MARKET ENTRY BRIEFING

BUSINESS STRUCTURES IN INDIA

What's Available, And Which One Actually Fits Your Goal?

A Practical Guide for European Businesses Entering India

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GUIDE STRUCTURE

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ADVISORY NOTE

This document is prepared for strategic orientation. Market entry decisions should be supported by localised due diligence and professional advisory services.

WHY YOUR BUSINESS STRUCTURE CHOICE MATTERS

Choosing the right business structure is one of the most consequential decisions a European company will make when entering India. It is not simply a registration formality. Your structure directly determines how you will operate, grow, and eventually exit the Indian market.

- **Ownership and control:** who holds equity and decision-making authority
- **Tax treatment:** corporate tax rates differ significantly by structure
- **Regulatory burden:** compliance requirements vary from minimal to substantial
- **FDI eligibility:** not all structures qualify for foreign investment in all sectors
- **Fundraising ability:** some structures cannot accept external equity investment
- **Profit repatriation:** rules for sending money back to Europe vary by structure
- **Hiring flexibility:** some structures cannot directly employ staff in India
- **Compliance costs:** annual filing, audit, and regulatory costs differ substantially
- **Expansion and exit:** restructuring from the wrong starting point is costly and slow

> ***Common Pitfall:*** *Many businesses optimise for speed and simplicity at entry, then discover their chosen structure creates friction when they try to scale, raise capital, or repatriate profits. Restructuring mid-course in India involves regulatory approvals, tax implications, and significant time.*

> *India market entry is not just about setup. It is about choosing a structure that matches your commercial objective, not just for the initial phase, but for the medium and long term as your India presence evolves.*

Important: Unlike the United States, where corporate law varies significantly by state, India’s core business laws, including the Companies Act, FDI policy, FEMA regulations, and direct tax framework, operate at the national (central) level and apply uniformly across all states.

Certain operational and regulatory compliances, such as shop and establishment registration, professional tax, labor law implementation, and state-specific incentives, do vary by state. However, the fundamental legal framework governing company formation and foreign investment is centralised.

Accordingly, unlike the US (e.g., Delaware vs California), the choice of state in India does not impact the legal structure of incorporation, though it remains relevant from an operational, commercial, and regulatory ease perspective.

THE LEGAL AND REGULATORY FRAMEWORK

India's business structures are governed by several key pieces of central legislation and regulatory bodies:

- ***Companies Act, 2013:*** Primary legislation governing incorporation, management, and compliance of Private Limited and Public Limited Companies. Administered by the Ministry of Corporate Affairs (MCA).
- ***Limited Liability Partnership Act, 2008:*** Governs the formation & regulation of LLPs in India.
- ***Foreign Exchange Management Act (FEMA), 1999:*** Governs all foreign exchange transactions, including FDI inflows, profit repatriation, and cross-border payments. Administered by the Reserve Bank of India (RBI). Every transaction between your Indian entity and European parent will be subject to FEMA compliance.
- ***FDI Policy (consolidated by DPIIT):*** Specifies which sectors allow FDI, to what extent, and through which route (automatic or government approval). Most sectors permit 100% FDI under the automatic route, but important exceptions exist.
- ***Income Tax Act, 2025:*** The new Income Tax Act, 2025 (replacing the Income Tax Act, 1961) governs all direct taxation. Tax treatment varies significantly by structure. India's extensive network of DTAAs with most EU member states is directly relevant.
- ***Goods and Services Tax (GST) Acts:*** Indirect tax framework applicable to all business structures conducting taxable supply in India.

> **Practical Note:** India has DTAAs with most EU member states. Your choice of structure can significantly affect withholding tax on dividends, royalties, and service fees flowing between India and Europe. Always map your structure choice against the applicable DTAA provisions.

THREE ROUTES FOR ESTABLISHING PRESENCE IN INDIA

India provides three broad categories of business presence for foreign companies.The choice depends on whether you intend to conduct full commercial operations, maintaina limited representative presence, or start with a flexible non-entity model.

Route 1: Indian Incorporated Entities

Entities incorporated under Indian law. They are separate legal persons, capable of owning property, entering contracts, employing staff, generating revenue, and operating independently.

1. Private Limited Company

The most common and practical structure for foreign entry into India. A Private Limited Company is a separate legal entity governed by the Companies Act, 2013. Requirements include a minimum of 2 shareholders and 2 directors (at least one director must be an Indian resident who has resided in India for 182+ days in the preceding financial year). There is no minimum capital requirement — the minimum paid-up capital requirement was removed by the Companies (Amendment) Act, 2015.

Corporate tax rates for Private Limited Companies range from approximately 22% to 25% depending on the nature of business and applicable provisions (all tax rates in this document are base rates exclusive of applicable surcharge and 4% health and education cess).

a) Joint Venture (JV)

A Joint Venture is not a separate legal form — it is a commercial arrangement typically structured as a Private Limited Company with shared equity between a foreign investor and an Indian partner. Useful when local execution capability, regulatory requirements, or market knowledge require a domestic partner. Governed by a shareholders' agreement that should clearly define control rights, profit-sharing, exit mechanisms, deadlock resolution, and non-compete obligations.

b) Wholly Owned Subsidiary (WOS)

A Private Limited Company where 100% of the equity is held by the foreign parent. In sectors where 100% FDI is permitted, this is often the structure of choice for serious long-term entry. Provides maximum control, strategic flexibility, and operational independence. Preferred by most MNCs for manufacturing plants, GCCs, trading operations, and technology centres.

> ***JV vs Wholly Owned Subsidiary:*** *A JV provides local market access, shared risk, and partner expertise but requires compromise on control. A WOS provides full control and independence — but requires the foreign company to build all local capabilities on its own. Most European companies that plan to control their brand, IP, and strategy long- term prefer a WOS. Those entering complex or relationship-driven sectors often benefit from a JV.*

2. Public Limited Company

Minimum 3 directors, 7 shareholders. Required for listing on Indian stock exchanges. Heavy governance: quarterly results, SEBI compliance, independent directors, audit committee. Generally relevant only for large-scale operations with IPO ambitions.

3. Limited Liability Partnership (LLP)

Governed by the LLP Act, 2008. Minimum 2 designated partners (at least one Indian resident). Lower compliance than a company — no mandatory audit if turnover is below INR 40 lakhs or contribution below INR 25 lakhs. No requirement for board meetings. Maximum partners: unlimited.

Important FDI Restriction: FDI in LLPs is permitted only in sectors where 100% FDI is allowed under the automatic route and where there are no FDI-linked performance conditions. This is governed by Press Note 12 (2015 Series) issued by DIPP (now DPIIT) and reflected in Rule 10 of the FEMA (Non-debt Instruments) Rules, 2019.

Route 2: Foreign Entity Presence Models

Not separate Indian legal entities. They areextensions of the foreign parent company, established with specific and limited mandates.Regulated under FEMA and require prior approval from the RBI through an Authorised Dealer (AD) bank.

1. Liaison Office (LO)

Permitted for representational and liaison activities only: market research, promoting the parent's products, facilitating collaborations, and acting as a communication channel. Cannot undertake any commercial, trading, or revenue-generating activity. Approval initially granted for 3 years (renewable). All expenses funded by the foreign parent. Governed by FEMA Establishment Regulations, 2016.

2. Branch Office (BO)

Wider but still restricted activities: export/import, professional or consultancy services, research, IT services, and acting as a buying/selling agent. Can generate revenue but is not a separate legal entity — the foreign parent bears full liability. Tax at 35% base rate (plus surcharge and cess), significantly higher than Indian companies. Requires RBI approval via AD bank.

3. Project Office (PO)

Specifically for executing a specific project in India, typically awarded by an Indian company. Temporary — must be closed upon project completion. Most commonly used in infrastructure, construction, and engineering projects.

> *Critical FEMA Consideration: All three foreign presence models (LO, BO, PO) are subject to FEMA regulations and RBI oversight. The application is submitted to the AD bank, which then coordinates with the RBI for approval. The foreign parent company is directly liable for all activities.*

Route 3: Non-Entity Presence Models (Without Incorporation)

Not every India engagement requires formal entity setup. For businessesthat want to test the market, build initial relationships, or establish an early operational foothold,India offers several non-entity approaches:

1. Managed India Entry (Employer of Record / Staff Deployment Model)

This is an increasingly popular approach for European companies that want to establish an early presence in India without incorporating an entity. Under this model, a local service provider hires employees in India on behalf of the European company, such as a business development manager, a sales representative, or a market research professional. The service provider handles payroll, statutory compliance, tax withholding, and local employment law obligations.

The employees work exclusively for the European company's business objectives. Importantly, the candidate is selected and approved by the European company itself — the service provider manages the employment formalities, not the hiring decision. This gives the European company full control over who represents them in India.

This approach allows the European company to have people on the ground in India — building relationships, meeting potential clients, understanding the market, and generating business leads — without the time and cost of setting up a legal entity. Once the business case is validated and commercial activity justifies it, the company can transition to its own entity (typically a Private Limited Company or WOS), often retaining the same employees and relationships built during this phase.

> **Practical Advantage:** The Managed India Entry model is gaining traction among European SMEs and mid-market companies because it eliminates the two biggest barriers to India entry — time and uncertainty. You get a professional in India representing your business almost immediately (the only time required is to find a suitable candidate), and you invest in full incorporation only once you have real commercial traction. It bridges the gap between "interested in India" and "ready to commit."

2. Distributor, Channel Partner, Import Agent, or Franchise Model

European companies can engage with the Indian market through established commercial arrangements without any incorporation. These models include appointing an Indian distributor who purchases and resells your products, working with an import agent or commission agent who handles procurement, customs, and local distribution, or establishing a franchise arrangement where an Indian franchisee operates under your brand, systems, and quality standards.

These models require no Indian regulatory approvals for the foreign company, provide fast market access, and carry minimal compliance burden. They are particularly suitable for consumer goods, industrial equipment, food and beverage brands, retail concepts, and service formats looking to test demand or scale through local partners before committing to a direct presence.

BUSINESS STRUCTURE COMPARISON: DETAILED OVERVIEW

Note: *All tax rates in this document are base rates exclusive of applicable surcharge and 4% health and education cess. Effective rates will be marginally higher.*

Structure	Suitable For	Key Features and Compliance
Private Limited Company	SMEs, startups, manufacturing, SaaS, trading, GCCs	Separate legal entity. Full operational flexibility. 2 shareholders, 2 directors (1 Indian resident). No minimum capital. Annual audit mandatory. Board meetings, annual filings with MCA/ROC. Most practical long-term structure.
Joint Venture	Regulated sectors, local expertise, shared-risk entry	Structured as Pvt Ltd with shared equity. Shareholders' agreement critical. Access to local networks and knowledge. Shared control—governance alignment essential. Transfer pricing applies on related party transactions.
Wholly Owned Subsidiary	Serious long-term investors, GCCs, manufacturing, tech	100% foreign-owned Pvt Ltd. Maximum control and strategic flexibility. Preferred by most MNCs. IP deployed with confidence. Profit repatriation straightforward (subject to tax/DTAA). Same compliance as Pvt Ltd.
Public Limited Company	Large enterprises, IPO ambitions	Min 3 directors, 7 shareholders. SEBI compliance, quarterly results, independent directors, audit committee. Generally excessive for initial entry.
LLP	Consulting, advisory, lean professional services	LLP Act, 2008. Min 2 partners (1 Indian resident). No limit on partners. Tax: 30%. Lower compliance. No mandatory audit below INR 40 Million turnover / INR 2.5 Million Capital contribution. FDI only in 100% automatic route sectors. Cannot issue shares. Profit distribution not taxed again (exempt in partner's hands). Ownership transfer needs fresh agreement.
Liaison Office	Market research, relationship building, brand presence	No revenue activity. RBI/AD bank approval (3-year validity, renewable). All costs funded by parent. An annual activity certificate from CA required. Useful for testing, not execution.
Branch Office	Limited foreign operations: export/import, consultancy, IT	RBI/AD bank approval. Revenue permitted in restricted scope. Parent bears full liability. Tax: 35%, significantly higher than Indian companies. Annual RBI compliance.
Project Office	Specific project execution (infra, construction, engineering)	For defined project only. Temporary — must close on completion. Notification to AD bank. Tax: 35%. Good for execution contracts, not permanent presence.
Managed India Entry	Early-stage presence, BD, market validation, testing India	No incorporation. Local service provider employs staff on your behalf. Candidate selected by the European company. Operational almost immediately. Transition to own entity when ready.
Distributor / Partner / Franchise	Market testing, product introduction, brand expansion	No incorporation needed. Fast entry, minimal compliance. Limited direct control over customer experience. Good first step. Franchise model allows brand and quality control through licensing.

JOINT VENTURE VS WHOLLY OWNED SUBSIDIARY: THE KEY STRATEGIC CHOICE

For most European companies evaluating India seriously, the decision ultimately narrows to: should we enter with an Indian partner (JV) or go alone (WOS)? Both are structured as Private Limited Companies, but the practical implications differ significantly.

Joint Venture

- Best when local market knowledge, distribution networks, or regulatory navigation requires a domestic partner.
- Shared capital investment and risk
- Access to the Indian partner's customer base, supplier relationships, and government relationships
- Useful in complex or relationship-driven sectors: infrastructure, defence, real estate, food andbeverage distribution
- Requires careful alignment: a shareholders' agreement covering control rights, board composition, profit-sharing, deadlock resolution, exit mechanisms, and non-compete provisions is essential.
- Subjecttotransfer pricingregulations on related party international transactions

Wholly Owned Subsidiary

- Best when full strategiccontrolis non-negotiable
- Preferred structure forGCCs,captive units, manufacturing plants, trading operations, and tech centres
- Simplified governance—nominority shareholder disputes
- Intellectual property andproprietary technology deployed with greater confidence
- Profit repatriation straightforward (subject to applicable tax and DTAA)
- Requires at least one director who is an Indian resident (182+ days in India in the preceding year)

> **Practical Tip:** The resident director requirement does not mean you need an Indian business partner. Many European companies appoint a trusted Indian employee, professional, or nominee director. Professional firms in India offer resident director services specifically for foreign companies.

TAX IMPLICATIONS BY STRUCTURE

**** All rates below are base rates exclusive of applicable surcharge and 4% health and education cess.***

Structure	Base Tax Rate*	Key Tax Considerations
Pvt Ltd / WOS	*22–25%*	Rate depends on nature of business and applicable provisions. Concessional rates available for eligible new manufacturing companies. Dividends taxable in hands of foreign shareholders. Withholding tax on dividend: 20% (subject to DTAA benefit). Most tax-efficient structure for foreign entrants.
LLP	*30%*	Flat 30% rate. No concessional rate. However, profit distribution to partners is exempt from tax in the partner's hands (already taxed at LLP level). No TDS on profit share/dividend. Repatriation is therefore simpler.
Branch Office	*35%*	Base rate of 35% for foreign companies. Significantly higher than domestic companies. Profit remittance may attract additional tax unless DTAA relief applies.
Liaison Office	*Generally exempt*	No taxable income as no revenue activity is permitted. However, if the LO is deemed a Permanent Establishment (PE) under the applicable DTAA, tax consequences may arise.
Project Office	*35%*	Same rate as Branch Office. Tax on project profits. Withholding tax may apply on repatriation.

PRACTICAL CONSIDERATIONS SPECIFIC TO EUROPEAN COMPANIES

Resident Director Requirement

EveryIndian Private LimitedCompany (including WOS) must have at least one director who has resided in India for a minimum of 182 days in the preceding financial year. A European expatriate based in India qualifies. Professional nominee director services are also widely available.

Digital Signature Certificate (DSC) and Director Identification Number (DIN)

All directors, includingthosebased in Europe,must obtain a DIN from theMCA andaDSC for digitally signing regulatory filings. European directors will need identity documents apostilled per the Hague Convention (India acceded in 2023).

Transfer Pricing Compliance

Transfer pricingregulationsbecome applicable on all related party international transactions between the Indian entity and any associated enterprise abroad. This includes intercompany services, IP licensing, management fees, loans, purchase or sale of goods, and any other cross-border transaction. Arm's length pricing is mandatory, and annual transfer pricing documentation along with Form 3CEB certification is required.

Permanent Establishment (PE) Risk

European companies operating inIndiathrough any model — including a Liaison Office, Branch Office, Project Office, or even through regular employee visits or dependent agents — should be aware of Permanent Establishment risk under the applicable DTAA. If Indian tax authorities determine that a PE exists, the parent company may face Indian tax liability on profits attributable to India, regardless of the formal structure chosen. This risk applies across all presence models and is a frequently underestimated exposure.

DTAA Planning

MostIndia–EU DTAAs provide reduced withholding tax rates on dividends (typically 10%), royalties (10–15%), and feesfor technical services (10–15%). European companies should structure their intercompanyarrangements — IP licensing, management fees, service agreements — with DTAAoptimisation in mind from the outset.

Bank Account Opening

Opening a bank accountinIndia for a new entity typically takes around 2 weeks, provided all required documentationissubmitted promptly and completely. It is not necessary for foreign directors to travel to India—the process can be completedremotely with properly apostilled documents. Delays usuallyoccur when documentation fromEurope arrives incomplete.

Foreign Exchange Controls and Profit Repatriation

India is not a fully convertible currencyregime. All cross-border transactions are regulated under FEMA. Dividends can be freely repatriated by Indian companies to foreign shareholders after applicable tax. For intercompany loans (External Commercial Borrowings), RBI guidelines govern pricing, ceiling rates, and end-use restrictions. Royalties and fees for technical services are primarily governed by the Income Tax Act (withholding tax provisions) and FEMA (Non-debt Instruments) Rules regarding pricing and reporting.

Data Protection (DPDP Act, 2023)

TheDigital Personal Data Protection Act, 2023 imposes obligations on all entities processing personal data in India. European companies familiar with GDPR will find conceptual similarities, but the DPDP Act has its own requirements regarding consent, data fiduciary obligations, and cross-border data transfer provisions.

GST Registration

Anyentity conductingtaxable supply in India must register under GST. Rates range from 5% to 28%. Input tax credit mechanisms are available. Monthly and annual GST filings are mandatory.

Employment Law

India's labour framework is being reformed through four unified Labour Codes. Key considerations include Provident Fund and Employee State Insurance contributions, gratuity obligations, and state-level shops and establishments regulations.

COMMON MISTAKES EUROPEAN COMPANIES MAKE

- ***Choosing based on ease, not scalability:*** Selecting a Liaison Office or LLP because it seems simpler, then finding it cannot support full commercial operations.
- ***Ignoring FEMA from the outset:*** Structuring intercompany transactions without considering FEMA compliance, causing difficulties in profit repatriation.
- ***Underestimating the resident director requirement:*** Not planning early enough, causing delays in incorporation.
- ***Not mapping FDI sectoral caps:*** Assuming 100% FDI is permitted in all sectors without verifying.
- ***Overlooking PE risk:*** Operating in India through any presence model, including a Liaison Office, employee visits, or dependent agents — without assessing Permanent Establishment exposure under the DTAA.
- ***Neglecting transfer pricing documentation:*** Failing to establish arm's length pricing from day one, leading to disputes during audits.
- ***Not planning the exit:*** Not considering how the structure will facilitate or complicate an eventual exit, stake sale, or restructuring.
- ***Starting with a Liaison Office when intent is commercial:*** Using an LO for "testing" when the business plan clearly points to revenue activity within 12–18 months. Direct incorporation would have been faster and cheaper overall.

TYPICAL SETUP TIMELINES

India'sincorporation process for companies and LLPsisefficient and fully digital. The actual registrationwith the Ministry of Corporate Affairs can becompleted within 7 to 10 working days oncealldocuments are in order. The total elapsed timefrom decision to operational readiness is typicallyaround 6–8 weeks because it includes document preparation (apostilling, DSC, DIN)andpost-incorporation steps (bank account, GST,FEMA filings).

Structure	***Typical Timeline***	***What Drives the Timeline***
Pvt Ltd Co / WOS	***6–8 weeks***	Incorporation itself: 7–10 working days if apostilled documents are ready. Remaining time: DSC for foreign directors, document preparation, apostilling in Europe (varies by country — some take 2–3 days, others 2–3 weeks), bank account (~2 weeks)
LLP	***6–8 weeks***	Similar to Pvt Ltd. DPIN, name approval, LLP agreement filing, bank account, FEMA filings. Incorporation itself is fast once documents are ready.
Liaison Office	***4–6 months***	Application to AD bank, which coordinates with RBI. Process is more involved and timelines less predictable. Post-approval: establishment, UIN from MCA, bank account, Annual Activity Certificate from CA.
Branch Office	***4–6 months***	Same approval process as LO — AD bank to RBI coordination. Post-approval: establishment, bank account, GST registration, annual RBI compliance.
Project Office	***2–4 months***	Notification to AD bank upon project award. Faster than LO/BO — notification basis in certain cases.
Managed India Entry	***Immediate***	No incorporation required. Operational as soon as a suitable candidate is identified and onboarded. Candidate is selected by the European company. Typically active within 2–4 weeks.
Distributor / Partner / Franchise	***Immediate***	No Indian regulatory process. Timelines depend on partner selection and commercial negotiation.

Where the Real Delays Happen — And How to Avoid Them

The single biggest cause of delay in setting up an Indian company is not the Indian regulatory process itself — it is gathering and preparing documents from the European side. Here is what to anticipate:

- ***Apostilling documents in Europe:*** Timelines vary by country. Some European countries process apostilles in 2–3 days; others take 2–3 weeks. Start this as early as possible, in parallel with other steps.

- ***Obtaining DSC for foreign directors:*** Requires identity verification. If the director is in Europe, this involves attested/apostilled passport copies, address proof, and photographs. Start simultaneously with apostilling.

- ***Bank account opening:*** Typically around 2 weeks. Foreign directors do not need to travel to India. Delays occur when banks request additional documentation or when European documents arrive incomplete.

- ***FEMA compliance filings (FC-GPR):*** Must be filed within 30 days of share allotment. Ensure your Indian advisors are ready to file promptly after incorporation.

> ***Key Takeaway on Timelines:*** *The Indian incorporation process is not slow. A company or LLP can be registered in 7–10 working days once documents are ready. The total elapsed time of 6–8 weeks reflects document preparation, apostilling, and post-incorporation steps. European companies that start document preparation early can compress timelines significantly. For LO/BO/PO, the RBI approval process is genuinely longer (4–6 months), which is one practical reason many companies opt for direct incorporation or a Managed India Entry model instead.*

FINAL PERSPECTIVE

India offers multiple businessstructures because businesses enter India for very different reasons. The structure that suits a European automotive manufacturer setting up a production plant will differ from a consulting firm testing advisory services, which will differ from a tech company establishing a GCC, which will differ from an SME that simply wants someone on the ground to explore opportunities.

But the real question is rarely:

"What is the easiest option?"

The better question is:

"Which structure best supports how we actually plan to operate, control, and grow in India?"

Because in India, business structure is not just a registration choice. It is a strategic growth decision that affects taxation, compliance, control, fundraising, profit repatriation, and exit optionality for the entire duration of your India presence.

> ***Get the structure right from day one, and your India operations have a foundation to scale. Get it wrong, and you may spend years working around limitations that were entirely avoidable.***

Disclaimer: This document is intended for informational purposes only and does not constitute legal, tax, or investment advice. All tax rates mentioned are base rates exclusive of applicable surcharge and health and education cess (currently 4%); effective rates will be marginally higher. The information reflects the regulatory framework as understood in April 2026. Readers should consult qualified Indian legal, tax, and regulatory advisors before making business structure decisions. Provisions of the Companies Act 2013, FEMA 1999, FDI Policy, and the Income Tax Act 2025 should be verified with professional counsel.

INDIA MARKET ENTRY ADVISORY

Entering India successfully requires more than market interest - it requires the *right structure.*

Whether you are evaluating India for the first time or ready to move, the right local strategy — Compliance, entity structure, tax planning, and execution will define long-term success. GSRA & Associates works with European businesses at every stage of that journey.

HOW WE SUPPORT EUROPEAN BUSINESSES

Trusted advisors for India market entry, structure, compliance, and operations.

GSRA & Associates is a New Delhi-headquartered chartered accountancy firm with deep specialisation in cross-border business structuring, regulatory compliance, and market-entry advisory for international clients entering India.

With active associations across major Indian commercial centres and an international footprint spanning Europe, the Middle East, and the USA, we bring both local depth and global perspective that market entry demands.

- Entity structure & incorporation advisory
- Tax planning & transfer pricing strategy
- Regulatory compliance & FEMA / RBI advisory
- GCC and subsidiary setup & accounting
- Audit, assurance & CFO support services
- Trade, customs & export-import compliance

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