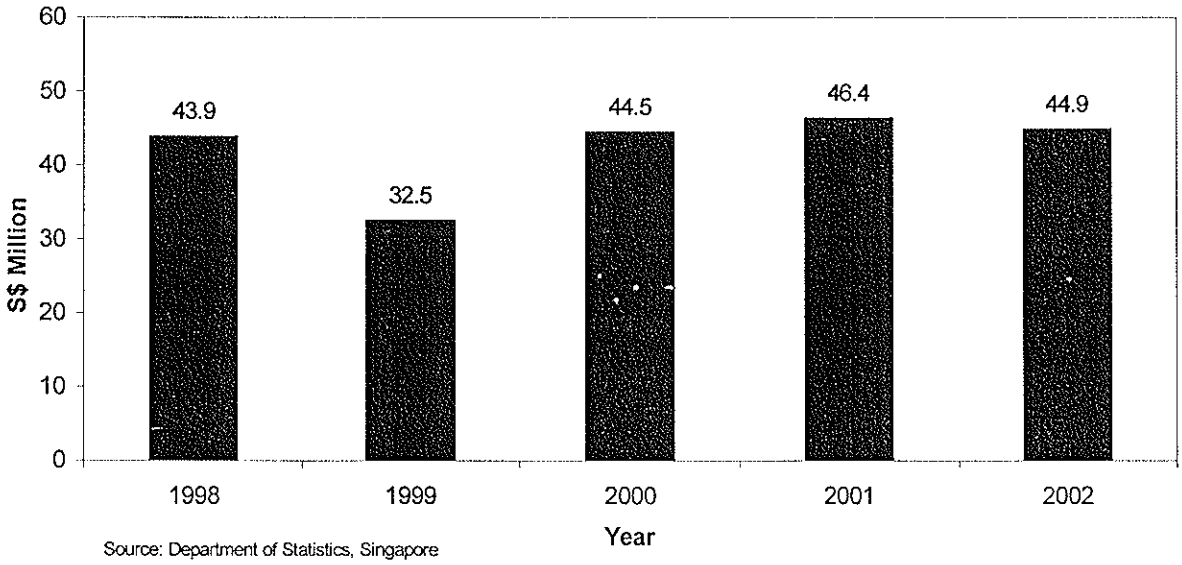
53. Constrained by the limited domestic construction market, a number of our consultants and contractors are actively seeking opportunities overseas. With the region recovering from the 1997 Financial Crisis, the regional prospects for our consultants and contractors have brightened. According to a BCA survey, Singapore construction firms clinched about $805 million worth of construction contracts in 2002. Although it was only marginally higher than the $787 million clinched in 2001, the feat was still significant as the value of overseas contracts clinched was more than double those clinched in the immediate three years after the 1997 Crisis (Chart 8).

Chart 8: Value of Contracts Clinched By Singapore Contractors 1998-2002



54. Similarly, our consultants have also done well. For instance, total earnings from abroad for the provision of architectural services averaged about $45 million from 2000 to 2002 (Chart 9).

Chart 9: Receipts from Exports of Architectural Services, 1998-2002



Source: Department of Statistics, Singapore

55. The overseas reach and extent of our contractors have also improved in 2003. They clinched contracts in 27 countries, 40% more countries than the previous year, which reflected that our contractors have gone beyond the neighbouring markets (Chart 10). The number of contracts won also increased by 150% to more than 270 projects.

Chart 10: Number of Exporting Firms and Markets Accessed 1998-2002

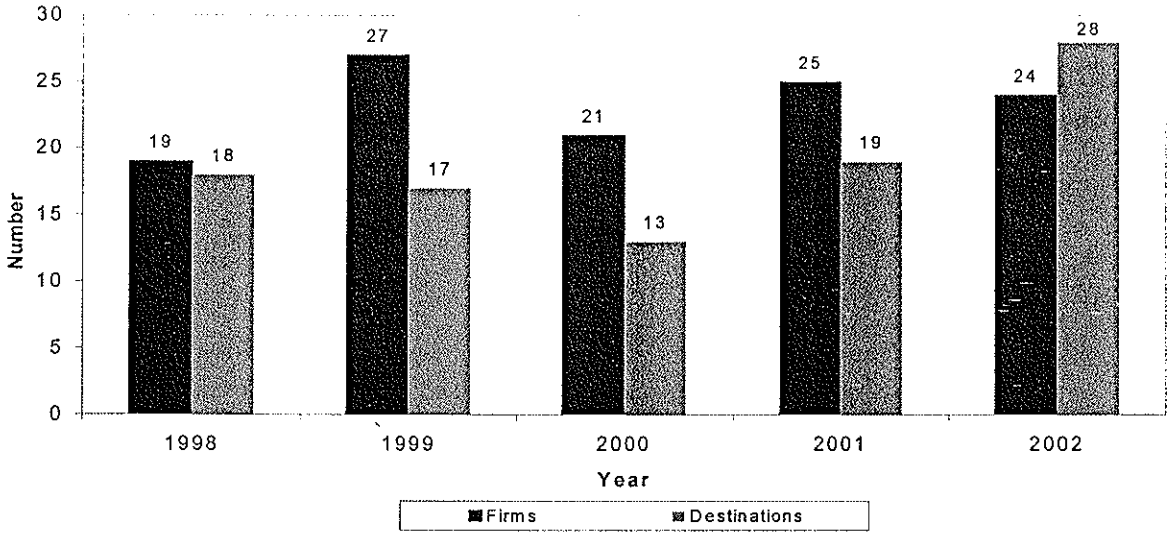


Table 1: Overseas Contracts Awarded by Region

	1999		2000		2001		2002	
	S$ million	%	S$ million	%	S$ million	%	S$ million	%
East Asia								
China	42.9	16.3%	26.5	8.2%	92.2	11.7%	432.1	53.7%
Others	75.0	28.6%	40.3	12.4%	20.3	2.6%	100.0	12.4%
South Asia								
India	21.3	8.1%	78.4	24.1%	55.9	7.1%	11.6	1.4%
Others	3.3	1.3%	1.8	0.6%	6.3	0.8%	2.8	0.4%
Southeast Asia								
Thailand	4.2	1.6%	17.4	5.4%	64.9	8.2%	52.3	6.5%
Indonesia	45.8	17.4%	8.9	2.7%	285.8	36.3%	20.4	2.5%
Malaysia	38.9	14.8%	80.1	24.6%	111.3	14.1%	116.1	14.4%
Others	12.7	4.9%	48.9	15.0%	20.2	2.6%	51.0	6.3%
Other Regions	18.4	7.0%	23.1	7.1%	129.8	16.5%	18.5	2.3%
Total	**262.7**	**100.0%**	**325.6**	**100.0%**	**786.5**	**100.0%**	**804.9**	**100.0%**

56. In 2002, our contractors were largely active in the overseas markets of China, Southeast Asia, Taiwan and India. Exports to China, in particular soared more than four times, compared to a year ago, and accounted for more than half of the total overseas contract value in 2002 (see Table 1).

57. In 2002, 3/4 of the overseas contracts was associated with building developments, given our local contractors' traditional strength in building construction. The remaining 1/4 was infrastructure-related.

58. In line with the rapid industrial growth in the region, especially China, industrial projects accounted for more than 60% of the total overseas contract value. Major industrial projects in China undertaken by local contractors included the construction of steam turbine generators in Hebei, the Fairchild Semiconductor Plant in Suzhou, and the low-density polythylene plant in Nanjing.

59. BCA estimates that our contractors clinched a total of $1 billion worth of overseas contracts in 2003. China and India continue to be important markets, with Indonesia and Thailand playing catch-up after several years of near stagnancy.

60. BCA also surveyed consultants in the construction industry and found that our consulting firms were expanding their overseas reach as well, securing more than 150 projects outside Singapore in 2002. A total of 27 consulting firms were awarded contracts in 22 destinations, of which China and India accounted for 38% and 24% of the total number of projects respectively.

61. Southeast Asia was another major market, accounting for about one-quarter of the consulting jobs won in 2002. The contracts clinched included architectural and engineering consultancy services, masterplanning, quantity surveying as well as project management.

Export Prospects for 2004 and Beyond

62. The years ahead look promising for consultants and contractors who are keen to expand their business overseas. The Asian Development Bank has projected that China, South Korea and the Southeast Asian Countries will

grow at the rate of 6.6% in 2004, up from 6.1% in 2003. India is also expected to grow by 7.0% this year.

China

63. In recent years, China has become a major market for both our consultants and contractors. China is expected to grow at 7.8% in 2004, slightly slower than the strong 9.1% growth last year. The continued strong growth bodes well for the consultants and contractors who have already established a foothold there. Construction opportunities are aplenty there, with heavy public sector investment in the country's infrastructures to support its rapid economic growth and the growth of the middle class.

64. Global Insights Inc. forecasts that Chinese construction volume will reach US$478 billion this year, up by 8.4% from US$441 billion last year. Over the next three years, the Chinese construction sector is expected to grow at a sustained rate of 8.3% per year to reach a construction volume of US$607 billion in 2007, making it the third largest after the United States and Japan.

India

65. With the concerted public and private sector effort to promote India as a destination for trade and investment, India has become an important market for our consultants and contractors in recent years. The Indian market has contributed about 10% to the total value of overseas contracts won by our contractors since 1998. More liberal trade and investment regimes adopted by the Indian Government will translate into more business opportunities for our consultants and contractors.

66. The large middle class and the recent liberalisation of the financial sector have fuelled a property boom, especially in housing, shopping malls and entertainment facilities. With the association of the Singapore Brand with good quality workmanship and prompt project delivery, demand for our

consultants and contractors in India will increase. The Indian Government, recognising the need to beef up its infrastructure to support its high-speed economic growth, has also pumped in large investments in recent years. It has also invited the private sector to join in the infrastructure developments.

67. Global Insights Inc. projects that the Indian construction volume will reach US$60 billion this year, an increase of 10% over last year. The Indian construction sector is expected to grow at an average annual rate of 9.3% over the next three years.

Southeast Asia

68. Southeast Asia is the traditional market for our consultants and contractors. In the past, Southeast Asia combined for more than 70% of the total value of overseas contracts clinched by our contractors. Its significance dropped following the 1997 Financial Crisis, when economic growth declined in the region (see Table 1). The region has since recovered from the crisis, and in the past two years, economic growth in the regional countries has regained momentum.

69. ADB expects economic growth in the Southeast Asian countries to be stronger this year than last year. In particular, Thailand and Vietnam are projected to grow by 6.1% and 7.4% in 2004 respectively. Thailand has been experiencing a property boom lately, something new since 1997. According to a recent report, $17.4 billion worth of land were transacted in 2003 as compared to only $7.5 billion transacted in 2001. It is estimated that the city of Bangkok and its vicinity alone registered 44,000 units of new housing in 2003. The Thai property circle expects this figure to rise to 55,000 units this year, prompting concerns of a growing property bubble.

70. Vietnam has been experiencing rapid economic growth since it accelerated its economic reforms. The economic reforms have freed up the local private sector, which has resulted in the set up of more private businesses in the past two years. In 2002 alone, more than 20,000 local

businesses were started, with a total registered capital of US$2.4 billion. In the same year, Vietnam also attracted US$1.3 billion of foreign direct investments. The market confidence exuded by both domestic and foreign investors, coupled with strong export growth, fuelled Vietnam's 7.0% growth last year. The Vietnamese economy is expected to grow further at 7.4% this year. This strong economic growth has fuelled the double-digit growth of the Vietnamese construction sector in the last three years.

71. ADB expects Indonesia to grow at 4.4% this year, slightly faster than the 3.8% in 2003. 2004 is an election year for the Indonesians and the market expects economic growth to grow at a faster rate after the elections. Traditionally, Indonesia was a big contributor to the overseas earnings of our consultants and contractors. In the ten years preceding 1997, it contributed an average of $200 million a year to the total overseas contracts won by our contractors. Following the 1997 Financial Crisis, our contractors only managed to clinch $1.4 million of construction work in Indonesia in 1998. Our market share has since increased, with $286 million clinched in the bumper year of 2001. Our consultants and contractors have been very familiar with the Indonesian market and have created a vast network of relationships and clients. Therefore, the expected stronger economic growth there will translate into more projects for our firms in the years ahead.

Other Regions

72. For our consultants and contractors who have built up market niches and international branding, the United States and the Middle East can provide good business prospects. The United States has recently passed a new regulation, effective from April 2003, requiring the municipalities to reduce the amount of waste entering public storm-water systems. The stricter water quality standards will require the municipalities to overhaul or construct new wastewater treatment plants. This will generate an estimated US$540 billion worth of projects over the next twenty years or US$27 billion per year on average. This is a huge market that our firms in the wastewater treatment

business could capitalise on, especially with the new Free Trade Agreement signed with the United States.

73. The Middle East is another possible market that many of our consultants and contractors have yet to tap. Thus far, only a few of our bigger firms have entered this market. The reconstruction of Iraq and the infrastructure developments in various Middle Eastern countries provide yet more market opportunities for our firms. It is reported that over the next five years, countries in the Middle East will spend about US$7.7 billion upgrading existing airports and building new ones.

Conclusion

74. 2004 seems to bode well for our consultants and contractors. The inroads and networks that our industry has created in China and India in recent years have gradually paid off in the form of better business prospects. The continued strong growth in both China and India will translate into further business opportunities for our firms. The Southeast Asian region has recovered strongly, which is likely to offer more project opportunities for our construction industry. The more established firms can also look towards the United States and the Middle East for prospective jobs.

Contracts Awarded (Excl. Reclamation) by Sector and Type of Work

Billion Dollars

	2002	2003 (Preliminary)	2004* (Forecast)
Both Sectors	**14.5**	**10.0**	**10.0 - 11.0**
Building Work	11.1	8.6	7.5 - 8.3
Residential	*3.6*	*3.0*	*3.2 - 3.5*
Commercial	*1.2*	*0.5*	*0.7 - 1.1*
Industrial	*2.4*	*2.1*	*1.6 - 1.7*
Institutional & Others	*3.8*	*3.0*	*2.0 - 2.0*
Civil Engineering Work	3.4	1.4	2.5 - 2.7
Public Sector	**9.6**	**5.3**	**5.4 - 6.1**
Building Work	6.4	4.1	3.1 - 3.5
Residential	*1.1*	*1.1*	*1.0 - 1.3*
Commercial	*0.3*	*0.1*	*0.1 - 0.2*
Industrial	*1.7*	*0.6*	*0.4 - 0.5*
Institutional & Others	*3.4*	*2.3*	*1.6 - 1.6*
Civil Engineering Work	3.2	1.2	2.3 - 2.5
Private Sector	**4.8**	**4.7**	**4.6 - 5.0**
Building Work	4.7	4.5	4.4 - 4.8
Residential	*2.5*	*1.9*	*2.2 - 2.2*
Commercial	*1.0*	*0.4*	*0.6 - 0.9*
Industrial	*0.7*	*1.5*	*1.2 - 1.3*
Institutional & Others	*0.4*	*0.7*	*0.4 - 0.4*
Civil Engineering Work	0.2	0.2	0.2 - 0.2

Source : BCA as at 26 January 2004

** forecast*

Prospects in the Indian Construction Industry

Construction & Property Prospects Seminar

11 February 2004 - Orchard Hotel

By Mr Mohan Pillay
Partner
Wong Partnership

Building and Construction Authority

REDAS



Construction & Property Prospects 2004

PROSPECTS IN THE INDIAN CONSTRUCTION INDUSTRY

By Mohan R. Pillay
WONGPARTNERSHIP

Orchard Hotel

11 February 2004 Wednesday

WONGPARTNERSHIP 80 Raffles Place #58-01 UOB Plaza 1 Singapore 048624 Tel: +65 6416 8000 Fax: +65 6532 5722
Website: www.wongpartnership.com.sg Email: wonglaw@singnet.com.sg

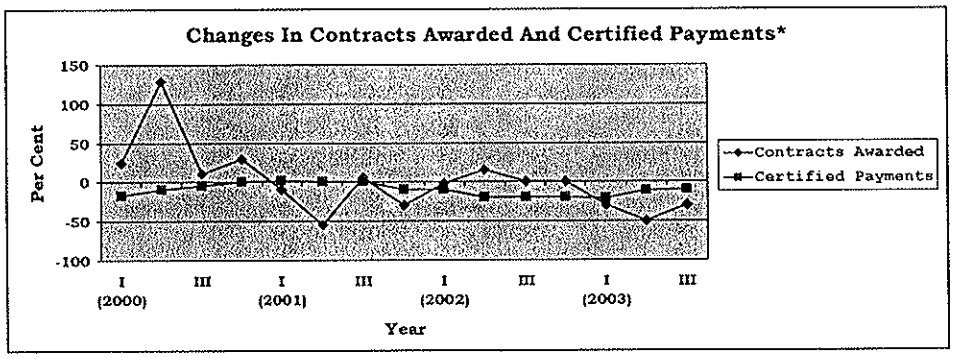
CONTENTS

A. Looking Overseas – Push / Pull Factors
B. India – Growth Snapshot
C. Indian Construction Sector Prospects
D. Entry Vehicles into India
E. The Negotiation Process
F. Key Subjects for Further Enquiry

A. Look Overseas – Push / Pull Factors

1. S'pore Push Factors

- **Small Domestic Market**
- **Construction sector slump**
- **Limited Large Scale Infras'ture Projects**



"The downtrend in the construction sector continued..

The construction sector slump continued into its tenth consecutive quarter. The sector shrank by 9.1 per cent in the July to September period, down marginally from -9.0 per cent in the earlier quarter"

– MITI Econ. Survey of S'pore 3Q 2003

* Source: Economic Survey of S'pore 3Q 2003

"Strong push overseas is necessary because there is not enough work here for the (construction) companies"

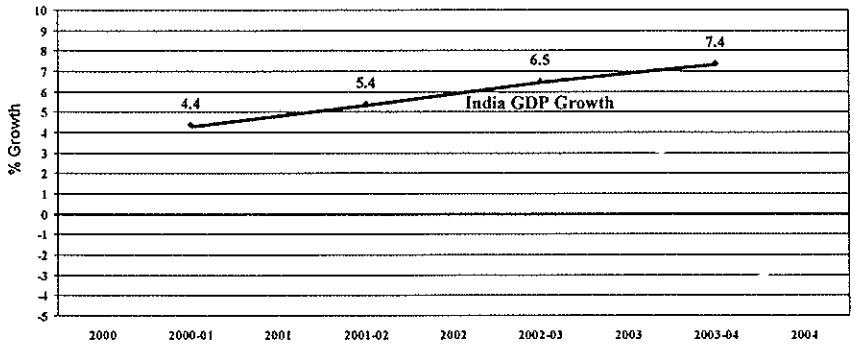
- Nat. Dev. Minister Mah Bow Tan, National Day Observance Ceremony Speech, 13 August 2003

2. India Pull Factors

- **Significant Economic Growth**
- **Large potential market**
- **Growing Urban Population**
- **Lack of domestic expertise / capacity**
- **Many large scale Infras'ture / housing projects**

B. India – Growth Snapshot

1. Indian - GDP Growth Rates*

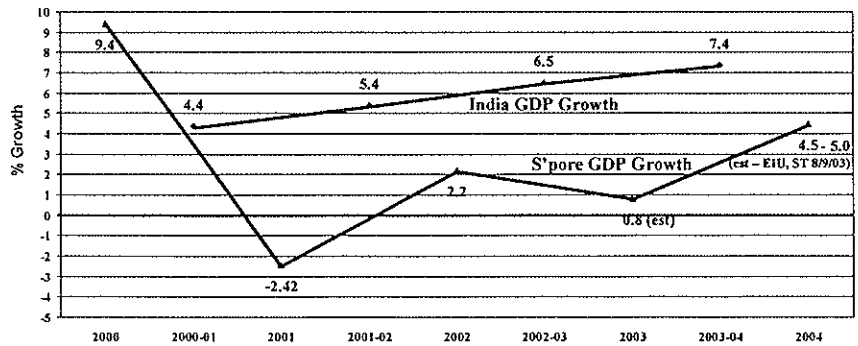


Note: Figure for 2003-04 based on estimates

* Source: Construction Industry Dev. Council ("CIDC"), India Country Report 2003-04

B. India – Growth Snapshot

1. Indian - GDP Growth Rates*

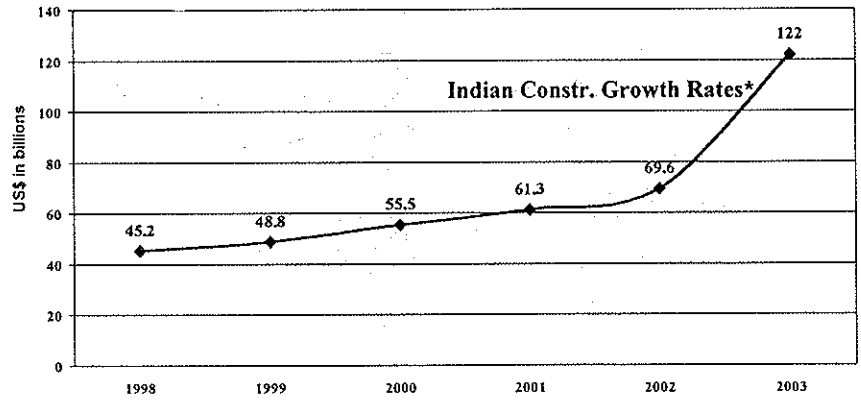


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B. India – Growth Snapshot

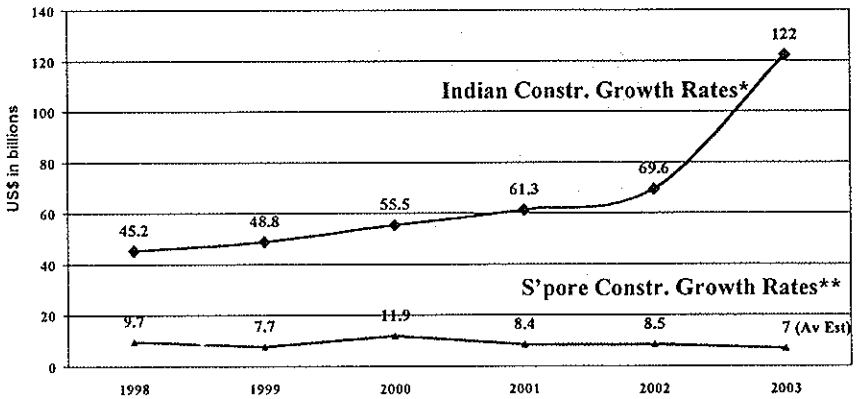
2. Indian Construction Sector Growth Rate*



Source: *CIDC, India Country Report 2003-04

B. India – Growth Snapshot

2. Indian Construction Sector Growth Rate*



Source: *CIDC, India Country Report 2003-04
** BCA

3. **Economic Growth Outlook – 5 Year Plans (YOY Growth)***

- **9th Plan 1997 – 2002 – 6.5% (achieved ≈ 6.2%)**
- **10th Plan 2002 – 2007 – 7.7%**
- **11th Plan 2007 – 2012 – 8%**

4. **Foreign Exchange Reserves – US$100b.**

"Corporate India is bullish on all fronts especially the country's economic performance"

- *CII Oct 2003 Business Confidence Survey*

* Source: CIDC, India Country Report 2003-04

"...India is a huge opportunity and it would be foolish of us not to be interested in it."

-DPM Lee Hsien Loong
11 January 2004, Interview with The Hindu Newspaper (on State visit to India, Jan,2004)

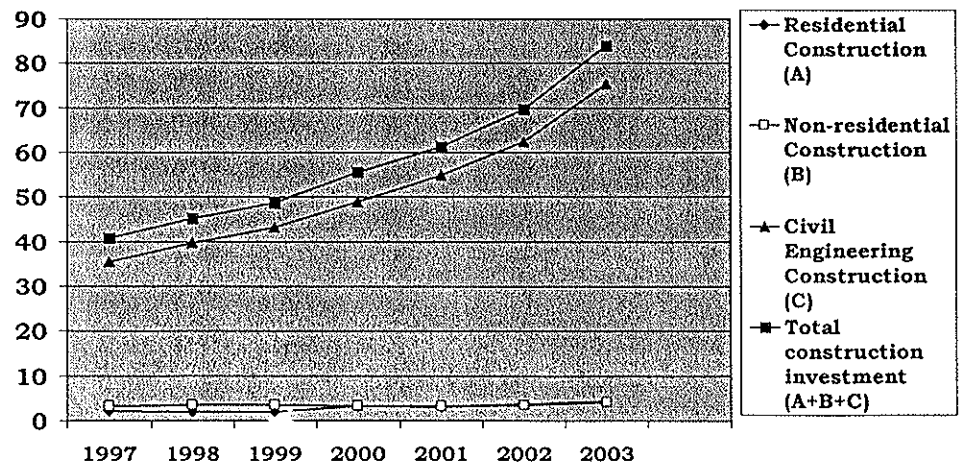
Construction investment 1997 – 2003 (In Billion USD)							
	1997	1998	1999	2000	2001	2002	2003
Residential Construction(A)	2.15	1.93	2.04	3.27	3.07	3.71	4.48
public	1.03	0.92	0.99	1.42	1.17	1.59	1.91
private	1.12	1.01	1.05	1.85	1.90	2.12	2.57
Non-residential Construction(B)	3.23	3.44	3.55	3.27	3.28	3.50	4.23
public	1.14	1.20	1.25	1.20	1.00	1.03	1.24
private	2.09	2.24	2.30	2.07	2.28	2.47	2.99
Civil Engineering Construction(C)	35.50	39.80	43.20	49.00	55.00	62.40	75.40
public	25.60	29.00	31.80	35.80	40.00	44.40	53.60
private	9.90	10.80	11.40	13.20	15.00	18.00	21.80
Total construction investment(A+B+C)	40.9	45.20	48.80	55.50	61.30	69.60	84.10
Total public	27.8	31.20	34.10	38.40	42.10	47.00	56.80
Total private	13.1	14.00	14.70	17.10	19.20	22.60	27.30

* Source: CIDC, India Country Report 2003-04

WONGPARTNERSHIP

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Construction Investment (In Billion USD)



* Source: CIDC, India Country Report 2003-04

WONGPARTNERSHIP

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C. INDIAN CONSTRUCTION SECTOR PROSPECTS

1. AREAS OF CONSTRUCTION ACTIVITY*

Infrastructure	Period	Investment
Power Investment	Upto 2006-07	US$156b
Urban Infras'ture	Next 10 Years	US$ 93b
Telecommunication	By 2006	US$ 48b
Road Investment	Next 10 Years	US$ 70b
Ports Investment	By 2005-06	US$ 12b
Water Management & Recycling	2004 - 2008	US$ 1b*
	TOTAL	US$380b

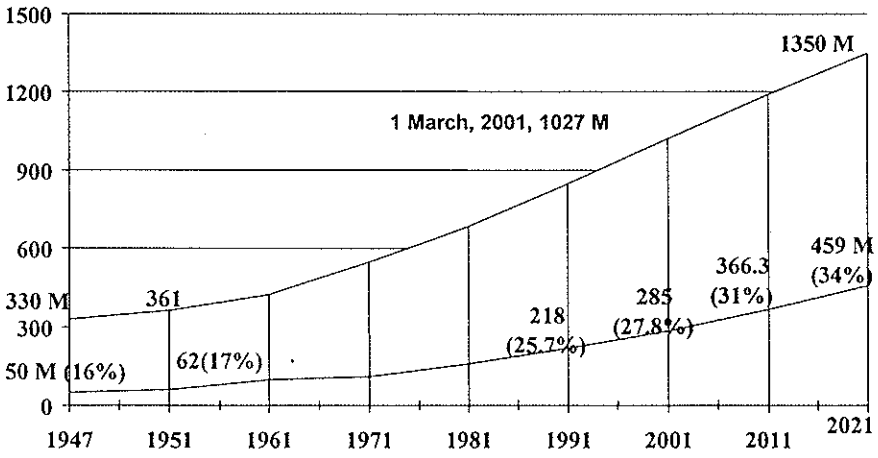
* Source: CIDC, India

WONGPARTNERSHIP

15

2. India : Urbanization Scenario

Decadal Growth Rate of Population (1991-2001)* Urban: 31.2% Rural 17.9%



Source: Building and Construction Authority

WONGPARTNERSHIP

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3. Urban Infrastructure

"Much of the investments flowing into India since the economic reforms began in 1991 have been and will continue to be in the urban centres..... India's cities and their infrastructure services... [are] under tremendous pressure.
The Government of India ... welcomes domestic and international investors in urban infrastructure."

WONGPARTNERSHIP - *CIDC India Country Report 2003-04* 17

4. Urban Infrastructure Opportunities in India

- **Water Supply –**
  development, conveyance & treatment of water
- **Sewerage -**
  pumping stations, sewerage treatment plants
- **Urban Public Transport -**
  - **23 metropolitan cities likely to go up to 40 by 2010.**
  - **attractive investment opportunities in public transport**
  - **City-wide studies**

Delhi	**Calcutta**	**Chennai**
Bangalore	**Hyderabad**	**Mumbai**

* Source: CIDC, India Country Report 2003-04

WONGPARTNERSHIP 18

- **MRT Systems and LRT Systems**
  - **Govt. support include**
    - **rights for development of property**
    - **foregoing returns/ dividends on any Govt. investments**
    - **the availability of budgetary sources for part-repayment of loans/tariff agreements**
- **Housing -**

  Ministry of Urban Affairs and Employment targets

  700,000 addit. housing units in urban areas every Year
- **Power Opportunities**

Singapore Companies Operating in India*

- **Informatics**
- **PSA Corporation**
- **SingTel**
- **SembCorp E & C**
- **Ascendas**
- **CESMA**
- **Parkway Holdings**
- **Jurong Consultants**
- **CPG Consultants**
- **DP Architects**
- **SAA Architects**

* Source: IE Singapore

6. Companies with Interest in India - 2004

- Temasek Holdings
- CapitaLand
- KepLand

7. Top 10 Indian Construction Co.s

	Company	Revenue			Employees
		Turnover (USD Million)	Buildings	Civil Engg	
1	Larsen & Toubro Ltd. (ECC Group)	472.0	159.2	312.8	7700
2	Jaiprakash Industries Ltd	190.3	16.2	174.1	8100
3	Hindustan Construction Co	91.5	NA	91.5	3325
4	Simplex Concrete Piles (India) Ltd	75.8	NA	75.8	2600
5	Unitech Ltd	67.5	18.4	28.7	1250
6	Gammon India Ltd	62.7	-	62.7	1700
7	National Buildings Construction Corp Ltd	63.2	31.6	1.3	6500
8	Skanska Cementation India Ltd	61.7	-	61.7	2200
9	Bridge & Roof Co Ltd	57.2	-	57.2	11600
10	Punj Lloyd Ltd	45.3	NA	45.3	5500

* Source: CIDC, India Country Report 2003-04

8. Top 10 Foreign Construction Companies in India*

- Bechtel Corp (USA)
- Daelim Industries Co (Korea)
- JCG Corp (Japan)
- LG Engineering (Korea)
- Lurgi (Germany)
- Snamprogetti (Italy)
- Toyo Engg Corp (Japan)
- Mitsui (Japan)
- Technimont SpA (Italy)
- Technip (France)

* Source: CIDC, India Country Report 2003-04

"Venturing abroad is never easy. We need to operate in a different culture and a different business environment."

-DPM Lee Hsien Loong
ST, 13 January 2004, on State visit to India

D. ENTRY VEHICLES INTO INDIA

1. As a Singapore Co. (i.e. foreign company) through :
   - liaison office
     - Only marketing & promotion
     - No other commercial / business activities
     - RBI approval needed
   - Project office
     - Project specific – Profit repatriation limits
       - RBI approval needed
     - Tax Rate ≈ 42%

2. As an Indian Co. (i.e. domestic entity) through :
   - Joint Venture
   - Wholly owned subsidiary
     - acquire existing co./estb. new set up
     - Tax Rate ≈ 36%
3. Consortium Approach
   a. Jt marketing – share costs
   b. Reduce competition
   c. Benefit from 'one-stop' adv.

E. THE NEGOTIATION PROCESS

1. The Appeal of the Singapore Investor

a. Assurance of Quality & Reliability

b. Singapore Brand Name

i. Housing/Infrastructure

ii. Consultancy Services

c. Funding Access

Negotiating Approach

2. The Indian Party

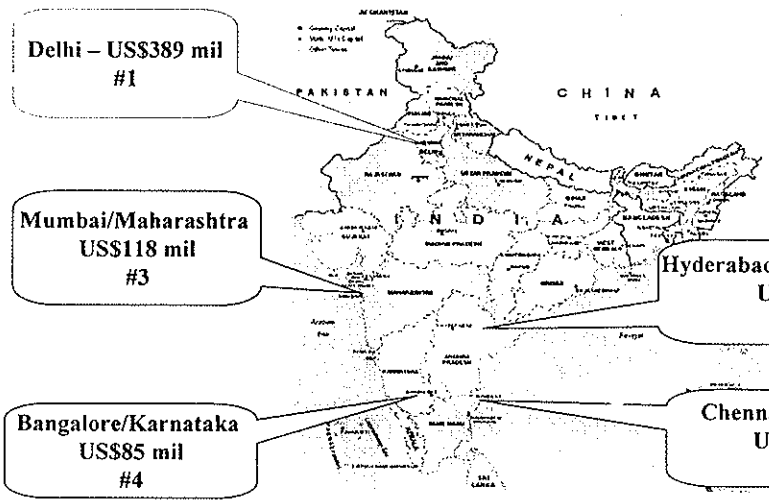
a. Confidence level in Indian Party

i. Govt/State entity

Most Investor Friendly & Progressive State Govts

- 4 Southern states + Delhi
  - Tamil Nadu - CHENNAI
  - Maharashtra - MUMBAI
  - Karnataka - BANGALORE
  - Andhra Pradesh - HYDERABAD

Top Destinations for Singapore Investments



WONGPARTNERSHIP

Source: IE Singapore (1991 – 2002)

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ii. **Reputable Indian Corp – for e.g. Tata, L&T**

iii. **Indiv/Grp of Indiv.s**

- **Decision maker ?**
- **What are they looking for ?**

Source: IE Singapore

WONGPARTNERSHIP

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b. Indian Preferences

i. Personal contact over fax/email

ii. Visible progress

iii. Staged Documentation

- Expression of Interest
- Memorandum of Understanding
- Binding Agreement

iv. Adv.s

- Indian - Visible progress markers
- S'porean - Incremental commitment levels

2. Dispute Resolution

a. Avoid Court System in India
- Ext. time lag
- Various levels of State/Fed. Cts.

b. Arbitration – Pref. Route
- Venue : S'pore/neutral 3rd country
- Pref. – Arb. in S'pore under SIAC Rules
- Arb.tor - can be 3rd party nationality
- New York Convention -
  - permits mutual enforcement of Arb.tion Awards
  - S'pore & India are both signatories

THE END

By Mohan R. Pillay

WONG*PARTNERSHIP*
Partner & Head, Construction &
Civil Engineering Practice
Adj. Assoc. Prof., Faculty of Law,
Nat. Univ. of Singapore,
Direct Line [DDI]: +65 6416 8118
Switchboard : +65 6416 8000
Facsimile No: +65 6532 5722
Email: mrp@wongpartnership.com.sg

WONG*PARTNERSHIP*

Singapore & Regional Lawyers

FIRM PROFILE

WONG*PARTNERSHIP* is a market leader in construction law, consistently ranked as top tier by independent legal journals.

Our Construction & Civil Engineering Practice has been involved in many of the major construction projects and disputes both in Singapore and the region.

The Practice is actively involved in both the contentious and non-contentious aspects of this area. This includes choice of appropriate forms of construction contracts and financing options, as well as providing support to clients in all aspects of contract documentation, building contract administration and supervision.

The Practice acts on behalf of owners, contractors, professional consultants and financiers on architectural, construction and civil engineering projects. Our clients also include government and quasi-government organisations, as well as major property development and international construction companies.

WONG*PARTNERSHIP* & INDIA

WONG*PARTNERSHIP* is actively involved in programmes that expand our networking & business capabilities throughout the region, most recently in India. We have explored business opportunities in the Indian construction sector as part of visiting Singapore delegations led by the Building and Construction Authority of Singapore to New Delhi, Hyderabad and Chennai.

We are legal advisors to both newly formed STA Consortium Pte Ltd (a group of 14 Singapore contractors and consultants), a special purpose vehicle for venturing into India as well as a number of other groupings looking at business opportunities in India, with particular focus on the construction industry.

We have participated in a number of construction and arbitration related seminars in India, as well as advised on Indian transactions & contracts in connection with Singapore dispute resolution provisions.

MOHAN R. PILLAY



Mohan Pillay

Head of the Firm's Construction & Civil Engineering Practice, Mohan Pillay's main areas of practice include commercial and corporate disputes, professional negligence, building and civil engineering contracts and arbitration.

In addition to an active practice, Mohan teaches building contracts, construction law and international arbitration at the National University of Singapore where he is an Adjunct Associate Professor at the Faculty of Law.

Mohan has consistently been identified as "highly regarded" in Singapore for construction work in The Asia Pacific Legal 500 (2001/02, 2002/03 & 2003/04 Ed.s). He has also been identified as a leading Asian lawyer in construction (arbitration) and dispute resolution by AsiaLaw Leading Lawyers 2002.

For more information on our Firm and our construction & civil engineering expertise, please visit www.wongpartnership.com.sg or contact Mohan at:

Tel: +65 6416 8118
Fax: +65 6532 5722
Email: mrp@wongpartnership.com.sg

WONG*PARTNERSHIP* is a broad-based commercial law practice, offering the breadth and quality of service that is essential in today's challenging environment of global markets and volatile economies.

The Firm's areas of expertise include litigation and arbitration; construction and civil engineering; corporate finance and securities; banking; finance and capital markets; general corporate and commercial law; regulatory disputes; intellectual property and information technology; and property and real estate.

Foreign Direct Investment Policies in India

Construction & Property Prospects

2004 Seminar

11 February 2004 - Orchard Hotel

By Mr Som Mandal
Managing Partner
Fox Mandal & Co, India

Building and Construction Authority

REDAS

FOREIGN DIRECT INVESTMENT POLICIES IN INDIA - CONSTRUCTION INDUSTRY

By
Mr Som Mandal
Managing Partner
Fox Mandal & Co

INTRODUCTION

India's economic policy reforms have played a critical role in the performance of the Indian economy since 1991. The reforms have involved opening the economy, making it more competitive, getting the government out of the huge morass of regulation, empowering the states to take more responsibility for economic management and thereby creating a kind of competition between the states for foreign investors.

The GDP growth rate which had collapsed to 0.8% in 1991-1992 rebounded to a near normal 5.3% in 1992-1993 and then accelerated to 6.2% in 1993-1994. Subsequently there has been steady growth in the GDP. The current GDP rate is 5.6%.The crisis in East Asia slowed the growth process in India, however putting a limit on the short-term capital inflows and restraining short term borrowing from abroad proved to be helpful . Moreover India also kept the rupee flexible which helped its economy to be more competitive. The present inflation rate in India is 2.6%.

THE FOREIGN DIRECT INVESTMENT (FDI) REGIME

FDI is basically the revenue brought into the country by foreign agencies for the purpose of business or investments, through the official Foreign Investment Promotion Board (FIPB) channels. All over the world, FDI is seen as an important source of non-debt inflows, and is increasingly sought as a vehicle for technology flows, and as a means of building inter-firm linkages in a world in which multinational corporations (MNC's) are primarily operating on the basis of a network of global interconnections. The Government of India

promoted numerous measures to promote FDI in 1998-1999. Projects related to electricity, roads and highways, ports and harbours, and vehicular tunnels and bridges have been allowed to have 100% equity participation. The Government also decided to permit FDI up to 49% of the total equity, subject to license, in companies providing Global Mobile Personal Communication by Satellite services. Moreover the stringent norms as to the minimum capitalisation required for pure financial consultancy services were also eased.

FDI in India is permitted under the following forms of investments:

1. Through setting up 100% subsidiaries.
2. Through joint ventures and technical collaborations
3. Through capital markets

However, there are a few forbidden areas where FDI is not permitted. These areas include:

1. Arms and ammunitions
2. Atomic energy
3. Railway transport
4. Coal and lignite
5. Mining of iron, manganese, chrome, gypsum, sulphur, gold, diamonds, copper, zinc.

Foreign Investment Promotion Board was set up to promote accelerated growth in the industrial sector and to increase the inflows of FDI in India. The objective of the board is to promote FDI into India by undertaking investment promotion activities and facilitating investment in India by international companies, Non Resident Indians and other foreign investors. Moreover the Board considers all investment proposals on a continuous basis and has the flexibility of purposeful negotiation with the investors. The Board considers project proposals in totality, free from parameters with a view to maximise FDI into India.

There are two modes of obtaining Foreign Direct Investment approvals. First

route is the Automatic approval by the Reserve Bank of India (RBI) where investments in high-priority industries or for trading companies primarily engaged in exporting are automatically approved by the RBI. Under the automatic route there is no requirement of prior approval from the RBI, however, the investors are required to notify the concerned regional office of the RBI within 30 days of receipt of inward remittances. The other route is the Foreign Investment Promotion Board (FIPB) route or to say the Government route where the FIPB approves all the other cases which do not go through under the Automatic route and the normal processing time under this is four to six weeks. The important sectors where 100% foreign ownership is permitted are:

Under Government Route:

1. Airports
2. B2B e-commerce
3. trading companies within notified policy
4. drugs and pharmaceuticals not falling on the automatic route
5. integrated township development
6. ISP's without gateways, electronic mail and voice mail
7. courier services other than distribution of letters

Under Automatic Route:

(1) Most manufacturing activities other than those, which attract compulsory licensing/ sectoral equity, cap or are reserved exclusively in small scale industries.
(2) Non-banking financial services
(3) Infrastructure such as roads and highways, ports and harbors, electricity generation transmission and distribution, mass rapid transit systems, LNG projects, etc.
(4) Drugs and pharmaceutical that does not attract compulsory licensing and involve recombinant DNA technology.
(5) Hotels and tourism.

(6) Food processing.

(7) Electronic hardware.

(8) Software development.

(9) Film industry.

(10) Hospitals.

(11) Private oil refineries.

(12) Pollution control and management.

(13) Exploration and mining of minerals other than diamonds and precious stones.

(14) Management consultancy.

(15) Venture capital funds/companies.

SECTOR SPECIFIC GUIDELINES FOR FOREIGN DIRECT INVESTMENT

Sl.No.	Sector	Guidelines
1.	Private Sector Banking	49% from all sources on the automatic route subject to guidelines issued from RBI from time to time.
	Non Banking Financial Companies(NBFC)	(a) FDI/NRI/OCB investments allowed in the following 19 NBFC activities shall be as per levels indicated below: (i) Merchant banking (ii) Underwriting (iii) Portfolio Management Services (iv) Investment Advisory Services (v) Financial Consultancy (vi) Stock Broking (vii) Asset Management (viii) Venture Capital (ix) Custodial Services (x) Factoring

Sl.No.	Sector	Guidelines
		(xi) Credit Reference Agencies (xii) Credit rating Agencies (xiii) Leasing & Finance (xiv) Housing Finance (xv) Forex Broking (xvi) Credit card business (xvii) Money changing Business (xviii) Micro Credit (xix) Rural Credit
		(b) Minimum capitalisation norms for fund based NBFCs: (i) For FDI up to 51% - US$ 0.5 million to be brought upfront (ii) For FDI above 51% and up to 75% - US $ 5 million to be brought upfront (iii) For FDI above 75% and up to 100% - US $ 50 million out of which US $ 7.5 million to be brought upfront and the balance in 24 months (c) Minimum capitalisation norms for non-fund based activities: Minimum capitalisation norm of US $ 0.5 million is applicable in respect of all permitted non- fund based NBFCs with foreign investment (d) Foreign investors can set up 100% operating subsidiaries without the condition to disinvest a minimum of 25% of its equity to Indian entities, subject to bringing in US$ 50 million as at (b) (iii) above (without any restriction on number of operating subsidiaries without bringing in additional capital)

Sl.No.	Sector	Guidelines
		(e) Joint Venture operating NBFC's that have 75% or less than 75% foreign investment will also be allowed to set up subsidiaries for undertaking other NBFC activities, subject to the subsidiaries also complying with the applicable minimum capital inflow i.e. (b)(i) and (b)(ii) above (f) FDI in the NBFC sector is put on automatic route subject to compliance with guidelines of the Reserve Bank of India. RBI would issue appropriate guidelines in this regard.
	Insurance	FDI up to 26% in the Insurance sector is allowed on the automatic route subject to obtaining licence from Insurance Regulatory & Development Authority (IRDA)
2.	Domestic Airlines	(Detailed guidelines have been issued by Ministry of Civil Aviation) in the domestic Airlines (i) FDI up to 40% permitted subject to no direct or indirect equity participation by foreign airlines (ii) 100% investment by NRIs/OCBs (iii) The automatic route is not available
	Airport	Up to 100% with FDI, beyond 74% requiring Government approval
3.	Telecommunication	1. In basic, cellular, value added services and global mobile personal communications by satellite, FDI is limited to 49% subject to licensing and security requirements and adherence by the companies (who are investing and the companies in which the

Sl.No.	Sector	Guidelines
		investment is being made) to the licence conditions for foreign equity cap and lock- in period for transfer and addition of equity and other licence provisions 2. In ISPs with gateways, radio-paging and end-to-end bandwidth, FDI is permitted up to 74% with FDI, beyond 49% requiring Government approval. These services would be subject to licensing and security requirements 3. No equity cap is applicable to manufacturing activities 4. FDI upto 100% is allowed for the following activities in the telecom sector : (a) ISPs not providing gateways (both for satellite and submarine cables) (b) Infrastructure Providers providing dark fibre (IP Category (c) Electronic Mail; and (d) Voice Mail The above would be subject to the following conditions: (a) FDI up to 100% is allowed subject to the condition that such companies would divest 26% of their equity in favour of Indian public in 5 years, if these companies are listed in other parts of the world (b) The above services would be subject to licensing and security requirements, wherever required (c) Proposals for FDI beyond 49% shall be considered by FIPB on case to case basis
4.	Petroleum (other than Refining)	(b) Under the exploration policy, FDI up to 100% is allowed for small fields through competitive bidding; upto 60% for unincorporated JV; and up to 51% for

Sl.No.	Sector	Guidelines
		incorporated JV with a No Objection Certificate for medium size fields (c) For petroleum products and pipeline sector, FDI is permitted up to 51% (d) FDI is permitted up to 74% in infrastructure related to marketing and marketing of petroleum products (e) 100% wholly owned subsidiary(WOS) is permitted for the purpose of market study and formulation (f) 100% wholly owned subsidiary (WOS) is permitted for investment/Financing (g) For actual trading and marketing, minimum 26% Indian equity is required over 5 years
	Petroleum (Refining)	The automatic route is not available (a) FDI is permitted up to 26% in case of public sector units(PSUs). PSUs will hold 26% and balance 48% by public. Automatic route is not available (b) In case of private Indian companies, FDI is permitted upto 100% under automatic route
5.	Housing & Real Estate	No foreign investment is permitted in this sector except for development of integrated townships and settlements where FDI upto 100% is permitted with prior Government approval. NRIs/OCBs are allowed to invest in the following activities (a) Development of serviced plots and construction of built up residential premises (b) Investment in real state covering construction of residential and commercial premises including business centres and offices (c) Development of townships

Sl.No.	Sector	Guidelines
		(d) City and regional level urban infrastructure facilities, including both roads and bridges (e) Investment in manufacture of building materials, which is also open to FDI (f) Investment in participatory ventures in (a) to (e) above (g) Investment in housing finance institutions, which is also open to FDI as an NBFC
6.	Coal and Lignite	(i) Private Indian companies setting up or operating power projects as well as coal or lignite mines for captive consumption are allowed FDI up to 100% (ii) 100% FDI is allowed for setting up coal processing plants subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal processing plants for washing or sizing (iii) FDI up to 74% is allowed for exploration or mining of coal or lignite for captive consumption (iv) In all the above cases, FDI is allowed up to 50% under the automatic route subject to the condition that such investment shall not exceed 49% of the equity of a PSU
7.	Venture Capital Fund (VCF) and Company (VCC)	Offshore Venture Capital Funds/Companies are allowed to invest in domestic venture capital undertaking as well as other companies through the automatic route, subject only to SEBI regulations and sector Venture Capital specific caps on FDI

Sl.No.	Sector	Guidelines
8.	Trading	Trading is permitted under automatic route with FDI up to 51% provided it is primarily export activities, and the undertaking is an export house/trading house/super trading house/star trading house. However, under the FIPB route:- i. 100% FDI is permitted in case of trading companies for the following activities: • exports • bulk imports with ex-port/ex-bonded warehouse sales • cash and carry wholesale trading • other import of goods or services provided at least 75% is for procurement and sale of goods and services among the companies of the same group and not for third party use or onward transfer/distribution/sales ii. The following kinds of trading are also permitted, subject to provisions of EXIM Policy: (i) Companies for providing after sales services (that is not trading per se) (ii) Domestic trading of products of JVs is permitted at the wholesale level for such trading companies who wish to market manufactured products on behalf of their joint ventures in which they have equity participation in India (iii) Trading of hi-tech items/items requiring specialised after sales service (iv) Trading of items for social sector (v) Trading of hi-tech, medical and diagnostic items

Sl.No.	Sector	Guidelines
		(vi) Trading of items sourced from the small scale sector under which, based on technology provided and laid down quality specifications, a company can market that item under its brand name (vii) Domestic sourcing of products for exports (viii) Test marketing of such items for which a company has approval for manufacture provided such test marketing facility will be for a period of two years, and investment in setting up manufacturing facilities commences simultaneously with test marketing (ix) FDI up to 100% permitted for e-commerce activities subject to the condition that such companies would divest 26% of their equity in favour of the Indian public in five years, if these companies are listed in other parts of the world. Such companies would engage only in business to business (B2B) e-commerce and not in retail trading FDI is not permitted in retail trading activity.
9.	Investing Companies in Infrastructure/ Service Sector	In respect of the companies in infrastructure/service sector, where there is a prescribed cap for foreign investment, only the direct investment will be considered for the prescribed cap and foreign investment in an investing company will not be set off against this cap provided the foreign direct investment in such investing company does not exceed 49% and the management of the investing company is with the Indian owners. The automatic route is not available.
10.	Atomic Minerals	The following three activities are permitted to receive FDI/NRI/OCB investments through FIPB (as per detailed

Sl.No.	Sector	Guidelines
		guidelines issued by Department of Atomic Energy vide Resolution No.8/1(1)/97-PSU/1422 dated 6.10.98): a. Mining and mineral separation b. Value addition per se to the products of (a) above c. Integrated activities (comprising of both (a) and (b) above.) The following FDI participation is permitted: (i) Up to 74% in both pure value addition and integrated projects (ii) For pure value addition projects as well as integrated projects with value addition upto any intermediate stage, FDI is permitted upto 74% through joint venture companies with Central/State PSUs in which equity holding of at least one PSU is not less than 26% (iii) In exceptional cases, FDI beyond 74% will be permitted subject to clearance of the Atomic Energy Commission before FIPB approval.
11.	Defence and Strategic Industries	Foreign Direct Investment, including NRI/OCB investment, is permitted up to 26% with prior Government approval subject to licensing and security requirements..
12.	Agriculture (including Plantation)	No FDI/NRI/OCB investment is permitted other than Tea sector, where FDI permitted up to 100% in Tea sector, including tea plantations, with prior Government approval and subject to following conditions: • Compulsory divestment of 26% equity in favour of

Sl.No.	Sector	Guidelines
		Indian partner/ Indian public within a period of five years, and • Prior State government approval required in case of any future land use change. The above dispensation would be applicable to all fresh investments (FDI) made in this sector.
13.	Print media	The following FDI participation in Indian entities publishing News Papers and periodicals is permitted: (a) FDI up to 74% in publishing scientific/technical and speciality magazines/periodicals/journals (b) FDI up to 26% in publishing News Papers and Periodicals dealing in News and Current Affairs subject to verification of antecedents of foreign investor, keeping editorial and management control in the hands of resident Indians and ensuring against dispersal of Indian equity. The detailed guidelines had been issued by Ministry of Information and Broadcasting.
14.	Broadcasting	Broadcasting a) TV Software Production 100% foreign investment allowed subject to: (i) all future laws on broadcasting and no claim of any privilege or protection by virtue of approval accorded, and (ii) not undertaking any broadcasting from Indian soil without Government approval

Sl.No.	Sector	Guidelines
		b) Setting up hardware facilities, such as uplinking, HUB, etc. Private companies incorporated in India with permissible FII/NRI/OCB/PIO equity within the limits (as in the case of telecom sector FDI limit up to 49% inclusive of both FDI and portfolio investment) to set up uplinking hub (teleports) for leasing or hiring out their facilities to broadcasters. **Foot note**: As regards satellite broadcasting, all TV channels irrespective of management control to uplink from India provided they undertake to comply with the broadcast (programme & advertising) code c) Cable Network Foreign investment allowed up to 49% (inclusive of both FDI and portfolio investment) of paid up share capital. Companies with minimum 51% of paid up share capital held by Indian citizens are eligible under the Cable Television Network Rules (1994) to provide cable TV services d) Direct-to-Home Company with a maximum of foreign equity including FDI/NRI/OCB/FII of 49% would be eligible to obtain DTH License. Within the foreign equity, the FDI component not to exceed 20% e) Terrestrial Broadcasting FM The licensee shall be a company registered in India

Sl.No.	Sector	Guidelines
		under the Companies Act. All share holding should be held by Indians except for the limited portfolio investment by FII/NRI/PIO/OCB subject to such ceiling as may be decided from time to time. Company shall have no direct investment by foreign entities, NRIs and OCBs. As of now, the foreign investment is permissible to the extent of 20% portfolio investment f) Terrestrial TV No private operator is allowed in terrestrial TV transmission.
15.	Power	Up to 100% FDI allowed in respect of projects relating to electricity generation, transmission and distribution, other than atomic reactor power plants. There is no limit on the project cost and quantum of foreign direct investment.
16.	Drugs & Pharmaceutical	FDI up to 100% is permitted on the automatic route for manufacture of drugs and Pharmaceuticals provided the activity does not attract compulsory licensing or involve use of recombinant DNA technology, and specific cell / tissue targeted formulations FDI proposals for the manufacture of licensable drugs and pharmaceuticals and bulk drugs produced by recombinant DNA technology, and specific cell / tissue targeted formulations will require prior Government approval.
17.	Roads & Highways Ports and Harbours	FDI up to 100% under automatic route is permitted in projects for construction and maintenance of roads,

Sl.No.	Sector	Guidelines
		highways, vehicular bridges, toll roads, vehicular tunnels, ports and harbours.
18.	Hotels & Tourism	100% FDI is permissible in the sector on the automatic route The term hotels include restaurants, beach resorts, and other tourist complexes providing accommodation and/or catering and food facilities to tourists. Tourism related industry include travel agencies, tour operating agencies and tourist transport operating agencies, units providing facilities for cultural, adventure and wild life experience to tourists, surface, air and water transport facilities to tourists, leisure, entertainment, amusement, sports, and health units for tourists and Convention/Seminar units and organisations For foreign technology agreements, automatic approval is granted if (i) up to 3% of the capital cost of the project is proposed to be paid for technical and consultancy services including fees for architects, design, supervision, etc. (ii) up to 3% of net turnover is payable for franchising and marketing/ publicity support fee, and (iii) up to 10% of gross operating profit is payable for management fee, including incentive fee
19.	Mining.	(i) For exploration and mining of diamonds and precious stones FDI is allowed up to 74% under automatic route (ii) For exploration and mining of gold and silver and

Sl.No.	Sector	Guidelines
		minerals other than diamonds and precious stones, metallurgy and processing FDI is allowed up to 100% under automatic route (iii) Press Note No. 18 (1998 series) dated 14.12.98 would not be applicable for setting up 100% owned subsidiaries in so far as the mining sector is concerned, subject to a declaration from the applicant that he has no existing joint venture for the same area and / or the particular mineral
20.	Postal Services	FDI up to 100% is permitted in courier services with prior Government approval excluding distribution of letters, which is reserved exclusively for the state
21.	Pollution Control and Management	FDI up to 100% in both manufacture of pollution control equipment and consultancy for integration of pollution control systems is permitted on the automatic route
22.	Advertising and Films	a) Advertising sector FDI up to 100% allowed on the automatic route b) Film sector (film production, exhibition and distribution including related services/products) FDI up to 100% allowed on the automatic route with no entry-level condition
23.	Mass Rapid Metro Transit System	FDI up to 100% is permitted on the automatic route in mass rapid transport system in all metros including associated real estate development

Sl.No.	Sector	Guidelines
24.	Township Development	FDI up to 100% is permitted for development of integrated townships including houses, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities such as roads and bridges, mass rapid transit system; and manufacture of building materials. Development of land and providing allied infrastructure will form an integral part of township's development. FDI in this sector would be permissible with prior Government approval.
25.	Establishment and Operation of Satellite	FDI up to 74% is permitted with prior Government approval
26.	Lottery Business, Gambling & Betting	Government has reiterated prohibition of foreign direct investment (FDI) / Foreign technical collaboration (FTC) in any form in lottery business, gambling and betting sector.

Source - SIA Manual

A foreign enterprise wishing to do business in India can go for:

AGENCY:

This provides the foreign entity an indirect presence in India. Under this, the foreign business appoints an Indian entity as its agent and depending upon the scope of the agency agreement, the agent can buy or sell or provide any other service.

Applications for permission to act or accept appointment as agents in India should be made in form FNC 1 to the central office of Reserve Bank (Foreign Investment Division).

LIAISON OFFICE:

These are owned and controlled by the foreign enterprises. However the liaison offices are not allowed to earn any income and are primarily opened by foreign companies to liaise with their customers in India and for promoting export and import. No manufacturing, trading or any other commercial activity is allowed in the liaison office.

A liaison office in India is permitted to undertake the following activities:

(i) Representing the parent company / group companies in India.
(ii) Promoting export / import from/to India.
(iii) Promoting technical / financial collaborations between parent/group companies and companies in India.
(iv) Acting as a communication channel between the parent company and Indian companies.
(v) Any other activity with specific permission of the Reserve Bank of India (RBI).

The opening and operation of such offices is regulated by the Foreign Exchange Management Act (FEMA) 1999. The conditions imposed for operation of such offices are:

(i) Expenses of such offices are to be met entirely through inward remittances of foreign exchange from the Head Office abroad.
(ii) Such offices should not undertake any trading or commercial activities and their activities should be limited to collecting and transmitting information between the overseas Head Office and potential Indian customers.
(iii) Such offices should not charge any commission or receive any income from Indian customers for providing liaison services.
(iv) Liaison offices also have to file regular returns comprising of Annual Audited Accounts, an annual activity report on the activities of the office and some other documents with RBI.
(v) Application to set up liaison office in India should be made in form FNC 1

to the central office of RBI (Foreign Investment Division). After the application is approved, permission is initially granted for three (3) years subject, inter alia, to the condition that the expenses of the liaison office are met exclusively out of inward remittances. Applications for renewal of permission should be made to the concerned regional office of Reserve Bank under whose jurisdiction the office is situated. An application also needs to be made to the Registrar of Companies for setting up of a place of business under Section 592 of the Companies Act, 1956.

PROJECT OFFICE :

Foreign Companies can set up temporary project/site offices in India to execute specific projects in India.

RBI grants a general permission to a foreign entity for setting up a project office in India subject to the following conditions:

(i) it has secured from an Indian company a contract to execute a project in India; and
(ii) the project is funded by inward remittance from abroad; or
(iii) the project is funded by a Bilateral International Finance Agency; or
(iv) the project has been cleared by an appropriate authority; or
(v) a company or entity in India awarding the contract has been granted Term Loan by a Public Financial Institution or a bank for the project.

RBI has also granted general permission to foreign entities to remit the surplus on winding up/completion of projects through Authorised Dealers.

An application needs to be made to the Registrar of Companies for setting up of a place of business under Section 592 of the Companies Act, 1956.

BRANCH OFFICE:.

The branches are basically an extended arm of the foreign company and can undertake export/import of goods, consultancy, research, coordination with local buyers and sellers, provide technical support for products sold in India,

development of software and operations related to airline/shipping business. However branches are not allowed to undertake manufacturing activities except research work in which the parent company is engaged. These branches are treated as Permanent Establishment of a foreign company in India and are liable for higher Income Tax (40% *plus* surcharge against 35% *plus* surcharge for companies set up in India). The foreign parent company is liable for all activities of the Indian branch.

The branch office can undertake the following activities:

(i) Export/Import of goods
(ii) Rendering professional or consultancy services.
(iii) Carrying out research work, in which the parent company is engaged.
(iv) Promoting technical or financial collaborations between Indian companies and parent or overseas group company.
(v) Representing the parent company in India and acting as buying/selling agent in India.
(vi) Rendering services in Information Technology and development of software in India.
(vii) Rendering technical support to the products supplied by parent/group companies.
(viii) Foreign airlines/shipping company.
(ix) Any other activity with specific permission of RBI.

Applications for opening of branches in India should be made to the central office of RBI (Foreign Investment Division) in form FNC 1.

Procedure for incorporation of a company in India

The first step in incorporating a company in India is to obtain the name approval for the company, from the Registrar of Companies in the State / Union Territory in which the company will maintain its registered office. This approval is provided subject to certain conditions: for instance, there should be no existing company by the same name. Further, the last words in the name are required to be "Private Ltd." in the case of a private company and

"Limited" in the case of a public company.

The second step is the drafting of the Memorandum and the Articles of Association and filing of the same with the concerned Registrar of Companies. The Memorandum of Association is a document that sets out the constitution of the company. It contains, amongst others, the objects and the scope of activity of the company and also defines the relationship of the company with the outside world.

The Articles of Association contain the rules and regulations of the company for the management of its internal affairs. While the Memorandum specifies the objects and purposes for which the Company has been formed, the Articles lay down the rules and regulations for achieving those objects and purposes. The Articles also set out the contract between the shareholders of the company with regard to the management of the company and transfer of its shares.

The third step is to register the company which is completed when the Registrar of Companies issues the Certificate of Incorporation.

The Registrar of Companies will give the certificate of incorporation after the required documents are presented along with the requisite registration fee, which is scaled according to the authorized share capital of the company, as stated in its Memorandum. A private company can commence business on receipt of its certificate of incorporation. However, a public company needs a certificate of commencement of business from Registrar of Companies to commence the business.

A public company has the option of inviting the public for subscription to its share capital. Accordingly, the company has to issue a prospectus, which provides information about the company to potential investors. The Companies Act specifies the information to be contained in the prospectus.

The Government of India has allowed FDI's for several industries in the recent

past. FDI in Real Estate is being permitted since January 2002. Government has permitted FDI up to hundred (100)% for development of integrated townships, including housing, commercial premises, hotels, resorts, city and regional level urban infrastructure facilities such as roads and bridges, mass rapid transit systems and manufacture of building materials. Furthermore, development of land and providing allied infrastructure will form an integrated part of township's development. In the guidelines notified for Integrated Township Development, rigid norms have been laid out, restricting the entry only to big investors and having substantial prior experience. Emphasis has also been put on the development of the peripheral services like police stations, etc. and community services like hospitals, schools, etc. Developers, although, do have to ensure compliance of the bylaws/rule, master plans and state and local laws wherever applicable.

FDI in the development of integrated townships is subject to the following guidelines:

1. The foreign investor shall be registered as an Indian Company under Companies Act 1956, and will be allowed to take up land assembly and its development as a part of Integrated Township Development.

2. The core business of the company seeking to make investment, should be integrated township development with a record of successful execution of such projects elsewhere.

3. A minimum area of 100 acres has to be developed by the company for which norms and standards are to be followed as per local bylaws/rules. In the absence of such bylaws/rules, a minimum of two thousand dwelling units for about ten thousand population will need to be developed by the investor.

4. The minimum capitalisation norm shall be US$ 10 million for a wholly owned subsidiary and US$ 5 million for joint ventures with Indian partner(s). The funds would have to be brought in upfront.

5. A minimum lock-in period of three years from completion of minimum capitalisation shall apply before repatriation of original investment is permitted.

6. A minimum of 50% of the integrated project development must be completed within a period of five years from the date of possession of the first piece of land. However, if the investor intends to exit earlier due to reasons beyond his control, it shall be decided by FIPB on a case-to-case basis.

7. Conditions regarding the use of land for commercial purposes, development charges, external development charges and other charges as laid down in Master Plan/Bylaws, preparation of layout and building plan, development of internal and peripheral development, development of other infrastructure facilities including the trunk services etc., will be the responsibility of the investor as per planning norms and standards on similar lines as those applicable to local investors.

In the absence of such standards and norms, every State Government may decide their own conditions for which the Urban Development Plan Formulation and Implementation guidelines circulated by the Ministry of Urban Development and Poverty Alleviation may serve as a guiding principle.

1. Land with assembled area for peripheral services such as police stations, milk booths will be handed over free of cost to the Government/local authority/agency as the case may be.

2. The Developer will retain the lands for community services such as (i) schools (ii) shopping complex (iii) community centres (iv) ration shop (v) hospital/dispensary. These services will be developed by developer himself and shall be made operational before the houses are occupied.

3. The developer, after properly developing playgrounds, park, will make it available to the local authorities free of cost.

4. The developer will ensure the norms and standards as applicable under local laws / rules.

5. For companies investing in Special Economic Zones, FIPB may accord exemption to any of the above mentioned conditions on a case-to-case basis. This will, however, be an interim measure till guidelines are evolved in due course in a need based manner.

Non Resident Indians and Overseas Corporate Bodies are allowed to invest in the following activities.

(a) Development of serviced plots and construction of built up residential premises
(b) Investment in real estate covering construction of residential and commercial premises including business centres and offices
(c) Development of townships
(d) City and regional level urban infrastructure facilities, including both roads and bridges
(e) Investment in manufacture of building materials, which is also open to FDI
(f) Investment in participatory ventures in (a) to (e) above
(g) Investment in housing finance institutions, which is also open to FDI as an NBFC

Foreign Investment is proposed to be permitted in the retail sector with minimum capitalization conditions for foreign retail companies interested in setting up 100% subsidiaries as well as joint ventures with Indian partners.

The first FDI project, approved by FIPB, is a hundred (100) acre residential township in Gurgaon (NCR New Delhi). An Indian infrastructure and property consultancy company, Feedback Ventures Ltd. tied up with Malaysia- based real estate companies, Kontur Bintag and Westport, for the said project which

costs almost Rs. 800 crores.

The construction industry in India can be classified into three (3) broad segments viz., civil (municipal roads, sewerage and water supply projects), infrastructure (highways, bridges, dams, ports etc.) and housing/industrial segments (domestic and industrial construction). In India both the central and sate governments have power to make enactment on the subject of housing and land. As a result, policy in India has been vide and varied. The central government has adopted a Five-Year planning strategy through which it makes some policy by way of fiscal concessions. State governments have their power to legislate and also have their own sources of funds. Some states have their own housing policy, despite the fact that the country as a whole has a National Housing and Habitat Policy (1998).

LEGAL AND FISCAL REQUIREMENTS FOR FOREIGN CONSTRUCTION COMPANIES

The regulatory requirements during the construction phase are the same as required for any construction company. Moreover, the said requirements are similar in nature to those operating in any other part of the world. There are additional requirements for the foreign companies that relate to legal and fiscal matters which require efforts and time for compliance. These additional requirements are:

- The foreign company who is successful in winning a contract is required to set up a project office in the country for which the permission of the Reserve Bank of India is required.
- The foreign company has to obtain the registration with the Income Tax Authorities, a permanent account number (PAN) and tax deduction account number (TAN).
- The company must obtain registration for sales tax and works contract tax in the state it plans to operate for the execution of the construction project and obtain the sales tax registration number.
- They need to register for the Professional Tax and the Service Tax and

obtain relevant registration numbers.

- In addition, Registration is required with the Registrar of the Companies, New Delhi for the foreign company to operate in the country as a branch office of their principal.

The above listed registrations, obtaining the relevant registration numbers are required before the project can really commence and any order can be placed from the project office in India or any advance or down payment can be received from the project owner. These activities may take anywhere between two to three months and effectively reduce the available time for execution of the project. Foreign construction companies can reduce the time required for the above by engaging specialist consultants and Law Advisers available in the country.

Furthermore, closures with most of the regulatory agencies listed above is required to be obtained before, the foreign contractor's final payment can be released by the project owner. Further assessment and closures with the concerned authorities for sales tax, service tax and other taxes may take several years after the completion of project activities. This means that the contractor is required to maintain and operate the project office much beyond the actual and physical completion of the construction project to meet the regulatory requirements.

Before construction commences the contractor has to obtain the Labour Licence from the Labour Commissioner of the State or from the Central Labour Commissioner as applicable to hire contract labour. Moreover, the contractor also has to register with the Provident Fund Commissioner and Employee's State Insurance Service.

These requirements are common to any contractor for doing construction in the country and to ensure compliance with the requirement of the relevant laws. The local labour unions may insist that all requirement of the labour must be sourced through them. Only in case of their inability to provide the non-supervisory labour, the contractor may be permitted to bring it from

outside. This process, though informal, can add to delay in mobilising additional resources when required and hamper the flexibility the construction contractor.

In case, the works are situated within the Municipal Limits, the Municipal Licence is required for the construction site. The State Factory Inspector's approval is required for the layout and building plans both before commencement of the construction and on completion of the construction. The tall structures in the facility will need the approval from the Directorate of Civil Aviation to ensure that they are not in the landing funnel of an airport and are provided with adequate aviation warning signals.

The design of safety and fire fighting system and equipment will need approval from the Tariff Advisory Committee of the Insurance Companies to enable the project owner to have a safe system and obtain maximum rebate on the insurance premium payable.

During the actual construction, the contractor needs to obtain approval for the installation and operation of the Diesel Generating Power sets in the facility from the State Electricity Board and Electrical Inspectorate. The operation worthiness certificates from the Charted Engineer / State Approved Agency for the piling equipment, cranes, material handling equipment, lifting equipment will be required to ensure safe operation of these equipment. Licence from the Wireless Authorities will be required to use walkie-talkies at the construction site. Liaison with the local police, Central Industrial Security Force (in case of public sector project) , security and the safety department of the owner will be required. Necessary clearance has to be obtained for the disposal of the debris and borrow pits for filling earth, quarrying material such as sand, stone from the concerned local authorities. All risks / marine cum erection insurance policy needs to be maintained during the construction and insurance taken to cover the workmen's compensation due to any accidents. The Project Owner or the Third Parties Audit of the safety will be required to be undertaken periodically.

On the completion of the construction, check lists from the owner's operation department, licenser's specialists and various statutory authorities discussed above will be needed to be liquidated. These are required before the owner's operation department can take over the facility and issue necessary completion certificate to enable the contractor to move toward the contract closure.

CONCLUSION

In an increasingly globalised world, necessitated by the WTO Agreements and the negotiations thereon, most access barriers to trade are unlikely to survive for long periods. Due to the General Agreement on Trades and Services ("**GATS**") to which India is a signatory, India is required to progressively liberalise its economy and remove the access barriers to its domestic market, with the exception of certain specified sectors. Construction and engineering services are not among such exempted services and would therefore have to be free of market access barriers. Consequently, India has liberalized the norms for foreign investment and has allowed investment under the automatic route in several sectors, including in the infrastructure and in the construction industry for the housing and town planning segments.

The Indian construction market is projected to grow at an annual rate of ten (10) % over the next five years, and by 2010, the market will reach US $114 billion mark. Since the economy is growing at such a fast pace, major infrastructure development and urbanisation is the need of the hour. As per a study conducted by the United Nations, by the year 2015, 10 of the worlds largest cities will be in Asia (excluding Japan) and three of these will be India. The projection suggests that the demographic growth will be high and the country is poised for rapid urbanisation, which will lead to major developments in Real Estate and Infrastructure projects.

Taxation Policies and Issues Relating to Real Estate Development and Construction Works in India

Construction & Property Prospects

11 February 2004 - Orchard Hotel

By Mr P.V.R.. Rajendra Prasad
Director
PnP Consulting, India

Building and Construction Authority

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TAXATION POLICIES AND ISSUES RELATING TO REAL ESTATE DEVELOPMENT AND CONSTRUCTION WORKS IN INDIA ©

PnP Consulting focuses on Business and Financial Consultancy, especially in the areas of foreign inbound investment into India and taxation. The firm specializes in structuring of Inbound Investments into India and Outbound Investments from India.

11th February 2004
Presentation made by

Mr. P.V.R. Rajendra Prasad is a Commerce graduate from Osmania University, Hyderabad, India and a member of The Institute of Chartered Accountants of India since 1986 (Rank holder with distinction). He has delivered lectures and presented papers on Exchange Control Laws and Corporate Laws of India around the Globe. He is associated as Director of PnP Consulting.

Note: An attempt is made through this paper to present an overview of the taxation policies relating to real estate development and construction works in India. The contents that follow are not a detailed exposition of laws but a synopsis of relevant provisions aimed to lead to deliberation of the various issues arising therefrom. It should not be relied upon as a substitute for detailed advice or a basis for formulating business decisions.

PnP Consulting, Suite 27, 1st Floor, Reddy Complex, Tilak Road,
Hyderabad – 500 001. India.
Tel: +91-40-24755111, 24754399
Fax: +91-40-24756592
Email: info@consultingpnp.com
Web page: http://www.consultingpnp.com

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PART A

TAXATION POLICIES IN INDIA

By

Mr P.V.R. Rajendra Prasad
Director
PnP Consulting

1. INTRODUCTION:

Income tax is a federal legislation and companies are subject to income tax only at the federal level. The corporate tax rate for each financial year (April to March) is based on the rate prescribed in the Finance Act for the relevant year. For the financial year 2003-04 the Finance Act 2003 has specified a corporate tax rate of 35 per cent for Indian companies and 40 per cent for foreign companies. Long-term capital gains are generally subject to tax at a lower rate of 20 per cent. If gains arise from the alienation of Indian listed securities, the tax rate is further lowered to 10 per cent.

The tax rate applicable for corporations has gradually declined over recent years to its present level of 35 per cent and 40 per cent for Indian companies and foreign companies respectively. The tax rate for Indian companies has been stable at 35 per cent since the financial year 1997-98. Variations to the tax rate have occurred on account of levy of a "surcharge" over the base corporate tax rate, the rate of surcharge varying from 2 per cent to 10 per cent. For the financial year 2003-04, the Finance Act 2003 has levied a surcharge of 2.5 per cent on the base tax rate. The policy underlying the gradual decline in the corporate tax rate is based on the theory that a lower tax rate ensures better tax compliance by the taxpayer. Globalisation and the need to make the tax rate competitive have also led to the decline. The objective of levying the surcharge is based on certain short-term fiscal needs of resource augmentation through higher tax collection.

Tax base:

India adopts a combination of the worldwide and territorial systems of taxation. While resident companies are taxed on their worldwide income non-resident companies are taxed only on income from sources in India (income from sources in India would include income accruing or arising in India or income deemed to accrue or arise in India or income received in India). A company is resident in India if it is a company formed and registered in India or has its control and management situated wholly in India. An Indian resident corporation is subject to corporate tax on its worldwide income. Dividends distributed by the corporation are taxed in the shareholders'/investors' hands. However from financial year 2003 – 04 dividends are not taxed in the hands of recipients. Company has to pay additional tax of 12.5% plus surcharge of 2.5%, which effectively comes to 12.8125%. Under domestic tax law capital gains arising to a shareholder on alienation of shares of an Indian company are regarded as having a source in India and taxed in the shareholders' hands, irrespective of the residential status of the alienator.

India has a range of tax incentives, which may cause the effective rate of company tax to be substantially less than the general rate of 35 per cent. Most of the tax incentives are offered by way of either a complete or partial exemption/ deduction from taxation on certain categories of income such as profits derived from export of goods and services, infrastructure projects, industries established in backward areas, etc.

If the taxable profits of a company are less than a prescribed threshold, a minimum alternate tax (MAT) is levied on the company based on the profits of the company as per its financial statements, irrespective of the actual level of taxable profits (or losses).

Presently MAT is 7.5 per cent of book profits.

In some special cases, such as shipping and aircraft operations, non-resident/foreign companies may avail themselves of presumptive tax on their business income on a deemed income basis.

There is a bias towards retention as there is no tax on retention, there is double tax under the classical system, the rate of long-term capital gains tax is lower than that on dividends, and moreover capital gains are subject to further relief.

2. INDIAN INCOME TAX LAW:

The income-tax liability in India is basically determined on following two criteria:-

a) Scope of total income
b) Residential status of the taxpayer

2.1 Scope of Total Income:

Income tax is leviable on taxable income. The term "taxable income" is distinguishable from "income" in as much as the former represents only net income, which is arrived at after deducting the related expenses incurred in connection with earning such income. The definition of income given in the Indian Income-tax Act is an inclusive definition covering various kinds of receipts in cash or kind. The term total income is defined as the income from whatever source derived, which –

a. is received or is deemed to be received in India; or
b. accrues or arises or is deemed to accrue or arise in India; or
c. accrues or arises outside India.

2.1.1 *Income Received in India:*

Where the income is received in India, it is wholly taxable in India, irrespective of the residential status of the taxpayer. A receipt may be in money or money's worth; i.e., a receipt may be in kind as well as cash. It may be an actual receipt or a constructive receipt. A constructive receipt generally is made by an adjustment of cross-claims or by an adjustment of the books, or through an agent, trustee or other authorised person of the non-resident. It is to be noted that what is taxed is the first receipt; that is, the receipt at the earliest point in time. Thus, when a payment is received outside India, and then the receipt is remitted to India, it would not be treated as income received in India because it was first received outside India.

2.1.2 *Income Accruing or Arising in India:*

Income, which accrues or arises in India, is chargeable to tax for all categories of persons, whether "resident" or 'non-resident'. The two words 'accrues' and 'arises' denote the same idea, or very similar idea, and the difference only lies in that one is more appropriate than the other when applied to a particular case. Both are used in contradiction from the word 'receive', and indicate 'a right to receive.

Where any income cannot be brought into India due to any legislative restrictions imposed by a foreign Government such income cannot be said to accrue or arise in India until and unless the said legislative restrictions are lifted.

In case of dividend, only net dividend (after deduction of tax at source) received from a foreign company will be taxed in India because that part of dividend, which is withheld as tax, does not accrue to the recipient.

In case of foreigners, the place of accrual is very significant as their taxability depends mainly upon whether the income accrues in India or not. In determining the place of accrual, different considerations apply to different kinds of income.

2.1.3 Income deemed to Accrue or Arise in India:

Like some accruing in India, income which is deemed to accrue or arise in India is also chargeable to tax for all categories of persons, whether resident or non-resident.

Generally speaking, the following income is deemed to accrue or arise in India:

- income through, or from, any business connection in India;
- income through, or from, any property in India;
- income through, or from, any asset or source of income in India;
- income through the transfer of a capital-asset situated in India;
- dividend paid by an Indian company outside India;
- income payable by way of royalty or fees for technical services by an Indian Company or from an Indian source; and
- income by way of salary, if it is earned in India.

It should be noted that the income, which is deemed to accrue or arise in India is wholly taxed in India.

2.2 Residential Status:

The taxpayers are primarily divided into following two categories:

a. Resident in India
b. Non-resident in India;

However, in case of 'individuals' and 'Hindu undivided families' there is yet another category called 'Not Ordinarily Resident'. The Finance Act, 2003 has amended the definition of "Resident but not Ordinary Resident" with effect from assessment year 2004-2005 (Financial year 2003 – 2004)

2.2.1 Residential status of Individuals:

A person is considered as a resident in India if he fulfills any of the following conditions: -

i. if he is in India in the relevant year for a period aggregating to 182 days or more; or
ii. if he is in India for a period aggregating to 60 days in certain cases 182 days or more in the relevant year and has been in India for an aggregating period of 365 days or more in the preceding 4 years.

A person is considered to be 'ordinarily resident' in India if he is basically a 'resident' in the year of evaluation, and:-

a. his total stay in India in the last seven years preceding the year of evaluation was less than 730 days, or
b. he was not 'resident' in 9 out of 10 years, preceding the year of evaluation

From the above definitions it will be clear that an individual will be treated as 'not ordinarily resident' unless he satisfies both the following conditions:

- he must have been resident in 9 out of 10 preceding years; and
- he must have been in India for more than 2 years in the preceding 7 years.

An analysis of the above provision will show that in most of the cases the status of an expatriate employee in India will be that of 'not ordinarily resident'. With effect from Financial year 2003 – 2004 (Assessment year 2004 – 2005) an individual would be a "Resident but not Ordinary Resident" in the relevant period of evaluation if he

- has been a non-resident in India in 9 out of the 10 previous years preceding the relevant year or
- has been in India for a total period of 729 days or less during the 7 previous years preceding the relevant year (hereinafter referred to as "the 729 days test"). After the amendment, a person coming to India for the first time would remain an Resident but Not Ordinarily Resident (RNOR) only for the first 2 years of his stay in India if he does not satisfy the 729 days test. Similarly, an ordinary resident of India who goes abroad and remains non-resident for 9 years, would, upon his return to India, be treated as an "Resident but Not Ordinarily Resident (RNOR)" only for the next 2 years if he does not satisfy the 729 days test.

A 'Non-Resident' is defined as a person who is not a "Resident" or "Resident but Not Ordinarily Resident (RNOR)" in India as discussed above.

2.2.2 Residential Status of Companies:

A company is said to be resident in India if –

i. It is an Indian company; or
ii. The control or management of its affairs is situated wholly in India.

The foreign enterprises generally operate in India either as a foreign company or as an Indian Company. The term "Indian Company refers to a company formed and registered under the Indian Companies Act, 1956. The Indian Company would be termed as a "domestic company" if it makes the prescribed arrangements for declaration and payments of dividend in India. The term "foreign company" means a company, which is not a "domestic company".

A company is said to be a non-resident if it is not "resident in India".

2.2.3 Residential Status of Other Entities:

The other legal entities like Hindu Undivided Family, Firm or other Association Persons are normally treated as resident in India unless, the control and management of their affairs is situated wholly outside India.

3. CATEGORIES OF INCOME CHARGEABLE TO TAX:

3.1 In case of Resident:

A resident (whether an individual or a company or any other legal entity) is liable to pay tax on income which –

a. is received or is deemed to be received in India; or

b. accrues or arises or is deemed to accrue or arise in India; or

c. accrues or arises outside India.

3.2 In case of Non-resident:

A non-resident (whether an individual or a company or any other legal entity) is liable to pay tax in India on the income which –

a. is received or is deemed to be received in India; or
b. accrues or arises or is deemed to accrue or arise in India; or

It is to be noted that non-resident is not liable to pay tax on the income, which accrues or arises outside India.

3.3 In case of Not Ordinarily Resident:

For the category of taxpayers, the tax is payable on income which-

a. is received or is deemed to be received in India; or
b. accrues or arises or is deemed to accrue or arise in India; or
c. accrues or arises outside India.

Provided the income, which accrues or arises outside India, is derived from business controlled in or a profession set up in India.

4. HEADS OF INCOME:

In order to determine the amount of taxable income the various provisions of the Income-tax Act will have to be taken into consideration. The Indian

law divided the income in various categories which are called "heads of income', as follows:

- Salaries
- Income from house property
- Profits and gains of business or profession
- Capital gains
- Income from other sources

The income under each head is worked out in accordance with the provisions of Income-tax Act and their aggregate is termed as gross total income.

5. SPECIAL PROVISIONS:

These are some specific provisions in the Income-tax Act relating to chargeability to tax. Some important provisions in this regard are discussed below:

5.1 *Minimum Alternative Tax:*

As per section 115JA of the Income-tax Act 1961 (applicable up to assessment year 2000-2001) where the taxable income of a company was less than 30% of its book profits, the total income of such assessee chargeable to tax was deemed to be an amount equal to 30% of its book profits. The said tax is popularly known as Minimum Alternative Tax ["MAT"]. The effective rate of MAT worked out to 10.5% of the book profits.

Provisions relating to MAT have been amended with effect from Assessment year 2001-2002 as follows.

- In case of all corporate assessee where the income-tax payable works out to less than 7.5 % of their book profits, the tax payable would be deemed to 7.5% (plus surcharge @2.5%) of such book profits. Thus the effective rate of minimum tax would be 7.6875% of book profits.

5.2 *Tax on Distributed Profits:*

In addition to the income-tax payable by a domestic company on its profits chargeable to tax, a further tax is payable by such a company on the amount declared, distributed or paid by way of dividends. This further tax is payable called "additional tax".
As per Finance Act, 2003 the rate of the additional tax is 12.5% plus 2.5% surcharge. Thus effective rate is 12.8125%.

It may be noted that whereas dividends declared by a domestic company are totally exempt from tax in the hands of the recipient, the company-paying dividend has been subjected to an additional tax on the amount of the dividend declared, distributed and paid by the company.

6. RATES OF INCOME TAX:

The rates of income tax applicable for financial year 2003-2004 are given below:

Company	Rate of income-tax (per cent)
In the case of a domestic company	35
In the case of a foreign company	
➢ Royalties and fees for technical services received by foreign company from an Indian Concern or the Government in respect of agreements entered into after 31st March 1997 are taxed on gross basis, without deduction for any express at flat rate of	20
➢ Other income	40
Surcharge: 5 per cent of income-tax for the assessment year 2003-04 in the case of a domestic company and non-domestic company and 2.50 per cent of income-tax for the assessment year 2004-05 in the case of a domestic and a non-domestic company.	

Individuals, Hindu Undivided families, AOPs, BOIs- The tax rates applicable to individuals are also applicable to a Hindu undivided family, an association of person, body of individuals or an artificial juridical person. The rates applicable for the assessment years 2003-04 and 2004-05 are as follows;

NET INCOME RANGE	RATE OF INCOME TAX
Up to Rs. 50,000	Nil;
Rs, 50,00 – Rs. 60,000	10 per cent of the amount by which the total income exceeds Rs. 50,000
Rs. 60,000 – Rs. 1,50,000	Rs. 1000 plus 20 per cent of the amount by which the total income exceeds Rs. 60,000;
Rs. 1,50,000 and above	Rs. 19,000 plus 30 per cent of the amount by which the total income exceeds Rs. 1,50,000;

7. FOREIGN ENTERPRISES – TAX LAWS:

The tax liability of foreign enterprises is governed by the general principles of taxation as discussed earlier. The principles of Residential Status and Receipt and Accrual of Income as discussed above are fully applicable in case of foreign business entities also.

Wherever the foreign enterprises belongs to a country with which India has made an Agreement for Avoidance of Double Taxation (AADT), the tax liability of such enterprise will be determined with reference to the concerned AADT.

Foreign enterprises can operate in India by way of adopting different types of legal entities. However, from tax point of view, the various types of legal entities will broadly fall in anyone of the following categories:

i. A Foreign Company
ii. An Indian Company

7.1 Foreign Company:

Foreign Company is defined under the Indian Income-tax Act as a company, which is not a domestic company. A domestic company means an Indian company or any other company, which has made prescribed arrangements for the declaration and payment of dividend in India. Generally speaking, a company, which is registered outside India, will be treated as a foreign company.

Business operations of a foreign company in India may be carried out in any of the following manners:

i. As foreign company without carrying out any business activities with in India.
ii. Through a project office in India
iii. Through a branch office in India
iv. Through a liaison office in India

7.1.1 As a foreign company without carrying out any business activities within India:

Several types of businesses can be done by such companies in India, more common being as under:

a) Supply of Plant & Machinery and Equipment
b) Providing Technical Know-how
c) Lending Money

7.1.2 Through a project office in India:

When a foreign company takes-up a project in India and opens a project office, its income will be taxed as a foreign company. The various provisions of the Indian income-tax law will apply to determine the taxable income of the project office. The rates of tax as are applicable to the income of a foreign company will apply.

7.1.3 Through a branch office in India:

Where a foreign company conducts its business through its branch office in India, the profits of the branch will be taxed in the normal way. The same rates of tax will apply as are applicable to foreign companies.

7.1.4 Through a liaison office in India:

Generally, a liaison office of a foreign company is not permitted to carry out any business activities in India. Therefore, such an office is unlikely to have any income in India. But if any income arises to a liaison office, it will be taxed at the rates applicable to foreign companies.

7.2 Indian Company:

A foreign company may operate in India through an Indian company in any of the following manners:

i) As a 100% subsidiary of the foreign company
ii) As an Indian Joint-Venture Company

Such companies are liable to be taxed as Indian Companies. Their income will be determined by applying various provisions of the Indian

Income-tax Act. They will be liable to pay tax at the rates applicable to Indian Companies.

7.3 Determination of Taxable Income:

Taxable income of foreign enterprise will be determined as per the various provisions contained in the Indian Income-tax Act. However, as already stated, wherever a foreign enterprise belongs to a country with which India has entered into an Agreement for Avoidance of double taxation (AADT), the tax liability will be determined as per the provisions of the relevant AADT.

7.3.1 Supply of Plant & Machinery and other Equipment:

The Income-tax law does not contain any specific provision for taxing the payment received by a foreign enterprise for supply of machinery and/or other equipment to the Indian concerns. Therefore, for such payments, the normal law prevails. The normal law, broadly speaking, is that a non-resident is taxable in India for the income received in India or which accrues or arises to him in India. Therefore, where the supply of machinery, etc., is made in a manner that no income is received, or no income accrues or arises in India, no tax will be charged in India. For example, in a situation where no business is carried on in India and sales are effected outside India, and the orders are accepted and the delivery is made outside India, and the price is also received by non-resident outside India, no tax shall be levied in India. In this context, even if there is a composite indivisible agreement for supply of equipment and also for erecting and commissioning the same, there will be no difference in legal position as stated above. However, as per the provisions of Section 9, if the non-resident has any business connection in India, he will be liable to pay

tax in India on the profit earned by him related to the supply of equipment in India.

Where, however, certain services like erection and commissioning etc. are provided by a foreign company in India, payment relating to such services may be taxed in India as "fees for technical services".

7.3.2 Providing Technical Know-How:

Consideration for provision of technical Know-how is normally either by way of "royalty" or "fees for technical services" or both. The term "royalty includes lump-sum payment also.

a. **Royalty:** In case of foreign companies, income by way of royalty is taxed in India @ 20% of the gross amount of royalty.

   The term "royalty" is defined in Explanation 2 of Section 9(i) of the Income-Tax Act. The said definition could be in variance with the definition of royalty" given in various Avoidance Double Taxation Treaty (ADTT). Therefore, wherever royalty is received by a non-resident, a careful scrutiny of the definition of the said term in the respective ADTT must be made, and the same should be compared with the definition given in the Indian Income-tax Act. The definition, which is more beneficial to the non-resident, may be adopted by him for tax purposes.

b. **Fees for Technical Services:** In case of a foreign company, the fees for technical services is taxed @ 20% of the amount of the fee.

It may be clarified here that there are several countries with which India has entered into an Avoidance of Double Taxation Treaty [ADTT]. Some of the ADTTs prescribe a lower rate of tax on income by way of Royalty or Fees for technical services. In such cases the lower rate of tax will apply.

7.3.3 Dividend Income:

Dividend declared by a domestic company in India is entirely free of income tax. Any other type of dividend, in case of a non-resident including a foreign company, shall be taxed @20%.

7.3.4 Interest Income:

Interest received by a non-resident including a foreign company from government or an Indian Concern on monies borrowed or debt incurred by government or Indian concern in foreign currency is charged to tax @ 20%.

a. Interest on External Commercial Borrowings:

Provisions of section 10(15)(iv) relate to interest payable on external commercial borrowings (ECB). The Finance Act, 2001 has made substantial amendments with the objective of withdrawing tax exemptions from specified dates (effective from assessment year 2002-2003 onwards).

The new amendments for withdrawing tax exemptions on certain interest income on external commercial borrowings will directly affect foreign companies lending moneys in India. It may however be noted that withdrawal of exemption has made substantial amendments with the objective of withdrawing tax exemptions from specified dates (effective from assessment year 2002-2003 onwards).

It may however be noted that withdrawal of exemption from tax applies to moneys borrowed on or after the 1st day of June 2001, and also to moneys borrowed in pursuance to certain types of loan agreements entered into on or after the first day of June 2001. It appears that in case of the borrowings effected upto 31st May, 2001 or the specified agreements are concluded before that date, the benefit of tax exemption will continue to be available on interest income, even after 31st May, 2001.

7.3.5 Profits from business of civil construction etc in turkey power projects:

Where a foreign company is engaged in civil construction, erection, testing or commissioning in connection with an approved turnkey power project, the taxable income is taken at 10% of the amount received or receivable for such services. Income tax shall be payable at the applicable rates on the said income. However, if the audited accounts reveal a profit lower than 10% of gross received, then such income alone will be taxable.

7.3.6 Tax paid on royalty or fees for technical services:

Where in case of a foreign company the tax on its income by way of royalty or fees for technical services is paid by the government or an Indian concern, the tax so paid is not regarded as income in the hands of the foreign company. In such cases, there is no tax on tax. However, the agreements in pursuance of which the said income arises have to be either approved by the Indian government or should be made in accordance with the Industrial Policy of the Government of India entered before 01.06.2002.

7.4 Tax Rates for Foreign Companies:

(For Financial Year 2003-2004)

S.No.	Particulars	Rate of Income Tax excluding surcharge
i.	On income by way of winnings from lotteries, cross word puzzles, card games and other games of any sort	30 per cent
ii.	On income by way of winnings from horse races	30 per cent
iii.	On income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent
iv.	Royalties and fees for technical services received by foreign company from an Indian Concern or the Government in respect of agreements entered into after 31st March 1997 are taxed on gross basis, without deduction for any express at flat rate of	20 per cent

v.	On income by way of royalty or fees for technical services received from Government or an Indian Concern in pursuance of an agreement made after 31st day of March 2003 where such foreign company carries a business in India through a Permanent Establishment or from a fixed place of business and the amount is effectively connected with such Permanent Establishment or a fixed place of business	40 per cent
vi.	On income by way of Long Term Capital Gains	20 per cent
vii.	On any other income	40 per cent

PART B

TAX BENEFITS RELATING TO REAL ESTATE DEVELOPMENT AND CONSTRUCTION WORKS IN INIDA

1. DEVELOPING AND BUILDING HOUSING PROJECTS:

Undertaking engaged in developing and building housing projects is eligible for **100per cent deduction of the profits** derived from such housing project subject to the following conditions:

- The project should be approved by a local authority in India before 31st March 2005,
- Size of the plot of land should be a minimum of 1 Acre (4840 Square Yards).
- The built up area of each of such residential unit in the project should be subject to the following limits:

Place of Residential Unit	Maximum built up area of each residential unit
• Within the cities of Delhi and Mumbai	1000 Square feet
• Within 25 km from the local limits of Delhi and Mumbai	1000 Square feet
• At any other place	1500 Square feet

2. *BUILDING, OWNING AND OPERATION OF MULTIPLEX THEATRE:*

50 per cent of the profits and gains derived from the business of building, owning and operating a multiplex theatre **is deductible for a period of 5 consecutive assessment years** beginning from the year in which a cinema hall, being a part of multiplex theatre starts operating on a commercial use subject to the following conditions:

- Multiplex theatre should be a building of a prescribed area, comprising two or more cinema theatres and commercial shops of such size and number and having such other facilities as may be prescribed.
- Such multiplex theatre should be constructed before 31st March 2005,
- Such multiplex theatre is not located at a place within the municipal jurisdiction of Kolkata, Chennai, Delhi or Mumbai.

3. *BUILDING, OWNING AND OPERATING A CONVENTION CENTRE:*

50 per cent of the profits and gains derived from the business of building, owning and operating a convention center **is deductible for a period of 5 consecutive years** beginning from the year in which the convention center starts operating on a commercial basis subject to the following conditions:

- The convention center building of a prescribed area shall be comprised of convention halls to be used for the purpose of holding conferences and seminars with other prescribed facilities and amenities.

- Convention center should be constructed before 31st March 2005.

4. *PROVIDING INFRASTRUCTURE FACILITY:*

100 per cent of the profits of an enterprise carrying on the business of developing or maintaining and operating or developing, maintaining and operating any **approved infrastructure facility are deductible for 10 years** subject to the following conditions:

- Infrastructure facility means and include
  - Road, bridge, rail systems
  - High-way project including housing or other activities being an integral part of high-way project
  - Water supply project, water treatment system, irrigation project, sewerage system or solid waste management system
  - A port, airport, inland water-way or inland port
- The enterprise should enter into an agreement with the Central Government or State Government or a local authority for developing, maintaining and operating a new infrastructure facility.
- A company registered in India owns the enterprise.
- Housing and other developmental activities should be an integral part of the highway project.

5. *INDUSTRIAL PARKS OR SPECIAL ECONOMIC ZONE:*

An undertaking, which develops and operates industrial park or develops a Special Economic Zone, is eligible for deduction of 100 per cent of the profits for 10 years commencing from the initial year.

6. *BUSINESS OF CIVIL CONSTRUCTION ETC., IN TURNKEY POWER PROJECTS:*

Income of a foreign company engaged in civil construction, erection, testing, commissioning in connection with an approved turnkey power project would be taken at 10 per cent of the gross receipts. Income Tax shall be liable at the applicable rate of 40 per cent (excluding surcharge) on the said income.

However, if the audited accounts reveal a profit lower than 10 per cent of gross receipts then such lower income alone will be taxable.

CONCLUSION:

There is no art which one government sooner learns of another, than that of draining money from the pockets of people - Adam Smith (1776).

Project Financing for Construction Sector

Construction & Property Prospects 2004 Seminar

11 February 2004 - Orchard Hotel

By Mr G. Krishna Murthy
Chairman
Bharat Overseas Bank, India

Building and Construction Authority

REDAS

PROJECT FINANCING FOR CONSTRUCTION SECTOR

By
Mr G. Krishna Murthy
Chairman & CEO
Bharat Overseas Bank Ltd, Chennai, India

1. INTRODUCTION

Construction activities contribute 5-6 per cent of India's gross domestic product and account for 40-50 per cent of the capital expenditure of projects in various sectors such as energy, communications and transportation, defence, rural and urban infrastructure and housing. The multiplier effect construction sector produces is high because of the high propensity to consume.

In India the construction sector witnessed a growth of 6.7 per cent in FYE March 2003 as against 2.7 per cent in the previous year. The growth was fuelled by the road projects.

Along with automobiles and retail finance, construction is one of the growth drivers of Indian economy today. The sector is highly buoyant both on account of government spending on infrastructure like road, ports, bridges, water distribution, sanitation, oil pipelines etc. The private sector is also booming with activated housing development and capacity expansions in various industrial sectors like steel after a lull of 5 to 6 years.

2. DIFFERENT SEGMENTS IN CONSTRUCTION SECTOR

The construction sector in India broadly comprise of Housing, Commercial space and Infrastructure segment. The latest developments in each of these areas and also the approach to funding adopted by Indian Banks are detailed herein.

2.1.1 Housing

The real estate/construction business in the Housing sector continued to grow due to demand for dwelling houses. Till 1995, about 80 per cent of the sales was speculative demand. At present, over 90 per cent of the customers are actual users. People take housing finance because of low interest rates, prevalent rational property prices and the income tax exemption factor.

2.1.2 Financing of Housing Sector by Banks:

Banks in India have high appetite for housing loans due to growing demand, secured nature of the advance and fiscal incentives both to the borrower and the lender. For the borrower it is income tax sops and for the lender it is lower capital adequacy and priority sector classification.

The growth in advances to housing sector by commercial banks has been phenomenal

	2000-01	2001-02	2002-03
Housing Loan (Rs in Billion)	161.43	223.46	346.54
(Equi in USD in Bio)	(3.56)	(4.63)	(7.65)
Y-on-Y Growth %	14.49%	38.42%	55.08%
Growth in GBC	14.40%	12.49%	18.60%
Housing Loan as % to GBC	3.76%	4.63%	6.10%

As the Gross Bank Credit (non-food) moved up by 12.49%, the advances to housing sector had growth of 38.42% in FYE March 2002. In FYE March 2003, the growth in housing finance has been 55.08% and it is expected exceed this astronomical rates of growth in the coming years.

Financing Individuals (Retail Lending)

Direct Housing Finance, which refers to the finance provided to individuals or groups of individuals including co-operative societies. The Direct housing Finance can be extended for buying/ constructing a house in for self occupation, to let it out or only for purchase of a plot, provided the borrower intends to construct a house on the plot within two years. Banks may sanction

additional finance for carrying out alterations/ additions/repairs to the house/flat already financed by them

Funding Housing Finance Intermediaries

Banks can also make Indirect Housing Finance by channeling by way of term loans to housing finance institutions, housing boards, other public housing agencies, etc The only codition is that it should be ensured that the supply of plots/houses is time bound and public agencies do not utilise the bank loans merely for acquisition of land.

Banks may grant term loans to housing finance institutions taking in to account debt-equity ratio, track record, recovery performance and other relevant factors. The basic restrictions is that total borrowings from banks or from financial institutions should not exceed 16 times of their net owned funds Banks may extend term loans to state level housing boards and other public agencies keeping in view the past performance in terms of recovery from the beneficiaries.

In order to increase the availability of land and house sites banks may extend finance to public agencies for acquisition and development of land for a complete project, including development of infrastructure such as water systems, drainage, roads, provision of electricity, etc.

Banks can extend term loans to housing intermediary agencies against the direct loans sanctioned/ proposed to be sanctioned by them, irrespective of the per borrower size of the loan extended by these agencies

Banks can grant term loans to housing intermediary agencies against the direct loans sanctioned/proposed to be sanctioned by them to Non-Resident Indians also.

Banks have freedom to charge interest rates to housing intermediary agencies without reference to Prime Lending Rate (PLR).

Financing Private Builders

Banks may extend credit to private builders on commercial terms by way of loans linked to each specific project. Banks themselves based on their commercial judgment may decide the period of credit. Banks are charged with the responsibility of to ensure that prices charged from the ultimate beneficiaries do not include any speculative element

Mortgage Backed Securities (MBS)

Banks are permitted to investment in MBS subject to certain terms and conditions. The salient conditions are

- Housing loans and receivables should irrevocably be assigned in favour of a Special Purpose Vehicle (SPV) / Trust, which would hold the Mortgaged securities exclusively on behalf of and for the benefit of the investors
- SPV should be entitled to the receivables under the securitised loans
- Loans securitised should advanced to individuals for acquiring /constructing residential houses which should have been mortgaged to the HFC by way of exclusive first charge
- Loans securitised should be accorded an investment grade credit rating by any of the credit rating agencies at the time of assignment to the SPV

Incentives to Banks for Housing Loans

Under Banking Regulation Act, In India, commercial banks have to lend at least 40% of the credit to Priority Sector including weaker sections, Small Industries, Small Traders, Export etc. Housing finance with certain prescriptions are treated as part of Priority Sector.

RBI permits specialised branches at certain centres exclusively to cater to housing finance. The intention is to set up a housing finance branch in each district.

RBI has also liberalised the prudential requirement on risk weight for housing finance and investments in Mortgage Backed Securities of Housing Finance Companies. Banks extending housing loans to individuals against the

mortgage of residential housing properties are permitted to assign risk weight of 50% instead of the existing 100%. The investments in MBS of residential assets of HFCs would be eligible for risk weight of 50% for the purpose of Capital Adequacy.

2.2 Commercial Space

- The first eight months of 2003 witnessed a total of 3,090,000 square feet of space absorption between Bangalore (1,600,000 sq ft), Chennai (660,000 sq ft) and Hyderabad (830,000 sq ft).
- The vacancy rates in southern cities are below 15%, while Delhi and Mumbai have vacancies in the range of 25-40% due to high-value speculative development
- The low vacancy levels have held rents stable and there was even marginal increase during periods of short supply.
- Even on consolidation in the BPO segment there is likelihood of 2.5m to 3m square feet of office space being absorbed every year and fresh capital investment of $160m

Next big demand is likely to emanate from infrastructure segment.

2.3 Infrastructure Segment

The order book position of most construction companies is improving. The order book position of top 5 construction companies namely Gammon, L & T, HCC, Nagarjuna and Skanska has improved from around INR 120 billion in 2001 to INR 140 billion in 2002 to INR 180 billion in 2003.

Real estate builders are lately also shifting to road construction as it offers better margins at around 35% compared to 25% in house building. Every company is strengthening its road-building infrastructure as projects worth Rs. 540 billion are coming up from 1999 to 2007.

3. FINANCE FOR INFRASTRUCTURE SECTOR

3.1 Principles of Accounting

The companies in construction sector are expected to follow the guidelines contained in Accounting Standard AS7 prescribed by the Institute of Chartered Accountants of India.

3.2 Approach to Lending

While Banks in India are free to decide the levels of current assets and current liabilities to be supported by bank credit, generally the Banks follow the cash budget system for assessment of working capital requirements.
Usually receivables upto a reasonable level is financed and claims in excess of 6 months are treated as overdue and excluded from the projections in the cash budget for arriving at peak deficit.
Banks extend credit facility for infrastructure creation viz. to a borrower company engaged in

- Developing or
- Operating and maintaining or
- Developing, operating and maintaining

Banks in India also can finance any infrastructure facility that is a project in any of the following sectors viz.

- A road including toll road, a bridge or a rail system
- A highway project including other activities being an integral part of a highway project
- A port, airport, inland waterway or inland port
- A water supply project, irrigation project, water treatment system, sanitation and sewerage system or solid waste management system
- Telecommunication services
- Industrial park or special economic zone
- Generation or generation and distribution of power

Banks and Financial Institutions are free to finance technically feasible financially viable and bankable projects undertaken by both public sector and private sector undertakings subject to the overall sanctioned amount being within the ceiling of the prudential exposure norms prescribed by RBI for infrastructure.

Types of Financing

Banks may extend working capital finance, term loans subscription to bonds/debentures/preference shares etc and any other form of funded or non-funded facility. Banks can also issue guarantee favoring other lending institutions in respect of infrastructure projects provided the bank issuing the guarantee takes a funded exposure in the project at least to the extent of 5% of the project cost. Under certain conditions Banks may even consider financing promoter's equity in such infrastructure projects. Banks normally identify the various project risks, evaluate the risk mitigants through appraisal of project contracts and evaluation of creditworthiness of the contracting entities and their ability to fulfil contractual obligation. Banks decide on the extent of participation based on their own asset-liability mismatches on account of lending to such projects.

4. FOREIGN DIRECT INVESTMENT (FDI) ROLE

The minimum scale of a project eligible is 100 acre of land. For a wholly owned subsidiary it is 10 million dollars and 5 million dollars for joint ventures. Another hindrance is the lock in period for repatriation, which is three years from completion of minimum capitalisation

There are several MNCs including some from Singapore evincing interest in the sector.

- Singapore-based Lee Kim Tah Holdings is promoting an integrated township for IT professionals at Siruseri near Chennai.
- Surbana, a wholly-owned subsidiary of the Singapore government's Housing and Development Board, has bagged four integrated township projects.

- Another Singapore based company, SembCorp is currently working on projects in Mumbai, Pune and Bangalore
- SembCorp and Surbana would be working with Kolkata-based Pragati for re-development of Kolkata's heritage hub, Curzon Park. The park will be transformed into a 'park-shopping-eating-hangout' destination over the next two years with an investment of about Rs. 500 mio.
- Tata Housing Development Company is exploring the possibility of taking the joint venture route with foreign companies for developing large real estate projects. The company is in talks with various foreign companies including United Infrastructure of Singapore for forming joint ventures

5. PERFORMANCE OF CONSTRUCTION COMPANIES

The performance construction companies especially the housing companies should have been good going by the growth in the housing loans. The Y-o-Y growth in housing loans in FYE March 2002 was 38.42% and that for FYE March 2003 is 55.08%. This is a great growth in view of respective GBC growth of 12.49% and 18.60%. As per the recent data, housing loan disbursals of ICICI Bank has moved ahead of Housing Development Finance Corporation (HDFC) in the quarter ending Dec 2003 with ICICI accounting for Rs. 35 billion compared to that of HDFC at Rs. 29 billion.

6. STOCK MARKET PERFORMANCE

The Market Cap of every construction company has gone up during the period between March 2003 to January 2004. The aggregate market cap of 29 companies have shot up by 159%

As of	March 2001	March 2002	March 2003	Jan 2004
Market Cap (Rs in Billion)	19.04	29.84	29.99	77.64
(Equi in USD in Bio)	(0.42)	(0.66)	(0.66)	(1.71)
Y-o-Y Growth (%)		56.73	0.52	158.86
Price (Rs.)	1029	1260	1132	2733
Y-o-Y Growth (%)		22.51	(10.13)	141.32

The Market Cap of 6 housing companies has also performed very well in 2003.

As of	March 2001	March 2002	March 2003	Jan 2004
Market Cap (Rs in Mio)	690.2	858.3	769.3	2205.8
(Equi in USD in mio)	(15.23)	(18.95)	(16.98)	(48.69)
Y-o-Y Growth (%)		24.36	(10.37)	186.73
Price (Rs.)	57.25	70.45	62.80	179.81
Y-o-Y Growth (%)		23.06	(10.86)	186.32

7. FUTURE PROSPECTS

The State Governments have taken a lead in rationalising taxes, which are State subjects. Improvements in the real estate business structure is also envisaged through a National Committee with representatives from both the government and private sector to develop early warning system to prevent asset bubble.

The Real Estate and Construction sector is going great in India with all concerned - Government, Regulators, Banks, Builders and Buyers jointly pushing the sector to great heights. This is a win-win situation for all. Government is getting better revenue through indirect taxes, GDP growth is improving, social obligation of "Shelter for all" is fulfilled, employment generated, suppliers are selling more, sectors like steel, transport, cement are

benefited, Banks are lending more and builders are improving their top and bottomlines.

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Residential Market Update

Construction & Property Prospects 2004 Seminar

11 February 2004 - Orchard Hotel

By Mr Peter Ow
Executive Director (Residential)
Knight Frank Pte Ltd

Building and Construction Authority

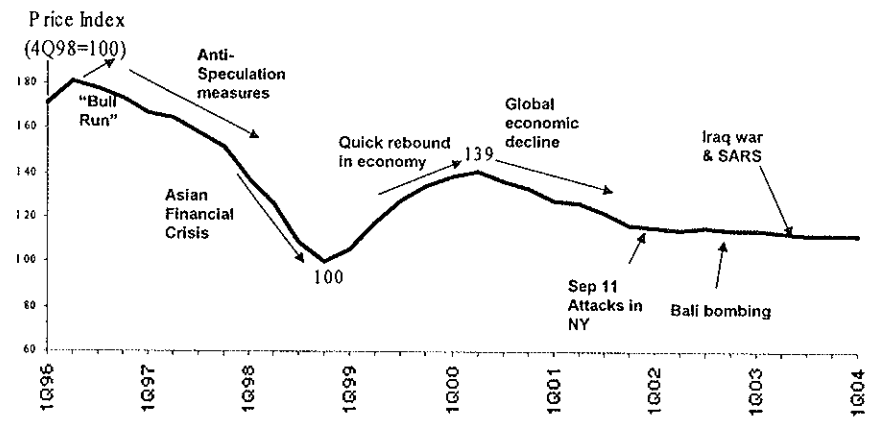
REDAS

The Agility of The Monkey

Will It Lift The Residential Market ?

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Price Movements: A Roller Coaster Ride

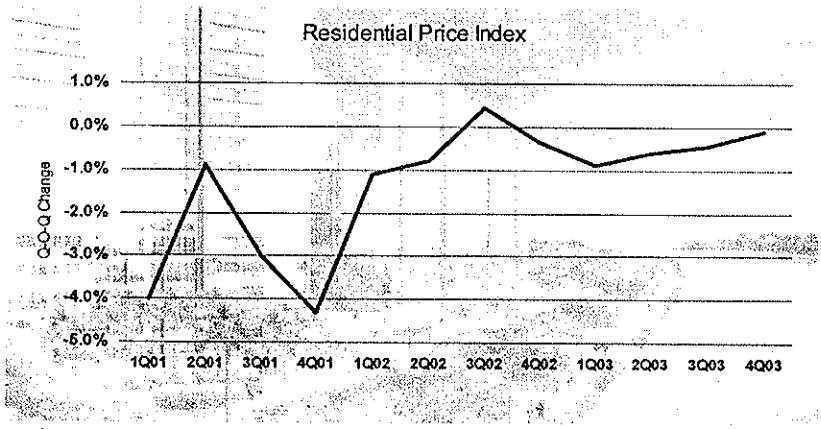


Source: URA

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Diagnosis - Quarterly changes in Home Prices



Source: URA

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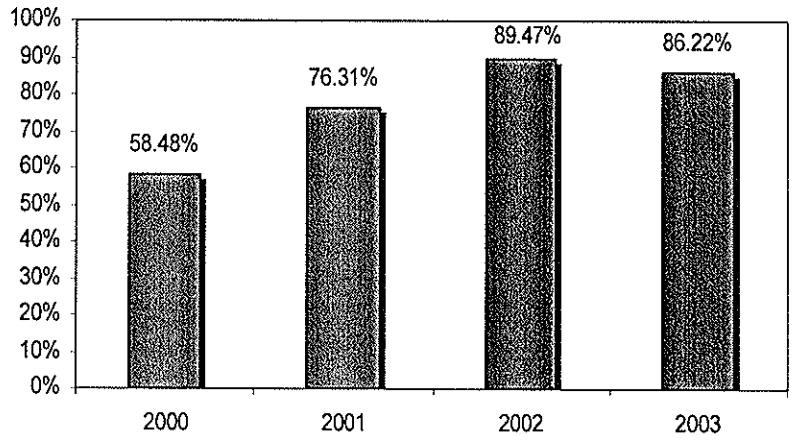
Private Housing Price vs HDB Prices

	Change in Private Home Prices		Change in HDB Resale Prices	
1Q01	-3.99%		-3.43%	
2Q01	-0.94%	-11.7%	-1.58%	-8.2%
3Q01	-3.01%		-2.01%	
4Q01	-4.33%		-1.43%	
1Q02	-1.11%		-0.83%	
2Q02	-0.78%	-1.8%	0.21%	0.4%
3Q02	0.43%		1.04%	
4Q02	-0.35%		0.00%	
1Q03	-0.87%		1.14%	
2Q03	-0.61%	-2.0%	2.56%	7.4%
3Q03	-0.44%		2.39%	
4Q03	-0.09%		1.17%	

Source: URA/ HDB

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Take Up Rate of New Launches



Source: URA

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However, geomancers also advise you to take their advice with a pinch of salt

"This is only a general view"

© Knight Frank 2003



"The year of the Monkey is going to be a better year", says geomancers. "But, you need to pull up your socks to make the best of it"

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Economic Growth

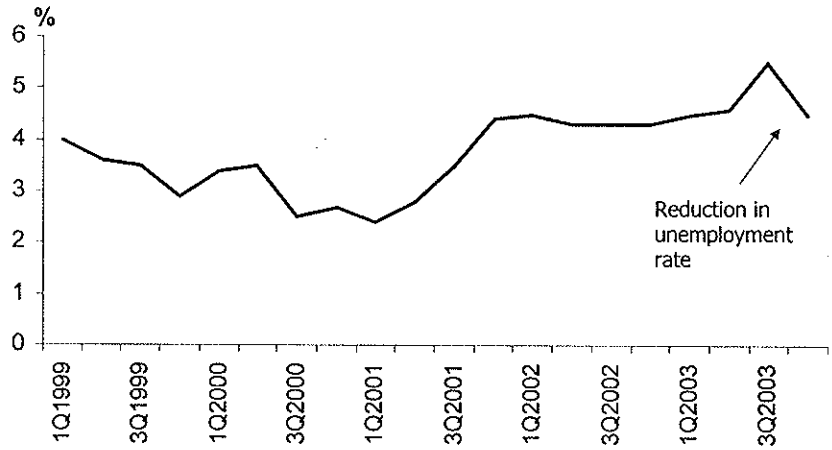
Organisation	2004 Economic Growth Forecast
MTI (Official Forecast)	3% - 5%
MAS Survey	5.4%
NUS Consulting	3.3% - 6.7%


Forecast for next year: 3-5% growth

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Falling Unemployment Rate

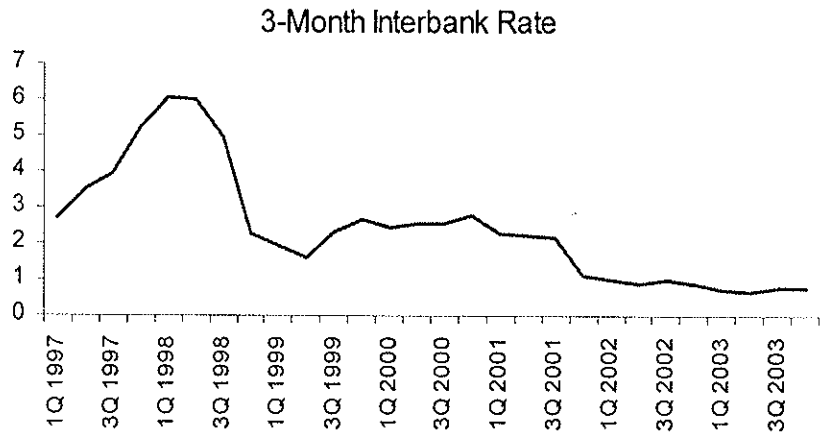


Source: MOM

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Attractive Mortgage Rates



Source: MAS

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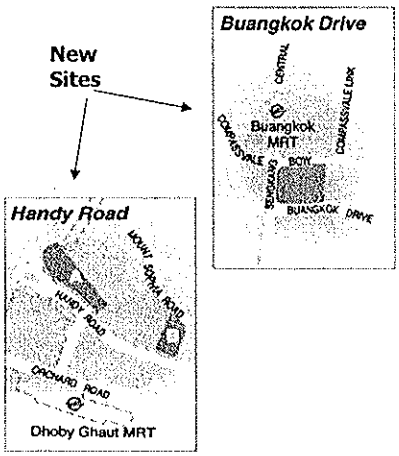


Suspension of Confirmed Land Sales for 2004

Residential sites

LOCATION	SITE AREA (HA)	LIKELY NO OF UNITS	SALES AGENT
Sites carried over from the 2H2003 Reserve List			
Tampines Road	0.27	30	HDB
Lor 9/11 Geylang	0.17	40	URA
Enggor Street	0.58	460	URA
Segar Road *(EC)*	1.70	395	HDB
Punggol Drive[1]	1.39	205	HDB
Choa Chu Kang Road/ Woodlands Road	1.50	200	URA
Woodlands Drive 16/ Woodlands Drive 53 *(EC)*	1.80	415	HDB
Serangoon Central[2]	2.50	255	LTA
Choa Chu Kang North 6/ Yew Tee Close[3]	0.85	135	HDB
New sites			
Handy Road *(A)*	0.15	30	URA
Handy Road *(B)*	0.34	70	URA
Buangkok Drive	2.10	520	SLA

Source: Ministry of National Development



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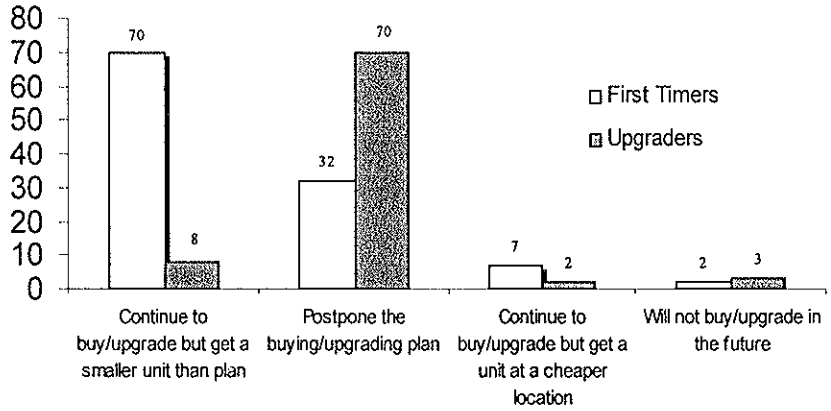


Unfavourable trades will be earth-related ones such as property, construction, building and mining"

Wind & Water Geomancy Centre

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Effect on CPF changes on Potential Home Buyers



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Future Supply

Supply with Pre-requisites for Sale

Not Launched	9996
Launched & Unsold	4722
Completed & Unsold	1623
Total Supply	16341

Source: URA

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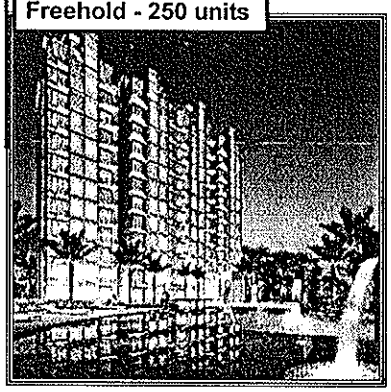
Let's go shopping!

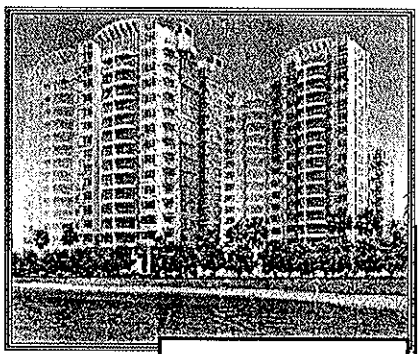
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Below $650 psf

Starville
Kembangan
Freehold - 250 units



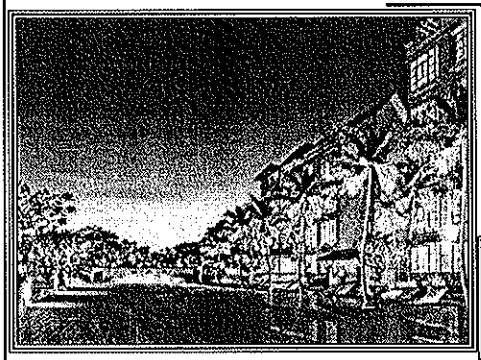


Baywater
Bedok
99 yr - 232 units

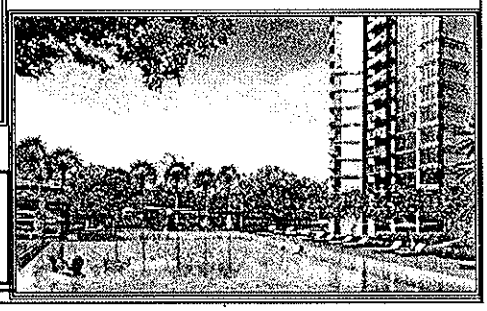
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$650 - $800 psf



AmanInda
Thomson
Freehold - 70 units

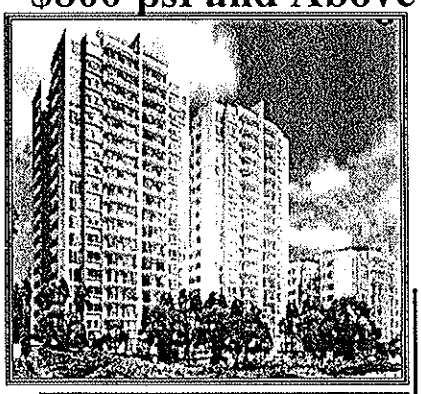


The Marbella
Holland
Freehold - 239 units

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$800 psf and Above



Grange Residences
Grange Road
Freehold - 164 units



One Oxley
Oxley Rise
Freehold - 89 units

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SAMPLING OF POSSIBLE LAUNCHES WITHIN NEXT 6 MONTHS

PROJECTS	LOCATION	UNITS	TENURE
Cherry Gardens	Lor Lew Lian/Lor Ong Lye	48	99 yr
Shaughnessy	Miltonia Close/Yishun Ave 1	254	99 yr
Orchard Scotts	Anthony/Peck Hay Rd	387	99 yr
Central	Eu Tong Sen Street	347	99 yr
MeraPrime	Jln Bt Ho Swee	213	99 yr
		1249	
D'Lotus	Lor Ampas	83	FH
Ris Grandeur	Elias Rd/Pasir Ris Dr 1	453	FH
Haig Court	Haig Rd	360	FH
Amaninda	Thomson Road	70	FH
DeRoyale	Jln Rama Rama	204	FH
One Oxley	Oxley Rise	89	FH
The Ritz	Balmoral Park	68	FH
Mera East	Changi Rd	52	FH
Mulberry Grove	Upper Aljunied Rd	77	FH
Goodwood Gardens	Balmoral Crescent	29	FH
The Light @ Caimhil	Caimhill Circle	115	FH
Vision Crest	Penang Rd	265	FH
		1865	

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"Such predictions should be taken as a reference only. It's up to you to decide how you want to make use of all these information"

Knight Frank Chubb & Edw Global

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