

**REPORT
OF THE COMMISSION
ON
REVIEW OF ADMINISTRATIVE LAWS**

VOLUME - II



**DEPARTMENT OF ADMINISTRATIVE REFORMS
AND PUBLIC GRIEVANCES**

**MINISTRY OF PERSONNEL,
PUBLIC GRIEVANCES AND PENSIONS**

GOVERNMENT OF INDIA

SEPTEMBER 1998

VOLUME II

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Status of Review of Laws, Regulations and Procedures of various Ministries/Departments In Central Government

Name of the Ministry/Deptt.	Recommendations of Task Force/Expert Group/Status Note on Action taken	Laws/Acts/Rules administered by the Ministry/ Department	Views of the Commission
1. Ministry of Agriculture (Department of Agri. & Cooperation), Krishi Bhavan New Delhi	<p>Expert Group constituted on 27.10.97. The expert group has completed its deliberations and given its report. The Department has initiated requisite action based on the report of the Committee for amendments, etc. in the legislative enactments, wherever necessary. The status of various Laws/Regulations is as follows:</p> <p>(i) <u>Fertiliser (Control) Order, 1985 (FCO)</u></p> <p>Comprehensive amendments are under process in the Department.</p> <p>(ii) <u>Agricultural Produce Cess Act, 1940 and Produce Cess Act, 1966</u></p> <p>Proposals for comprehensive amendments in the Agricultural Produce Cess Act, 1940 and Produce Cess Act, 1966 are at an advanced stage of finalisation.</p> <p>(iii) <u>Insecticides Act, 1968, Destructive Insects and Pests (DIP) Act, 1914 and Plants, Fruits, Seeds (PFS) Order, 1989</u></p> <p>The Expert Group have recommended that the Insecticides Act, 1968 may be amended to take care of the concerns expressed by the consumers and the pesticides industry.</p> <p>(iv) <u>Seeds Act, 1966 and Seed (Control) order, 1983</u></p> <p>The Expert Group have recommended that the Seeds Act, 1966 and rules thereunder and the Seed (Control) Order, 1983, may continue in their existing form.</p> <p>(v) <u>Dangerous Machines (Regulation) Act, 1983 (DMRA)</u></p> <p>The Expert Group have recommended that a proposal for a revised comprehensive legislation to replace the existing DMRA may be formulated, taking into account the perceptions of users representatives, design experts, research organisations, State Governments, Ministry of Labour etc. The department may be set up a Small Group representing these interests for concretising in a time-bound manner.</p> <p>(vi) <u>National Cooperative Development Corporation Act, 1962 and Multi State Cooperative Societies Act, 1984</u></p> <p>Proposals for Comprehensive amendments have already been introduced in the Parliament and based on the recommendations of a Parliamentary Committee, a revised Amendment Bill is ready for being introduced in Parliament. In case of Multi State Cooperative Societies Act, 1984 also, proposals for a new</p>	<ol style="list-style-type: none"> 1. Seeds Act, 1966 2. Seed Rules, 1968 promulgated under Seeds Act, 3. Seed (Control) Order, 1983 promulgated under Essential Commodities Act, 1955 4. Fertiliser (Control) Order, 1985 Promulgated under Essential Commodities Act, 5. Insecticides Act, 1968 and Rules thereunder, Destructive Insects and Pests Act, 1914 (DIP Act 1984 and Plants, Fruits and Seeds (Regulation of Import into India) Order, 1989 (PFS Order, 1989) 6. Multi State Cooperative Societies Act, 1984 and Rules thereunder, 7. National Cooperative Development Corporation Act, 1962 and Rules thereunder, 8. National Oilseeds and Vegetable Oils Development (NOVOD) Board Act, 1983 and Rules thereunder, 9. Coconut Development Board Act, 1979 10. Coconut Development Board Rules, 1981 11. Coconut Development Board Regulations, 1982 12. Dangerous Machine (Regulations) Act, 1983 13. Agriculture Produce Cess Act, 1940 14. Produce Cess Act, 1966. 	<p>The commission requests the Department to proceed expeditiously with the amendments under consideration, and to formulate amendments to the remaining Acts and orders early for Government approval. The Department should review all existing orders for curbing movement of food grains and agricultural inputs. The Insecticides Act, Destructive Insects and Pests Act, and orders thereunder need to be amended early to reflect the concerns of agriculturists and the danger to health of the public.</p> <p>The arrangements for coordination with Department of Fertilisers, public sector banks and other agencies impacting on agriculture operations, should be improved, along with more widespread dissemination of information.</p>

legislation to replace the existing Multi State Cooperative Societies Act are at an advanced stage of finalisation for consideration of the Cabinet.

(vii) National Oilseeds and Vegetable Oils Development (NOVOD) Board Act, 1983

The Expert Group recommended that a comparative study of the functioning of the Board as a statutory organisation vis-a-vis other similar organisations within and outside the Department of Agriculture and Cooperation may be conducted for an assessment of the need for continuance of statutory status of the Board. They have also recommended that provisions relating to representation of states may be reviewed for inclusion of Oilseed producing States and that delegation of financial powers should be processed to ensure adequate autonomy in the functioning of the Board.

(viii) Coconut Development Board Act, 1989 (CDB)

The Expert Group have recommended that a study on similar lines as recommend for NOVOD be undertaken for assessing the continuance of statutory status and for granting adequate financial autonomy.

2. Ministry of Agriculture
(Dept. of Animal Husbandry & Dairying) Krishi Bhavan, New Delhi

Task Force Constituted on 4.8.97
In the wake of European (E.U.) guidelines on animal products/by-products meant for export and Office International Episodes (O.I.E.) guidelines on test/containment procedures of certain diseases, a new legislation procedures of certain diseases, a new legislation is being drafted. In case it finally gets approved from technical angle, some of the existing Laws will get repealed.

1. The Livestock Importation Act, 1898
2. The Indian Veterinary Council Act, 1984
3. The National Dairy Development Board Act, 1987
4. The Milk and Milk Product Order, 1992 (MMPO)
5. Blanders and Farcy Act, 1899.
6. Notification Controlling Movement of Fodder.

The Commission suggests repeal of the Acts at items 1 and 5 along with drafting of the new legislation as indicated in column 2.

3. Ministry of Science and Technology
(Dept. of Bio-Technology)
CGO Complex, New Delhi 110003.

Task Force Constituted on 1.12.97

The Expert Group has submitted its report.
The major recommendations include :

1. More delegation in respect of personnel and financial management.
2. Creation of a Legal Schedule for biotechnology industries in the schedule of I (D&R) Act.
3. DBT should be permitted to transfer the technologies on exclusive basis to the industries. This is essential, as most of the technologies are not covered by the patent protection.
4. A Legal Officer should be designated in the M/o Law exclusively to deal with all the issues related to scientific departments.
5. The scientific persons should have refresher/reorientation training in the relevant fields for at least one month during a time block period of 4 years and one week in a period of 2 years.

No legislation being administered by this deptt. It would, however, involve efforts by other Ministries for Patents, Intellectual Property Rights, addition of Bio-technology in Schedule for Industries (D&R) Act, etc.

While generally agreeing with the recommendations of the Expert Group, the commission makes further recommendations as below :

1. 'Bio-technology' may be added to the Schedule under I (D&R) Act, 1951 to make an enabling provision for its regulation.
2. Exclusive licence may be given by the Deptt. of Bio-technology on a case-to-case basis to the industry.
3. For the scientific departments as a whole, the Government may revise the rules for financial sanction, personnel management etc. on the lines of the Department of Atomic Energy.

4. Ministry of Chemicals & Fertilisers (Deptt. of Chemicals and Petrochemicals), Shastri Bhavan, New Delhi 110001

6. The Committee also recommended that there should be a strong net working among all the scientific departments and the scientific institutions.

The Task Force constituted on 31.7.1997 and has submitted its report. The main recommendations regarding various acts/orders are as follows :

Indian Power Alcohol Act, 1948

This Act is not in use for a long time and has almost become redundant. It is proposed to rescind this Act. Before it is rescinded, the views of the Ministry of Petroleum and NG and Ministry of Non-Conventional Energy sources have been called. Their views are still awaited. Further action will be taken when their comments are received.

The Bhopal Gas Act is comprehensive Act of Parliament and presently there is no need for a review.

The observations of the Expert Group are as follows :

(i) It was noted that the Indian Pharmaceutical Industry is at a crucial juncture because of the impending product patent regime. There is a need to ensure the growth of domestic industry and at the same time not to be in conflict with our obligations towards WTO. It was also noted that most of the countries have control on prices of pharmaceutical in one form or the other.

(ii) It was noted that there was a shift from essential drugs and market was flooded with non-essential drugs and irrational combinations/pacts. Therefore, the basis for the price control on drugs should preferably be health need and essentiality.

(iii) The Group observed that while in 1979 almost all the drugs were under price control, today there are only 74 drugs under price control. Further, there was also a ceiling on overall profitability of pharmaceutical companies alongwith the product-wise price control. Therefore, there should be a drug price monitoring system instead of a product-wise price control system.

(iv) The Group concluded that some sort of price control still remains imperative

(v) The Group recommended that the Department of Chemicals and Petrochemicals may consider the above suggestions as and when the review of the Drug Policy itself is undertaken.

(vi) The Group recommended that Health care Policy and Drugs Policy have to be in consonance.

(vii) There was a consensus in favour of retaining the existing Drugs (Prices Control) Order, 1995; however, in order to improve upon the practicability the following action was recommended.

1. Indian Power Alcohol Act, 1948
2. Drugs Prices Control Order, 1995
3. Bhopal Gas Act

Government should take a view on different aspects of manufacture, quality control, pricing etc. of drugs to be dealt with by one Deptt. The administration of Drugs and Cosmetics Act and Drugs (Prices Control) Order, 1995 should be under one Ministry, either M/o Health or M/o Chemicals and Fertilisers. The Drugs (Prices Control) Order, 1995 should be more effectively enforced in the interests of assuring supply of drugs at prescribed prices. There should be a clear-cut definition of life saving drugs subject to control in order to prevent present abuses by manufacturers, pending a shift from process wise control to product wise control. An early decision on product patenting of drugs and pharmaceuticals is necessary. The Commission agrees that the Indian Power Alcohol Act, 1948 may be repealed.

(a) Medicines being as extremely important essential commodity, deserve rightly to be included in the list of "declared goods" under the Central Sales Tax Act so as to attract a uniform sales tax of 4% through out the country. The Group recommended that this should be pursued vigorously by the Department.

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The Commission agrees with the recommendation, Necessary action may be taken by Finance Ministry.

(b) It was observed that provisions under Para 8(5) and Para 13 of the Drugs (Prices Control) Order, 1995 are not in consonance. Para 8(5) makes it mandatory for the fresh prices have been notified. On the other hand, para 13 gives the power to the Government to order deposit of the overcharged amount, charged by a manufacturer/importer beyond the price which had been fixed or notified by the Government. The Group hence recommended that para 8(5) may be suitably amended to clarify the situation.

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Government to take action accordingly.

(c) The Group observed that the words "minus 16% thereof" for the retailers margin, mentioned in para 19(1) of the Drugs (Prices Control) Order, 1995 needs to be examined.

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The Commission agrees with the recommendation.

(d) It was noted the paras 20(1) and 20(3) vested certain powers with the Government to call for records etc. The Group recommended that necessary amendments may be carried by the Department to permit exercise of such powers by State Government Officers.

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The Commission agrees with the recommendation.

5. Ministry of Civil Aviation,
Rajiv Gandhi Bhavan,
New Delhi - 110003

Task Force constituted in July, 1997.

The Ministry is envisaging to formulate a Comprehensive Civil Aviation Act, which will take care of international conventions and will replace the Aircraft Act of 1934; It was, however, possible to finalise the Civil Aviation Act only after the policy was approved by the Government. It was hoped to place the matter before the Cabinet for approval within two months. Meanwhile, minor amendments to the Airport Authority Act and Carriage by Air Act will be processed after taking into account international conventions.

1. Aircraft Act, 1934.
2. Airport Authority Act.
3. Carriage by Air Act.

Government should finalise Civil Aviation Policy early and then integrate and update different laws relating to Civil Aviation, with due regard to entry of private air transport operators, privatising airport services, etc.

6. Ministry of Food and
Consumer Affairs, (Deptt. of
Consumer Affairs),
Krishi Bhawan,
New Delhi - 110001

The Expert Group constituted on 22.7.1997.

The following are the salient features of recommendations relating to the various legislations:

1. **The Essential Commodities Act, 1955** : The Expert Group recommended retention of the Essential Commodities Act, 1955, but recommends some amendments to the existing provisions of the Act in order to soften on the one hand the provisions for punishment for technical violations/small lapses and on the other, to provide quick disposal of cases in order to create greater deterrent effect on the defaulters. Care has been taken to reduce harassment of the traders by the lower level field functionaries.

2. **The Essential Commodities (Special Provisions) Act, 1981**: Subject to the amendment to the Essential Commodities Act, 1955, the Essential Commodities (Special Provisions) Act, 1981 may be scrapped.

1. **Essential Commodities Act, 1955.**
(Amending Bill before Parliament)
 - * i) List of Essential Commodities
 - * ii) List of Control Orders (Ministry-wise)
(129 with 13 Ministries)
 - * iii) List of items under compulsory certification by BIS**These are enclosed as appendix.**
2. Essential Commodities (Special Provisions) Act, 1981
(allowed to lapse in 1997)
3. The Bureau of Indian Standards Act, 1986
4. The Forward Contracts (Regulations) Act, 1952
5. **Consumer Protection Act, 1986**
(amendments formulated)
6. Emblems and Names (Prevention of Improper Use) Act, 1950
7. **Standards of Weights and Measures Act, 1976.**
8. Standards of Weights and Measures (enforcement) Act, 1985. (amendments formulated)
9. The Spirituous Preparations (Inter-State Trade & Commerce) Control Act, 1955.

It is necessary to harmonise definitions under different orders and lengthen period of license. In the ECA (Amendment) Bill, the Commission endorses the proposed amendments, except that the period of imprisonment in summary trial be increased beyond 2 years and that Government secure enabling powers to notify deletion of commodities.

The amendments proposed by the Expert Group are broadly endorsed subject to detailed observations in the statement on all these legislations. The amendments should be enacted early. As regards consumer protection, there should be Alternate Dispute Resolution mechanism set up to reduce the burden on Courts. Chambers of Commerce and Industry should have voluntary grievance redressal forum. The C P Act should be more effectively implemented by State Governments with better selection of presiding officers of Forum, more funds, staff and infrastructure for the Courts. The labelling of imported packages should be rationalised. Attention should be given to ensuring in case of packaged goods that the MRP does not

exceed the exfactory price by more than 30%.

3. **The Bureau of Indian Standards Act, 1986** : The Bureau of Indian Standards should be made the sole standard formulation body for harmonious development of standards. Besides, the Expert Group recommended some amendments to the existing provisions of the Act in order to give greater consumer thrust and to ensure better enforcement of mandatory certification scheme and strict adherence to Indian standards.

4. **The Forward Contracts (Regulation) Act, 1952** : The Expert Group recommended amendments to the Forward Contracts (Regulation) Act, 1952 to strengthen the Forward Markets Commission on the one hand and on the other, to reduce the prohibitory provisions to boost the commodity markets. The main amendments recommended include introduction of a definition of "futures trading", extension of the period of delivery and payment from the present 11 days to 30 days in the case of ready delivery contract, to withdraw ban on options in goods and to introduce compounding of offences for violation of the Forward Contracts (Regulation) act, 1952.

5. **The Consumer Protection Act, 1986**: The amendments to the Consumer Protection Act, 1986 were earlier considered by a Committee set up in 1994 under the chairmanship of Shri Naren De, Minister of Food & Civil Supplies, Govt. of West Bengal. The recommendations made by the said committee are under consideration of the Government. The expert Group took note of those recommendations and did not reopen any of the recommendations made by the said Committee. However, the Expert Group recommended a few more amendments to the Consumer Protection Act, 1986 in order to ensure greater autonomy to the consumer courts, speedy disposal of cases by holding circuit courts, at regular intervals, in different regions of the States and also to include all incidental services and facilities connected with banking, finances, insurance, transport, etc, within the purview of Consumer Protection Act, 1986. The Expert Group has also recommended empowering the consumer courts to strike down unfair terms of contract where the terms of contract are heavily biased in favour of the stronger party.

6. **The Emblems and Names (Prevention of Improper Use) Act, 1950**: The Expert Group recommended retention of the Emblems and Names (Prevention of Improper Use) Act, 1950 but recommended a few amendments to the Act in order to reduce delay in instituting prosecution against the defaulters by the State Governments and also to increase the amount of fine in order to have adequate deterrent effect. In order to bring in transparency in the functioning of the standing committee set up under the Emblems & Names (Prevention of Improper Use) rules, 1982, the Expert Group has recommended inclusion of one representative each from non-government organisation and apex body of trade and industry.

7. **The Standards of Weights & Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985**: The Expert Group considered the issue of merger of the two Acts, but in view of the existing constitutional provisions giving separate jurisdiction to the Centre and the States over preparation of standards and their enforcement, decided to keep the two Acts separate for the purpose of their smooth implementation. However, the expert Group recommended some amendments to these Acts with a view to make them more transparent and simple and the same time to

eliminate unnecessary regulation and control. Many of the obsolete provisions have been done away with in the proposed revision.

8. **The Spirituous Preparations (Inter-State Trade and Commerce) Control Act, 1955:** The Expert Group observed that there was no use of this Act during the last several years. After considering the comments of different Central Ministries as well as the prohibition States, the Expert Group has recommended scrapping of the Act.

7. Ministry of Food and Consumer Affairs, (Deptt. of Food and Civil Supplies), Krishi Bhawan, New Delhi - 110001.

Task Force constituted on 15.7.1997. A review has been done at the level of Secretary (Food and Civil Supplies).

Amendments to Acts governing FCI And Warehousing Corporation and rules and regulations framed thereunder are made as and when required. All possible steps are taken from time to time to make the administration more effective and responsive. Review of rules, regulation etc, pertaining to food grains policy/procedures is being done from time to time in consultation with the State Governments and action being taken to revise or amend or relax or to rescind them in the light of changed environment. It is proposed to consider repeal of the Delhi Roller Mills Wheat Products Order, 1979.

8. Ministry of Coal Shastri Bhavan New Delhi - 110011

Task Force Not constituted, because Ministry had already completed review of all 9 legislations and rules administered by them. Amendments have been formulated to three legislations relating to Nationalisation of Coal Mines and Coking Mines and will be submitted to the Cabinet. It is proposed to process the repeal of the Coking Coal Mines Emergency Provision Act, 1971 and the Coking Coal Mines Taking-Over of Management Act, 1973. Three other legislation are proposed to be examined in consultation with State Governments.

9. Ministry of Commerce, (Deptt. of Commerce) Udyog Bhavan, New Delhi - 110011

Task Force constituted on 13.6.1997. The Task Force has already reviewed all Acts and Rules under the administrative control of the Ministry and proposals for amendment to all Acts, Rules and Regulations have been made. The concerned administrative Sections are preparing Cabinet Note, in respect of proposals for amendment, wherever required and take further necessary action.

The significant recommendations regarding amendments to various Acts are as follows:

The Foreign Trade (Development & Regulations) Act, 1992

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1. West Bengal Husking Machines (Control of Operation) Order, 1966. (Order need not be repealed for the reasons addressed by the Govt. of West Bengal where it is applicable)
2. The Delhi Roller Flour Mills Wheat Products Order, 1979.
3. Guidelines for the implementation of Targeted Public Distribution System. (There is no need to effect any change therein)
4. The Warehousing Corporation Act, 1962 and Rules and Regulations framed thereunder.
5. FCI Act, 1964

1. Coal Mines Provident fund and Misc. Provisions Act, 1948 (recently amended).
2. The Coal Mines (Nationalisation) Act, 1973 (Amendment under process)
3. Coking Coal Mines Nationalisation Act, 1972 (Amendment under process)
4. Coal Mines Nationalisation (Amendment) Act, 1993.
5. Coal Mines Nationalisation (Amendment) Act, 1993. (Act Requires further examination)
6. Coal bearing Areas (Acquisition and Development) Act, 1957 (Act requires further examination).
7. Colliery Control Order (Order requires further examination)
8. Coking Coal Mines Emergency Provision Act, 1971.*
9. Coal Mines taking over of Management Act, 1973*
*These two Acts are of little relevance today. But they require to be continued in the statute book.

1. The Spices Board Act, 1986
2. The Rubber Act, 1947
3. The Tea Act, 1953
4. The Coffee Act, 1943
5. The Marine Products Export Development Authority Act, 1972
6. The Tobacco Board Act, 1975
7. The Agricultural and Processed Food Products Export Development Authority Act, 1985
8. The Enemy Property Act, 1968
9. The Export (Quality Control and Inspection) Act, 1963
10. The Foreign Trade (Development and Regulation) Act, 1992

The Commission agrees to the repeal of this Act.

The Commission agrees that the Delhi Roller Flour Mills Wheat Products Order, 1979 be repealed. The other Rules and Orders should be reviewed and simplified early. Steps should be taken for phased elimination of control over movements, and for ensuring that the period of validity of licences issued to traders under Central regulations should be increased preferably on par with the longer period prescribed by some States like Rajasthan. The provisions of the Central and State Orders issued in regard to & particular commodity should be harmonised to the extent possible.

The Commission agrees with the proposal to repeal the Acts at items 8 and 9 as they are of little relevance. Further examination of and amendments to remaining Acts and orders may be expedited. The Govt. may consider integrating all Acts relating to coal into one. It is necessary in general to adopt a common approach for repealing all pre-nationalisation Acts passed prior to nationalising LIC, GIC, Coal Mines, Air Corporation, etc.

The Commission agrees with the amendments proposed in the Acts mentioned at items 1 to 5 as they have been made in conformity with new economic thinking. The Commission agrees with the repeal of Tobacco Board Act, 1975 as well as Tobacco Cess Act, 1973.

Regarding items 7 to 10 the Commission agrees with the approach to the proposed amendments. As regards item 10, a provision for attaching the property on the lines relating to provision in Cr. P.C. may be made.

The various Orders and Regulations relating to Foreign Trade should be updated and disseminated. Corresponding notifications by CBEC/RBI should be ensured.

- (a) Unnecessary provisions of the Act as far as licensing is concerned should be weeded out.
- (b) Prosecution which was removed under the FTDR Act needs to be reintroduced
- (c) All cases of fraud, manipulation and forgery of documents should be dealt with seriously and fines imposed.

Tobacco Act, 1975

The Task force recommended repeal of this Act as tobacco cannot be a priority item for exports, in view of the anti-smoking throughout the world.

Amendments in other Acts relate mainly to the following issues:

1. Liberalising licensing requirement with a view to promote export.
2. Making the punishment provisions more rigorous.
3. Changing the composition of Board/authority.

Recently, Government has announced several measures to improve the export sector which are listed below:

- i) Interest rates on pre-and-post-shipment credit reduced from 11% to 9%
- ii) Govt. to pay interest if duty drawback or refund of terminal excise dues is delayed by two months.
- iii) Manufacturer-exporters with record of specified export performance and above one year of unblemished export record to be given legal undertaking facility instead of bank guarantees for duty-free import of raw materials and for one time bond instead of repeated bonds.
- iv) Extension of tax holiday for EOUs/EPZs extended from a block of five to 10 years.
- v) EOUs to be permitted sub-contracting facility in domestic tariff area.
- vi) Private software technology parks to be granted EPCG scheme benefits.
- vii) Exports through couriers permitted from EPZs.
- viii) Special package for hardware electronics to be announced shortly.
- ix) Duty on mobile cooling and other cold chain equipment to be reduced to help processed food, horticultural and floricultural units.

10. Ministry of Commerce,
Department of Supply,
Nirman Bhawan,
New Delhi.

The review of Manual of Office Procedure on Supply, Inspection and Disposals (MOPSID) has been completed by a Study Group that was constituted for reviewing the provisions of MOPSID. The Department have now sent the findings to the various Ministries and Trades for their views and comments before giving final shape to the Committee's recommendations.

The Department of Supply does not administer any Act or Statutory Rules. Therefore, the question of initiating an exercise for amending these and making a reference to Law Commission does not arise.

DGPT should decentralise its operations and ensure adequate budget for refunds and for computerisation.

After going through the proposed changes in the manual, the Commission finds that the Ministry has made the Manual more user friendly. The Ministry may consider issuing a revised Manual after making the changes. The concurrence of Finance Ministry is required.

In the office of the Chief Controller of Accounts, the work on computerisation of payment of suppliers' bills and maintenance of accounts is in progress. A software for payment and accounts module has been developed. The process of installation of computers in the National Test House Headquarters has simplified the procedure. NTH has also acquired Desk Top Publishing which has facilitated preparation of memorandum etc. A committee under the chairmanship of DDG (A) has submitted a report on modification of GFRs on the existing provisions on procurement. The report is presently under consideration of D/o Supply. The Existing shipping manual is being reviewed. Regarding delegation of authority, the powers of head of office have been delegated to the Dy. Controller of Accounts in branch offices. The DG, NTH has been delegated enhanced power on insurance of equipments etc.

11. Deptt. of Women & Child Development, Shastri Bhavan New Delhi - 110001

Expert Group Constituted in October, 1997

All the Acts being administered by the Deptt. have been reviewed and the recommendations that have emerged through these reviews have been transmitted to the appropriate quarters for their views. These are under examination in various stages in consultation with National Law School, National Commission of Women, Department of Legal Affairs, MHA, etc.

The expert group felt that there is a strong need for modification of criminal laws concerning women, which are listed at sl. no. 2 to 4 in the next column. The various substantive criminal offences against women in these acts are to be included in the Indian Penal Code. It is also necessary that implementation of these acts should devolve by law on the police officers authorised in respect of offences under the Indian Penal Code.

The Status regarding the various acts is as follows :

- a) The Commission of Sati (Prevention) Act, 1987 and
- b) Dowry (Prohibition) Act, 1961

The Department is examining amendments to the Dowry (Prohibition) Act and Commission of Sati (prevention) Act based on the recommendations of the Expert Group. A cabinet note concerning amendments in these Acts was circulated to the concerned Ministries/Departments and their comments have been obtained. Action to remove certain differences of opinion between Ministry of Home Affairs and Deptt. of Legal Affairs on the one hand and this Deptt. on the other on the question of transferring criminal offences against women in these Acts to IPC, has been taken.

- c) The Indecent Representation of Women (Prohibition) Act, 1986, and
- d) The Immoral Traffic (Prevention) Act, 1956

The reports containing the proposed amendments in the Immoral Traffic (Prevention) Act and Indecent Representation of Women (Prohibition) Act received from the National Law School of India University, Bangalore are being examined by the National Commission for Women. The recommendations made by the

1. The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation, Supply and Distribution) Act, 1992.
2. The Indecent Representation of Women (Prohibition) Act, 1986
3. The Immoral Traffic (Prevention) Act, 1956
4. The Commission of Sati (Prevention) Act, 1987
5. Dowry (Prohibition) Act, 1961

As Regards item 1, the Commission does not agree for its merger with Prevention of Food Adulteration Act. The Provisions of this Act have to be strengthened to make them more effective. As regards item 2, provisions for punishment should be strengthened and there should be vigorous implementation of this Act. This may be called the Prevention of Derogatory Representation of Women Act. As regards item 3, there should be health regulation of prostitutes and proper management of protective homes. For prevention of AIDS or STDs there should be a separate Act for regulation of sex-workers. The codification of criminal laws concerning women, strengthening IPC provisions, obligation on police officers etc. should be pursued. Separate courts for trying these offences may be considered.

Expert Group with regard to the changes in these two Acts have been conveyed to NCW, so that the Commission can keep in mind the Expert Group's observance while framing the Commission's views.

- e) The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation, Supply and Distribution) Act, 1992.

A Task Force has been constituted in this Deptt. to suggest amendments to his Act to make it more effective. The Task Force will also consider as to whether there is any single law like Prevention of Food Adulteration Act where the provisions of this special act can be incorporated. The Task Force will keep in view the recommendations of the Expert Group.

12. Department of Education,
Shastri Bhavan,
New Delhi - 110001

Expert Group YET to be constituted. Considering the nature of laws being administered by this Department, it has been stated that it is not necessary to constitute an Expert Group.

The Department is considering amendments to the Act governing University Grants Commission and the Indian Universities. A Committee appointed by the UGC is taking a fresh look at this provisions governing the UGC Act. It should be possible to come forward with an Amendment Bill which would bring UGC's role in consonance with the changed higher education scenario.

The issue of amendment of the Copyright Act was taken up before the Cabinet and as directed by the Cabinet wide-ranging consultations and sensitisations have initiated. The matter would again be placed before Cabinet, after the exercise is over.

13. Deptt. of Electronics,
Electronics Niketan,
CGO Complex,
New Delhi - 110003

A special Task Force as set up in Feb., 1997 to examine issues pertaining to freedom of access of Governmental information to public, introduction to Citizens' Charter and for improving services and simplifying relevant procedures in the Department. The recommendations of the Task Force are being implemented by DOE.

An Inter-Ministerial Standing Committee (under the Chairmanship of Secretary, DOE) is reviewing the relevant Acts/Laws, etc. relating to Cyber Laws and National Information Infrastructure (NII).

The Deptt. has formulated recommendations on Cyber-Laws which is under consideration by the Government.

14. Ministry of Env. & Forests,
Paryavaran Bhavan,
CGO Complex,
Lodhi road, New Delhi -3

Task Force NOT constituted.

The Ministry had taken a review exercise in 1993 at the instance of Cabinet Secretariat, by constituting a group which examined various aspects relating to regulations and the legal framework of the environment. Most of the recommendations of the group have already been implemented except the recommendations in respect of consolidation of Water Act, Air Act and the Environment

This Department primarily administers laws relating to:

1. University Grants Commission.
2. All India Council of Technical Education (AICTE).
3. Central Board of Secondary Education.
4. State Boards of Secondary Education.
5. Central Universities, IITs, etc.
6. Copy Right Act, 1957.

Most of these laws provide a very broad framework of governance with the details being dealt with under Statutes and Ordinances - both being subordinate legislations with the difference that former is enacted with the approval of the President while the latter is framed and finalised by the appropriate institutional bodies. This arrangement prevents the relevant laws from being stale as periodic renewal takes place through amendments to existing Statutes and Ordinances and framing of new ones. Moreover, as these laws deal with governance of the relevant institutions and allied matters, they have very little role in the public domain.

This Deptt. is essentially a promotional and not a regulatory Department and there is no specific statute which is being implemented by them. However, review of general rules & practices is being done by a Task Force so that they can function in a more transparent and citizen friendly manner. It is framing cyber laws with the help of an inter-ministerial group.

The Ministry has, within its purview, the following Acts:

1. Indian (Forest) Act, 1927
2. Wildlife Protection Act, 1972 (amended up to 1991)
3. Forest (Conservation) Act, 1980
4. Water Act, 1974 (amended upto 1988)
5. Air Act, 1981, (amended upto 1987)
6. Water Cess Act, 1977 (amended upto 1987)

The latest thinking on Conventions relating to IPR has to be reflected in the proposed amendments to Copyright Act, 1957 and linked to Cyber-Laws for digital rights

The Ministry should examine as to how indiscriminate proliferation of teaching shop/fake universities could be checked so that they may not thrive on public gullibility. The amending Bills should be brought up early and should deal with the proliferation of poor quality colleges, commercialisation of education, award of fake degree, unregulated offer of degrees by foreign institutions in India, etc. The educational and eligibility standards prescribed by UGC, AICTE and deemed universities should be coordinated. Active steps to protect students from entering poor quality or spurious educational institutions are needed.

The Commission's views have already been sent to the Cabinet Secretariat on the recommendations on Cyber-Laws made by the Deptt. of Electronics. The required amendments to existing laws and new Cyber-Laws are needed to give effect to the action plan for information Technology.

1. In case of Forest (Conservation) Act, the rigour of anti-tribal and anti-poor provision needs to be diluted and pro-industry provisions need to be reviewed in the context of adequate forest conservation. The proposals in respect of the other Acts for review/revision/integration may be expedited.

Protection Act. This is being processed.

The Ministry is contemplating a separate exercise to review the Indian (Forests) Act, 1927 for which comments of State Govts. and voluntary agencies have been obtained and a revised draft legislation is planned to be prepared. The amendments to Wild Life Protection Act will be placed before the Management Board and final decision will be taken within three months. The Ministry feels that no immediate action is required in respect of other legislations under the Ministry. As regards the question of leasing out degraded forests lands to the industry, even though this issue has been a subject of discussion for the last three years, there is no decision to lease such forests lands to industry. As such, at this stage there is no proposal to obtain order of the Cabinet on the lease of forests lands to industry.

15. Ministry of Finance,
(Deptt. of Economic Affairs)
North Block, New Delhi.

The Expert Group constituted on 5.11.97 and has finalised its report. The Expert Group has grouped its observations/recommendations as follows :

- I. List of Acts which do not require any change :
 1. African Development Fund Act, 1982
 2. African Development Bank Act, 1983
 3. International Monetary Fund and Bank Act, 1945
 4. Asian Development Bank Act, 1966
 5. International Finance Corporation (Status, Immunities and Privileges) Act, 1958
 6. Legal Tender (Inscribed Notes) Act, 1964
 7. Depositories Act, 1996
 8. Finance Commission (Miscellaneous Provisions) Act, 1951
 9. Contingency Fund of India Act, 1950
- II. List of Acts which need to be repealed :
 1. Banking Service Commission Act, 1984
 2. Currency Ordinance, 1940
 3. The Shipping Development Fund Committee (Abolition) Act, 1986
 4. Compulsory Deposit Scheme Act, 1963
 5. Additional Emoluments (Compulsory Deposit) Act, 1974
- III. Acts in which changes are required :
 1. Insurance Act, 1938
 2. Life Insurance Corporation Act, 1956
 3. General Insurance Business (Nationalisation) Act, 1972
(The above three Acts are in need of revision, in view of the contemplated reforms in the insurance sector.)
 4. Government Savings Bank Act, 1873
 5. Government Savings Certificate Act, 1959
 6. Public Provident Fund Act, 1873
(The above three Acts need to be amalgamated under a single Act because these basically relate to voluntary public savings lodged with the Government.)
 7. The Indian Coinage Act, 1906
 8. Metal tokens Act, 1889
 9. Small Coins (Offences) Act, 1971
(The above three Acts should be clubbed together and rationalised and strengthened)
 10. The Securities and Exchange Board of India Act, 1992
 11. The Securities Contracts (Regulations) Act, 1956
(There is a need to review afresh these two Acts in consultation with SEBI).

7. Environment (Protection) Act, 1986
8. Public Liability Insurance Act, 1991
9. National Environment Appellate Authority Act, 1997.

2. The rules and notifications should be simplified. Powers be delegated to the states in the light of representation received from them as also from industry. Positive efforts be made to consolidate the forms with a view to reducing their numbers. Procedures for EIA, Environmental and Forest Clearance and public hearing connected therewith should be streamlined and speeded up.

The list of Acts administered by the Deptt. of Economic Affairs.

1. Foreign Exchange Regulation Act, 1973
2. Securities Contracts (Regulation) Act, 1956
3. Public Debt Act, 1944
4. Contingency Fund of India Act, 1950
5. Government Savings Bank Act, 1873
6. Section 20(f) of the Indian Trust Act, 1882 dealing with investments
7. Metal Tokens Act, 1889
8. Charitable Endowments Act, 1890
9. Indian Coinage Act, 1906
10. Indian Security Act, 1920
11. International Monetary Fund and Bank Act, 1945
12. Finance Commission (Miscellaneous Provisions) Act, 1951
13. Government Savings Certificates Act, 1959
14. Compulsory Deposit Scheme Act, 1963
15. Unit Trust of India Act, 1963
16. Legal Tender (Inscribed Notes) Act, 1964
17. Asian Development Bank Act, 1966
18. Public Provident Fund Act, 1968
19. Small Coins (Offences) Act, 1971
20. Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971
21. Additional Emoluments (Compulsory Deposit) Act, 1974
22. African Development Fund Act, 1982
23. African Development Bank Act, 1983
24. Insurance Act, 1938
25. General Insurance Business (Nationalisation) Act, 1972
26. Life Insurance Corporation Act, 1956
27. Securities & Exchange Board of India Act, 1992
28. Research and Development Cess Act, 1986
29. Reserve Bank of India (RBI) Act, 1934
30. Industrial Development Bank of India (IDBI) Act, 1964
31. Exim Bank Act, 1981
32. Sick Industrial Companies (Special Provisions) Act, 1985
33. Depositories Act, 1996

The Commission agrees with the suggestion to repeal five Acts as mentioned under heading II in column 2.

The Commission also agrees with the proposals listed in column 2 for integration/amendments to the Acts suggested and recommends that these be processed and necessary legislative action completed as expeditiously as possible.

The Commission finds that the Govt. is yet to announce its decision on the latest recommendations of the Narasimhan Committee for the Banking sector and would, therefore, urge for an expeditious decision on those recommendations and a quick follow up action.

The Commission has noted that FEMA in lieu of FERA , and other new Bill to regulate money-laundering have also been introduced in the Parliament.

The Commission also agrees with the suggestion of the Deptt. that the Bill to replace SICA which lapsed on the dissolution of the last Lok Sabha will be reviewed and a new Bill to that effect may be introduced. The same may be expedited.

IV. Acts in respect of which specific modifications are recommended:

1. Section 20(f) of the Indian Trust Act, 1882
2. Public Debt Act, 1944
3. Indian Security Act, 1920
4. Comptroller & Auditor General's (Duties, Powers and Conditions of Service) Act, 1971
5. Charitable Endowment Act, 1890
6. Small Industries Development Bank of India Act, 1989
7. Sick Industrial Companies (Special Provisions) Act, 1985
8. State Financial Corporation Act, 1951
9. Banking Regulation Act, 1949 (as applicable to Cooperative Societies)
10. Regional Rural Banks Act, 1976
11. National Housing Bank Act, 1987
12. Recovery of Debts Due to Banks and Financial Institutions Act, 1993
13. State Bank of India (Subsidiary Banks) Act, 1955
14. Chit funds Act, 1982
15. Bankers Book Evidence Act, 1891
16. State Bank of India Act, 1955
17. Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 & 1980

V. Regarding the 19 Acts in the banking sectors, the Expert Group decided that the Narasimham Committee may make recommendations in the context of liberalisation of economy. Subsequently the Narasimham Committee Report has been submitted and is under examination of the Banking Division.

It has been intimated that the Sick Industrial Companies (Special Provision) Bill, 1997 was prepared on the basis of an overall approach towards the problem of incipient sickness in the industry and to meet with the deficiencies in the existing Act. In doing so, not only the recommendations of a Committee (Goswami Committee) and Government considerations thereon were kept in view but also consultations were held with different Ministries/ Departments concerned and Financial Institutions. After that only the proposal on enactment of new law in place of existing Act was prepared. It was with the approval of the Cabinet that the Bill was prepared. Thus the Bill contains an overall approach for replacement of the existing Act, starting with the change in the definition of sickness to the overall procedure to be adopted by the BIFR. Action has been initiated to recast the Bill as it had lapsed on the dissolution of Lok Sabha in December, 1997

16. Ministry of Finance,
(Deptt. of Expenditure),
North Block, New Delhi

Task Force not constituted, because the Deptt. of Expenditure does not administer any legislation. However, they have been advised to look into the amendment of GFRs, DFPRs and FR/SR in order to expedite decisions on sanction of proposals and projects.

34. Bankers' Book of Evidence Act, 1891
35. Banking Regulation Act, 1949
36. Small Industries Development Bank of India Act, 1989
37. State Financial Corporation Act, 1951
38. Shipping Development Fund Committee (Abolition) Act, 1986
39. NABARD Act, 1981
40. Regional Rural Bank Act, 1976
41. National Housing Bank Act, 1987
42. Recovery of Debts Due to Banks and Financial Institutions Act, 1983
43. State Bank of India (Subsidiary Banks) Act, 1955
44. Chit Funds Act, 1982
45. Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 & 1980
46. Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992
47. Banking Service Commission Act, 1984
48. International Finance Corporation (Status, Immunities and Privileges) Act, 1958
49. Currency Ordinance, 1940

General Financial Rules (GFRs)
Delegation of Financial Power Rules (DFPRs)
Fundamental Rules (FRs)
Supplementary Rules (SRs)

The Commission strongly feels that there is an urgent need for review/revision of General Financial Rules, Delegation of Financial Powers Rules, Fundamental Rules and Supplementary Rules with a view to simplifying, updating and codifying these without loss of further time, in consultation with the Ministries concerned. This should be done within a specified time-bound programme. The Commission also recommends that the proposal sent by the Deptt. of AR&PG for reforming the budgetary system on modern line should be expeditiously processed. Similar action should be taken in regard to the recommendations of the Eswaran Committee on reform of IFA System.

17. Ministry of Finance,
Department of Revenue,
North Block, New Delhi

Task Force constituted on 23.7.1997

The Expert Group has already identified laws/acts which can be repealed/amalgamated. Following simplifications are being considered for improving customs and excise administration :

- i) With a view to simplifying the customs administration, the revenue department has decided to introduce audit-based post clearance scrutiny for identified importers, minimise pre-clearance scrutiny for import/export declarations and examination of goods, introduce a system of release of goods even where the documentation is incomplete and move towards a single window clearance.

It is also proposed to eliminate divergent practice in the application of customs laws and procedures at different customs stations by effective monitoring and analysis of the computerised database and provide 24 hours of extended time customs clearance facility.

- ii) To clean up the central excise regime, the department has decided to adopt unified modvat rules for inputs and capital goods, accept records maintained under Companies Act in lieu of statutory records and evolve simplified schemes for refunds and rebates due to manufacturers and exporters.

Besides, the department has also proposed to evolve cooperative initiatives with various organisations in order to facilitate the regulation of international trade. The document states that the revenue department would establish working partnership with airlines, shipping lines, custodians and other agencies and organisations involved in cargo clearance.

It would also evolve a uniform nomenclature based on harmonised system for levy of Customs and Excise duties, export and import trade policy and trade statistics.

- iii) It would also institute formal consultative mechanism with the Director General of Foreign Trade and the Ministry of Commerce for introducing or making changes in export and import trade policies.

- iv) The procedure for import of goods has been simplified from July, 1997. Under the simplified scheme, the importers can file their documents for clearance of import consignment 30 days prior to expected date of arrival of vessel or aircraft, carrying such goods. The importers can also present their documents against cargo coming in mother vessels bringing goods from port of loading to intermediate ports without waiting for details of the feeder vessel, which ultimately brings the goods into Indian port. The import documents will be processed in advance and goods assessed finally before the arrival of goods so that the importers can pay duty and get the goods cleared immediately on its arrival.

The Department administers 30 Acts.

1. Income Tax Act, 1961.
2. Wealth Tax Act, 1957.
3. Gift Tax Act, 1958
(*Recommendations of an Expert group for comprehensive amendments to these Acts are under process; proposals to be submitted to Cabinet)
4. Expenditure Tax Act, 1987
5. Interest Tax Act, 1974
6. Benami Transaction (Prohibition) Act, 1988.
7. Customs Act, 1962.
8. Customs Tariff Act, 1975.
9. Central Excise Act, 1944.
10. Central Excise Tariff Act, 1985.
11. Provisional Collection of Taxes Act, 1931.
12. Additional Duties of Excise.
(Goods of special importance) Act, 1957
13. Additional Duties of Excise
(Textile & Textile Articles) Act, 1978.
14. Central Excise Laws (Amendment and Validation) Act, 1982. (A Separate Expert Group has been taken up the re-writing of this Act)
15. Sugar (Special Excise Duty) Act, 1959
16. Mineral Products (Additional Duties of Excise and Customs) Act, 1958.
17. Central Duties of Excise (Retrospective Exemption) Act, 1986
18. Medicinal & Toilet Preparations (Excise Duty) Act 1955.
19. Inland Air Travel Tax, Finance Act, 1989.
20. Foreign Travel Tax, Finance Act, 1979.
21. Service Tax, Finance Act, 1994.
22. Foreign Exchange Regulation Act, 1973.
(to be replaced by FEMA)
23. Narcotics Drugs and Psychotropic Substances (NDPS) Act, 1985. (A Bill has been introduced for amendment)
24. Prevention of illicit Trafficking in Narcotics Drugs and Substances Act, 1988.
25. Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.
26. Customs and Excise Revenue Appellate Tribunal Act, 1986 (CERAT).
27. Central Sales Tax Act, 1956.
28. Central Board of Revenue Act, 1963.
29. Smuggling and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976.
30. The Indian Stamp Act, 1899.

1. The Commission is unable to agree with the suggestion of repeal of Benami Transactions (Prohibition) act, 1988. However, it agrees with the recommendation of the Expert Group regarding repeal of other 5 Acts.
2. The nature of the amendments proposed to be made to the IT Act, 1961 and Wealth Tax Act, 1957 have not been disclosed to the Commission. However, the amendments under consideration should be processed expeditiously.
3. The Commission takes note of the initiatives to streamline the administration of customs laws and procedure; Central Excise regime; matters relating to international trade etc. and urges the Departments to complete this process as early as possible, but preferably before the next budget is presented.
4. The working of Debt Recovery Tribunals needs to be streamlined and made more effective.
5. Need for early computerisation, customer-friendly procedures, prompt action on complaints, reducing the number of forms and simplification there of and issue of Citizens' Charters by all the Departments dealing with the public and the monitoring of its implementation can hardly be over-emphasised. The Commission hopes that positive and expeditious steps would be taken on all these areas.
6. The suggestion to bring a new legislation in place of the existing Indian Stamp Act need to be implemented soon.

List of Acts identified for being repealed :

1. Benami Transactions (Prohibition) Act, 1988
2. Central Excise Laws (Amendments & Validation) Act, 1982
3. Sugar (Special Excise Duty) Act, 1959
4. Mineral Products (Additional Duties of Excise & Customs) Act, 1958
5. Central Duties of Excise (Retrospective Exemption) Act, 1986
6. Customs and Excise Revenue Appellate Tribunal Act, 1986.

Separate groups have been set up to redraft Income Tax Act and Stamp Act. The Deptt. is supervising amendments to Central Sales Tax Laws and to rationalise CST, VAT, etc.

Amendments are under Consideration in respect of following Acts:

1. Income Tax Act, 1961
2. Wealth Tax Act, 1957
3. Gift Tax Act, 1958 (since repealed)

A separate Bill on Money Laundering has already been introduced in the Parliament.

18. Ministry of Law,
(Deptt. of Company Affairs),
Shastri Bhavan, New Delhi.

A brief note on review of Acts, laws, regulations and procedures:

1. Companies Act, 1956

A Comprehensive review of the Companies Act, 1956 was undertaken by a Working Group set up for this purpose in August 1996. Based on its report, the Companies Bill, 1997 was introduced in the Rajya Sabha on 14.8.97, for replacing the existing Act. However due to dissolution of Lok Sabha, not much progress could be made.

This Act was last amended in 1997. Meanwhile a Short Amendment Bill is being contemplated for carrying out certain urgently required changes in the Act. The Companies Bill, 1997 is likely to be withdrawn to facilitate further study.

2. MRTTP Act, 1969

This Act was last amended in 1991. A few amendments to the MRTTP Act are being considered in consultation with the MRTTP Commission and the Office of Director General Investigation and Registration.

3. Chartered Accountants Act, 1949

Discussions are still being continued with the Institute of Chartered Accountants of India for amendment of the Act. The amendment proposals would be finalised after completion of these discussions.

4. Cost & Works Accountants Act, 1959

The amendment proposals are being discussed with the Institute of Cost & Works Accountants of India.

5. Company Secretaries Act, 1980

A revised Cabinet Note is being prepared and would be submitted to the Cabinet soon for approval for making certain amendments to the Act.

1. Companies Act, 1956
2. Monopolies & Restrictive Trade Practices Act, 1969
3. Company Secretaries Act, 1980
4. Chartered Accountants Act, 1949
5. Cost & Works Accountants Act, 1959
6. Societies Registration Act, 1860
7. The Companies (Donation to National Funds) Act, 1951
8. Indian Partnership Act, 1932.

The Commission feels that MRTTP Act overlaps with Consumer Protection Act and needs to be rationalised in conjunction with Deptt. of Consumer Affairs, especially with regard to unfair trade practices.

The nature of amendments proposed to enactments at items 3,4,5 have not been indicated to the Commission.

Department should take the lead in identifying problems at state level of NGO's in the operation of Societies Registration Act, 1860 and suggest model amendments.

The draft Bill for comprehensive amendments to company law should be revised and passed as soon as possible with due regard to related laws like SEBI Act instead of tinkering with few amendments like buyback of shares. The rules should then be taken up for repeal/simplification/consolidation.

(7) & (8) may be placed soon before Inter-State Council, Reference is invited also to Commission's observations on sectoral statement.

6. The Companies (Donation to National Funds) Act, 1951
A decision has been taken to repeal the Companies (Donation to National Funds) Act, 1951 by incorporating the relevant provisions in the Companies Bill, 1997.

7. Indian Partnership Act, 1932
This Department is concerned with the Act to a limited extent only, namely exercise of certain functions under Chapter-VII of the Indian Partnership Act, 1932 in centrally administered areas. The administration of the Act actually vests in the State Government. At the moment, there has been no proposal for amending the Act. If any amendments are needed, this would be placed before the Inter-state Council and decided.

8. Societies Registration Act, 1860
This Department is concerned with the Administration of the Act only to a limited extent, namely, of exercising certain functions in centrally administered areas only. At the moment there is no proposal to amend the Act, if any amendments are needed, this would be placed before the Inter-State Council and decided.

19. Ministry of Food Processing Industries, Panchsheel Bhavan, Khel Gaon Marg, New Delhi - 110049.

Task Force NOT Constituted. It has been indicated that all possible review action has already been taken.

1. Fruit Product Order, 1955 (has already been amended to meet the requirements of the industry.)
2. Maritime Zone of India Act, 1981.
(Action will have to be initiated by the Department of Animal Husbandry as the subject matter has been transferred to that Department)
3. Rice Milling Industry (Regulation) Act, 1958
(Since Repealed).
4. Rice Milling Industry (Regulation and licensing) Rules, 1959
(Since Repealed).

1. Fruit Product Order, 1955 (has already been amended to meet the requirements of the industry)
2. Maritime Zone of India Act, 1981.
(Action will have to be initiated by the Department of Animal Husbandry as the subject matter has been transferred to that Department)
3. Rice Milling Industry (Regulation) Act, 1958
(Since repealed)
4. Rice Milling Industry (Regulation and Licensing) Rules, 1959 (since repealed)

In View of the transfer of the administration of Maritime Zones of India Act, 1981 to the Deptt. of Animal Husbandry, that Department should take necessary action to review the enactment.

20. Ministry of Health and Family Welfare,
(Deptt. of Family Welfare),
Nirman Bhavan,
New Delhi - 110011.

Expert Group constituted under the Chairmanship of Secretary (FW): The status of review is as follows :

1. The Medical Termination of Pregnancy Act, 1971
The Expert Group has reviewed this Act and amendments have been sent to Ministry of Law and Justice.
2. Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.
This Act has come into force in 1996 only and review can be done after gaining some experience of its implementation.

1. The Medical Termination of Pregnancy Act, 1971
2. Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.

Process of amendments to the Act at item No. (1) may be expedited. Regarding the Act at item No. (2), action needs to be taken to effectively enforce the provisions of this Act.

21. Ministry of Health and Family Welfare
Deptt. of Health,
Nirman Bhavan,
New Delhi

Task Force constituted on 28.7.1997. The main recommendations of the Task Force are as follows:

1. Drugs & Cosmetics Act, 1940
The provisions of the Act are being amended from time to time keeping in view inter-alia the emerging issues related to consumer protection, usage and guidance. The question of providing greater teeth to the Drug Administration has also found mention the Drug Policy 1994 where it was proposed that an autonomous authority viz. The National Drug Authority may be set up to look after the

List of Acts administered by the Deptt.:

1. Drugs and Cosmetics Act, 1940
2. Prevention of Food Adulteration Act, 1954
3. Transplantation of Human Organs Act, 1994
4. Indian Medical Council Act, 1956
5. Dentist Act, 1948
6. Registration of Nursing Home.

1. The Commission has noted the action and the initiatives taken in regard to various enactments administered by the Department, and would urge the Department to complete necessary action within a specified time-frame. In view of the large volume of work, Law Ministry may depute a competent officer to Health Department to process amendments to Acts and Rules.

Quality Control aspects, Rational use of Drugs and related matters. The question of setting up an autonomous body as proposed above, on the lines of the recently set up National Pharmaceutical Pricing Authority and other Regulatory bodies set by the Deptts. of Telecom, Insurance etc., have been under consideration, in consultation with the Ministry of Law.

2. Drugs & Magic Remedies (Objectionable Advertisement) Act, 1954.

A committee is examining the possibility of evolving code of ethics for advertisements and agencies.

3. Prevention of Food Adulteration Act, 1954

In August, 1995, the Confederation of Indian Food Trade and Industry (CIFTI), a subsidiary body under the Federation of Indian Chamber of Commerce and Industry (FICCI) constituted a Task Force on Food Laws, under the Chairmanship of late Justice E.S.Venkataramiah, Retired Chief Justice of India. Task Force recommended 32 amendments in the P.F.A. Act, 1954. The Ministry of Health & Family welfare are inclined to accept 7 amendments in toto, 5 amendments are also found to be acceptable with certain modifications. 2 amendments need further consideration. The remaining 18 amendments cannot be accepted by the M/o H&FW.

4. Indian Medical Council Act, 1956 and Dentist Act, 1948

A draft Cabinet Note proposing the amendments to IMC Act and Dentist Act is ready for approval.

5. Indian Nursing Council Act, 1947

A committee under the Chairmanship of Director (PMS) has been constituted to look into the proposal of Indian Nursing Council and to advise the Ministry on the further course of action required in this regard.

6. Pharmacy Act, 1948

Amendments to this Act would depend on the outcome of the litigation in the Supreme Court. Powers of the proposed AICTE and Pharmacy Council are to be examined.

7. Indian Aircraft (Public Health) Rules, 1954

A Committee was constituted under the chairmanship of Ex-Addl. DG who have recommended certain amendments to be made under these Rules. A group of Experts has again be asked to go through these draft amendments before a final view is taken in the Ministry.

8. The Lepers Act, 1898

A draft Cabinet Note for obtaining the approval of Competent Authority to repeal the Act is under process.

9. Vaccination Act, 1880

A Proposal to repeal the said Act is under consideration.

10. Red Cross Society Act, 1920

Review of this Act is to be examined in consultation with the Red Cross Society of India. The Secretary-General, Red Cross has already been addressed in this regard by MS Section of the Ministry.

7. Nodal group for standards in food products.

8. Pharmacy Act, 1948

9. Indian Nursing Council Act, 1947.

10. AIIMS Act, 1956.

11. Mental Health Act, 1987.

12. Red Cross Society Act, 1920

13. National Drug Authority

14. Vaccination Act, 1880

15. Tobacco Legislation

16. Airport Health Rules and Port Health Rules

17. Epidemic Diseases Act, 1897

18. Drugs & Magic Remedies (Objectionable Advertisement) Act, 1954

19. Indian Aircraft (Public Health) Rules, 1954

20. The Lepers Act, 1898

21. PGI Chandigarh Act, 1966

2. The Commission is of the view that there is an urgent need for a legislation providing for registration and regulation of private nursing homes. These should be considered at the appropriate level.

3. The Commission is of the view that there is a need for comprehensive legislation on use of Tobacco and Tobacco products at least in all public places.

4. The Commission agrees that the Lepers Act, 1898 and the Vaccination Act, 1880 may be repealed.

11. Transplantation of Human Organs Act, 1994

This Act is a recent one and number of States are yet to adopt this Act. Unless all the States adopt the Act, it would not be possible to have the feed back on this, which is required for proposing amendments.

12. Infectious Diseases Act, 1897

Technical examination of this Act is under process in the Dte.GHS. Ministry will initiate action once the feed back is received from Dte.GHS on this.

13. Mental Health Act, 1987

It was felt by the Working Group that since this being a recent legislation, there was no need for amendment of this Act at this Stage.

14. AIIMS Act, 1958 and PGI, Chandigarh Act, 1966

Since these organisations are having separate Governing Bodies, no proposals are envisaged for amending the provisions of these Acts for the present.

15. Tobacco Legislation

The draft Cabinet Note is under preparation in consultation with the Law Ministry to introduce the new legislation.

22. Ministry of Home Affairs,
North Block,
New Delhi - 110001

Task Force constituted under the chairmanship of Home Secretary has finalised its recommendations regarding all laws, rules, regulations and procedures administered in MHA including D/o Justice. The observation/recommendations have been grouped into following categories :

A. LAWS OBSOLETE/TO BE REPEALED

1. The Displaced Persons (Debts Adjustment) Act, 1951.
2. The Displaced Persons (Debts Adjustment) Rules, 1951.
3. The Transfer of Evacuee Deposit Act, 1954.
4. The Transfer of Evacuee Deposit Rules, 1955.
5. The Salt Cess Act, 1953 as extended to Dadra & Nagar Haveli, UT.
6. The Tea Act, 1953 as extended to Daman & Diu, UT
7. The Coir Industry Act, 1953 as extended to Daman & Diu UT
8. The Coffee Act, 1942 as extended to Dadra & Nagar Haveli, UT.
9. Coal Mines Provident Fund and Bonus Scheme Act, 1948 as extended to Dadra & Nagar Haveli, UT
10. The Laccadive, Minicoy and Amindivi Islands (Debt) Conciliation and Grant of loans (Regulation), 1964 and Amendment Regulation 1970.

A total of 67 Acts are administered by MHA, alongwith 56 Rules/Regulations as listed below:

Act/Regulation

1. The Arms Act, 1959 and Arms Rules, 1962.
2. The Explosive Substances Act, 1908.
3. The Passport (Entry into India) Act, 1920.
4. The Foreigners Act, 1946.
5. The Armed Forces Special Power Act, 1958 (Amended in 1972, proposed to be further amended).
6. The Illegal Migrants (Determination by Tribunals) Act, 1983.
7. Regulation 5 of 1873 (Bengal Eastern Frontier Regulation, 1873) dated 27.8.1875.
8. The Unlawful Activities (Prevention) Act, 1967.
9. The Unlawful Activities (Prevention) Rules, 1968.
10. The North Eastern Council Act, 1971.
11. The Religious Institution (Prevention of Misuse) Act, 1988.
12. The Places of worship (Special Provisions) Act, 1991.
13. The Commissions of Inquiry Act, 1952.
14. The Code of Criminal Procedure, 1973.
15. The Indian Penal Code, 1960.
16. A&N Islands Trade Union Regulation, 1957
17. A&N Islands (Panchayats) Regulation, 1938
18. A&N Islands Co-operative Societies Regulation, 1973.
19. A&N Islands Live Stock Improvement Regulation, 1955.
20. A&N Islands (Primary Education) Regulation, 1959.
21. A&N Islands Regulation, 1876.
22. Laccadive, Minicoy and Amindivi Islands (Civil Courts) Regulation 1965.

The Commission generally agrees with the approach adopted and the recommendations made by the task force set up by the Home Ministry and recommends that necessary action to give final administrative and legal shape to these recommendations be completed as expeditiously as possible

11-29. About 19 Acts relating to Chandigarh may be repealed provided Government is satisfied that the repeal will not otherwise create any other administrative problem.

B. LAWS WHICH ARE ALREADY UNDER REVISION/AMENDMENT BY THE HOME MINISTRY AND AGREED BY THE EXPERTS

1. The Arms Act, 1959 and The Arms Rules, 1962.
2. The Code of Criminal Procedure (Amendment) Bill, 1994 - Bill is to be considered by the new Parliament soon.
3. The Indian Penal Code, 1860 - The Law Commission Report is likely to be place before the Parliament.
4. The Indian Prison Act, 1894.
5. The North Eastern Council Act, 1971.
6. The Official Secrets Act, 1923.
7. The Assam Rifles Act, 1941.
8. The CISF Act, 1968.
9. The CRPF Act, 1949
10. The High Court Judges (Condition of Service) Act, 1954.
11. The Supreme Court Judges (condition of Service) Act, 1958.

C. LAWS REQUIRING AMENDMENT TO THE SELECTED PROVISIONS

1. The Passport (Entry into India) Act, 1920.
2. The Foreigners Act, 1946.
3. The Armed Forces Special Power Act, 1952.
4. The Criminal Law Amendment Act, 1961.
5. The Contempt of Court Act, 1971.
6. The Court Fees (Control) Act, 1870.
7. The Protection of Human Rights Act, 1993.

D. ACTS WHICH REQUIRE AMALGAMATION

1. The Explosive Substances Act 1908 with the Explosive Act, 1884 in consultation with Ministry of Industrial Development.
2. The Emblem and Names (Prevention of Improper Use) Act, 1950 along with Prevention of Insults to National Honour Act, 1971 in consultation with Ministry of Civil Supplies and Consumer Affairs.

23. Laccadive, Minicoy and Amindivi Islands Home Guards Regulation, 1977
24. Laccadive, Minicoy and Amindivi Islands (Co-operative Societies) Regulation, 1960.
25. Lakshadweep khadi & Village Industries Board Regulation, 1990.
26. Laccadive, Minicoy and Amindivi Islands Survey and Boundaries Regulation, 1959.
27. Laccadive, Minicoy and Amindivi Islands (Debt) Conciliation and Grant of Loans) Regulation, 1964 and Amendment Regulation 1970.
28. Laccadive, Minicoy and Amindivi Islands (Protection of Schedule Tribes) Regulation, 1964 and amendment Regulation, 1973.
29. Laccadive, Minicoy and Amindivi Islands (Land Revenue and Tenancy) Regulation, 1965
30. Laccadive, Minicoy and Amindivi Islands Plant Diseases and Pests Regulation, 1969.
31. Civil Defence Act, 1968.
32. Civil Defence Regulation, 1968.
33. The India Prison Act, 1894.
34. The India Police Act, 1861.
35. The Criminal Law Amendment Act, 1961.
36. The Young Persons (Harmful Publications) Act, 1956.
37. The Official Secrets Act, 1923.
38. The Unlawful Activities (Prevention) Act, 1967.
39. National Security Act, 1980.
40. Sikh Gurudwara Act, 1925.
41. Armed Forces (Punjab) Special Powers Act, 1983.
42. Punjab Disturbed Areas Act, 1983.
43. Terrorists Affected Areas (Special Courts) Act, 1984.
44. Assam Rifles Act, 1941
45. CISF Act, 1968
46. The Armed Forces (Jammu & Kashmir) Special Power Act, 1990.
47. The Supreme Court Judges (C/S) Act, 1958.
48. The High Court Judges (C/S) Act, 1954.
49. The Judges (Protection) Act, 1985.
50. Contempt of Court Act, 1971.
51. Court Fee (Control) Act, 1870.
52. The Delhi High Court Act, 1966.
53. The Family Courts Act, 1984.
54. The Calcutta High Court (Extension of Jurisdiction) Act, 1953.
55. The Supreme Court (Number of Judges) Act, 1956
56. The High Court at Patna (Establishment of a Permanent Bench at Ranchi Act, 1976.
57. The High Court at Bombay (Extension of Jurisdiction to Goa, Daman & Diu) Act, 1981.
58. Rajbhasha Adhiniyam, 1963 (As amended, 1967)

3. Other Acts, Rules, Regulations etc., however, require no amendment.

59. Rajbhasha Niyam, 1976 (As amended, 1987)
60. Protection of Human Rights Act, 1993.
61. The Displaced Persons (Claims) Act, 1950.
62. The Administration of Evacuee Property Act, 1950.
63. The Evacuee Interest (Separation) Act, 1951.
64. The Displaced Persons (Debts Adjustment) Act, 1951.
65. The Displaced Persons (Claims) Supplementary Act, 1954.
66. The Displaced Persons (Compensation & Rehabilitation) Act, 1954.
67. The Transfer of Evacuee Deposit Act, 1954.

Rules

1. The Illegal Migrants (Determination by Tribunals) Rules, 1984.
2. The Communal Harmony Fund Rules, 1993.
3. The Communal Harmony Award Rules, 1996.
4. The Commissions of Inquiry (Central) Rules, 1972.
5. A&N Islands Motor Transport Workers
6. A&N Islands Contract Labour (R&A) Rules, 1974.
7. A&N Islands Inter-State Migrant Workmen (RE&CS) Rules, 1979.
8. A&N Islands Payment of Wages Rules, 1955.
9. A&N Islands Plantation Labour Rules, 1966.
10. A&N Islands Maternity Benefit Rules, 1968
11. A&N Islands Minimum Wages Rules, 1972.
12. A&N Islands Weekly Holidays Rules, 1975.
13. A&N Islands Payment of Gratuity Rules, 1975.
14. A&N Islands Factories Rules, 1970.
15. A&N Islands Workmen Compensation Rules, 1966.
16. A&N Islands Deduction from Wages for Contribution to the National Defence Fund for Defence Scheme Rules, 1963.
17. A&N Islands Steam Vessels Rules, 1968.
18. A&N Islands Steam Vessels (Survey) Rules, 1972.
19. A&N Islands Co-operative Societies Rules, 1974.
20. A&N Islands Live Stock Improvement Rules, 1966.
21. A&N Islands (Primary Education) Rules, 1962.
22. The Constitution (Scheduled Tribes) (Union Territories) order, 1951.
23. Master Plan for Civil Defence.

23. Ministry of Industry,
(Deptt. of Heavy Industry),
Udyog Bhawan.
New Delhi - 110011

Task Force is NOT constituted. They have intimated that the position has been reviewed and they have no direct role in framing rules/regulations.

24. Home Guards Compendium of Instructions, 1993.
25. All India Home Guards and Civil Defence Professional and Sports Meet Rules, 1975.
26. Home Guards Manuals of Drill, Part I (Foot Drill).
27. Home Guards Manual of Drill, Part II (Arms Drill).
28. General Principles of Civil Defence.
29. Civil Defence Rules, 1968.
30. Ministers (Allowances, Medical Treatment and Other Privileges) Rules, 1957.
31. President's Pension Rules, 1962.
32. Governors (Allowances and Privileges) Rules.
33. The Supreme Court Judges (T.A.) Rules, 1959.
34. The Supreme Court Judges Rules, 1959.
35. The High Court Judges (T.A.) Rules, 1956.
36. The High Court Judges Rules, 1988.
37. The Family Courts (other qualifications for appointment of Judges) Rules, 1988.
38. NHRC Chairperson and Members (Salaries, allowances and other conditions of Service) Rules, 1993.
39. NHRC (Group A & B Posts) Recruitment Rules, 1996.
40. NHRC(Group C & D Posts)Recrutiment Rules, 1996.
41. NHRC (Annual Statement of Accounts) Rules, 1996.
42. The Displaced Persons (Claims) Rules, 1950
43. The Administration of Evacuee Property Rules, 1950.
44. The Evacuee Interest (Separation) Rules, 1951.
45. The Displaced Persons (Debts Adjustment) Rules, 1951.
46. The Displaced Persons (Claims). Supplementary Rules, 1954
47. The D.P. (C&R) Rules, 1954.
48. The Transfer of Evacuee Deposit Rules, 1954.
49. Flag Code, India, 1947.
50. National Anthem of India, 1948.
51. State Emblem of India, 1948
52. Regulations relating to awards of Sarvottam Jeevan Raksha Padak, Uttam Jeevan Raksha Padak and Jeevan Raksha Padak, 1951.
53. Regulations relating to Ashok Chakra, Kirti Chakra and Saurya Chakra, 1952.
54. Warrant of Procedure, 1948.
55. Rules relating to awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri, 1954.
56. Central Secretariat Security Instructions, 1971.

The Commercial activities of the public sector undertakings under the control of this Department are governed by the Companies Act and the rules framed

Noted.

24. Ministry of Industry,
Deptt. of Industrial
Development,
Udyog Bhavan,
New Delhi - 110011

Task Force constituted on 5.9.1997

The status of review is as follows :

1. The Explosive Act and Rules

After due consideration of the Explosives Act and Rules a proposal has been submitted to amend the explosives rules to simply the procedure for import of explosives used in oil exploration activities, revision of fee and defining of the appellate authority for licenses granted by the district authorities.

2. Indian Boilers Act, 1923

In order to make the regulations under Indian Boilers Act, 1923 more user friendly, a proposal has been initiated to amend the Act. The proposal was introduced in Parliament through the Indian Boilers (Amendment) Bill, 1994. The Bill will be enacted after approval of the Cabinet.

3. Patents Act, 1970

Action to bring in the necessary legislative amendments to the Patents Act, 1970 has been initiated, and some proposals are awaiting consideration by the Government.

4. Trade and Merchandise Marks Act, 1958

Amendments to the Trade and Merchandise Marks Act, 1958 have also been drafted in consultation with the inter-ministerial committee. It is proposed to submit the same for consideration of the Cabinet shortly.

5. The Designs Act, 1911

The Designs Act, 1911 has been examined by the Sub-group of the inter-ministerial group on TRIPS and the necessary amendments are under examination. Action to seek necessary approval will be taken soon.

25. Ministry of Industry,
Deptt. of Industrial,
Policy & Promotion,
Udyog Bhavan,
New Delhi

Task Force constituted in July, 1997.

The present status of review of laws, rules, Acts is as follows:

1. Industries (Development and Regulation) Act, 1951: An expert group under Secretary (IPP) is reviewing necessary amendments in I (D&R) Act.
2. Cement Cess Rules/Orders have been reviewed in the Deptt. in April, 1997 and there is no need for further review of these at this stage.
3. Oil Pressure Stove (Quality Control) Orders have been amended very recently and no further review is contemplated now.
4. Review of Salt Cess Rules done recently in consultation with the Ministry of Law.

thereunder as also the guidelines laid down by the Department of Public Enterprises. The Department has no direct role in framing rules and regulations.

- A. Explosives Act, 1884
 1. Explosive Rules, 1983
 2. Gas Cylinder Rules, 1983
 3. Static and Mobile Pressure Vessels (Unified) Rules, 1991
- B. Indian Boilers Act, 1923
 1. Indian Boilers Regulations, 1950
- C. Intellectual Property Rights
 1. Patents Act, 1970
 2. Patent Rules, 1972 (Framed under Patents Act, 1970)
 3. Trade and Merchandise Marks Act, 1958
 4. Trade and Merchandise Marks Rules, 1959 (framed under T&M M Act, 1958)
 5. Designs Act, 1911
 6. Designs Rules, 1933. (framed under Designs Act, 1911)

The Commission feels that due to long lapse in time, changes in technology and advent of modernisation, these Acts should be recast and reenacted. A new Bill on patents should be brought before Parliament on the basis of Expert Committee Report, to comply with WTO convention, alongwith amendments to other IPR laws, and missing areas like Integrated circuits, Geographic areas and Trade Secrets. The question of harmonising Explosives Act and rules with the Explosives Substances Act, 1908 may be processed early to the extent possible.

1. Industries (Development & Regulation) Act, 1951
2. Registration and Licensing of Industrial undertaking Rules, 1952.
3. Other rules under I (D&R) Act (within purview of D/o IPP)
4. Cement Cess Rules, 1995.
5. Cement (Quality Control) Orders, 1995.
6. Cement Control Orders, 1967.
7. Salt Cess Act.
8. Salt Cess Rules.
9. Oil Pressure Stores (Quality Control) Orders.

The Commission feels that the I (D&R) Act should be so amended that there is focus on 'development' and not regulation of industry. The Rules and Orders have been recently reviewed and need no further review. Detailed suggestions are given in separate statement which may be referred to. The procedural aspects should be constantly pursued with State Govts.

5. A composite form for Foreign Collaboration and/or Industrial licence by merging two existing forms has been formulated by the Department.

26. Ministry of Industry,
(Deptt. of Public Enterprises),
Udyog Bhawan, New Delhi.

Task Force Constituted in July, 1997.

Deptt. of Public Enterprises as well as the erstwhile Bureau of Public Enterprises have been issuing guidelines and directives on various aspects on operations of Public Sector Enterprises.

A Committee was set up to review guidelines issued by BPE and DPE for public sector enterprises and to recommend cancellations, re-drafting and/or simplification with the objective of eliminating or modifying guidelines which are no longer necessary or relevant.

Based on the recommendations of the committee, the Deptt. has decided to cancel 696 guidelines issued over a period by DPE/ BPE in order to grant greater operational freedom to the public sector enterprises and with a view to rationalising simplifying the existing set of guidelines to public sector enterprises.

This Deptt. which is nodal agency for formulating policy for central Public Sector Enterprises do not administer any central laws as such.

1. The Commission is of the view that there should be a constant review of and reduction in the number of guidelines issued by the Department keeping in view the changing policy for greater autonomy to PSUs. Further, there should be review of procedures prescribed for obtaining Govt. approval for making further investments, appointment of staff, expenditure sanction, delegation of financial powers, etc.
2. The guidelines for disinvestment and strategic sale should be transparent and consistent.

27. Department of Small Scale
Industries & Agro-based Rural
Industries, Udyog Bhawan,
New Delhi.

Task Force set up and it has not found any laws/regulations/ procedures relating to the Deptt. of SSI & ARI requiring changes/ repeal. However, it is continuing its work and if it identifies any such laws/regulations and procedures requiring amendments, further action will be accordingly taken.

It is proposed to revise the definition of SSI as decided by the Government and a number of orders have been issued consequent to the submission of the Abid Hussain report.

1. The Interest on Delayed Payment to Small Scale and Ancillary Industrial Undertakings Act, 1993.
2. Khadi & Village Industries Commission Act.
3. COIR Act.
4. IDR Act, 1951 (Provisions relating to SSI&ARI).

1. Confusion over the definition of SSI and entry for foreign investment in the sector should be removed.
2. The recommendation of Abid Hussain Committee for a separate legislation on SSI and Ancillary industries is endorsed by the Commission.
3. The various procedural constraints of SSIs at state level should be addressed. An integrated approach to SSIs in different sectors is needed including credit from banks and financial institutions.
4. Reference is invited to Commission's observations in the Statement of Industry.

28. Ministry of Information and
Broadcasting,
Shastri Bhavan,
New Delhi - 110001.

Task Force has not been constituted as review has been carried out recently. The status of review of law/Acts is as follows:

1. Press & Registration of Books Act, 1867:

This has been comprehensively reviewed recently and the recommendations have been incorporated in a Cabinet Note under submission to the Law Ministry.

1. Press & Registration of Books Act, 1867.
2. Press Council Act, 1978
3. Prasar Bharti Act, 1990
4. Cinematograph Act, 1952

1. The nature of amendments to Acts at items (1) and (4) have not been indicated to the Commission. However, the same may be pursued expeditiously.
2. The rules relating to TV and Cable should be amended in the light of IT Action Plan announced recently by Govt.

2. Press Council Act, 1978:

Press Council of India, who are primarily concerned with this Act will be sounded on the need, if any, to amend this Act.

3. Prasar Bharti Act, 1990:

This Act has been recently come into force.

4. Cinematograph Act, 1952:

This has been reviewed recently and the amending Bill is before Rajya Sabha.

29. Ministry of Labour,
Shram Shakti Bhavan,
New Delhi.

Task Force have been constituted. The Ministry has also set up a Departmental Committee to identify areas for legal reforms. The status of review is as follow :

(i) A Committee has been set up to suggest amendments to the Industrial Disputes Act, 1947, the Sales Promotion Employees Act, 1976 and the Payment of Bonus Act, 1965.

(ii) Proposals for amending the Contract Labour (R&A) Act, 1970 are under finalisation and will be submitted to the Cabinet.

(iii) Cabinet Note will soon be submitted for amendments to the Minimum Wages Act, while a note has been submitted to Cabinet on Payment of wages Act, 1936.

(iv) The Trade Unions Amendment Bill (for amending Trade Union Act, 1926) will be introduced in the Parliament.

(v) The Bonded Labour System (Abolition) Act, 1976 is proposed to be amended in the light of Supreme Court decision.

(vi) A Cabinet Note is proposed to be submitted soon so as to amend the Child Labour (P&R) Act, 1986 and the Inter-state Migrant Workmen (RECS) Act, 1979.

(vii) The Ministry have recently amended EPF Act, 1952 and the Payment of Gratuity Act, 1972.

(viii) Based on the discussions in the Committee, some important legislations were required to be gone into in-depth by a Sub-Committee under the Chairmanship of Chief Labour Commissioner (Central). The Sub-committee has submitted its recommendations which are being examined by the Ministry whereafter the report of Sub-Committee along with the observations of the Ministry would be forwarded to the Ministry of Law.

(ix) The Ministry has taken note of the problems mentioned by a number of Departments relating to the abolition of contract labour and recent Supreme Court judgements. The Committee has advised the Ministry to bring forward necessary amendments to the Contract Labour (R&A) Act, 1970 before the Cabinet.

Social Security Laws

1. Factories Act, 1948.
2. Mines Act, 1952.
3. Dock Workers (Safety, Health & Welfare) 1986.
4. Payment of Gratuity Act, 1972.
(Amended in Sept., 1997)
5. Employees State Insurance Act.
6. Minimum Wages Act, 1948.
(Cabinet Note is finalised and to be sent to Cabinet)
7. Payment of Wages Act, 1936. (Cabinet note is submitted to Cabinet)
8. Payment of Bonus Act, 1985.
(Amendment under process)
9. Contract Labour (Regulation and Abolition) Act, 1970. (Proposals to amend are under the process of finalisation.)
10. Inter-state Migrant Workmen Act, 1979.
(Proposal for amendment is under finalisation)
11. Employees' Provident Fund & Miscellaneous Provisions Act, 1952. (Amended in Sept., 1997)
12. Industrial Disputes Act, 1947.
(Amendment under process)
13. Beedi & Cigar Workers (Conditions of Employment) Act, 1966.
14. Bonded Labour System (Abolition) Act, 1976.
(Proposal to amend the law is to be considered in the light of Supreme Court decision expected soon)
15. Equal Remuneration Act, 1976.
16. The Sales Promotion Employees (Conditions of Service) Act, 1976 (Amendment under process)
17. Child Labour (P&R) Act, 1986
(Proposals for amendment are being finalised)
18. Trade Union Act, 1926
(Bill to amend will be introduced in Parliament)

The Commission broadly endorses the views of Mitra Committee on amendments to ID Act, Payment of Bonus Act etc. as noted in a separate statement. Amendments should be expeditiously processed.

There has been no review of the rules and procedures at the state level. The Commission is of the view that this is urgently called for. Amendments to Contract Labour (Regulation and Abolition) Act, 1970 needs to be processed and implemented on an urgent basis. The amendments proposed to the other acts should be expeditiously processed. Reference is invited to observations in the Statement on Labour.

(x) The Employees Pension Scheme, 1995 has been amended to provide for 30 days statutory time limit for settlement of pension claims. In case a Provident Commissioner fails to settle a claim complete in all respects within 30 days, he shall be personally liable for the delay and penal interest @12% per annum and the benefit amount may be charged and recovered from the salary of the Commissioner.

(xi) It has been observed that a multiplicity of laws in the Central and State sector numbering over 200 in the labour sector have arisen on account of the subject being in the concurrent list and the reluctance of the State Governments to given up their power to legislate on labour matters. The problems have also been compounded by the changing views of the Supreme Court in judgements relating to the definition of industry under the Industrial Dispute Act 1947.

30. Ministry of Law & Justice,
(Deptt. of Legal Affairs)
Shastri Bhavan,
New Delhi - 110001.

Task Force NOT constituted. The Department is coordinating the nomination of legal members in the Task Forces of various Ministries/Departments and also the work of the Law Commission.

The Department has already conducted an internal exercise to review the Acts administered by it. The status of review is as follows:

1. Advocates Act & Notaries Act:

These two Acts are processed for amendment of various provisions. Bill on Notaries Act has been introduced.

2. Arbitration and Conciliation Act:

This is a new enactment in place of the old Arbitration Act, 1940. Amendments have been processed with Government approval.

3. National Legal Services Authority

The Legal Services Authorities Act has been brought into force only w.e.f. November, 1995.

1. Advocates Act & Notaries Act
2. Arbitration and Conciliation Act
3. National Legal Services Authority

1. The Commission agrees with the various amendments proposed in these two Acts.

2. Great concern has been expressed in the recent past in various public forums about the falling standard of education in legal courses as also cessation of work connected with the judicial proceedings as a result of frequent strikes and delay in delivering of justice, inter alia, due to repeated and long adjournments in courts. The Commission is of the considered view that urgent steps need to be evolved and implemented in consultation with all concerned for bringing the desired improvement in these areas and also for ensuring a climate of litigant responsive environment.

31. Ministry of Law & Justice,
(Legislative Department),
Shastri Bhawan,
New Delhi - 110001

Task Force not constituted. Most of the laws administered by the Deptt. are of general relevance to other Ministries. An exercise to review all the Acts with which the Department is administratively concerned was initiated in Feb., 1997. For the sake of convenience, the Deptt. has categorised the Acts and intimated the status of review of these Acts as follows:

(A) Acts pertaining to personal laws like marriage, divorce, inheritance etc.

There are different personal laws for different religious denominations. In keeping with the changed social conditions and the societal acceptability, the Parliament as well as State Legislatures have been carrying out changes in the personal laws. However the Central Government has hitherto been following a policy of non-interference in personal laws of the minority communities unless the necessary initiative for changes comes from the community concerned itself. Recently there has been a demand for changes in the personal laws of the Christian community and the same is being looked into.

List of Acts/Laws administered by the Deptt:

1. The Guardians and Wards Act, 1880
2. The Converts' Marriage Dissolution Act, 1866
3. The Married Women's Property Act, 1974
4. The Indian Majority Act, 1875
5. The Kazis Act, 1880
6. The Marriages' Validation Act, 1892
7. The Anand Marriage Act, 1909
8. The Hindu Disposition of Property Act, 1916
9. The Hindu Inheritance (Removal of Disabilities) Act, 1928
10. The Parsi Marriage and Divorce Act, 1936
11. The Arya Marriage Validation Act, 1937
12. The Hindu Gains of Learning Act, 1930
13. The Muslim Personal Law (Shariat) Application Act, 1937
14. The Cutchi Memons Act, 1938
15. The Dissolution of Muslim Marriage Act, 1939
16. The Indian Matrimonial Causes (War Marriages) Act, 1948
17. The Bangalore Marriages Validating Act, 1936

1. The Commission notes that a Bill to amend Code of Civil Procedure has been introduced in preceding Parliament. Here, the Commission would recommend that provisions analogous clause 89 in the above amendment Bill may be considered for inclusion in other enactments which provide for adjudication of disputes which require to be expeditiously dealt with at minimum cost to parties thereto.

2. Amendments to the Evidence Act should be processed quickly. Similarly, amendments to TP Act, Indian Contract Act, Limitation Act, Registration Act should also be processed quickly keeping in view the suggestions of other Ministries, financial institutions, Law Commission Report etc.

3. There is a need for codification of a number of Personal Laws even though amendments to such laws may not be initiated in the absence of initiative from the community concerned.

(B) Acts relating to Election Laws:

Provisions relating to election laws are contained, besides in the Constitution, in more than 10 Acts of Parliament. However, the principal laws in the area are the Representation of the People Act, 1950, the Representation of People Act, 1951 and the Delimitation Act, 1972. Election Laws have undergone frequent changes. A number of amendments to the Representation of People Acts of 1950 and 1951 were carried out after the due deliberations with various political parties.

(C) Acts relating to other List III matters of the Seventh Schedule of the Constitution which can be further sub-classified into the following categories:

(i) those relating to Law of Evidence, Transfer of Property, Civil Procedure and Registration,

(ii) other enactments allotted to the Legislative Department but not enumerated above.

Suitable amendments have been carried out in all these Acts from time to time depending on the changing requirement of the Government and the Society.

18. The Special Marriage Act, 1954
19. The Hindu Act, 1955-56
20. Miscellaneous Personal Laws (Extension) Act, 1959
21. The Married Women's Property (Extension) Act, 1959
22. The Hindu Marriage (Validation of Proceedings) Act, 1960.
23. The Muslim Women (Protection of Rights & Divorce) Act, 1986
24. The Foreign Marriage Act, 1969
25. The Indian Succession Act, 1925
26. The Child Marriage Restraint Act, 1929
27. The Indian Divorce Act, 1869
28. The Representation of the People Acts, 1950 and 1951
29. The Parliament (Prevention of Disqualification) Act, 1959.
30. The Indian Evidence Act, 1872
31. The Transfer of Property Act, 1882
32. The Registration Act, 1908
33. The Code of Civil Procedure, 1908
34. The Fatal Accidents Act, 1855
35. The Public Suits Validation Act, 1932
36. The Maintenance Orders Enforcement Act, 1921
37. The Religious and Charitable Trusts Act, 1920
38. The Charitable Endowment Act, 1890
39. The Religious and Charitable Trust Act, 1920
40. The Official Trustees Act, 1913
41. The Specific Relief Act, 1913
42. The Sale of Goods Act, 1930
43. The Oaths Act, 1969
44. The Indian Contract Act, 1872
45. The Limitation Act, 1963
46. The Sheriffs' Fee Act, 1857
47. The Legal Representatives' Suits Act, 1955
48. The Unclaimed Deposits Act, 1866
49. The Unclaimed Deposits Act, 1870
50. The Partition Act, 1893
51. The Church of Scotland Kirk Sessions Act, 1899
52. The Government Grants Act, 1895

4. Hire Purchase Act, 1972 is yet to be enforced. The Commission recommends that the same be notified as soon as possible.
5. The scheme for legislation in India is, inter-alia, based on the dictum that a statute never dies unless specifically repealed. This has resulted in a situation where statutes which are even more than 100 years old as also the statutes which were enacted for a temporary purpose/period have continued to exist in the statute books. More often than not, resort is made to amending the statutes than enacting a fresh updated legislation. The Commission is, therefore, of the view that a time has come when the Government should seriously consider whether a sunset provision, as in the USA, be followed in our legislation practice also.
6. The Commission is of the view that the laws under Legislative Department are of critical importance for the success of schemes and policies of Central and State Government Departments, and affect the personal and contractual relations in society. Many of these laws were enacted long time ago and are not in harmony with the demands of a global economy on the one hand, and the needs of public on the other. Amendments to a number of laws are needed to promote electronic transactions and commerce.

32. Ministry of Mines,
Shastri Bhavan,
New Delhi - 110001

The Act and the Rules have been subject to amendments from time to time keeping in view the National Mineral Policy and also the economic liberalisation.

A Task Force was constituted on 8.7.1997. The Committee has since submitted its report and based on its recommendations, necessary action has already been initiated for amendment in the MMRD Act, 1957 and rules made thereunder.

The Salient Features of recommendations are:

i) Greater delegation of powers, particularly to State Govts. under MMRD Act, MCR & MCDR.

1. Mines and Minerals (Regulation and Development) Act, 1957
2. Mineral Concession Rules, 1960
3. Mineral Conservation and Development Rules, 1988.

The Commission recommends that urgent action be taken to process the recommendations of the Task Force.

ii) the committee has liberalised the provisions relating to grant of mining leases in respect of areas where evidence other than prospecting data suggests existence of mineral reserves and allows undertaking of such operations and has made extensive recommendations regarding simplifying the procedure for preparation and approval of mining plan.

iii) Provisions for increase of adhoc revision of royalty after three years on the basis of percentage of existing royalty rate in the event of delay in royalty revision has been recommended.

iv) Changes have been recommended in the criteria for according priority in respect of applications for mineral concessions, clear provision has been made enabling investment commitments/ investment intentions of the application to be a relevant factor while determining priority.

v) The Committee also favorably recommended setting up of separate whole-time Administrative Tribunal for dealing with revision applications against orders of State Governments and also recommended revision powers to be exercised by State Governments themselves against orders passed by authorities subordinate to them.

vi) The Committee has further, recommended strengthening of legal provisions for curbing illegal mining.

**33. Ministry of Petroleum and Natural Gas,
Shastri Bhavan,
New Delhi - 110001**

Task Force constituted on 27.7.1997.

The Status of review is as follows:

The Petroleum Rules, 1976 which govern the marketing and refining functions of the Oil Industry are under consideration of the Rajya Sabha Committee on Subordinate Legislation and the views of the Committee are yet to be received.

The Ministry has sought the permission of Committee on Subordinate Legislation, Rajya Sabha to notify the amendments to the Petroleum Rules in December, 1997.

Petroleum Act, 1934 and the Petroleum Rules, 1976

1. Lubricating Oils & Greases (Pricing, Supply, and Distribution Regulation) Order, 1987
 2. High Speed Diesel Oil and Light Diesel Oil (Restriction on Use) Order, 1974
 3. Furnace Oil (fixation of Ceiling Price and Distribution) Order, 1974
 - *4. The Petroleum Products (Maintenance of Production) Order, 1970
 - *5. The Petroleum Products (Supply and Distribution) Order, 1972
 - *6. The Petroleum (Storage) Order, 1971
 - *7. The Petroleum Products (Regulation of Supply to Retail Outlets) Order, 1971
 8. Kerosene (Restriction on Use and Fixation of Price) Order, 1993
 9. Paraffin Wax (Supply, Distribution and Price Fixation) Order, 1997
 10. Motor Spirit and High Speed Diesel (Prevention of Malpractices in Supply and Distribution) Order, 1990
 11. LPG Control Order, 1993
- *These four orders are proposed to be amalgamated into a single new Control Order.

The Commission recommends that all orders may soon be amalgamated and simplified. It is of the view that the Ministry may notify amendments to Petroleum Rules without awaiting the views of the Committee on Subordinate Legislation. Various control orders should be reviewed from the point of view of commitments under Citizens' Charter.

**34. Ministry of Communications,
Deptt. of Telecommunications,
Sanchar Bhavan, New Delhi**

An Expert Group constituted.

The Group have furnished their interim report.

1. The Indian Telegraph Act, 1985.
2. Wireless Telegraphy (Possession) Act, 1933.
3. Telecom Regulatory Authority Act, 1997.

The Commission notes that Wireless Telegraphy (Possession) Act, 1933 has not been dealt with by the Expert Group. The definition of 'telegraph' has to be

The main recommendations are as follows:

i) The Indian Telegraph Act, 1985 has been amended to provide severe penalties for unauthorised diversion of telephone calls and is expected to curb fraudulent practices. The amendment has been vetted by Law Ministry and is awaiting notification.

A Bill is to be introduced for providing punishment for diversion of lines and leakage of revenue. The proposal has been approved by Cabinet.

ii) There is an on-going review of telephone rules/procedures to make them more responsive and customer friendly. The review does not entail reference to the Law Commission since it does not touch the basic features of Indian Telegraph Act.

35. Ministry of Communications,
Deptt. of Posts,
Dak Bhavan,
New Delhi - 110001.

Expert Group constituted on 21.7.1997.

i) The Deptt. has formulated a draft Cabinet Note for amendment of the Indian Post Office Act. However, in view of many changes in the socio-economic scenario thereafter, and the need to study international experience, the proposed amendments are being further reconsidered.

ii) The National Postal Policy, which was drafted and submitted to the Consultative Committee for the Ministry of Communications is pending finalisation.

iii) The Expert Group has also submitted its report to the Deptt. of Posts on review of Indian Post Office Rules. The Deptt. of Posts are in the process of examination of its recommendations.

36. Ministry of Power,
Shram Shakti Bhavan,
New Delhi

i) **Electricity Regulatory Commissions Act, 1998**

This Act has received the assent of the President (No. 14 OF 1998). This Act would provide for the establishment of a Central Electricity Regulatory Commission and State Electricity Regulatory Commissions, rationalization of electricity tariff, transparent policies regarding subsidies, promotion of efficient and environmentally benign policies and for matters connected therewith or incidental thereto. This is a comprehensive effort of the Govt. to regulate the transmission and distribution of Electricity.

ii) The Government has also introduced the **Electricity Laws (Amendment) Bill, 1998** with a view to amend the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948. This follows the recommendations of the Expert Committee which was constituted in May, 1994 to review the existing provisions of Indian Electricity Act, 1910, Indian Electricity (Supply) Act, 1948 and

1. Indian Post Office Act, 1898

1. The Electricity Regulatory Commissions Act, 1998.
2. Indian Electricity Act, 1910
3. Electricity (Supply) Act, 1948
4. Indian Electricity Rules, 1956
5. Bhakra Beas Management Board (BBMB) Act,
6. Damodar Valley Corporation (DVC) Act.

amended to include modern facilities of communication. Wireless Rules have to be updated in view of S.C. Judgement that air space is free, and also in the light of Action Plan for I.T. The entire Telecom Rules need to be revised soon to make them customer friendly. The amending Bill for Telegraph act should be introduced soon, which will take note of the changes introduced by the latest Telecom Policy and entry of private providers. The conflict between role perception of Telecom Commission and the Regulatory Authority should be resolved soon.

"Courier Service" should be included in CPA. Postal Service should not have any indemnity clause. The definition of 'postal certificate' should be enlarged. The clauses exempting Department from liability should be reviewed. The revised manual should be soon enforced. Amendments to Act should be processed in the light of new policy, and the revised rules notified early.

The Commission commends the legislative effort of the Ministry. It notes that the Regulatory Commissions Act has been passed and the Central Regulatory Authority has been set up at the Centre. The rules should be notified soon. Procedures of CEA should be streamlined and time for approval reduced. Role of CEA vis-a-vis new Regulatory Authority should be clarified. The Commission notes that the Electricity (Supply) Act has been amended recently to restore an independent status to Central and State Transmission utilities.

Indian Electricity Rules, 1956. This Bill also aims at improving the situation vis-a-vis generation and transmission of Electricity.

iii) Expert Committees have been set up for reviewing BBMB Act and the DVC Act.

37. Ministry of Rural Area & Employment, (Deptt. of Rural Development), Krishi Bhavan, New Delhi - 110001.

Task Force NOT Constituted as the Department has already conducted a review of rules, regulations, etc. The status of review of rules and regulations is as follows:

i) A Cabinet Note on amendments to Land Acquisition Act, 1894 is under submission.

ii) The Agricultural Produce (Grading and Marking) Act, 1937. (No need felt to amend this Act)

iii) Meat Food Products Order, 1973 (A review group under Cab. Sectt. reviewed the provisions of order and the matter is being processed further).

iv) Cold Storage Order, 1980 (since repealed in May, 1997).

v) Accelerated Rural Water Supply and Central Rural Sanitation Programmes:

These are being implemented through States/UTs and their guidelines do not require any change at present. However, if need be, these can be reviewed in the light on the policy approach during the IX Five Year Plan.

vi) Extension to Schedule areas following the 73rd Constitutional amendment, was facing problems on account of difficulties experienced by certain States.

vii) The Deptt. had referred to the Ministry of Environment and Forests, problems faced by the tribal population regarding ownership and use of forest produce.

viii) The department is reviewing all the rules and procedures under different schemes following the 73rd amendment. It is also taking up the issue of convergence in various social service under rural development schemes.

ix) As regards the schemes implemented in Deptt. of Waste Land Development, revised common guidelines have been brought into effect from 1.4.95. The panchayat Institutions were also involved in formulating the guidelines. Decentralisation of authority and participatory approach has been fully built in the schemes of Deptt. of Wasteland Development.

1. Land Acquisition Act of 1894 (Core Group Report under study)

2. The Agricultural Produce (Grading and Marking) Act, 1937.

3. Meat Food Products Order, 1973

4. Cold Storage Order, 1980 (Since repealed in May 1997)

The Commission suggests that the Waste Land Claims Act, 1865 may be repealed. The Amendment to LA Act should be introduced soon after considering the views of different Ministries, State Governments and the public. Reference is invited to Commission's observations in the Statement on real estate. The State Governments should pursue for consequential amendments to State Laws after the 73rd Amendment, as well as effective decentralisation of powers and resources to local bodies.

x) National Policy and Guidelines on Re-settlement: A draft note in this regard has been prepared and placed before committee of Secretaries.

38. Department of Rural Employment & Poverty Alleviation, Krishi Bhavan, New Delhi - 110001

Task Force NOT constituted. The Department has already conducted a review of rules, regulations etc.

The programmes executed by this Department are being reviewed from time to time to ensure transparency and better delivery. Keeping in tune with the spirit of Constitution 73rd Amendment, it has been decided to restructure the DRDAs who now function under the overall supervision and guidance of Zilla Parishad. The provisions of IRDP manual have been modified to ensure greater participation of the Gram Sabhas in the identification and selection of beneficiaries.

39. Ministry of Planning, Deptt. of Statistics, Sardar Patel Bhavan, New Delhi - 110001

Expert Group constituted on 5.9.97 to examine the Collection of Statistics Act, 1953 to make it more relevant and meaningful.

It is proposed to consider the question of setting up of a Statutory Statistical Authority by setting up of an expert group for this purpose.

40. Ministry of Surface Transport, Transport Bhavan, New Delhi - 110001

Task Force constituted in September, 1997. (Four sub-groups have been constituted to look into different areas such as ports, roads, road transport and shipping). The status regarding the review of various Acts/rules is as follows:

- i) Admiralty Act of India
Enactment of a new Act is in process. Cabinet approved on 6.11.97 but could not be introduced in Parliament. As such a fresh note is prepared for consideration by the New Govt.
- ii) The NHAI Act, 1988
(National Highways Authority Act.)
All Acts/Rules are under-going regular periodic review. As a consequence of the last review of the National Highways Act, 1957 amendments were carried out therein in March, 1997. Similarly, NHAI Act was amended after review. As a result of the latest review, amendments to National Highways Act were proposed during the last session of earlier Lok Sabha, which included land for housing etc. as part National Highway Land for public purposes. However, due to dissolution of Lok Sabha the Bill in respect of amendments could not be introduced.
(since passed)
- iii) The National Highways Rules, 1957
As a result of review, it is proposed to amend the Rules. Necessary action to obtain the approval of the Minister

The Department executes the following programmes of Government:

1. Poverty Alleviation Programmes (IRDP, TRYSEM, DWACRA, DRDA, etc.)
2. Indira Awas Yojana
3. Wage Implementation Programmes (JRY, Employment Assurance Scheme, etc.)

1. Indian Statistical Institute Act, 1957 (This Act has been reviewed and amended only in September, 1995)

2. Collection of Statistics Act, 1953

1. Shipping Wing

1. Merchant Shipping Act, 1958 (Amendment under process)
2. Admiralty Act of India
3. Seamen's Provident Fund Act, 1996 (Amendment is done in April, 1997)
4. Multimodal Transportation of Goods Act, 1993 (A comprehensive amendment is under process)
5. The Light Houses Act, 1927
(Review has been carried out and amendment proposal to be forwarded to the Cabinet.)
(Published in the Gazette of India on 27.12.97)
6. The M.S. (Continuous Discharge Certificate) Rules, 1960 (as amended in 1972 and 1978)
7. The M.S. (Distress Safety Radio Communication) Amendment Rules, 1995 (No change)
8. The M.S. (Tonnage Measurement of ships) Rules, 1987 (No Change)
9. The M.S. (Safety Convention Certificates) Rules, 1995* (No Change)
10. The M.S. (Life Saving Appliances) Rules, 1982 (No Change)
11. M.S. (Medicines, Medical Stores and Appliances) Amendment Rules, 1995 (No Change)
12. M.S. (Safety Convention Certificate - FEES) Amendment Rules, 1955 (No Review is required)
13. M.S. (Carriage of Cargo) Amendment Rules, 1995 (No review is required)
14. M.S. (Fees and Load line Surveys) Amendment Rules, 1995* (No Review is required)
15. Recruitment rules relating to Group A & B (Non-technical Posts) in the Directorate General of Shipping and R.O. (Sails)
(Relaxation from ban orders of DOPT have been obtained and necessary notification has been sent to

The Commission has no comments, but it notes that the entire structure of schemes for rural development and poverty reduction was reviewed jointly in a recent meeting with State Ministers.

The Commission takes note of recent efforts of the Department to build up data base on different departments in the centralised data warehouse and its dissemination to the public.

Revision of rules should be completed. Act for Build, Operate and Transfer should be passed soon. Consultations with States on the problems of commercial operators should be taken up so that agreed norms and policies are installed and strikes are averted. Amendments to Road Transport Act, 1956 and Motor Vehicle Act, 1988 should be pursued. Proposals for amendments to other enactments and rules be also pursued.

The provisions for private sector entry in the roads and ports sectors should be streamlined. Transparent guidelines be issued in this respect, as also for issue of guarantees/ counter-guarantees, escrow account, developmental rights, responsibility for acquisition, etc.

(SFT) is being taken. After Government accords approval, steps will be taken to issue the notification.

iv) Road Transport Corporation Act, 1950. A Review Committee which was set up for the purpose submitted its report on 17.3.93. The Main recommendations of the Committee are (a) the Composition of Board of Directors of SFTCs should be more broad based and should include professionals as well as representatives of the commuters; (b) the Corporation shall act on business principles in such a manner as to ensure a minimum rate of return of 3% on the capital invested (Section 22) and (c) to give greater autonomy to the Corporations in its functioning. In the light of the recommendations made by the committee, the Road Transport Corpn. Act, 1950 is proposed to be amended. The Ministry proposes to approach Cabinet with such proposal very soon. The proposal to amend the Act was submitted for obtaining the approval of New Minister (SFT), before sending the same to the cabinet. The proposal is with Secy (SFT) for approval.

v) Motor Vehicles Act, 1988
Amendment to the Act is under process by the Ministry. A draft Cabinet Note containing the proposed amendment was earlier approved by Ministry of Law. However, as the new Government has taken over, fresh concurrence/ comments of the concerned Ministries are being obtained on the above draft Cabinet Note as per the advice of Ministry of Law. After obtaining the same, it will be placed before the Cabinet for its approval.

41. Ministry of Urban Affairs & Employment,
i) D/o Urban Development
ii) Deptt. of Urban Affairs & Poverty Alleviation

The status of review is as follows:

i) For the implementation of National Housing Policy and the augmentation of housing a number of legislations administered by departments were required to be amended. As desired by the

- Govt. of India Press for publication on 17.4.98)
16. M.S. (Examination of Engine Drivers of Sea Going ships) Amendment Rules 1992.
(Review made. No further amendment is necessary at present)
 17. M.S. (Examination of Dredge Masters and Dredge Mates) Amendment Rules, 1993. (No review required)
 18. MMD Mumbai Jamnagar and Murmugoa and R.O. (Sails) Mumbai and Jamnagar (Group C & D Posts) Recruitment Rules 1995 (Not required)
 19. M.S. (Sailing Vessels) Rules, 1997 (Six Different Rules on the subject have been clubbed and one single set of rules framed)
 20. M.S. (Registration of Indian ships) Amendment Rules, 1997 (No change)
 21. M.S. (Apprenticeship to Sea Going Drivers) Examination Rules, 1997 (Clarification received from DG(S) and amendment to Rules under process)
 22. M.S. (Crew Accommodations) Rules 1997 (Final Draft notification referred to M/o Law for vetting)
 23. M.S. (Registration of Indian Fishing Boats) Rules, 1997 (Amendment to rules under process)
 24. The Light Houses Accounting Rules (proposed to be amended)
 - 24a. M.S. (Standard Training, Certifications and Watch keeping) Rules, 1998 (Published in the Gazette of India (Extra-ordinary) on 24.4.98)
- II. Roads Wing**
25. National Highways Act, 1956*
 26. The NHAI Act, 1988*
 27. The National Highways Rules, 1957
 28. The National Highways (Collection of Fees etc.) Rules, 1997 (No change required)
 - 28a. The National Highways (FEES for the use of NHS etc.) rules, 1997 (No change required)
 29. The NHAI (BAA&AIF&P) Rules, 1990
(Amendments to these Rules have been notified on 11.12.97)
 - 29a. The National Highways (Rate of Fee) rules, 1997
(Notified on 27.9.97)
 - 29b. The Control of National Highways (Land & Traffic) Bill, 1997 (The Bill is to be introduced in the Parliament)
- III. Road Transport**
30. Road Transport Corporation Act 1950.
 31. Motor Vehicles Act, 1998
 32. Central Motor Vehicles Rules, 1989
 33. Inland Waterways Authority of India Act, 1985
 34. Inland vessels Act, 1917
- IV. Ports Wing**
35. Major Port Trusts Act, 1963*
 36. Indian Ports Act, 1908*
*A Committee constituted to review the Act has almost finalised its recommendations.
 37. Dock workers (Regulation of Employment) Act, 1948
(Rajya Sabha has passed the Bill)

- I. **Laws concerning housing activity:**
a) Urban Land (Ceiling & Regulation) Act, 1976.
b) Land Acquisition Act, 1894.
c) Land Revenue Codes and Agricultural Tenancy Laws
- II. Laws Affecting Rental Housing & DDA Act.

1. The repeal of the Urban Land (Ceiling and Regulation) Act, 1976 should be expedited and States should be advised to take similar action.
2. The amendment to the Delhi Apartment Ownership Act should be finalised and processed expeditiously. The

PM, the Ministry had set up an Inter-departmental Panel with the involvement of the industry to provide policy recommendations to set up investment in housing.

ii) The Ministry had formulated views on the legislations dealt by them and suggested amendments to general laws such as the Transfer of Property Act, Registration Act and the Indian Stamp Act.

iii) Amendment to the Urban Land (Ceiling and Regulation) Act, 1976, Delhi Development Act, Delhi Rent Control Act and the Delhi Urban Arts Commission are under process.

iv) The building byelaws for Delhi had been comprehensively reviewed. The State Govts. had also been requested to reduce the burden of stamp duty.

v) The Ministry has also formulated amendments to the Delhi Apartment Ownership Act and proposals will soon be brought up before the Cabinet.

42. Ministry of Welfare,
Shastri Bhawan,

Task Force constituted on 28.8.1997

The Task Force have decided that only two Acts viz. Juvenile Justice Act, 1986 and Durgah Khwaja Saheb Act, 1955 need amendment. These two Acts are being processed for carrying out amendments. Proposals in respect of Juvenile Justice Act, 1986 are expected to be forwarded to the Cabinet. Rules and regulation in respect of Central Wakf Council are being finalised to replace the earlier Central Wakf Council Rules, 1965.

43. Ministry of Railways,
Railway Board,
Rail Bhavan,
New Delhi - 110001

Task Force constituted on 1.7.1997 and the report of the Expert Group has been submitted in two volumes:

It was indicated that the old Indian Railways Act, 1890 was repealed and replaced by a revised Act in 1989 incorporating various changes dictated by developments of the past few decades. Similarly, RPF Act, 1957 alongwith Railway Protection Force Rules, 1987 as amended in 1997 is of recent vintage. Railway Claims Tribunal Act, 1987 is also a recent piece of legislation.

Salient features of recommendations are as follows:

III. The Rent and Accommodation Control Laws in States
IV. Laws concerning Transfer of House Property:

- a) The Transfer of Property Act, 1882
- b) The Registration Act, 1908
- c) The Indian Stamp Act, 1899
- d) The Apartment Ownership Acts
- e) The Cooperative Societies Act, 1912
- f) Laws relating to Succession to the Property
- g) Procedures in Investigation of Title
- h) Town and Country Planning Legislation and Building Bye-Laws
- i) Building bye-Laws in Delhi and States.

1. SC/ST (Prevention of Atrocities) Act, 1989
2. Protection of Civil Rights Act, 1955
3. Probation of Offender Act, 1955
4. Juvenile Justice Act, 1986
5. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995
6. Rehabilitation of Council of India Act, 1992
7. National Commission for Backward Classes Act, 1993
8. National Commission for Minorities Act, 1992
9. Durgah Khwaja Saheb Act, 1955
10. Wakf Act, 1955
11. National Commission for Backward Classes (Annual Statement of Accounts and Annual Report Rules 1955)
12. National Commission for Backward Classes (Salaries & Allowances and other conditions of Service of Chairperson and Members) Rules, 1996
13. Central Wakf Council Rules, 1965

1. Indian Railways Act, 1989
2. Railway Property (Unlawful Possession) Act, 1966
3. Railway Protection Force Act, 1957

amendments to the remaining Delhi Acts may also be expedited.

3. The States should be persuaded to enact changes to building rules and regulations as envisaged in National Housing Policy.
4. Model Rent Control Act should be commended for adoption by all States, starting with action to pass the amending Act for Delhi.

Reference is invited to other observations in the Statement.

The Commission recommends that the proposals for amendment to Acts and Rules in column 2 be finalised soon for enactment/notification.

The Commission was informed that Department Committee has finalised proposals for amendment to rules and procedures of Railways in respect of passenger, commercial claims, internal operations etc. These may be processed early. Further, amendments to the Act and rules can be considered in the context of the white paper published by present Government.

i) Railways Act, 1989: Recommendations pertain basically to facilitation of passenger service and goods movement.

ii) Under the Railway Claims Tribunal Act, 1987, amendment for accident compensation, direct payment to party, counter claims of railway administration are the areas suggested for amendment.

iii) Amendment in Contract Labour Abolition Act regarding monopolies certificate, engagement of idle labour etc., is also suggested.

iv) Similar small amendments under the Railway Protection Act, Prevention of Corruption Act, 1988, Indian Telegraph Act, 1885 etc. have been suggested. Certain changes like abolition of 15% price reference to National Small Scale Industries Corporation (NSIC) and discontinuance of the preference given to Govt. agencies have also suggested as part of revision of rules, regulations and orders.

44. Ministry of Textiles
Udyog Bhavan, New Delhi.

Task Force constituted on 8.7.1997. It has submitted its recommendations.

The recommendations may be grouped into following categories:

I. Retention

1. Essential Commodities Act, 1955: This Act may be retained.
2. Cotton Control Order, 1986: The Expert Group recommended that the Cotton Control Order, 1993 may be retained.

3. Hank Yarn Obligation Notification March, 1995:

This Notification may be retained.

4. Notification for Statistical Returns: This Notification should be retained.

5. Textiles Committee Act, 1963: The Textiles Committee act, should be retained.

6. Jute Packaging Materials (Compulsory Use in Packing Commodities) Act, 1987:

This Act should be retained.

II. Repeal:

1. Cotton Ginning & Pressing Factories Act, 1955:

The expert Group was informed that the repeal of this Act was under process and the same is likely to be repealed any time.

1. Essential Commodities Act, 1955
2. Cotton Control Order, 1986
3. The Textile (Development & Regulation) Order, 1993
4. Textile (Consumer Protection) Regulation, 1988
5. Hank Yarn Obligation Notification, March 1955
6. Notification for Statistical Returns.
7. Cotton Ginning and Pressing Factories Act, 1955
8. Cotton Transport Act, 1923
9. Textiles Committee Act, 1963
10. Jute Packaging Material (Compulsory use in Packing Commodities) Act, 1987
11. Jute Manufactures (Cess) Act, 1993 and Jute Manufactures Development Council Act, 1983
12. Jute Textiles (Control) Order, 1956 and Jute (Licensing and Control) Order, 1961

1. The Commission agrees to repeal of the Cotton, Ginning and Pressing Factories Act proposed by the Department as also to the amalgamation of the two orders in respect of Jute and Jute-textiles. The proposal to amalgamate the two Jute Acts in column 2 needs to be reconsidered in the light of the directions of the Speaker of the Lok Sabha given in the 1960s.
2. The Commission agrees with the amendments proposed to the two Textiles Orders.
3. The Commission recommends that all the orders mentioned in column 3 be reviewed and thereafter repealed or simplified as may be necessary. This should be done in a specified time-frame.
4. Some of the legislations and orders may be reviewed in the light of problems faced from WTO Conventions. The Ministry should examine representations relating to hank yarn obligation, and the restrictions on movements, and initiate amendments where needed.

2. Cotton Transport Act, 1923: This Act has already been repealed in 1995 following the recommendations of the Special Review Group (Narayanan Committee).

III. Amalgamation:

1. Jute Manufacturers Cess Act, 1993 and Jute Manufacturers Development Council Act, 1983: The Expert Group recommends that the Jute Manufactures (Cess) Act and Jute Manufactures Development Council Act, 1983 be amalgamated.

2. Jute Textiles (Control) Order, 1956 and Jute (Licensing and Control) Order, 1961: The Expert Group noted that a draft amalgamated order incorporating the essential provisions of the Jute (Licensing and Control) Order, 1961 was pending with the Ministry of Textiles for a decision.

IV. Specific Amendments: The Textile (Development & Regulation) Order, 1993 and Textile (Consumer Protection) Regulation, 1988:

The Expert Group felt that the objectives could be achieved by issuing relevant order under the Textile (Development & Regulation) Order, 1993 by the Textile Commissioner, while the later, namely, Textile (Development & Regulation) Order, 1993 be retained.

V. Other issues :

Constitution of a Committee to investigate the complaints against the garment industry relating to trade mark piracy.

The Expert Group by and large have no objection to accepting the above suggestions of Prof. Shah (for constituting such a committee.)

Separate Piece of Legislation form refund of unwarranted levies.

The Expert Group recommends adoption of this piece of legislation (as drafted by the Office of the Textile Commissioner, Mumbai) with suitable amendments wherever necessary.

45. Ministry of Personnel, P.G
& Pensions

Task Force constituted on 18.8.1997.

i) All the rules, laws and regulations administered by the Ministry of Personnel are proposed to be reviewed so as to revise the rules and regulations and amend the Central Laws and procedures affecting the activities of other central departments as well as State Governments Lok Pal Bill as well as Bill on Freedom of Information proposed to be introduced in Parliament.

ii) AIS Division:

1. Various provisions of All India Service Rules
2. CCS (CCA) Rules & AIS (Disciplinary & Appeal) Rules
3. FR-I & II & S.R.
4. Central Secretariat Manual of Office Procedure

1. The Commission notes that an ordinance to set up a statutory Central Vigilance Commission has been promulgated and that a Lok Pal Bill has also been introduced in Parliament. The Commission recommends that a Bill on Freedom of Information should be introduced as soon as possible.
2. The Commission also recommends that the provisions of the Administrative Tribunals Act, 1985 should be reviewed in the light of latest Supreme Court Judgement with a view to achieving the objective for

The task to streamline and simplify various provisions of the All India Service Rules governing the service conditions of All India Service Officers has been completed. The necessary amendments to various rules and regulations have been notified.

As a sequel to Government's accepting the various recommendations of the Fifth Central Pay Commission, necessary amendments to All India Service(Pay) Rules, All India Service (DCRB) Rules, All India Service (Commutation of Pension) Regulations, All India Service (Leave) Rules, All India Service (Study Leave) Regulations have been issued are under issue. An order has also been issued to the effect that the Orders issued by Ministry of Finance in regard to dearness allowance for Central Government employees as and when issued may be made applicable to AIS Officers also without waiting for any further directions/order from the Central Government in order to reduce delay in extending the benefits to AIS officers serving in the State Government.

iii) Establishment Division:

A review of UPSC (Exemption from Consultation) Regulations has been undertaken. A proposal to exempt certain categories of posts has been referred to UPSC for comments. Proposals for amendments to AIS (Disciplinary & Appeal) rules and CCS(CCA) rules have already been referred to Ministry of Law and UPSC. In regard to a comprehensive review of FRs/SRs, the Committee was informed that Mr. S.Krishnan, IA&AS(Retd) is agreeable to undertake the task of reviewing the provisions of FRs and SRs. The appointment of consultant would be put up to Secy(P) for approval after the concurrence of Ministry of Finance.

iv) Pension Division:

Action is being taken to implement the accepted recommendations of the Vth Pay Commission by revision of Pension Rules. Government has simplified the payment of pensions to central government civil pensioners. Under the new procedure all formalities have to be completed within three months by the concerned banks and till then pension will be paid on the basis of photocopy of the pensioner's pension payment order.

v) CS Division:

Comprehensive proposals for changes in the method of recruitment, eligibility criteria, etc. in the Service Rules of CSS, CSSS and CSCS are being considered in the light of the proposals sent by SSC and the suggestions of Vittal Committee.

which the Act was passed.

3. The CSS (CCA) Rules in particular and AIS (Disciplinary & Appeal) Rules call for a review with a view to minimising litigation, especially the time taken in finalising the disciplinary proceedings, while doing to the judgments of the higher courts as also of the Central Administrative Tribunals be also taken into account.
4. The Commission has also noted the other steps which are under consideration of the Department and would urge that these may be finalised as soon as possible.

vi) EO's Division:

Orders issued on delegation of powers to Ministries for certain categories of posts in PSUs and Central Staffing Scheme. Review of instructions on Foreign Assignments and policy on Foreign Training is being undertaken.

vii) AT Division:

The provisions of Central Administrative Tribunals Act are being reviewed in the light of Supreme Court Judgement.

Viii) Computerisation:

The Committee stressed the need for expeditious computerisation of various rules, regulations and instructions for easy retrieval. The development of this system would require professional expertise and for this the option of giving this job to a professional institution is to be considered so that the system becomes operational within the prescribed time and budget.

ix) The Department of Administrative Reforms and P.G. have initiated an exercise for designing an Inspection Questionnaire alongwith 'Executive Summary for Secretary' on effective and responsive administration. The proposed questionnaire includes items on administration, establishment, public grievances and O&M aspects. It is proposed that the 'Inspection Questionnaire' along with 'Executive summary for Secretary' would replace the existing questionnaire given at appendix 53 of the Central Secretariat Manual on Office Procedure (MOP) by making necessary changes in paras 133 to 138 of the MOP. It is proposed to conduct inspection of all Ministries/Departments and Attached/Subordinate offices by using the proposed questionnaire so as to cover more areas instead of only O&M aspects.

HOUSING & REAL ESTATE

Sl. No.	Nature of Problem	Suggestions for Reforms received from User Groups	Comments of the Ministry/Department	Remarks of the Commission
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The present Government has placed before Parliament the revised National Housing Policy, based on greater encouragement and support to private sector, time-bound physical targets for housing the poor and other groups, increased flow of funds, fiscal concessions and removal of various legal constraints. It has to be remembered that housing and urban development are in the state sector, and there are varying scenarios of innovations and bottlenecks to housing and urban activity, and differing capacities of local bodies and housing agencies. Several measures have been proposed/taken during the last few years, duly taking into account the views/suggestions of real estate industry/NGOs. Salient steps are :- Using urban land including FSI as a major resource to finance infrastructure, separate legislation proposed for acquisition of land in urban areas, alternative method of compensation for land through Transferable Development Right or negotiated land assembly. State Governments asked to amend municipal laws & building bye laws and Master Plans for the purpose similar to Maharashtra. Matter taken up with the Ministry of Finance for according many fiscal concessions needed (and some of them granted already) to promote private/corporate investment and public/private partnership in urban infrastructure, setting up of National Institute of Urban Development at Hyderabad, Urban Infrastructure Development Finance Co. in Tamil Nadu etc., or joint venture companies formed by State urban utilities with private sector and support to such partnerships under US Aid FIRE Project. Standing Committee on Urban Management, constitution of Working Groups to look into specific facets of urbanisation & research studies, States/UTs instructed to formulate plans keeping in view population projections for 2021. For involving private sector in a big way in housing industry this sector has been recently permitted in Delhi to undertake on the model of Haryana and other states, private assembly and development of land for house construction at Delhi subject to a number of conditions.

1. LAND ACQUISITION ACT, 1894:

Experience has shown that inordinate delay occurs in the acquisition proceedings. There is consequent delay in the execution of large projects in and outside the various development plans. There are serious restrictions on the right to challenge acquisition of land, delay in payment of compensation, declining purchase value of compensation money, non-use of acquired land for long years by Government the Act lacks an exhaustive definition of "public purpose" and short notice is given to owner for taking possession.

"Public purpose" should be made justifiable by amending the provisions of Section 6 of the Act suitably. Only genuine public purposes should be included. The Govt. should come out with a suitable policy on acquisition. Land which has been acquired and not used for long time should be offered to the original owner. Statutory ban should be placed on acquisition of good agricultural land. Central Land Acquisition Advisory Committee should be constituted in respect of Land use policy. Guidelines for rehabilitation of affected persons whose land has been acquired should be devised

A Draft Amendment Bill, 1998 for amending the Land Acquisition Act, 1894 has been referred by Department of Rural Development to the Cabinet to ensure higher compensation to the landowner and for effective & time-bound acquisition of land. Amendments relate to empowering the collector to make consent award, compress the time for the acquisition of land from 3 years to one year, offer physical resettlement & rehabilitation of displaced families, increase peoples participation & trans - parency at all levels. Concept of compensation is being substituted by cost of acquisition, public purpose to include all infrastructure projects - public or private, reduction of time, public hearings before the Collector, S.6

The mechanism of acquisition of land for public purpose has to be delinked from the mechanism of providing compensation to those whose land has been acquired. The Ministry of Rural Areas & Employment should finalise proposal for amendment to the Land Acquisition act, 1894 quickly after taking into account the views of the Ministry of Urban Affairs & Employment and other agencies and enact these amendments.

notification to be published in newspapers, updation of land records, survey, marking boundaries, interested persons to include tenants etc, market value assessment of land alternatives, solatium increased from 30% to 100% payment of compensation & taking over possession to be completed within 60 days of Award, power has been given to State Govts for appointing Tribunals & for advance acquisition of land. In view of this, the Ministry of Urban Affairs and Employment's own bill stand little chance of acceptance. However, the land acquisition procedures for National Highways has been simplified. It is necessary to delink the process of taking quick possession and fixing compensation.

Reference is invited to the Ministry's comments at Sl. No. 5 also.

2. **BUILDING REGULATIONS:**

The Building Byelaws, 1983 as amended from time to time and in 1995 has been harmonised with modifications in the Master Plan 2001 for NCT Delhi. Under the cumbersome byelaws every builder has to submit 4-9 copies of plans /statements / clearances from Delhi Fire Service, Urban Arts Commission / L&DO etc., alongwith key plan, site plan, building plans, services plan, NOC on land use.

Under byelaw 6.7.1 Authority may or may not sanction and if applicant does not receive intimation within 60 days, approval is deemed to have been given. A single window clearance system should be introduced and number of documents to be given be reduced.

The building bylaws of Delhi have been proposed for amendments by Municipal Corporation. The Development Control Rules have been amended to enable this. Architects are permitted to sanction plans upto prescribed size of plot. However, there are still problems of seeking approvals from many authorities and delays in permissions. Steps to check unauthorised development are not adequate. The organisational capacity and mindset of agencies need change.

Reference is invited to Ministry's comments at Sl. No. 5 also.

The Regulations need to be modified and made time bound, less cumbersome, and user - friendly. The occasion for use of discretion by State officials should be minimised. Model bye - laws should be formulated in the light of National Housing Policy for acceptance by State Governments

3. With a sanction valid for 2 years residential & commercial buildings & 3 years for large complexes, owner has to notify the authority of his intention to start the work, site is inspected, owner has to submit notice of completion through licensed architect / engineer with copies of lease deed, permit for sewer, clearance from DVB, Delhi Fire Service etc.

Building approval procedures should be simplified. On ownership, authority should issue certificate accepting the ownership after scrutiny. Architect should submit the drawings with his certificate stating that the building is in conformity with Byelaws & Rules.

Comments of Ministry as at Sl. No. (2) above.

The Commission agrees with the suggestion. Urban Land Ceiling Amendment Bill should be enacted soon and commended to all States for adoption.

4. TRANSFER / MUTATION / SUBDIVISION OF LAND :

Difficulties arise in the matter of Sub-division/ mutation of part of properties sold / inherited due to nonpayment of property tax, earlier records are found to be torn / missing and follow up is required to be done at various offices.

There should be time bound periods prescribed to avoid delay and if the work is not done, there should be automatic approvals. Records should be maintained properly. All physical sub-divisions should be accepted and mutation allowed.

As part of land policy, the vacant land with public bodies and industry and inefficiently used land should both be released for use. State planning and land revenue laws need change. As the Urban Land (Ceiling and Regulation) Act, 1976 failed to achieve what was expected of it, a UL (C&R) Repeal Bill, 1998 for repeal of the said Act has been introduced in Parliament. This is referred to Standing Committee.

This is a case of regulation and should be examined.

5. PROPERTY TAX :

Before submission of building plans the owner has to get the NOC from assessment department by paying taxes on vacant land. Then tax is to be paid at the time of construction and then after completion. Enhanced bills are sent to owners who have to negotiate to reduce them against cash.

The Assessment Department should standardize and fix the rate for arriving at rateable value to reduce the exercise of discretion. Property be taxed only after completion and occupancy certificates are issued.

The Ministry of Urban Affairs & Employment has formulated Guidelines for Property Tax Reforms which constitutes the most important tax in the non-octroi States & an important tax in octroi-levying States. These provide for area - based property tax models, division of municipal areas, classification of buildings, nature of use, calculation of unit area rates, determination of tax liability, exemptions & appeals. This could be linked to systems of valuation in other laws.

The Commission endorses the proposals of the Ministry of Urban Affairs and Employment. Inequities result when Rateable Value is related equated to Standard rent, or the cost of acquisition. The existing provisions need to be overhauled so as to increase activity in the housing sector. The Ministry of Urban Affairs and Employment should quickly finalise the proposal for Property Tax,

The Ministry has accepted substantially the recommendations of Malhotra Committee on the building bye-laws of Delhi & has issued the notification. Conversion of leasehold properties to freehold based on land rates as at 1987 has been made available till 31.12.98. Formula for revision of Ground Rent, Auction of vacant Commercial units by DDA, regularisation of unauthorised colonies, proposed abolition of Power of Attorney system for property transfer, are some of the measures being taken. Many proposals for amendments to allied laws like DDA, DMC, NDMC, NCRPB Act, Public Premises etc. Act, DUAC Acts, Requisition & Acquisition of Property Act, Slum Areas Act are under consideration of the Government. These amendments aim to free the housing and infrastructure of its growth-thwarting problems and bottlenecks and increase housing supply for the poor. The mortgage foreclosure system has to be streamlined by amendments to NHB Act and the burden of stamp duty reduced and the system of conveyance of properties simplified to reduce black money in real estate. The environmental laws like coastal area rules need to be liberalised. After studying improvements made in Andhra Pradesh, Patna etc. registration of titles on the Torrens Model can be introduced.

reform and commend them for acceptance by State Governments.

6. **TRANSFER OF PROPERTY ACT, 1882:**

The act does not recognise the concept of acquiring dwelling unit shop in a multistoried building. Mortgage provisions are not palatable to banks/FIs. The Act does not prescribe any format of documents.

Occupancy rights in a dwelling unit must be made marketable & alienable. Right of flat owners in co-operative societies may be made heritable and transferable. Right of sale without intervention of court in the case of English mortgages should be extended to Banks/FIs irrespective of location or community of the mortgagor. Scope of S.58(f) for equitable mortgages be extended and statutory formats of documents be prescribed.

Reference is invited to comments of Ministry at Sl. No. 5.

The Commission endorses the proposal of Ministry of Urban Affairs and Employment for initiating early amendments to Transfer of Property Act, 1882.

7. **REGISTRATION ACT, 1908:**

Scope of compulsory registration of transactions need to be enlarged.

The Act should provide for compulsory registration of title to immovable property on death, inheritance or other devolution other than by purchase. To facilitate banks/FIs, there should be no compulsory registration of mortgage by deposit of title deeds memorandum, there should be compulsory registration of lis pendency of property, all States should provide encumbrance certificates issued by the Sub - Registrar, officers of banks/FIs should be exempted from personal appearance in matters related to lending for housing. Procedure of registration should be simple and there should be expeditious release of the registered documents. Torrens System of title registration as in the West should be adopted in this country.

Reference is invited to Ministry's comments at Sl. No. 5. Department of Revenue has formulated comprehensive proposals for amendment of the Act after considering views of the State Governments.

The Commission recommends early action for amendment to the Act on the lines of proposals from Department of Revenue and Department of Urban Development.

8. THE INDIAN STAMP ACT, 1899.

There is a need to rationalise the differing duties in different States.

Housing through cooperative may be promoted by not levying stamp duty on co-operatives for purchase of land for construction of dwelling units for its members as also on the deeds of conveyance executed by such societies in favour of its members on allotment of dwelling units. Stamp duty remission may also be considered on the transfer of dwelling units by builders to individuals in multistoried buildings in the event of first transfer. No stamp duty should be levied on mortgages created in favour of banks/FIs to secure loan for new dwelling units.

Reference is invited to comments of the Department at Sl. No. 7.

Remarks at Sl. No.7 may be seen

The Commission endorses enactment of Central legislation on Stamp Act applicable to all States, and a revised list of dutiable instruments in Central and State Schedules.

9. Rent Control Act:

This Act negatively impacts on housing supply, investment flow in the housing and increases the housing price.

It is suggested that model Rent Control legislation introduced by the Central Government should be recommended to the State Governments for bringing uniformity in State Rent Control Laws with limited modifications to suit local conditions. The interests of both landlords and tenants should be protected.

Model legislation for Rent Control laws has to be adopted by all states. Separate chapter for Housing Cooperatives, creation of Shelter Fund for the poor, automatic approval of Building Plan in many cases, foreclosure of mortgages for easy flow of finance mass rehousing of slum dwellers, encouragement to community based savings mobilisation for housing and income generation, support to low cost building materials, special attention to disaster - prone areas in the northeast, restructuring housing agencies, greater role for HUDCO, increased lending by banks are all under active process. Delhi Rent Control Act will soon be amended.

The Commission comments adoption of Model legislation for Rent Control in all the States. Revised legal framework for Rent Control in Delhi should be finalised and implemented early.

**10. APARTMENT OWNERSHIP ACT/
REGULATION OF BUILDERS.**

There is a new concept of community housing popularly known as condominiums that has emerged but the existing Apartment Ownership Acts focus only on individual buildings.

It is suggested that a new Apartment Ownership Act may be formulated.

The Delhi Apartment & Property Regulation Amending Bill has been proposed to regulate the promotion of construction, sale, transfer and management of apartment ownership and to regulate property transactions & provide for Code of Conduct for promoters and estate agents, in the NCT of Delhi. Such legislation already exists in a number of states. Meanwhile, the builders have formed a self regulating council to lay down professional standards.

The Commission recommends that various steps initiated by the Ministry of Urban Affairs and Employment should be pursued and necessary legislation enacted in all the States.

COMPANY LAW

Sl. No.	Nature of Problem	Suggestions for Reforms Received from User Groups	Comments of the Ministry/Department	Remarks of the Commission
1.	2.	3.	4.	5.
<u>Companies Bill 1997</u>				
1.	Meaning of holding Company and Subsidiary Company.	Clause 4 proposes to take away creation of pyramid structure between the Holding and Subsidiary Companies to bring more transparency in corporate holding and help in regulating the confusion in companies with interlocking funds. The provision prohibiting pyramid structure would adversely affect foreign investment in India in particular in the infrastructural sector. There would be problems about the American Depository Receipt. The deemed public company status for certain companies which are subsidiaries of Foreign Company has no logic.	The existing Act, does not prohibit creation of pyramid structure between the holding and subsidiary companies. However, the Companies Bill, 1997 proposes to take away this, as proviso to Clause 4(1) of the Bill stipulates that no company which is a subsidiary of another company shall, after the commencement of this Act be a holding company. In the wake of representations on difficulties which will be faced especially by power and telecom sectors, the Department has taken a decision to modify this Clause so as to allow one more tier vertically. However, this will have to be finally decided by the Cabinet.	There are many deficiencies in the present Act and Rules. The Commission notes that the suggestions of the user Groups relate to the Draft Bill introduced in Parliament, but not yet pursued by Government. It is hoped that the suggestions on the bill will be considered and the bill enacted soon. This should be followed by action to consolidate all the scattered rules which now cause confusion, harassment and delay. The Department of Company Affairs should resolve the matter after consulting different affected interests including foreign companies, and then formulate the legal amendment.
2.	Officer who is in default.	According to Clause 5 a Non -executive Director is an officer in default if he is a party to any decision of the Board of Directors. To avoid unintended contraventions taking place as a consequence of action taken with Board approval in a meeting in which all Directors were present including institutional nominees, it is suggested that this provision may be deleted. Moreover an auditor is not part of a Management team and his independence would be affected if he is treated as officer in default.	According to Clause 5, a Non-Executive Director is an officer in default, if he is a party to any decision of the Board of Directors. It is also provided that where a contravention of any provision of the Act has taken place with the consent or connivance or is attributable to any neglect on the part of any non-executive director, such directors shall also be deemed to be an officer in default. Moreover, auditor's independence would be affected by treating him as an officer in default. This requires modification in as much as he should be held responsible only for non-performance of his duties specified in Clause 183 of the Bill.	The Commission agrees with the present formulation in Draft Bill and with the explanation of the Department regarding the Auditor.

3. Number of relatives.

The definition of relatives' in Section 6 of the Act has too many persons included therein which number needs to be reduced.

On the question of the number of relatives, it was proposed to reduce the number of 15 in the draft Bill as recommended by the Expert Group.

The Commission agrees with the views of the Department.

4. Company Law Service.

Though formed in 1965, the Company Law Service has not developed. As such it is suggested that Company Law Service should be revamped with competent officers having full knowledge of law, accounting, costing and business administration.

On the suggestion about providing Central Company Law Service, efforts were being made to constitute this as a Central Service and rationalise the present complicated system for recruitment and promotion of officers in the service, and to reduce the time taken for appointment and promotion with the approval of UPSC. Steps had been taken recently for arranging more training courses. Senior Officers of the service had been posted in the headquarters. The basic suggestion of the Secretary, Deptt. of Company Affairs regarding restructuring of the Department and the company law services, delegation of powers, computerisation etc. would require to be pursued with the help of recommendations of this commission.

Clause 47 of the Bill refers to this subject.

The issue has to be pursued in the context of restructuring the Deptt. of Company Affairs in order to harmonise the overall administration of the companies from the point of view of the control of their operations by different authorities such as Registrar of Companies, SEBI and RBI, and to provide integrated macroeconomic policy framework. Perhaps, Company Affairs could become a Division Like Banking in the Finance Ministry, but service by competent and well equipped field offices. Meanwhile, the Department could proceed vigorously on the lines stated by the Secretary. The other agencies like Department of Personnel, Department of Expenditure should facilitate these efforts. Computerisation of the entire set-up and use of Internet for disseminating information and procedures, and for submitting returns would help the process.

5. Shifting registered office of Company out side the State.

Permission of CLB should be necessary only for shifting registered office of company outside the State and not within the State.

As regards the requirement of taking the approval of CLB for shifting the registered office of the company, an amendment had been proposed to require this permission only for shifting the office outside the State. CLB approval was needed in the interest of both creditors and shareholders.

The Commission agrees with the Department.

6. Availability of name of company proposed to be registered.

There was too much delay in obtaining the availability of the name of a proposed company.

As regards name availability, the name of the firm was being given in 3 to 7 days in all places where computerisation had been completed. There was some delay in case the company proposed names which cannot be accepted such as a bank. Though the number of companies had increased tremendously from

Proposed efforts to reduce delay should be vigorously pursued.

20,000 to 5 lacs, there had been no increase in the manpower of the Department after 1978. It was only recently that, after considerable efforts Finance Ministry had agreed to create 211 posts. Even more than increasing staff, it was necessary to improve the productivity, skills and attitudes of the staff, rationalise the systems, introduce computerisation, and reorganise the structure.

7. Definition of Group.	Definition of group must be done with great care since it will affect many critical aspects i.e. Board management, disclosure, financing, accounting, take over etc.	The Department has not given any comments.	The Draft Bill does not define the group. However, the Government may take into account the suggestions of industry on this point.
8. Group Resource Companies.	The concept of group resource companies is not new to the Indian scenario and does not require specific recognition in the Companies Act.	The Department has not given any comments.	The concept of group resource companies could be pursued by Government.
9. Private Limited Companies.	It is suggested that the Companies Act should have a separate chapter exclusively dealing with Private Limited Companies.	The Department does not agree with the suggestions as this was considered and rejected by the Working Group.	The Commission agrees with the Department.
10. Shelf Prospectus.	Clause 51 provides for filing of shelf prospectus by public financial institutions, public sector banks or scheduled banks. A company filing the Shelf Prospectus with the Registrar is not required to file prospectus afresh at every stage of offer of securities by it within the validity period of one year of shelf prospectus. It is suggested that the concept of Shelf Prospectus should be equally applicable to all companies and not restricted to only the above categories. This will avoid needless repetition when a company takes recourse to capital market more than once in a given year.	The Department has not given any comments.	The Govt. may amend Clause 51 of the Bill to extend the concession to listed companies and PSUs

11. Issue of Prospectus

A time limit is necessary to be stipulated in the matter of issue of prospectus by companies.

It was possible to consider a time limit of 15 days for the issue of prospectus. At this stage, the Secretary observed that a decision has now been taken that the SEBI will handle listed companies, the Department of Company Affairs will look after unlisted companies, and the Reserve Bank will supervise non-banking financial companies.

The time limit for the issue of prospectus should be reduced. Further, the decision for allocating responsibility between RBI, SEBI, and the Department of Company Affairs should be expeditiously pursued.

12. Nomination facilities.

Nomination facilities may be introduced for share holders through share transfer form.

The Department has not given any comments.

The Commission suggests that nomination facilities be provided to shareholders.

13. Public Deposits.

Companies should be allowed to publish compact and abridged version of advertisement regarding public deposits to save cost to the companies.

An Investment ombudsman can be considered similar to the banking ombudsman to deal with problems of the public relating to deposits, dividends, non-banking finance companies etc.

The Commission agrees with the suggestions of the user groups and suggests that the Department may take appropriate action.

14. Putting Common Seal.

Companies should be allowed to print Common Seal on the share certificate.

The Department has not given any comments.

The Commission agrees with the suggestions of the user groups and suggests that the Department may take appropriate action.

15. Share Certificate.

Endorsement of splitting on share certificate should be done away with.

It is necessary to pursue computerised transfer of shares through depositories since this is permissible under existing provisions of the company law.

The Commission has no comments to offer.

16. Non-voting shares.

Non-voting equity share may be issued only by companies having a track record of good performance, companies may be required to pay higher dividends on non-voting shares, non-voting share shall rank Paripassu with equity shares. Charitable institutions and NRIs may also be permitted to invest in these shares. If a company fails to pay dividend for 3 years non-voting shares may be entitled to have voting rights. Ceiling of 25% of total capital may be prescribed to which non-voting shares can be issued, non-voting share holder should have right to receive annual reports, issue of these shares should be permitted by special

The Department has not given any comments.

The Draft Bill contains no specific provision on non-voting shares. However, Commission sees a lot of merit in the proposal for non-voting shares. The concept can be introduced after detailed discussions with different interest groups. The Govt. should decide on modalities for restructuring the total capital to be raised by non-voting shares, and the relative rights of these shareholders vis-a-vis other categories of shareholders, investment by subsidiary companies in these shares etc.

resolution by both listed and unlisted companies, subsidiary companies should not be allowed to buy non-voting shares of holding companies.

17. Buy-Back of shares.

Clause 69 of the Bill permits a Company to purchase its own share or other specified securities. The wording of the clause creates an impression that the conditions for any issue for buy-back of shares would be applicable to all buy-back of securities. It is suggested that the wording of the Clause be amended. Also debt equity ratio should not be laid down in the clause itself. The debt equity ratio of 2:1 or more is already there in respect of many companies. It is also suggested that buy-back facility should be available for both the extinguishment of the bought back securities and for their reissuance.

The Department has not given any comments.

The Commission agrees with the proposed clause 69 of Draft Bill. Government may take into account both the interest of shareholders and the views of industry while finalising the actual amendment. The concerns expressed by investor groups about the potential for misuse of the provision by the promoters should be addressed.

18. Insurance Coverage.

It is suggested that depositor should be entitled to insure the deposits and the depositing companies can be asked to pay the insurance premium in this behalf.

The Department has not given any comments.

This should be treated as part of a larger issue on investor protection and setting up an Investor Protection Fund.

19. Power to Refuse Registration and Appeal Against Refusal.

In view of Section 111A shares of a listed company are freely transferable and a public company has no right to refuse registration of transfer of shares except for sufficient cause. This provision is wider than Section 22A of the Securities Contracts (Regulation) Act, 1956 (now omitted). The law on the subject should be clearly spelt out and made applicable to all companies whether regulated by SEBI or Deptt. of Company Affairs.

The Department has not given any comments.

The Commission agrees that the law on the subject should be clearly spelt out and made applicable to all companies whether regulated by SEBI or by Department of Company Affairs. The issue of overlap between SEBI and Department of Company Affairs should be resolved and transparent guidelines issued.

20. Registration of charges.

In view of large number of documents required to be registered, there is enormous delay in the registration of charges.

As regards registration of charges, the Secretary agreed that large number of documents were required at present and it was necessary to integrate the documents into a smaller number. The pendency had been suitably reduced and it was hoped that the time

This should be implemented.

taken for registration could be reduced to 30 days. The number of documents required to be submitted could also be reduced by one-third.

21. Place of keeping and inspection of Registers and Returns.

An inspection should be allowed only once in six months during banking hours and proper applications with reasons should be submitted by the shareholders while asking for inspection/extract of any document. Employee shareholders should not be permitted to misuse confidential information in the case of Government Companies and BPE guidelines should be in conformity with the Companies Act for PSUs.

The Department has not given any comments.

The suggestion cannot be agreed to. However, it may be stipulated that the procedures governing the exercise of shareholders right in this regard can be decided by the General Body. The Company's rules relating to the Conduct of employees may govern the misuse of confidential information by employees.

22. Register of Members.

Hard copy of Register of Members may be dispensed with since this is available on computers.

The Department has not given any comments.

The Commission agrees that the hard copy of the Register may be dispensed with if the same is available on the computer.

23. Annual Report.

Some information from the annual report like absorption of technology, energy conservation, high paid executives, foreign exchange earning which are of no utility to the shareholder should be dropped from the annual report.

The Department has not given any comments.

The Government may consider the advisability of modifying the requirements in the annual reports.

24. Passage of Resolution by Postal Ballot.

Clause 151 empowers the Central Government to direct a company to pass resolution relating to specific business by means of postal ballot. This concept of postal ballot is fraught with problems because of the inadequacy of postal facilities. As such it is suggested that this concept of postal ballot should not be introduced.

The Department has not given any comments.

The Commission agrees with Clause 151 of the Bill. However, reasonable time should be allowed to complete the process of Postal ballot effectively.

25. Demand for Poll.

The notice must provide that persons desirous of demanding poll should send their request in advance before 48 hours as in the case of

The Department has not given any comments.

The Commission does not agree with the suggestion.

proxies. Proxies should not be allowed to speak at the meetings.

26. Managerial Remunerations.

There should be no restrictions on Managerial Remunerations which should be the prerogative of the Shareholder to fix at the AGMs.

The Department has not given any comments.

This is a matter of policy on which the Government may take a decision keeping in view all the relevant considerations.

27. Declaration of Dividends.

Any ban on companies from declaring dividends if they fail to pay the principal or pay interest is not a step in the right direction.

The Department has not given any comments.

The Commission does not agree with the suggestion given by the user group.

28. Unpaid Dividend.

It is suggested that unpaid dividend should remain with the companies instead of being transferred to the General Reserve Account with the Central Government.

The Secretary felt that there was a genuine problem as regards unpaid dividends. It has been proposed that the company can be allowed to handle this upto seven years, and beyond seven years the dividends can be remitted to a separate fund as provided in the Draft Bill.

The Commission suggests that the Government may invest the unpaid dividend in a separate "Investors Protection Fund" which should be managed by an autonomous body.

29. Dividends manner and time of payment.

Section 205A and 207 apply when dividend has been declared by a Company but do not apply to the payment of interim dividend by the Board as contemplated by Regulation 85 of Table A. It is suggested that Section 205A and 207 may accordingly be amended.

The Department has not given any comments.

The Commission agrees that Sections 205A and 207 of the Company's Act may be amended to provide for their applicability to a declaration of interim dividend by the Board of directors.

30. Chief Financial Officer.

It is not desirable to bring the appointment of Chief Financial Officer as a statutory provision and should be left to the decision of the shareholders and no stipulated qualification for Chief Financial Officer be prescribed.

The Department has not given any comments.

The reference in Clause 172 of the Bill is to Chief Accounts Officer. This provision should remain in the interests of good management of finances.

31. Consolidation of Accounts.

While introducing the concept of Consolidation of accounts safeguards must be considered so that individual accounts of subsidiaries are compatible with respect to disclosure and other requirements of the holding companies. Contents of the various items to be disclosed should be uniform in the published accounts in order to present a comprehensive picture

CII submits that consolidation of group accounts should be optional. In terms of Clause 168 of the Bill, the consolidation of accounts of holding and subsidiary companies is optional and Central Government may direct by notification such a consolidation on a future date. Such a notification will be considered only after taking various view points in this regard.

The Commission agrees with the suggestion of the Department in its reply.

of the group's financial position. It is suggested that consolidation of accounts should be made optional and not mandatory as Income Tax Department does not accept the concept of group accounts for tax purposes and Public Sector Term Lending Institutions do not allow leverage on the basis of group assets.

32. Balance-sheet.

Very often it becomes difficult to respond to questions raised on the Balance-sheet after a considerable period.

Commenting on the suggestion that no question should be asked on the balance sheet after a period of six months from submission, the Secretary felt that this cannot be agreed to. Many companies file balance sheets very late and the existing penalties for delayed submission were not deterrent. The Department was also required to raise questions in the balance sheet whenever irregularities came to notice. The number of officers was far too small to scrutinise five lakh balance sheets. At the same time, he agreed that time limit can be fixed at seven years and the Department could be given power to reopen cases beyond this period in case any irregularity was noticed.

The Commission agrees with the Department subject to the modification that instead of 7 years it should be 3 years.

33. Legal Expenses.

It is suggested that total expenses incurred in legal matters towards legal fees should be allowed as business expenditure under both the Companies Act and the Income Tax Act.

The Department has not given any comments.

The Commission does not agree with the suggestion.

34. Computation of Profits.

On account of certain provisions like Section 349 and 350 providing for a special method of computation of profits for purposes of managerial remuneration. The present proposal would work harshly on the companies and would be burden-some involving repetitive work. The efficiency of managerial personnel cannot be adequately rewarded on account of these provisions. As such Section 302, 349(iv) (Clause K & I, 350) may be deleted.

The Department has not given any comments.

The Commission agrees with the approach followed in Clauses 349 & 350 of the Bill.

35. Rotation of Auditors.

Clause 180(2) of the Companies Bill provides that no company shall appoint or reappoint an auditor for more than 5 consecutive terms. This clause has been added without public knowledge or debate. This change was not recommended by the working group. Rotation is not an internationally accepted practice, it will result in the decline of quality of audit, it will take away the independence of auditors, it will destabilise the profession, it will result in subcontracting of audit work, it will result in unhealthy practices, rotation has been rejected by earlier committees, it has been totally discredited in the USA and has been rejected by the Cohen Commission, it has been opposed by the Institute of Chartered Accountants of India, rotation will dismay foreign investors, rotation may have been introduced on a possible misapprehension of nexus between client and an auditor. It will result in instability and lowering of quality of the auditors.

Clause 180(2) stipulates that no company shall appoint or reappoint an auditor for more than five consecutive terms and further such an auditor would be qualified for his appointment only after the expiry of five years from the end of last appointment. CII contends that rotation of an auditor is not an internationally accepted practice, it will result in decline of quality of Audit, it will erode independence of auditors, it will destabilize the profession, it will result in sub - contracting audit work, it will result in unhealthy practices and that rotation has been rejected by the earlier Committees. In this Connection, it is submitted that the Department is of the view that in case of a company which does not opt for rotational auditor, it could have joint audit every 3rd year. This again will have to be finally decided by the Cabinet.

The Commission agrees with the proposed clause 180(2) of Draft Bill.

36. Right of Persons to stand for Directorship.

It is suggested that the number of share holders with whose consent a person may offer himself for Directorship should be made 500 or one percent of the voting power whichever is higher. It is also suggested that no single person should hold Directorship in more than 10 companies. This ceiling excludes Directorship in subsidiaries (where the group has over 50% equity stake) or more than 50% equity stake.

The Department has not given any comments.

The provisions in the Bill on this subject are adequate. Any relaxation will affect the interests of shareholders as regards the number of shareholders to support Directorship. A single person could hold directorship in 15 companies including subsidiaries where the group has over 50% equity stake. If a person is a MD or full time Director in a company, he should not be a director in more than 5 companies.

37. Retiring age of Directors.

Clause 224 lays down the age limit of 75 years for holding the office as a Managing Director or other Director of a Company whereas at present there is no age limit for the appointment to such position. It is suggested that this clause should be deleted as it is a retrograde step.

The Department has not given any comments.

The Commission agrees with Clause 224 of the Bill.

In fact it should be the prerogative of the shareholder to appoint such person on merit irrespective of age.

38. Resignation of Director and Auditor.

It is not clear from which date the resignation of Director will become effective and a clarification is required in this regard.

The Department has not given any comments.

Clause 222(3) of the Bill could be amended to clarify that if the resignation is in consequence of a disqualification, resignation will take effect from the date of disqualification, or, in the case of a voluntary resignation, from the date indicated in the letter of resignation, failing which from the date of the letter.

39. Director's Report

It is not necessary to give a detailed report on the appointment of Director.

The Department has not given any comments.

The Commission does not agree with the suggestion.

40. Rates of Depreciation Schedule III.

The Depreciation rates are different and higher than those provided in the existing schedule 14. It takes away the special treatment for continuous process plant apart from increasing the rate of depreciation for general plant and machinery. As a result continuous process plant would be subject to depreciation rate at 25% on WDV basis and at 9% on SLM basis. This would put the highly capital intensive industry like Steel Machinery, Chemical and fertiliser in jeopardy etc. It is, therefore, suggested that existing depreciation rate should continue and in any case continuous process plant subject to flat rate of depreciation of 15% on WDV and 5% on SLM basis.

Depreciation rates in Schedule III of the bill are higher than that of the rates prescribed in Schedule XIV of the Companies Act, 1956. Under the existing Act, there is a separate rate of depreciation for continuous process plant and this category has been deleted. It has also been contended that the separate rate for continuous process plant was introduced mainly to cater for highly capitalised industries where the plant life is longer. CII also apprehends that there is perhaps a move to align depreciation rates under Companies Act ('Account Depreciation Rates') with that of the depreciation rates under Income Tax (Tax Depreciation Rates). According to CII rates of depreciation under these Acts seek to achieve totally separate objective and therefore, it is obvious that the two rates will have to be different so long as different objectives are justified. It is submitted that the Companies Bill does not propose to align the Companies Act depreciation rate with that of the income tax. Moreover, Clause 160(2) (b) empower to Central Government to accord approval for

The Govt. may consider the suggestion for retaining the existing rate of depreciation on SLM basis for continuous process plants, as increased rates of depreciation will reduce profits. This may be provided in the Act and not left to executive discretion.

different rates of depreciation other than those specified in Schedule III of the Bill and deviation can be sought by desirous companies with proper justification.

41. Inter Corporate loans and Investment

Clause 254 of the Bill provides that no company shall make any loan to any body corporate, give any guarantee or provide security or acquire by way of subscription, purchase or otherwise securities of any other body corporate which exceeds 60% of its paid-up share capital and free reserves or 100% of its free reserves whichever is more. The present section 370 and 372 provides a ceiling limit of 30% of the subscribed capital and free reserve of the company. This limit is exclusive of the quantum of guarantees and securities. Since amount pertaining to guarantee and securities should not be included in the proposed 60% limits, it is suggested that reference to guarantees and securities in this clause may be deleted.

The Department has not given any comments.

The Commission agrees with the provisions of Clause 254 of Draft Bill. It does not agree with Chambers of Commerce as guarantees and security also constitute liabilities.

42. Merger, Demerger and Corporate restructuring.

It would be difficult to maintain identity, period, restriction on sale of shares, bonafide business determination and enforcement of contemplated sale or business cessation.

There are generally no problems for merger in organisations in the existing provisions of company law.

Recommendations have been made by the Working Group set up by Government on this point. The suggestions of industry and their recommendations may be considered by Government for a final view.

43. Company Law Tribunal.

It is suggested that this Tribunal should be at par with CEGAT and an appeal to be allowed only to the Supreme Court.

The Department has not given any comments.

The Commission does not agree in regard to the suggestion for direct appeal from the Tribunal to the Supreme Court. It is suggested that the powers of winding up of company may be conferred on the Company Law Tribunal.

44. Winding up of Companies.

Publication of notices for filing of papers and accounts with the registrars should be uniformly 30 days, publication in official gazette of notices should be dispensed with, no time limit be prescribed for official liquidator to give his report. Time limit for notices under Section 434

The Secretary agreed that too much time was taken for voluntary winding up of the company as also for mergers and amalgamations. While a final decision was yet to be taken on the matter, it was possible to examine whether compulsory and voluntary winding up, mergers,

The Commission feels that the subject of winding up of companies and liquidation needs urgent attention, and drastic steps are needed by overhauling present legal provisions, system of appointment and functioning of liquidators, recovery of dues of creditors, regulation of sick

should be increased from 21 days to 6 weeks and the amount to be increased to Rs. 50,000. Official liquidator need not wait for clearance certificate from Income Tax or Sales Tax Department in order to submit his report, procedure for winding up should be expedited and simplified procedure for voluntary winding up should be available.

amalgamation could be taken out of the Companies Act and entrusted to a separate tribunal. It was of course a moot point whether this would improve matters. It is necessary to harmonise the provision of Sick Industrial Companies (special provision) Act, 1985 and the Companies Act, 1956 in order to ensure the effective implementation of Government policies for sick companies and speedy liquidation and winding up of sick companies where BIFR takes the decision for winding up the companies. In view of the delays faced in the liquidation through official liquidator appointed by the High Court, it is possible to amend the law to provide for independent procedure for liquidation of companies by authorised public or private liquidator and also to think in terms of a separate Insolvency Act.

companies under SICA etc. It was noted that the working Group on Companies Act had referred to the international trend for relying on corporate bankruptcy law such as the U.K. Act, to provide for the sale of assets of the company as quickly as possible, subject to later adjudication. The provisions of the Draft Bill marked a definite improvement on the present procedure, especially as it provided for appointing Liquidators from accredited panel, and for the High Court to delegate some powers to the liquidator. The more fruitful suggestion, endorsed by the Deptt. of Company Affairs also, was to take compulsory and voluntary winding up provisions out of the purview of High Courts and the Company Law, and enact a separate law for liquidation and bankruptcy of companies. The proceedings can be supervised by a Tribunal with competent judicial members and subject to time bound procedures for enforcing the relevant provisions by accredited liquidators. It was noted that a number of High Court judges had expressed themselves in favour of an alternative system of liquidation while testifying before the Sachar Committee on Company Law. The proposed alternative will also address a major problem for sick companies especially as the Goswami Committee had also recommended fast-track winding up Tribunals for sick companies.

45. Fees paid to Registrar of Companies

It is suggested that fees paid to Registrar should be made one time payment in a year based on the paid up capital. It was difficult for companies to make payment of fees on as many as 14 occasions. There should be the facility of one-time payment of fees based on paid-up capital.

The Department has not given any comments.

The Commission agrees that fees paid to Registrar of Companies should be a one-time payment in a year and this should be based on the paid-up capital of the company.

46. Forms.

It is suggested that all forms should be simplified and rationalised and those which have out-lived their utility should be weeded out.

The Department has not given any comments.

The Commission agrees that all prescribed Forms should be simplified and rationalised and those which have no use be weeded out.

47. Rules.

The rules pertaining to a common subject to be implemented by various agencies needs to be harmonised namely stock exchange requirement for notice period is 42 days and under Companies Act it is 21 days. Transfer of shares has to be done as per listing agreement within 30 days, and under the Companies Act in 60 days.

The Department has not given any comments.

The Commission agrees that there should be harmonisation between the rules under the Companies Act and the Stock Exchange requirements / listing agreements, as per the regulations made by SEBI.

48. SEBI and DCA.

There should be no overlapping of powers between SEBI and DCA.

The areas of operation between SEBI, RBI and Deptt. of Company Affairs should be clearly demarcated for dealing with listed, unlisted and non-banking finance companies and also for dealing with disputes in investor companies relating to each category of Companies. At present considerable confusion is there and companies are often able to delay proceedings or escape punishment.

The Commission's observations at Sl. No. 11 (eleven) may be referred to.

There is considerable delay in decision at different levels in both the Company law board and the High Court. There is a proposal to convert the CLB into a judicial tribunal similar to CAT.

It is necessary to appoint full time Member for SEBI instead of single Chairman.

49. Societies Registration Act, 1860.

The nature and severity of these legislations vary from State to State. In Tamil Nadu, management of a Society can be taken over by the State Govt. through a designated officer who is not necessarily a public servant. Uniform policy is required throughout India by which powers of dissolution of a registered society can be vested in Civil courts rather than in registering authorities.

Development organisations should be specifically brought under this Act, provisions should be made for accountability and social audit of societies registered under this Act.

This was a Central Act, but at present, it is administered by State Governments. It is for the state governments to take action.

The Commission observes that there is no effective State regulation of societies and the implementation of the act should be strengthened in different states with due regard to problems of voluntary agencies. The Department of Company Affairs may prepare model guidelines in consultation with NGOs and State Registrars and circulate for adoption by State Governments for more effective implementation and uniform application of the provisions of the Act throughout out the country.

BANKING

Sl. No.	Nature of Problem	Suggestions for Reforms Received from User Groups	Comments of the Ministry/Department	Remarks of the Commission
1.	2.	3.	4.	5.
1.	Banks usually insist upon Personal Guarantee by Directors / promoters as additional security over and above the primary securities for sanctioning of various financial limits.	It is suggested that since banks are keeping sufficient margins in current assets, there is really no need for additional security in the form of personal guarantees of director.		The Commission does not agree with the proposal for doing away with Personal Guarantees of promoters/directors by way of additional security. In the view of the Commission this should be left to the discretion of the banks and should not be insisted upon as a rule.
2.	There has been a significant increase in the bank charges in respect of various services. IBA in their revision of charges have withdrawn the caps on most of the banking transactions. As a result banks are charging on the volumes which is costing the corporates a substantial amount.	It is suggested that rates of bank charges should be brought down.		The Commission notes that in view of the general increase in the cost of banking services, the change in the banking charges may become unavoidable. The Commission recommends, however, the charges should be commensurate with the services rendered.
3.	Despite directions from RBI, many banks refuse to credit interest against delayed credits of outstation cheques.	It is suggested that IBA may look into this problem relating to interest on delayed payments.		The Commission recommends that the RBI directions on this matter should be reiterated.
4.	There is no uniform format for Bank Guarantees acceptable to all Banks.	It is suggested that IBA should prescribe a uniform format of Bank Guarantee and should advise the public sector undertakings not to insist upon such clauses or provisions which are contrary to the guidelines of RBI and which bankers have no objection to.	RBI has issued various circulars following the recommendations of Goipuria Committee as also instructions to banks for addressing problems represented by the users such as additional security for loans, uniform forms for bank guarantee, clearance of cheques, permitting non-cash transactions in extra hours, introduction of computers, branch level decentralisation, etc.	It is suggested that IBA should provide a uniform format of Bank guarantee which would be acceptable to all banks.

5. Clearings in big cities should be fast.	In Cities like Mumbai, Delhi, Calcutta, Chennai, Bangalore, Ahmedabad, Lucknow, there should be 1 to 5 clearing houses and at least 2 clearing in a day.	Computerisation was being progressively introduced in all banking operations including clearance of cheques.	The Commission is of the view that computerisation should be speeded up and that clearance in big cities should be faster.
6. Quick clearance of cheques	The system of certifying cheque as 'Good for Payment' should be reintroduced so that when such cheques are deposited the funds are available for utilisation immediately. High Value cheques should be cleared on the same day.	Some decisions such as release of funds on outstation cheques or issue of drafts after working hours was not being fully enforced as compared to the private banks which could start with less staff and total computerisation from the beginning and offer 24 hours service.	The Commission agrees that quick clearance of cheques should be ensured but the suggestion for certifying cheques as 'good for payment' can be considered by each individual bank on merits.
7. Banking hours	Banking hours should be increased. In several countries banking hours are from 8.30 A.M. to 5.30 P.M. and in some cases upto 8.30 P.M.	-do-	Increase in banking hours has been suggested by RBI and the Commission agrees with the same pending increase in the banking hours the Commission suggests that non-cash transactions may be permitted beyond present working hours for the public.
8. Loan against shares	There is a need to remove the limit of loan against shares given by banks.		The Commission does not agree with the suggestion.
9. Off-shore banking & privatisation	Off-shore banking should be encouraged and MUMBAI should be developed as Indian International Commercial Centre. Govt. should be liberal in issuing licences in the private sector for opening of banks.		The Department of banking may examine the suggestion as to Off-shore banking, and more licence for private sector banks or increase in their branches.
10. NPA Special Recovery Cell	All banks should have special recovery cell with full judicial powers to tackle the problem of NPAs.		The entire issue of recovery of NPAs of banks has to be tackled by pursuing effective recovery measures and by removing the bottlenecks in the recovery process. The working of Debts Recovery Tribunals should be made effective. The

Commission has its own reservations of Asset reconstruction units.

11. Improvement in bank efficiency

Bank efficiency is affected due to over-staffing, non-adoption of modern technology and high transaction cost. Substantial mechanisation and computerisation is the need of the hour in all banks who should have access to modern banking software and time-bound programmes for this should be introduced.

Computerisation in the banks had been initiated but was beset with resistance from the bank Unions because of the existing agreements with the Unions.

The Commission is in agreement with the suggestion for improvement in bank efficiency by adoption of modern technology and computerisation. The positive attitude of the bank employees' unions in this behalf is required in the interest of productivity, good business and profitability.

12. Real interest rate is very high as compared to the International market causing slowdown in many industrial activities.

Government should control budget deficit and its borrowings as this has crowding effect on private investment. Banks are showing preference for riskless Govt. securities, because of regulations on NPAs and CAR. This needs to be looked into.

RBI has focussed on customer-friendly procedures and delegation of greater powers to the nationalised banks in various aspects of banking operation including fixation of interest rates and various policies.

The Commission feels that the problem should be periodically reviewed with due regard to macro-economic consideration.

13. Banks are not prompt in passing the benefit of low Interest rate even if RBI effects cuts in bank rate, CRR and SLR. Whenever, PLR is being reduced by the banks the full impact of the reduction in the PLR is not being passed on to different categories of borrowers.

It is necessary that Govt., borrowing are done at relatively low interest rates. Priority sector lending to the extent of 40% of total loans and advances at subsidised rate of interest leads to high interest rate for bank advances to other sectors. Interest cost should be brought down. PLR should be fixed 2% to 3% over the bank rate and the spread over the PLR should be restricted to 2% and penal interest at 1 to 2% should not be charged from the small medium sector.

The R.V. Gupta Committee had made a number of suggestions for improving the delivery of priority sector loans, simplifying procedures, better coordination between the banks and district industries centre etc. However, the overall problem of insensitive and unhelpful attitude of banks in rural areas and priority sectors continues. One alternative may be to strengthen the regional rural banks and appointing dedicated staff including those taken from voluntary agencies.

The Commission appreciates the views of the Department and recommends early implementation of the report of Gupta Committee.

14. Expeditious approval and disbursement and no consortium approach.

More decentralisation of decision making powers is necessary within the banks and power should be delegated from the CMD, FD or Zonal levels to lower level.

It was found that a number of bank officials did not exercise delegated powers and preferred to pass the decision to higher authorities. This is particularly in respect of cases involving

The Commission takes note of the views of the Department and urges that the process of decentralisation should be actively pursued in all the public sector banks. The management should ensure

		assessment of value of security or loan for new areas of activity. The Bank Officials felt concerned also by more and more conditions for advancing loans, caused by observations of audit and vigilance, and there was very little room for flexibility change in the attitudes of bank management and their employees together with greater automation on the lines of private banks was necessary. It was also necessary to decentralise recruitment and service conditions and enforce performance norms.	the effective use of delegated powers by different functionaries.
15. Funds are available with the Banks but medium and small size companies have difficulties to get funds.	Fear from Vigilance about their finding fault, if the accounts go sticky (NPA) deter use of power by bank officials. There should be guidelines on the role of vigilance and banks should be made to take decisions on business considerations and at appropriate risks.	The present problem of inadequate lending to large and small industries is on account of the fact that middle and lower officials in the banks are afraid to take risks on advancing loans in relaxation of written instructions because of the fear of Investigations by CBI and vigilance.	Reference is invited to observation at SI. No. 14.
16. As a measure to curb volatility in the Rupees Dollar exchange rate, RBI imposed a surcharge of 13% interest on import finance. Importers who depend on foreign credit at Libor + maximum 2 points basis took to short term borrowings thus increasing the outgo of foreign exchange.	It is suggested that import surcharge be removed as imports are necessary as inputs for export items.		This may be examined in the context of EXIM policy.
17. RBI has stipulated that all import payments are to be debited to a separate import finance account and retained for one month. This has resulted in blocking of funds for purposes other than imports.	Funds blocked due to the import finance account should be released for working capital purposes and the levy of interest surcharge should be withdrawn.		This suggestion may be considered by the RBI.

18. First charge on the fixed assets over and above the current assets for availing of working capital requirements, hypothecation/mortgage is insisted by the banks. This results in longterm fund support becoming inadequate for acquiring fixed assets as problems arise as to providing securities. If fixed assets are supported by short term debts, such debts are considered as part of current liabilities whilst working out the current ratio which is also adversely affected.

Bankers should not insist on first charge on the fixed assets over and above the charge on the current assets though this is taken as collateral security.

This is a matter for the individual banks to decide on the merits of each case.

19. In terms of RBI directive, importers can be given an advance to finance foreign suppliers of an amount not exceeding 15% of the value of the equipment imported which has to be supported by a Bank Guarantee from an International bank to be issued by the supplier in case where the value of the advance is more than US \$ 15,000/-. This limit is small.

The limit is small and needs to be increased to US \$ 100,000/-. Very often the suppliers take very long time. As a result projects are delayed. This aspect needs to be revised by the RBI.

The Commission notes that the RBI has agreed to look into this suggestion.

20. The RBI decision to hike CRR from 10% to 10.5% is expected to suck Rs. 2400 crores out of the Banking system.

Even the Tarapore Committee has recommended reduction in the level of CRR to 3% by 1999-2000. It is necessary to progressively reduce CRR to ensure liquidity to finance developments at a lower interest rate.

This Commission notes that this is a policy matter.

21. Commercial Banks are charging 'interest tax' on the interest charged by them for use of funds by companies and others as per Section 5 of the Interest Tax Act, 1974. As per S. 288 B of the Income Tax Act, the amount of tax shall be rounded upto the nearest rupee. But banks normally

Government must ensure that the interest tax is charged only at the actual rate and is not rounded upto its higher quarter (0.25%).

The Department of Revenue may examine this in consultation with the Indian Banks Association.

charge the interest tax at the rate which it rounded upto the higher 0.25% which results in higher payment of Interest tax.

22. As a result of Contract (Amendment) Act, 1997 w.e.f. 8.1.97, unless the original bank guarantee is received from the beneficiary Govt. departments, banks would not be able to round off the entry till the limitation period of 30 years.

Section 28 as amended be suitably modified to provide for deletion of bank guarantee given to Govt. Deptt. on expiry of the validity / claim period as at present. Corporates who have to frequently give bank guarantees to Govt. departments in connection with their dealings will be benefited.

The Commission was informed that the Legislative Department is already examining the matter. This may be expedited.

23. Merger / Consolidation of Banks.

It is necessary to implement the recommendation of the Narasimhan Committee for consolidation of 3-4 International banks and 8-10 national banks.

The Commission agrees with the suggestion.

24. Electronic Fund Transfer.

It is suggested that implementation of V-SAT based linkage of all major locations in the country be hastened. A proper enactment on the lines of Electronic Fund Transfer Act as in USA is warranted. Nationalised banks should accept the concept of value dated credits based on predetermined time frame for realisation of cheques or transfer of funds.

It is a fact that RBI lacks the machinery to regulate all the non-banking finance companies. In addition to its already heavy supervisory responsibilities, possible solution would be to move rapidly for computerisation of banking operations, electronic transfer of funds, networking of banks etc. However, computerisation is held upon account of agreement of the banks with staff unions. The unions do not permit computerisation in banks with less than 250 vouchers per day, or for more than the agreed number of vouchers every year. Indian Banks Association, on the other hand, takes the position that unions cannot negotiate on the question of computerisation. The issue is also linked up with the problem of deploying

The Commission agrees with the need for Electronic Fund Transfer and recommends that necessary legislation in this connection should be enacted soon.

surplus staff, and the unwillingness of the urban staff to go to the rural areas.

25. Improving credit assessment and delivery system.

Uniform documentation for transfer of share by bank to another, financial covenants and monitoring and stamp duty implications on transfer / assignment of loan in a syndication need review.

The Commission agrees with the suggestion.

26. Supervisory Role and Responsibilities.

It is desirable that RBI be the sole entity for supervision instead of the M/o Finance. RBI needs to shift from micro management approach to macro performance parameters and control mechanism, provide further autonomy to banks and the need for RBI representation on the board of banks need to be reviewed. It should monitor, detect, and prevent financial crime must set the framework for compensation arrangements, cooperate in investigation enforcement and disciplinary work and corporates should be allowed to book and cancel forex contracts in respect of overseas instruments.

The RBI has advised its Regional Offices that whenever they receive complaints about the non-payment of deposits to companies, they should direct the complainants to the concerned branch of the Company Law Board (CLB) which has been given specific powers under the RBI Act to direct the defaulting companies to make repayments. CLB has since resolved the procedure for the purpose and Regional Branches of CLB have started issuing orders to defaulting companies. If an NBFC fails to honour the order of CLB the RBI can launch prosecution proceedings against it. The Bank has appointed Nodal Officer at its Regional Offices for instituting prosecution proceedings in such cases. A publicity campaign by RBI for educating the public investing in NBFC's cautioning them about pit-falls to be avoided is also launched.

This is a policy matter.

27. Financial Institutions versus Banks.

There is a need to move towards universal financial Institutions. Institutions as term loan providers and banks as working capital providers are showing signs of disappearance. There should be mergers between Institutions with Banks and vice versa. This should help to reduce

This is a policy matter.

overall cost of funds, promote competition. Monopoly of UTI, GIC, LIC must be reduced. With the development of a term-money market and phased introduction of capital account convertibility the necessary pre-requisites for development of a derivatives market would be in place.

28. RBI Act and Banking Regulation Act.

RBI should prescribe standard form for recording and managing information by banking concerns. Section 18 & 24 of BR Act and S. 42 of RBI Act be amended to facilitate monetary adjustments on a day to day basis. RBI be empowered to make regulations instead of the Govt. on determining and prescribing Standard Accounting Practices, modern software, setting up Committee to prescribe standard internal audit system, eliminate routine returns and reports which are neither looked into nor processed.

An Expert Group has been set up by the Department of Banking in the Government to look into legal and regulatory framework for the banking sector. The Govt. has also taken action on the recommendations of the Narasimhan Committee set up by the Govt. Most of the actions were required to be taken by RBI and individual banks. The Goipuria Committee Report on Customer Service in Banks appointed by the RBI has made 97 recommendations. A number of decisions have been taken on the said recommendations and RBI has appointed Ombudsman for a number of nationalised banks. They helped in the conciliation of customer grievances and passed binding orders.

A number of recommendations have been proposed such as the Bankers Books Evidence Act before the Cabinet or the RBI regulations referred to the Law Ministry. The Ombudsman system was not very much effective since number of banks have gone to the civil courts against their decision. The banks were not happy with the RBI decision to make the Ombudsman's decision binding. There is a tentative proposal to set up another Expert Group to prepare a comprehensive legislation of banking Institutions.

The Commission recommends that the Government should expedite amendments to relevant legislation.

29. Commercial Paper.

Corporates should be free to effect individual insurance based on market perceptions and need for funds with an all over limit for CP issuances. Any increase in limit for such issuances to be subject to rating agency review. Obtaining approval for individual issuances and validity of two weeks for such approvals needs review. Stamp duty structure needs rationalisation.

This is part of over all RBI policy.

30. Venture Capital.

Capital tax concession to venture capital funds U/s 10(23)F of I. Tax Act should not be withdrawn and they may be exempted as was done in the case of Mutual Funds.

This is a policy matter.

31. Nonbanking Finance Companies.

NBFCs should be permitted to issue abridged advertisements for raising public deposits, funds be made available to them and interest rates be rationalised and RBI may not fix a ceiling on fixed deposits.

A task force has been set up under the Chairmanship of Special Secy. (Banking) to examine suggestions relating to various issues relating to non-banking finance companies including those mentioned in this statement. Meanwhile RBI is considering some relaxation in respect of smaller companies. It is, however, felt that no insurance for depositories in these companies can be agreed to. Another possible approach is to ask the State Govt. to take up the supervision of smaller non-banking finance companies, so that the RBI could concentrate on the bigger companies. In that case, it is possible for the Company Law Board to consider complaints made by investors against large companies. State Govts. can easily combine their supervision with the control over chit funds etc. It is, however, to be noted that a number of State Govts. have still not extended the Central Chitfunds Act to the State.

The Commission noted with great concern that the regulatory mechanism in regard to NBFCs came into existence only very late, i.e. in Jan., 1997 through an Ordinance. But, the actual implementation of this regulatory mechanism by RBI started after one year. Even at present, the regulatory mechanism cannot be said to be either adequate or effective. Thousands of crores of investors money deposited with the defaulting NBFCs, before and after the Ordinance have been jeopardised with no sign of a reasonable solution to the problem or actual repayment. The role played by the CLB and RBI so far in this connection has come under serious criticism. The Commission is of the considered view that the Govt. cannot shirk its overall responsibility to the protection of depositors who had deposited funds with NBFCs before and after the initiation of registration procedures. The Commission, therefore recommends that the responsibilities in this matter should be clearly specified and

From, Jan., 1997 RBI was empowered to regulate NBFCs by stipulating minimum capital. Funds to be kept in liquid form, and other regulations for prudent management. Only 7000 out of 37000 NBFCs were found fit for registration and others have been given time of three years to comply with eligibility requirements. The Shere Committee had recommended against setting up an Insurance System for small depositors. Maharashtra Govt. has taken a decision at its level to set up a special Tribunal to attach the assets of a defaulting NBFCs. There are also proposals for credit rating of NBFCs before accepting deposits from the public. For small companies the system of self regulation and group guarantee was being suggested. The Reserve Bank of India Act, 1934 was amended effective January/ April 1997 by making comprehensive changes in Chapter 111B, IIIC and V of the Act, vesting wide ranging powers with the RBI including issue of prohibitory order to NBFCs from acceptance of fresh deposits and filing winding up petition against NBFCs. By virtue of the powers vested with it under the Act, the bank with a view to protecting the interest of the depositors and providing more effective supervision over non-banking financial companies (NBFCs), particularly those accepting public deposits announced a new regulatory frame work in January, 1998, covering inter alia acceptance of public deposits, prudential norms to be observed by NBFCs and the role of the Auditors of NBFCs. The directions relating to Prudential Norms were modified subsequently in May, 1988. The revised regulations stipulates an upper limit of public deposit which NBFCs

various measure for the protect of the depositors should be publicised. It further recommend a scheme of insurance of deposit with NBFCs by the NBFCs themselves should be quickly introduced. The detailed view of the Commission in this regard are reflected in the main report.

can accept and limit is linked to the credit rating of an approved rating agency. An upper limit has also been put on the rate of interest on deposit in order to restrain NBFCs from offering unduly high rates and mobilizing excessive deposits, which they may not be able to service. Prudential norms have been revised and issued in the form of Directions, to make them mandatory. These norms cover income recognition, accounting standards, assets, classification, provisioning for bad and doubtful debts and credit / investment concentration. Furthermore, disclosure requirements have been strengthened and responsibilities have been cast on the Board of Directors and Auditors of the companies to ensure that the operations of the NBFCs conform to the deposit regulations and prudential norms prescribed by Reserve Bank of India. The NBFCs are also advised not to create any fresh assets including by way of granting loans, making investments, etc., if the public deposit accepted by them or interest thereon falling due for payment remains unpaid as per the terms and conditions of acceptance of such deposits. The Bank has also strengthened the supervisory mechanism. Both off-site & on-site on NBFCs and detailed guidelines have been issued to its offices for carrying out inspection of NBFCs and off-site surveillance and scrutiny of their financial statements. The new regulatory measures and supervisory mechanism are expected to make the NBFC Sector more viable and offer greater protection to public deposits.

32. Recovery of Debts from Banks & FIs Act, 1993.

Adequate number of Tribunals be established for expeditious disposal of applications for recovery of banks debts. All state capitals should be covered and infrastructure be provided. Act be

There was a genuine problem of recovery of bank dues since tribunals were not proving to be of much help. In the long run, it was necessary to amend Transfer of Property Act and set up a speedy and

The Commission recommends that the Govt. should pursue various measures including legal remedies to support speedy recovery of debts.

amended to provide for a fund to run the Tribunals scope be enhanced to cover all loans, provision for limitation be removed and High Court Judges be appointed as POs. There should be provision to appoint Receivers at interim stage and the proceedings before the Company Court for winding up would be delinked from the DRTs. IDCs Multilateral Agencies and foreign Banks may be brought under the purview of the Act and DRTs be also empowered to entertain claims of all creditors of its borrowers in additions to banks and FIs.

simpler foreclosure system.

33. Recovery of decretal amounts by Banks.

To counter delays by the borrowers, it may be provided in the CPC that if appeal is preferred, 50% of the decretal amount should be deposited. Provision similar to Sec. 29 of the State Financial Corporation Act, 1951 for seizing and selling movable and immovable assets should be introduced in the CPC. All banks be notified under the Revenue Recovery Acts by the States and authorities under the said Act should be given punitive powers. In respect of loans for vehicles, No Due Certificate and No Objection Certificate from Bank be insisted upon at the time of transfer of the vehicle or for renewal of permit.

Banks also faced problems in the recovery of loans because of cumbersome legal provisions.

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34. Contract Labour Act and Bank.

Banks should have the freedom to engage contract labour. Small canteen arrangements, watch and ward, Office Cleaning etc. depending on the quantum of work involved and the administrative convenience can be entrusted to outside contract labour. Engaging full time labour for these works will be expensive.

Reference is invited to observations under labour sector.

35. Vigilance enquiries against bank staff.	<p>The present practice of roving enquiries demoralise the officers and such atmosphere is not conducive for effective working of banks.</p> <p>In vigilance matters CBI/CVC should take the views of the CEO of the banks in deciding course of action.</p>	The Commission notes that the Deptt. of Personnel is seized of the matter.
36. Bank holidays under the Negotiable Instruments Act, 1890.	<p>Since holidays vary from State to State it causes difficulty in banking operations between States where holidays are not uniform. It is suggested that Banks may uniformly follow the holidays declared by the Central Govt. N.I. Act be suitably amended for the purpose. Concept of optional holidays may be introduced so that there is a gap on the number of bank holidays.</p>	It is not possible to have uniform holidays for different States which have differing holidays.
37. The Indian Stamp Act, 1899.	<p>Stamp duties for the same document varies from State to State. All documents used or related to banking operations should be governed by the Central Indian Stamp Act as it is done in the case of negotiable instruments. Stamp Act may be amended accordingly.</p>	The suggestion is under consideration of the Govt. of India. Reference is invited to views of the Commission on this point under Housing and real estate sector.
38. Preservation of Records by Banks.	<p>As per the Preservation of Record Rules framed by the RBI under BR Act, 1949 banks are required to preserve records for a minimum period of 8 years which has become quite costly. By amending the Rules preservation in floppy hard disk, microfilm should be permitted.</p>	The Commission notes that steps for preservation of bank record in the computer and for their evidentiary value are being considered under the proposed Cyber laws.
39. Delhi Development Authority Act.	<p>Banks have been asked to shift their branches from residential areas (non-conforming zones) to the conforming</p>	This is a matter of policy.

zones. The status quo may be allowed to be maintained in this matter.

40. Apprentice Act, 1961 and Banks.

Banks may be exempted from the provisions of the Apprentice Act as they find it difficult to implement this Act as the considerations of maintaining secrecy and security of transactions and fixing up of accountability make it difficult task for banks when they engage Apprentices for a period of 12 months from those who have completed HSC with Banking as a vocational subject.

The Commission does not agree with the Suggestion.

41. Shops and Establishments Acts of Various States and Banks.

In view of the Supreme Court's decision in CV Raman Vs. Bank of India (AIR 1988 SC 1369) that the TN Shops & Establishments Act does not apply to Banks, the competition amongst banks to have 24-hr banking, there is need to have a uniform legislation to exempt banks from Shops and Establishment Act of all States.

This is a policy matter.

42. Provisions and income recognition under S.36(1) (viiia) Income Tax Act is at variance with RBI directive issued in April, 1997 regarding the norms to be followed.

As the provisions to be made on the basis of RBI directives will be considerably in excess of what is allowable under S.36 (1) (viiia) of I. Tax Act, the same be reconciled by suitable amendment.

A number of problem were faced with Income Tax law. These were required to be taken up urgently. Even where an issue had been decided by the Tribunal, the same issue was again raised by the assessment officer. The normal practice was to recover excess tax and then oblige the banks to ask for refund in appeal. The write-offs of arrears were not given tax concessions. There were many problems in the collection of impress tax and tax deducted at source. The income tax authorities also asked for unnecessary information regarding depositories. This

This may be examined by the Department of Revenue.

problem was likely to increase after the enactment of the Money Laundering Bill.

43. With effect from 1.4.96 the hybrid system of accounting was dispensed with and only cash basis or mercantile basis of accounting was allowed.

With regard to Commission on bank Guarantee it is almost impossible to estimate and recognise income on mercantile basis. S. 145 of the I. Tax Act be amended to permit Banks to maintain the accounts on 'hybrid system' for tax purpose.

The Commission notes that the mercantile system of accounting is already in vogue. The suggestion may be examined by Deptt. of Revenue.

FOREIGN DIRECT INVESTMENT

S.No	Nature of Problem	Suggestions for Reform received from user groups	Comments of Ministries/Depts.	Remarks of the Commission
01.	FDI Policies are inflexible and ambiguous.	The policies of FDI should be flexible unambiguous and transparent with long term objectives and directives of the Government should have minimal mid-course policy changes.	The Director, Department of Economic Affairs, has stated before the Commission that there were no major problems for foreign institutional investments. The 1995 regulations of SEBI provided for the entry and regulation of foreign institutional investors, issue and transfers of shares etc. The actual materialisation of approvals of foreign and domestic investment was poor. As against USD 48.5 billion over 1991-98, only about 11 billion had actually materialised. Major problems related to power, telecom, and petroleum exploration because of hurdles in individual sectors. There was no problem in mobilisation of domestic resources by foreign investors.	Observations of the Commission are given in the main report.
02.	Delay in clearance of approvals.	There is a need to fast-track clearance of approvals and mechanism for speedy implementation.		
03.	Case by case approach.	Automatic clearance should replace case by case approach in the approvals of infrastructure sector upto 100%.		
04.	Policy on infrastructure.	Policy on infrastructure sectors should be clearly defined such as fuel policy and tendering in telecom.	The Government has taken various steps to counter a fall in direct investment including that of NRIs. According to the Joint Secretary, Department of IPP, once approval was given to the foreign investor to set up operations, he is on par with any local company. Problems of delay in securing various approvals and multiple agencies still persisted. Some of these problems were specific to each sector such as the issues of fuel linkage, power projects agreement and guarantee in the power sector. There were about 39 Central and State inspecting agencies once the entrepreneur started operation. The Deptt. has taken up a study through ASCI for examining the Central and State laws for suggesting simplification and to propose a model law. Meanwhile each Ministry has appointed a nodal officer to assist monitor foreign investment proposals over Rs400 crores. A composite form had been designed for foreign collaboration and industrial licences.	
05.	Widening automatic approval list.	The list of industries for automatic approval upto 74% may be enhanced to include banking and financial sector and textiles based industries which have high potential for absorbing the foreign investment.		
06.	Improving Centre-State cooperation.	There is need for a mechanism to improve cooperation between the Centre and State level in granting State Government's clearances.		

07.	Encouraging joint ventures among SMEs with foreign investment.	Govt. should encourage joint ventures among SMEs with foreign investment. This requires enhancing the level of plant and machinery for SSI sector to make it attractive for foreign investment.
08.	Allowing FDI in consumer goods.	Since India is a signatory to WTO and is bound to liberalise imports within a short time, this is the right time to permit FDI in consumer goods sector. But at the same time to encourage domestic industry to upgrade technologies to meet the competition.
09.	Insurance cover.	There should be an insurance scheme to investors to cover foreign exchange fluctuations.
10.	Transfer of shares	There should be modification in rules governing transfer of shares.
11.	Balance sheet.	There should be one balance-sheet for holding companies.
12.	India as an attractive destination.	Modifications in labour laws, company law, harmonisations of Patent Laws, and speedy disposal of disputes has to be carried out in order to render India an attractive destination for foreign investment.
13.	Joint venture structures.	There should be legal support to decide on the structure of the Joint venture company as per bilateral treaties between the investor and recipient countries.
14.	Adequate compensation.	There should be adequate compensation mechanism to be developed to guarantee investment in the country.
15.	Asian partners.	Industry should make more efforts to have direct contact with partners within the Asian region which has a high potential for investment flows.
16.	Tasks before the industry.	Industry should join hands with the Government in

creating global standards and improving the image of India for taking a great leap forward. Industry should encourage cooperation at enterprises level for creating necessary technological dynamism and promoting FDI.

17. R&D Institutions. The linkages between R&D Institutions and industry must be mutually strengthened.
18. Investment Certificates. In the case of major industries, investment certificates from banks are not available on time resulting in remittance problems. Sometimes the banks do not credit interest. These matters may be looked into and solved.

INDUSTRY

S.No	Nature of Problem	Suggestions for Reforms received from User Groups	Comments of the Ministries/Depts.	Remarks of the Commission
1.	2.	3.	4.	5.
I. <u>THE INDUSTRIES (DEVELOPMENT AND REGULATION) ACT, 1951</u>				
01.	The preamble to the Act provides for the development and regulation of certain industries. In the context of the economic liberalisation, regulation of industry is no more required.	It is suggested that the preamble may read as : An Act to provide for the development of industries.	The Act could be renamed to give thrust for development of industries rather than regulation. The Act may also cover other forms of proposals like Foreign collaboration/EQU/ETHP/STP. A designated monitoring agency for enforcement may be provided for in the Act. Laying of notifications issued before Parliament may be simplified.	(a) The proposed renaming of the Act is supported. The other suggestions of the Ministry are endorsed. (b) The Commission also recommends that there should be a separate legislation for regulating SSI & Ancillary industries. The legislation should be comprehensive including provisions on labour matters on the lines recommended by the Abid Hussain Committee Report. If the States agree, this could be a Central Act; otherwise the Centre could formulate a model legislation on the above lines which the States could then enact and also apply to UTs.
02.	The name of the Act would have to be changed if only development and promotion of industry is to be sought.	It is suggested that the Act may be called : Industries Development Act, 1997.		The Commission agrees with the suggestion of the User Groups.
03.	As no regulation in take over of industries is desired any more Section 2 which provides that it is expedient in the public interest that the union should take under its control the industries	Section 2 of the Act may be deleted.	It is difficult to consider deletion of various sections indicated in this broadsheet because the Govt. of India had enabling powers for the control of industries specified in the Schedule. Even after industries were delicensed, the responsibility of the Govt. for the control of industries in the larger public interest	The Commission agrees with the views of the Department.

specified in the First Schedule may have to be deleted.

has to be provided for. However, it was possible to look at similar provisions for control in other laws like SICA, Companies Act, sectoral legislations and examine amendment of overlapping provisions in consultation with the Law Ministry.

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| 04. | It is necessary that Ancillary industrial undertaking and small scale industries should be comparable to other delicensed industries. | The definition of 'ancillary industrial undertaking' contained in Section 3(aa) of the Act may be deleted. | | The suggestion of the User Groups cannot be accepted unless the definition of ancillary industries is included in a separate legislation dealing with SSI and ancillary industries. |
| 05. | As registration of new article is no more desired and most of the industries are delicensed, the industries are delicensed, the provision contained in Section 3(ad) of the Act needs to be deleted. | Section 3(ad) of the Act may be deleted. | It was possible to look at suggestions relating to ancillary and small scale industries after consulting the Department of SSI. | The Commission agrees with the Department of SSI that Section 3(ad) of the Act cannot be deleted as it is required for industries which are subject to licensing such as potable alcohol, firearms and other ammunitions, industries making hazardous chemicals and other substances. |
| 06. | Power is given under Section 9 of the Act to the Central Government for levy of cess on the wholesale price of articles manufactured or produced in any industry. The amount so collected is to be utilised by the Development Council strictly for the advancement of scientific and industrial research for | It is suggested that cess should also be allowed to be used for infrastructure sector and accordingly Section 9 of the Act may be amended. | There is no need to provide for use of levy of cess on certain industries in the budget for infrastructure since there are other budget provisions for infrastructure in different sectors. | The Commission agrees with the views of the Department. However, the Department should ensure effective use of the funds collected from the levy of cess for the authorised purposes. |

improvement in design and quality, for training of technicians and labour and for incurring administrative expenses.

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| 07. | As most of the industries should be delicensed except for a short list of industries related to security and strategic concerns, hazardous chemicals and for environmental reasons, there is no need for any provision for the registration of existing industrial undertakings. | It is suggested that Section 10 of the Act dealing with registration of existing industrial undertakings may be deleted. | This section cannot be deleted. Deptt. of IPP would examine in consultation with Law Ministry whether industries licensed earlier but now falling in the delicensing category were required to conform to licensing conditions or export obligation. The 1994 Press Note issued by the Deptt. could be reviewed for the purpose. | In the view of the Commission, Section 10 of the Act dealing with registration of existing industrial undertakings should be retained for the sake of SSIs, and for the sake of full coverage of statistical data. The Deptt. could again clarify the position with regard to industries falling in the delicensed category as to whether they have to conform to licensing conditions. |
| 08 | As it is proposed to delete the provision relating to registration of existing industrial undertakings there is no need to have a provision in the Act for revocation of registration in certain cases. | It is suggested that the provisions of Section 10A of the Act may be deleted. | This cannot be agreed to. | There is no need to delete Section 10A. |
| 09 | At a time when the licence-Raj is sought to be done away with, there is no need to have in the Act any provision relating to Licensing of new industrial undertakings by the Central Government. | It is suggested that the provisions of Section 11 of the Act may be deleted. The Rules framed under Section 30 may also be suitably amended. | As regards Sections 11, 11(a) and (b), this would be examined in the light of a proposal for deleting the definition of ancillary industrial undertaking. | There is no need to delete Section 11. |

10.	There may be no need to have any provision in the Act requiring licences for producing or manufacturing new articles by undertakings registered under Section 10 of the Act.	It is suggested that the provisions of Section 11A of the Act may be deleted.	Production returns should be simplified. Development Councils should function for development of industry and not for seeking fiscal concessions. Some enabling provision for the public sector should be there.	There is no need to delete Section 11A..
11.	Since it is proposed to delete the definition of 'ancillary undertaking', power of the Central Government to specify requirements to be complied with by ancillary undertakings for the purposes of the Act have to be amended.	It is suggested that Section 11B of the Act may be suitably amended so as to delete reference to ancillary undertaking therefrom. In view of dereservation of many SSI items, such items will have to be excluded from this Section.	Powers for enforcing conditions regarding testing, use of products & chemicals quality standards, energy efficiency, processes etc. should be provided for.	There is no need to amend Section 11B.
12.	Under Section 12 of the Act, power is reserved to the Central Govt. for the revocation of or amendment of licence in cases where the licensee has failed to establish the industry within the time fixed in the licence. Under Section 13, further provision for licensing of industrial undertakings in special case has been laid down. Section 14 provides that before granting any licence or permission, the Central Govt. may require such	In view of abolition of licensing, the provisions of Sections 12, 13 & 14 of the Act appear to be redundant and may be deleted.	Sections 12, 13 & 14 are required to be retained in respect of licensed industries subject to licensing.	The Commission agrees with the views of the Department.

purpose, to make a full and complete investigation in respect of applications received in this behalf and report to it the result of such investigation after following prescribed procedures.

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| 13. | Sections 15 to 18 of the Act lay down that the Central Govt. shall have power to cause investigation to be made into scheduled industries or industrial undertakings, into the affairs of a company in liquidation, have directions issued to industrial undertaking based on report of investigation and for powers of the investigators to take assistance of persons of specialised knowledge. | It is suggested that since all these sections 15 to 18 relate to investigations, these sections should be amended and consolidated into one section as they would be applicable to limited industries on account of extensive amendment to Schedule I of the Act and the powers of the Central Govt. may be exercised under the Rules rather than the Act. | Sections 15 to 18 may be retained as Govt. may wish to exercise control over the industries in the Schedule. This exercise could be reconciled with the provisions of SICA. Reasons for control over industry under IDRA go beyond the revival of sick industries. Hence certain provisions should remain in IDRA along with SICA. | The Commission agrees with the views of the Department. |
| 14. | Certain powers of the Central Govt. relating to assumption of management or control of an industrial undertaking in certain cases, cancellation of contracts in bad faith etc., making of declarations calling for report on the affairs of the company, making of inventory of assets and | In order to make for uniformity in legislation, it is suggested that all these provisions contained in Sections 18A to 18B, 18C, 18D, 18E, 18FA, 18FB, 18FC, 18FD, 18FE, 18FG of IDRA may be suitably amended and put in SICA.. | The Act should provide for powers to the Central Govt. for collection of cess, declare compulsory licensing, lay down policies and norms for small scale sector, take over of management of a category of industries and powers of inspection and seizure of records call for reports and lay down conditionalities for monitoring. | The Commission agrees with the views of the Department. It is not possible to put in Sections 18A to 18FG of the Act in SICA as the BIFR is not competent to carry out the functions of the Central Government. |

liabilities, control over supply and price of articles etc. are already in existence under the Sick Industrial Companies (Special Provisions) Act, Essential Commodities Act and the Companies Act as amended.

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| 15. | In view of delicensing of industries it may not be necessary to have in the Act any provision relating to inspection of the premises of any industrial undertaking or examine any records or person therein by any person authorised by the Central Government. | It is suggested that the provisions of Section 19 of the Act may be deleted. | It is not possible to delete Sections 19, 20 and 23, Govt. rarely exercised the power of inspection of premises of industrial undertakings. | It is not possible to delete Sections 19, 20 and 23 of the Act. Government may issue executive instructions in the matter to ensure reasonable exercise of such power. |
| 16. | As it is proposed that the govt.'s intervention in the industry should be minimum, it may not be necessary to have any provision of general prohibition of taking over management or control of industrial undertakings. | It is suggested that the provisions of Sections 20 may be deleted. | | The Commission does not agree with the suggestions. |
| 17. | In view of abolition of licensing provisions in the Act there may not be any need to retain any provision for finality of the Central | It is suggested that the provisions of Section 23 may be deleted. | ----- | This provision would be necessary as a number of industries continue to be licensed. |

Government's decision as to substantial expansion of an industrial undertaking or its producing any new article.

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| 18. | Provision in the Act for penalties relates to contravention of sections which have been proposed to be deleted. Penalties have also been provided in the respective economic legislations. | It is suggested that the provisions of Section 24 may be deleted. | Provision for penalties under Section 24 may be deleted while the Act could be made more liberal in terms of approvals and exemptions. | The Commission is of the view that the provisions of Section 24 be retained. |
| 19. | The Central Govt. by notification in the Official Gazette can exempt industrial undertakings and scheduled industries from the operation of all or any of the provisions of the Act or any rule or order made thereunder. | It is suggested that a time limit for exemption should be fixed for period of 10 years and after 10 years there should be no difference between small scale industry and other delicensed industries. | The Deptt. of SSI is not in favour of the suggestion for limiting the period for exemption to 10 years. | The Commission is in favour of retaining the provision. |
| 20. | Amendments/deletions required in the First Schedule to the Act in the context of liberalisation/delicensing of industries. | It is suggested that the following headings may be deleted:- 1 to 38, In heading 19, hazardous chemicals needs to be defined and other chemicals needs to be deleted. | Service sector should be also included and items based on NIC Classification, 1987 be covered under the Act. Central Govt. be given powers to amend the schedule entries as in ECA. | The Act should be amended to provide for power to Central Government to clarify by notification the description of industries specified in the schedule in so far as it does not provide for any new industry. The suggestions made by specific industries may be considered by Government. |

II SICK INDUSTRIAL COMPANIES
(SPECIAL PROVISIONS) ACT,
1985 (ALONG WITH SIC(SP)
BILL, 1997

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| 01. | The definition of 'sick industrial company' in Section 3(p) of the Bill is too restrictive and needs to be changed in the liberalised environment. | Sick industrial company should mean a company owning an industrial undertaking engaged in manufacturing and production of goods of any description including a hotel company but excluding ancillary and SSI units. Erosion of 50% or more of peak net worth during preceding four financial years but not due to depreciation should be included Default in payment of Provident Fund, ESI or Pension dues should be criteria for detecting incipient sickness. |
| 02. | It is not advisable to link the definition of 'industrial company' to Schedule I of IDRA. | In view of the above suggestion of redefining 'sick industrial company' it may not be necessary to have any separate definition of 'industrial company' in Clause 3(f) of the Bill. |
| 03. | If each Bench of the BIFR is headed by a judicial member it would help in disposal of cases in accordance with rule of law, and principles of natural justice. | Clause 4(3) of the Bill may be suitably amended to provide for presiding of judicial members over benches of BIFR. |
| 04. | Clause 12 of the Bill makes it discretionary to make a reference to BIFR in case of permanent sickness but mandatory in the case of potential sickness. The order may have to be reversed. | Suitable amendments may be made so as to provide for mandatory reference in the case of permanent sickness and discretionary in potential cases. |

This Bill was prepared on the basis of an overall approach towards the problem of incipient sickness in the industry and to meet with the deficiencies in the existing Act. In doing so, not only the recommendations of a Committee (Goswami Committee) and Government considerations thereon were kept in view but also consultations were held with different Ministries/Departments concerned and Financial Institutions. After that only the proposal on enactment of new law in place of existing Act was prepared. It was with the approval of the Cabinet that the Bill was prepared. Thus the Bill contains an overall approach for replacement of the existing Act starting with the change in the definition of sickness to the overall procedure to be adopted by the BIFR. It has thus not been found possible for the Department of Economic Affairs (Banking Division) to comment on the suggestions which propose to change the basic framework of the Bill. However, now that action has been initiated to recast the Bill as it had lapsed on the dissolution of Lok Sabha in December 1997, the suggestions forwarded by this broadsheet will be kept in view while recasting the Bill.

Point No. 1 to 6:

The Commission agrees with the approach reflected in the SICA (Amendment) Bill, 1997. It recommends that the Government should pursue early passage of the Bill after incorporating all the suggestions of the Goswami Committee.

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| 05. | The requirement in Clause 13 of the Bill for a certificate from public or state level financial institution or bank as to sickness for making a reference to BIFR would appear quite unnecessary in the liberalised environment. | It is suggested that the right and power of determination of sickness should lie with the BIFR and not with the banks/FIs. Hence the provision relating to the certificate may be deleted. |
| 06. | The time frame stipulated in clause 15(5) of the Bill is of 15 days which is too short a period for the sick company to frame a scheme. | It is suggested that the time limit of 15 days prescribed for framing a viable restructuring scheme may be increased to 45 days. More teeth should be given to BIFR to enforce its directions on banks, FIs and the State Governments. |
| 07. | Clause 16 of the Bill requires the BIFR to mediate and attempt to formulate a viable restructuring scheme if the sick company has failed to submit a scheme under Section 15. It may also direct the secured creditors to formulate a scheme in that event. | It is suggested that the provisions should be amended to give powers to BIFR to enforce its decisions and it should act as a quasi-judicial body and not a mediatory organ. The words 'the board shall formulate', should be substituted in place of 'mediate and attempt'. Clauses 17 and 18 of Bill may be deleted. |
| 08. | Clause 28 of the Bill which replaces Section 22 of the Act relating to suspension of legal proceedings, contracts etc. enables all such proceedings to continue save and except for which BIFR has granted a stay. | To have a balanced view of the matter the existing Section 22 may be retained otherwise framing of scheme will be difficult if not impossible with litigations being proceeded with by various parties. |

Point No. 7 to 10:

The Commission agrees with the suggestions made by user groups for necessary amendments.

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| 09. | <p>Clause 31(1) of the Bill deals with the powers of the BIFR so far as misfeasance proceedings are concerned involving the sick industrial companies.</p> | <p>Since these powers are quite important it would be advisable that each bench of BIFR is presided by a judicial member.</p> | |
| 10. | <p>Clause 32 deprives the sick industrial company from making any appeal against any order, scheme or sale effected under the Act.</p> | <p>At least one right of appeal should be provided as even High Court orders are appealable. Moreover, if no provision for appeal exists, then Articles 226/227 of the Constitution will be frequently invoked by a company or persons concerned against each and every order of BIFR.</p> | |
| 11. | <p>Explanation to Clause 38 of the Bill provides that for the purpose of this Section -</p> <p>(a) Company means any body corporate and includes a firm or other association of individuals; and</p> <p>(b) director in relation to a firm means a partner in the firm.</p> | <p>As firms are covered under the law but only undertakings, registered companies are covered by Section 3(1)(p) this Clause should be amended accordingly.</p> | <p>The Commission does not agree with the suggestion.</p> |

CONSUMER AFFAIRS

S.No	Nature of Problem	Suggestions for Reform received from user groups	Comments of Ministries/Depts.	Remarks of the Commission
ESSENTIAL COMMODITIES ACT				
1.	Various control order regulating the manufacturers, distribution and commercialization of food articles have been promulgated by different departments such as Fruits Product Control Order, 1955 administered by Ministry of Food Processing, Vegetable Oil Product Control Order, 1947 administered by Directorate of Sugar. It has been found that in certain cases the specifications are at variance thus leading to confusion in the minds of the manufacturers for example PFA Act does not allow use of artificial sweetners in food product except in Carbonated water and Pan Masala whereas FPO permit use of the same in some food product.	There is an immediate need to harmonise the various control orders and the specifications contained therein.	Govt. had promulgated an Ordinance in April 1998 to amend the ECA. Govt. also decided in October 1997 not to extend the Essential Commodities (Special Provisions) Act. Subsequently, a Bill was introduced to amend ECA which provided for the implementation of recommendations of the Expert Committee including transfer of some provisions from the Special Provisions Act, constitution of special courts by State Govts and summary procedure for trials, for prevention of misuse of power by lower field functionaries and for the elimination of delays. Further recommendations of the group are compulsory review of the list of essential commodities at least once a year in consultation with trade bodies and consumer organisations, giving allowance for difference between physical stock and stock on record due to climatic conditions and movement of stock in transit, power of search and seizure with Tehsildar, power of District Collector to sell commodities through PDS channels. The Bill has been referred to a Select Committee. An inter-ministerial group headed by Secretary, Department of Consumer Affairs reviews steps to reduce/simplify the orders issued by 13 Ministries.	The Commission feels that there is a need to harmonise the various control orders that have been issued from time to time with regard to specific matters so as to reduce the confusion existing in this matter. The Commission recommends that to secure harmonization of the orders, all control orders which other Ministries issue should be in consultation with the Department of Consumer Affairs. Efforts should also be made to reduce and simplify the orders from time to time. The continuance of a commodity as an essential commodity specified or notified in the Act should be reviewed at least once a year.

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| 2. | It has been provided in the Act that no officer below the rank of Sub Inspector of Police shall arrest any person accused of committing an offence under this Act notwithstanding anything contained in the Code of Criminal Procedures, 1973. | The provisions of the Act should be amended to make an offence in the Act bailable, penalties should be grade according to the gravity of offence and guidelines may be provided for technical offences for which no prosecution is to be launched. | It is not possible to agree to the suggestion of industry to make all offences as bailable. Amendments provide for making several offences as bailable for trial of offences through special courts, and for grading the penalties according to gravity of the offence. Fine has been quantified at Rs.10,000/- for first violation and upto Rs.20,000/- for second and subsequent offences and between Rs25,000/- and Rs.50,000/- for serious offences. Term of imprisonment to continue. | The Commission agrees with the views of the Department. The Commission suggests that trial of offences by the Special Courts should be by a summary procedure but punishment over 2 years imprisonment may be provided for in the ECA (Amendment) Bill, after consulting the relevant provisions of Cr.P.C. It also agrees with the grading of penalties according to offences. |
| 3. | The penal provisions of the Act were made more stringent through Essential Commodities (Special Provision) Act. It has been extended for periods of five years. An appellate jurisdiction has been extended for periods of five years. An appellate jurisdiction has been transferred from the judiciary to the executives and innocent traders are being harassed for the offence without any mensrea. | In view of the problems stated and as production of foodgrains have multiplied between 1955 and 1995 and Consumer Protection Act has been introduced to safeguard consumers' interest, it is necessary to withdraw the Essential Commodities (Special Provision) Act. The list of essential commodities may be shortened on the basis of its mass consumption, being an important raw material for mass consumption items, that it is a universal intermediate which goes into the production of a wide range of products and on the basis of demand and supply. The limits placed on stock and foodgrains should be removed and should be enforced only during time of scarcity. Restrictions on movement of foodgrains should be lifted, only senior officer of the Company should be liable for prosecution, variations in stock limits should be allowed. A seizure should be restricted only to the commodities in respect of which violation is noticed and not of all the commodities in the shop. The guidelines issued by the Central Government for implementation of the Act should be circulated to Chambers of Commerce & Industry and Trade Associations. | Decisions relating to removal of restrictions on the movement of essential commodities would be taken by concerned administrative Ministries. The position regarding the statutory amendments has been indicated. These have taken industry's views into account. The list of essential commodities has been reduced over the years. | The Commission endorses actions taken by the Department. It urges the Department of Consumer Affairs to persist with its efforts for coordinated action by other Ministries enforcing EC Act. The interests of traders and consumers would need to be balanced in the implementation of the Act, since the prevention of hoarding and profiteering is in the interests of weaker sections. |

Standards of Weights and Measures Act, 1976

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| 1. | The provisions of the rules made under this Act are applicable to all food imported or manufactured in the country. Out of experience in mentioning the MRP on the label, imported packages are | It should be made possible for domestically manufactured items to use MRP on the labels. | After August 1993, the use of price stickers on packages is not permitted. Packages of some imported products contained stickers. Domestic trader should require the foreign supplier to provide for packaging and labeling in conformity with Indian law. | The Commission noted the wide disparity between the cost of an article and price noted on the label in respect of a number of commodities and that MRP is frequently revised without any reason. Therefore, the Commission wanted to have a legislation for regulating average cost of article. It is the considered view of the Commission that there should be a separate general enactment to regulate the price of |
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allowed to use stickers whereas domestically manufactured items are not allowed to use the same.

packaged goods. The Commission recommends that the maximum retail price (MRP) label on the packaged goods should not exceed 30% of the ex-factory price or cost of manufacture. In the case of goods which are subject to excise, the cost of the manufacturer should be known. This suggestion is, subject to the concurrence of Deptt. of Revenue. However, the enactment should have an enabling provision by virtue of which a customer can challenge the price stated on the goods. The standard and packaging requirements prescribed for Indian manufacturers should apply to imported goods also. An early decision on this point may be taken.

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| 2. | The Weights & measures (Packaged Commodities) Rules expect that all information required thereunder should be printed in the pre-displayed package, the information relating to date of manufacture, MRP or such like other information which varies from batch to batch cannot be shown on the pre-displayed package. | The respective rules made under the Act to be amended to obviate the problem of manufacturers. The details about the product can be stated at any other place for consumers observation and not necessarily on the pre-displayed package. | Industry or trade were required to mention MRP on the label, but it may be difficult to mention the ex-factory price because of the reluctance of Deptt. of Revenue. Trader is not allowed to use 'local taxes extra' except for drugs. Problems of MRP should be resolved after discussion with Deptt. of Revenue & Industry. Standing Committee on pre-packaged commodity is considering. | |
| 3. | The Director or any authorised person has powers under the Act to seize the goods from the premises of the traders for any offence under this Act. | It is suggested that goods which are subject to speedy or natural decay may be disposed off by the Director or other authorised person in such manner as may be prescribed. All searches and seizures made under the Act shall conform to the provisions of the Cr.P.C. 1973 relating to searches and seizures. | The existing provisions provided for disposal of perishable goods and for following the procedure under Cr.P.C. | The Commission agrees with the Department. |
| 4. | Difficulty arises with regard to the definition of Pre-packaged Commodity Rule 2(e). | The definition of pre-packed commodity should be amended to make the rule applicable only to sealed packages. Such packages where the customer can take out the commodity from the protective covering for | It is not possible to agree to this suggestion since 90% of the products will get exempted and this is not in the interest of the consumer. | The Commission agrees with the Department. |

examination and trial should not be treated as prepackaged commodity.

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| 5. | The provision of waiver for illegible/rubbed off declarations. | <p>Rules 24, 25 and 26 should be amended to avoid harassment of a manufacturer, packers where a single package declaration is rubbed off or made eligible due to any reason whatsoever and the manufacturer should get the same benefit of 5% errors waiver as applicable for clearing a batch of packages while they are tested for error or deficiency in weights and measures. The system being followed by the manufacturer should be given due consideration while filing cases. The Inspector must check larger number of packs with dealers and not file prosecution for the information missing in one or two packs.</p> | <p>It is not possible to make any allowance for failure to make the declaration in respect of commodities but allowance can be made for accidental erasure and for lesser quantity upto 1 to 2% of the sample. The number of cases booked for rubbing off information is negligible.</p> | <p>The Commission is of the view that the Department may implement their decision early.</p> |
| 6. | Warranty Clause | <p>Traders should not be held responsible for any shortage or deficiency in the case of packed items sold in the original form in which they are supplied to them by the manufacturer or packers if they have not been tampered with. It is suggested that the following provision may be incorporated in the Act.</p> <p>"The bill, cash memo or invoices in respect of sale of any pre-packaged commodity given by a manufacturer, distributor, dealer in such pre-packaged conditions to the vendor thereof, shall be deemed to be a warranty given by such manufacturer, distributor or dealer to the effect that such pre-packaged commodity is in compliance with all the provisions of the Act and Rules.</p> | <p>This could be considered by the Committee but it was felt that it would be misused by the trader. Normally, retailer is not held responsible for the package has not been tampered with.</p> | <p>The Commission felt that if the packaged item has not been tampered with at the time of sale of the item, the warranty clause should apply to the manufacturer and distributor/dealer who has supplied the goods.</p> |
| 7. | Offences by Companies. | <p>Many partners/directors who do not take active part in the day to day operations of the firm, companies are prosecuted for offences under the Act. It is necessary that unnecessary harassment to them may be avoided by giving opportunity of being heard before launching prosecution. Companies should be entitled to authorise any officer director or manager to exercise all powers and ensure compliance under the Act and the rules and shall give notice to the office of the Controller, Legal Metrology of the concerned State or Union Territory about such</p> | <p>This suggestion can be considered. Normally, notice is given to the Directors of the company before taking up prosecution. Out of about 10,000 cases taken up each month all over the country, about 90% are usually compounded. It is difficult to step up the rate of prosecution due to inadequate staff. The Expert Group has recommended that a company may nominate a person responsible for the compliance of the Act. Also, provisions for making appeal, revision of</p> | <p>The Department may consider the suggestion of users. The Commission suggests that the provisions of the Act should be comprehensively and effectively enforced at the ground level itself.</p> |

nominations along with the written consent of such director or manager.

maximum fee, for survey and collection of statistics in respect of pre-packaged commodities, officers under the Act be declared

as public servants and for transparency, easy detection of verification mark etc.

CONSUMER PROTECTION ACT, 1986

1. Under this Act, it is necessary to improve the consumers grievance redressal system and promote effective functioning of consumers courts in particular.

It is suggested that a full time judicial Member and one part time non-judicial Member should sit on the Consumer Court. It is found that generally there is no judicial member and two non-Judicial Members attend the Consumer Court during alternate weeks by turn or some alternate arrangements. All decisions of the Consumer Courts in all the 3 tiers are subject to one Appeal. Judgement writing responsibility falls on one full time judicial member, the Chairman. In the absence of the law clerk or legal researcher, there is delay in delivery of decisions. In United States there used to be one law clerk attached to one judge, now 4 law clerks are attached to a judge with further assistance of staff Attorney who help in writing draft judgements.

The Department of Consumer Affairs monitors the functioning of the National Commission and gets periodic information of the working of State & District Consumer forums. It was found that most cases were disposed of between 6 months to a year and 25% cases were disposed of in 90 days.

State Governments are quite lax in enforcing the Act and assign low priority to the functioning of consumer courts. The quality of case disposal suffers due to shortage of members. Department has suggested to have benches for National & State Commissions. The working of the Act was being regularly reviewed in meetings with State officials. It was found that the collected funds are often not fully used for improving the courts' infrastructure, and there were shortfalls in staff and appointment of members. Low remuneration led to a few qualified persons opting to be members.

The Commission has been told that the Ministry of Consumer Affairs monitors the functioning of the National Consumer Disputes Redressal Commission only and depends on the State Governments for monitoring the working of State CDR Commissions and the District Forums. From the figures furnished, the Commission finds that the time taken for disposal of cases is too long, and adjournments are given repeatedly. The Commission is of the view that the State CDR Commissions should be asked to monitor the working of the District Forums as provided in the Act. They should be asked to ensure effective supervision over the District Forums. There should be dissemination through internet and other modes of important decisions.

The Commission found that the District forums are not deciding cases expeditiously and the time limit for disposal of cases is not being followed. In many cases their working is more akin to the civil courts.

The Commission recommends that where the institute or pendency of cases in a district is more, there should be more district forums. The State CDR Commissions should consider sitting in benches on tour in circuit. The National Commission should go in for more circuit hearings of matters. So far as District Forums are concerned, the sitting District Judge of the district should not be made the simultaneous Presiding Officer of the District Forum i.e., there should be no dual arrangement. The Presiding Officer should be a whole-time person. The remuneration payable to non-judicial members should be revised upwards and adjournment of cases due to want of quorum should be minimised. State Governments should assign higher priority to consumer

				protection and effective working of the courts. The members should be chosen with care and all existing vacancies should be filled and advance timely action should be taken to fill the vacancies. The timely disposal of cases should be regularly monitored.
2.	Alternate Resolution.	Disputes	To reduce the load of Consumer Court and to make redressal of grievances quick and inexpensive it is necessary to follow alternative disputes resolution mechanism. An alternate dispute resolution through arbitration may be introduced with the help of CII and FICCI to have system akin to Better Business Bureau of USA and Canada.	<p>This suggestion can be examined. The Expert Group has recommended that the term 'services' be redefined as to its scope, consumer courts be autonomous, branch office be redefined, consumer courts to dispose the cases speedily and protect the interests of helpless consumers, State Commission to constitute benches to reduce the pendency of cases and seniormost member to act as President when the President in office of a District Forum or State Commission is by reason of absence, unable to perform his duties.</p> <p>The Commission is of the view that an Alternate Dispute Resolution mechanism should be set up by trade and industry on lines similar to Better Business Bureau in USA and Canada. If necessary, Government may make provision in the Consumer Protection Act for this purpose. There should be a statutory provision also for consumers to resolve disputes through arbitration on the lines of provisions contained in CPC amending bill.</p>
3.	Ombudsman in Banking Sector.	the	Ombudsman Scheme introduced by the Reserve Bank of India some years ago have shown some inadequacy. Firstly banks do not honour the award given by the Ombudsman and in some cases challenge them in the Court of Law. Secondly, some Ombudsman are taking a very strict narrow view of the jurisdiction going literally by the words used in the scheme. The RBI should issue some directions to the Ombudsman in this behalf. Ombudsman must also have the powers to declare the unfair contracts or conditions of contractors as illegal and not binding on the consumers.	<p>This suggestion can be examined.</p> <p>The Commission commends effective use of Ombudsman in the Banking Sector as suggested by users.</p>
4.	Ombudsman in Insurance Sector.	the	The scheme to introduce Ombudsman in the insurance sector should be finalised in consultation with the consumer organisations.	<p>This suggestion has been agreed to.</p> <p>The Commission recommends early implementation.</p>
5.	Voluntary Arbitration		The use of voluntary arbitrations in US and Canada for resolving all disputes relating to business, employer and employee, government and contractors, consumer and business, sexual harassment of female employee, denial of statutory rights and discrimination against arbitrations. Retired judges and lawyers offer services for conciliation	<p>There was no proposal to consider voluntary arbitration.</p> <p>The Commission supports voluntary arbitrations as suggested, in order to reduce the load on civil and consumer courts.</p>

mediation and arbitration. This alternate disputes resolution mechanism should be adopted in India; by that, time and cost of Indian judiciary and consumer courts can be minimised.

6. Unfair terms of contracts.

Goods once sold shall not be taken back is engraved in all bills issued by traders and shopkeepers. This denies relief or remedy to the consumer. In the UK, there is Statute called "Unfair terms of Contract Act". Many advanced countries also have Product Liability Act and Right to Information act. These laws should be made and enforced in India also.

This suggestion can be examined.

The Commission is in agreement with the suggestion to have separate enactment of Unfair Trade of Contract Act as in the U.K. or provisions for the same may be made in the CPA itself.

7. Builders Licensing Board Act.

With increasing number of complaints against builders right from the defective title to the property, delays and unsafe structure, escalation in price, mis-representation regarding land/build-up or the violations of municipal laws make it necessary that like advanced countries we should also have Builders Licensing Board Act. The expression builder should also include those who are engaged in big and small jobs connected with constructions, plumbing, electrical and wiring contractors. A 7 years guarantee for any defect in the construction should be provided for, a model contract between builder and consumer should be prepared.

This suggestion can be examined.

The Commission supports the idea of a Builders Licensing Board Act. This would be complementary to the statutory regulation of builders. The suggestion be implemented early in the context of observations at S.No. 1 (Weights and Measures Act).

8. Imported Food Article and Drugs.

It is suggested that the Government may examine application of standards, certification of marks, information labelling and care labelling in respect of imported foods, pharmaceutical or other electronic appliances. Same should be done in respect of pre-packaged drinking water.

This suggestion can be examined.

The Commission recommends that the suggestion be examined by the Government early.

List of 129 Orders issued under the Essential
Commodities Act by 13 Ministries/Departments

S.No.	Ministry/Department	Commodity		Title of Control Order
1.	D/o Coal	Coal including coke and other derivatives	(i)	Colliery Control Order, 1945 - amended in 1996.
2.	M/o Steel	Iron & Steel, including manufactured products of Iron & Steel	(i)	Iron & Steel (Control) Order, 1956 - clause (7) kept in abeyance. This relates to conditions for use of Iron & Steel.
3.	D/o Agriculture & Cooperation	Fertilizers, whether inorganic, organic or mixed	(i)	Fertilizer (Control Order), 1985
		Seeds of food crops & seeds of fruits and vegetables	(ii)	Fertilizer (Movement Control) Order, 1973
		Seeds of cattle fodder & jute seeds	(iii)	Plants, Fruits & Seeds (Regulation of Import into India) Order, 1989
			(iv)	Seeds (Control) Order, 1983
4.	D/o SSI & ARI	Coconut husk (raw or retted)	(i)	Coconut Husks Control Order, 1973
		Coir fibre extracted from coconut husks		
5.	D/o Food & Civil Supplies	Foodstuffs, including edible oilseeds & oils	(i)	The Coarse Grains (Removal of Control) Order, 1954
6.	D/o Sugar & Edible Oils		(ii)	Delhi (Milk & Milk Products) Control Order, 1976
			(iii)	Delhi (Restriction on Import of Wheat Atta) Order, 1959

- (iv) Delhi Roller Flour Mills (Atta Price Control) Order, 1958
- (v) Delhi Roller Flour Mills Products (Price Control) Order, 1962
- (vi) Delhi Roller Mills Wheat Products (Ex-Mills and Retail) Price Control Order, 1971
- (vii) Delhi Roller Mills Wheat Products (Ex-Mill and Retail) Price Control Order, 1979
- (viii) Delhi Specified Food Article (Movement Control) Order, 1966
- (ix) Delhi Specified Foodstuffs (Declaration & Prohibition of Sale) Order, 1965
- (x) Delhi Sugar (Declaration of Stock & Prohibition of Unauthorized Sale) Order, 1965
- (xi) Delhi Sugar (Restriction on Sale & Possession) Order, 1996
- (xii) Delhi Wheat (Export Control) Order, 1959
- (xiii) Delhi Wheat & Wheat Products (Export Control) Order, 1959
- (xiv) Delhi, Meerut & Bulandshahr Milk Products (Control) Order, 1973
- (xv) Foodgrains Movement Restriction (Exemption of Seeds) Order, 1971
- (xvi) Foodgrains (Licensing & Procurement) Order, 1952
- (xvii) Foodgrains (Prohibition of Use in Manufacture of Starch) Order, 1966
- (xviii) Foodgrains (Prohibition of Use in Manufacture of Starch) Order, 1971
- (xix) Food Products Order, 1955
- (xx) Gur (Movement Control) Order, 1963
- (xxi) Gur (Regulation of Use) Order, 1968
- (xxii) Imported Foodgrains (Prohibition of Unauthorised Sale) Order, 1971
- (xxiii) Imported Foodgrains (Prohibition of Unauthorised Sale) Order, 1958
- (xxiv) Indian Maize (Temporary Use in Manufacture of Starch) Order, 1970
- (xxv) Inter-Zonal Wheat & Wheat Products (Movement Control) Order, 1964

- (xxvi) Inter-Zonal Wheat & Wheat Products (Movement Control) Order, 1973
- (xxvii) Inter-Zonal Wheat & Wheat Products (Movement Control) Order, 1976
- (xxviii) Levy Sugar Supply (Control) Order, 1979
- (xxix) Levy Sugar Supply (Control) Order, 1972
- (xxx) Meat Food Products Order, 1973
- (xxxi) Pulses, Edible Oilseeds & Edible Oils (Storage Control) Order, 1977
- (xxxii) Rice (Prohibition of Use in Wheat Products) Order, 1958
- (xxxiii) Rice & Paddy (Southern Zone) Movement Control Order, 1976
- (xxxiv) Roller Mills Wheat Products (Price Control) Order, 1965
- (xxxv) Roller Mills Wheat Products (Ex-Mill) Price Control Order, 1969
- (xxxvi) Salt (Price Control) Order, 1977
- (xxxvii) Salt (Reserve Stock) Order, 1955
- (xxxvii) Salt (Assam Reserve Stock) Order, 1973
- (xxxix) Solvent-extracted Oil, De-oiled Meal & Edible Flour (Control) Order, 1967
- (xl) Solvent-extracted Oil, De-oiled Meal & Edible Flour (Delegation of Powers) Order, 1968
- (xli) Sugar (Control) Order, 1966
- (xlii) Sugar (Packing & Marketing) Order, 1970
- (xlili) Sugar (Movement Control) Order, 1959
- (xliv) Sugar (Price Determination for 1986-87 Production) Order, 1986
- (xlv) Sugar (Price Determination for 1987-88 Production) Order, 1987
- (xlii) Sugar (Price Determination for 1988-89 Production) Order, 1988
- (xlvii) Sugar (Price Determination for 1989-90 Production) Order, 1989
- (xlviii) Sugar (Price Determination of 1990-91 Production) Order, 1990

- (xlix) Sugar (Restriction on Movement) Order, 1972
- (L) Sugar (Restriction on Movement) Order, 1979
- (Li) Sugar (Retention & Sale by Recognised Dealers) Order, 1979
- (Lii) Sugarcane (Control) Order, 1966
- (Liii) Sugarcane Press-Mud (Control) Order, 1959
- (Liv) Vegetable Oil Products (Control) Order, 1947
- (Lv) Vegetable Oil Products Producers (Regulation of Refined Oil Manufacture) Order, 1973
- (Lvi) Vegetable Oil Products (Standards of Quality) Order, 1972
- (Lvii) Vegetable Oil Products (Standards of Quality) Order, 1975
- (Lviii) Wheat (Price Control) Order, 1974
- (Lix) Wheat (Removal of Movement Control) Order, 1955
- (Lx) Wheat (Regulation of Use in Roller Mills) Order, 1958
- (Lxi) Wheat Roller Mills (Licensing & Control) Order, 1957
- (Lxii) Cold Storage Order, 1964
- (Lxiii) Cold Storage Order, 1980
- (Lxiv) Delhi (Guest Control) Order, 1959

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| 7. | D/o Animal Husbandry & Dairying | Cattle fodder, including oilcakes and other concentrates |
| 8. | M/O Textiles | Cotton & woolen textiles, Raw Cotton, either ginned or unginned and cotton seeds |
| | Raw Jute | |
| | Jute textiles | |

- (i) Art Silk Textiles (Production and Distribution) Control Order, 1962
- (ii) Cotton (Control) Order, 1955
- (iii) Cotton (Control) Order, 1986

9.	D/o Chemicals & Petrochemicals	Textile Machinery:- (i) Knitting machine (ii) Spinning machine (iii) Lace making machine (iv) Powerloom and (v) Processing machinery	(iv)	Cotton Textiles (Control) Order, 1958
			(v)	Cotton Textiles (Control of Movement) Order, 1948
		Textiles made from silk	(vi)	Jute (Licensing and Control) Order, 1961
		Textiles made wholly or in part from man-made cellulosic and non-cellulosic spun fibre	(vii)	Jute Textiles (Control) Order, 1956
			(viii)	Linoleum (Price Control) Order, 1974
		Textiles made wholly or in part from cellulosic and non-cellulosic filament yarn	(ix)	Staple Fibre Distribution Order, 1972
		Man-made cellulosic and non-cellulosic staple fibre	(x)	Synthetic Rubber (Price Control) Order, 1969
			(xi)	Textiles (Control) Order, 1986
		Yarn made wholly or in part from any of the following materials, namely:- i) cotton (ii) wool (iii) man-made cellulosic spun fibre. (iv) man-made non-cellulosic spun fibre (v) silk	(xii)	Textiles (Furnishing of Information & Statistics) Order, 1987
			(xiii)	Textiles (Production by Handlooms) Control Order, 1956
		i) Man-made cellulosic and non-cellulosic filament yarn (ii) Nylon tyre/cord/fabric	(xiv)	Textiles (Production by knitting, Embroidery, Lace making and Printing Machines) Control Order.
			(xv)	Textiles (Production by Powerloom) Control Order, 1956
			(xvi)	Woolen Textiles (Production and Distribution Control) Order, 1962
		Drugs Insecticides, Fungicides, Weedicides and the like	(xvii)	Drugs (Price Control) Order, 1979

10.	D/o Industrial Policy and Promotion		(ii)	Drugs (Price Control) Order, 1987
			(iii)	Insecticides (Price, Stock, Display and Submission of Reports) Order, 1986
		Component parts and accessories of automobiles	(i)	Cement (Conservation and Regulation of Use) Order, 1974
		Paper, including newsprint, paperboard and straw board	(ii)	Cement Control (Regulation of Production) Order, 1981
		Cement	(iii)	Cement Control Order, 1967
		General lighting service lamps	(iv)	Cement (Quality Control) Order, 1962
		Household appliances such as electric irons, heater and the like	(v)	Electric Appliances (Quality Control) Order, 1987
		Electric cables and wires	(vi)	Electric Appliances (Quality Control) Order, 1988
		(i) Switches for domestic and similar purposes	(vii)	Electric Cables and Wires (Control) Order, 1970
		(ii) 2-Amp switches	(viii)	General Service Electric Lamps (Quality Control) Order, 1989
		(iii) 3-pin plugs and socket outlets	(ix)	Household Electric Appliances (Quality Control) Order, 1981
			(x)	Imported Cars (Control) Order, 1961
			(xi)	Imported Cement (Control) Order, 1978
			(xii)	Motor Cars (Distribution and Sale) Control order, 1959
			(xiii)	Newsprint Control Order, 1962
			(xiv)	Non-Pressure Stove (Quality Control) Order, 1990
			(xv)	Oil Pressure Stove (Quality Control) Order, 1985
			(xvi)	Oil Pressure Stove (Quality Control) Order, 1997
			(xvii)	Paper (Control) Order, 1979
			(xviii)	Paper (Conservation and Regulation of Use) Order, 1974

			(xix)	Paper (Control of Production) Order, 1974
			(xx)	Paper (Regulation of Production) Order, 1978
			(xxi)	Tractors (Distribution and Sale) Control Order, 1971
			(xxii)	Tractors (Price Control) Order, 1967
			(xxiii)	Tyres and Tubes (Merchant Control) Order, 1974
11.	M/o Petroleum and N.G.	Petroleum and Petroleum Products	(i)	Lubricating Oils and Greases (Processing, Supply and Distribution Regulation) Order, 1987
			(ii)	High Speed Diesel Oil & Light Diesel Oil (Restriction on use) Order, 1974
			(iii)	Furnace Oil (Fixation of Ceiling Price & Distribution) Order, 1974
			(iv)	The Petroleum Products (Supply & Distribution) Order, 1972
			(v)	The Petroleum Products (Maintenance of Production) Order, 1970
			(vi)	The Petroleum (Storage) Order, 1971
			(vii)	The Petroleum Products (Regulation of Supply to Retail Outlets) Order, 1974
			(viii)	Kerosene (Restriction on use & Fixation of Price) Order, 1993
			(ix)	Motor Spirit & High Speed Diesel (Prevention of Black Malpractices in Supply & Distribution) Order, 1990
			(x)	LPG Regulation of Supply & Distribution Order, 1993
			(xi)	Paraffin Wax (Supply, Distribution & Price Fixation Order, 1997
			(xii)	Light Diesel Oil (Fixation of Ceiling Prices) Order, 1973
			(xiii)	LPG (Restriction on Use) Order, 1974
12.	M/o Commerce	Tea	(i)	Tea (Registration of Dealers & Declaration of Stocks) Order, 1984
13.	D/o Education	Exercise Books		

HEALTH

Sl.No	Nature of Problem	Suggestions for Reforms Reforms Received from User Groups	Comments of Ministry/Department	Remarks of the Commission
1.	<u>Prevention of food Adulteration Act, 1954</u>			
1.	The word 'Prevention of Adulteration' indicates a negative sense and much confusion arises because of efforts to treat both street food and food manufactured in the organised sector and sold in packs equally.	It is suggested that the name of the Act should be changed to Packaged Food Act and separate set of guidelines and regulations should be applicable to street food.	The objective of the existing Act is to prevent adulteration of food. The objective has to be achieved irrespective of mode of marketing food. In developing Countries like India where loose rate is predominant, the Act cannot make differentiation in the quality of Food sold in packaged/un-packaged form. To the best of our knowledge such differentiation does not exist in any other country.	The Commission agrees with the views of the Ministry.
2.	These days minor variations in the specifications are being treated as adulteration and minor variations in the declaration is treated as 'mis-branding'. Degree of punishment is same for all types of violations. Deviations within tolerance limits should not be considered as adulteration provided they are not injurious to health. Minor variations which do not have any bearing on the quality of the product like colours should not be penalised.	The expression 'adulterated' and 'sub-standard' should be two distinct clauses and punishment should be graded according to the gravity of the offence. Minor violations in printing should not also be considered as adulteration.	The suggestion for gradation of penalty clause is already under consideration in the Department of Health, which is considering the amendment of the PFA Act, 1954 on the basis of the Report of Task Force.	The Commission noted the proposals under the consideration of the Ministry and also suggests that punishment may go upto life imprisonment or death, if the adulteration results in death or grave physical disability.
3.	Checking tampering of Quality by spurious manufacturers.	The word 'wrapper' may be replaced as 'pre-packed wrapper' in Section 2(x) in the definition of 'package'.	The Prevention of Food Adulteration Rules 1955 have been amended in June, 1998 vide G.S.R. 380(E) dated 25th June, 1998, which clearly defines 'pre-packed commodity' and "wholesale package".	Noted
4.	The current definition of primary food is not realistic and does not cover animal products in natural form like milk. Several High Courts have held milk and other natural products to be primary food.	The definition of primary food in Section 2(xia) should be amended to provide for any product obtained from an animal.	The suggestion to include 'product obtained from an Animal' in the definition of Primary Food is not acceptable as unlike whole fruits and vegetables, paddy etc. where tampering is not possible, traditionally milk is adulterated with water since ages.	The Commission agrees with Ministry's views.

5. Constitution of CCFS

In view of the huge size of the Committee it has not been able to give attention to the Administration of the Act and the formulation of the rules thereunder. It is, therefore, suggested that DG Health Services, Director (CFL), two experts in Food Safety, 3 officers from the Central Government, 1 representative of every State in each Zone and Union Territory, 5 representatives from Agriculture Commerce and Industry, Consumer and the BIS should be appointed to be Members of the CCFS.

The suggestion has already been considered by the Deptt. of Health while considering the Report of Task Force for amending the PFA Act, 1954. The suggestion has not been accepted as the States/U.Ts. implementing the Act have to be associated as Members. The present procedure could be improved upon only when full fledged C.C.F.S. Secretariat is created.

The proposal for Creation of Food ombudsman was not agreed by the Central Committee for Food Standards (CCFS).

The Commission is of the view that following changes should be made in the composition of CCFS:-

- A)(i) The Chairman should be an independent non-official expert.
- (ii) Reduce official representation from Central Govt. under Sub-section 2(d) of Section 3.
- (iii) Instead of representation to all the States, provide for 4 to 5 representatives on a rotational basis and reduce the UT representation to (one), by rotation under clause 2(two)
- (iv) Reduce the representation of consumer organisation to 3(three).
- B) The CCFS should set up a Standing Committee which would take final decision on the reports of sub-Committees throughout the year and remit them for the decision of the Govt.
- C) The Ministry should initiate urgent action to set up a full-fledged secretariat of CCFS with adequate professional staff. The head of this Secretariat should be a full time convenor of the CCFS, Standing Committee & Sub-Committee.

6. Storage Simplicitor.

Storage simplicitor cannot be an offence as large industries and hotels take measures to upgrade the quality of food before serving it to the customer. It is, therefore inequitable that they may be penalised for storage simplicitor. It is suggested that after the word 'store' in Section 7 of the Act, the word 'store for sale' may be added and the explanation to the Section may be deleted.

The proposed amendment to quantify the word 'Store' as 'Store for Sale' is not accepted as the same may lead to implementation problems in respect of checking of raw materials used in the manufacture of finished products.

The Commission agrees with Ministry.

7.	Any item not intended for sale should not be a legitimate concern of the Law. Therefore, there is no point in sampling what is not intended for sale.	A proviso may be added to Section 10(2) of the Act as follows - "Provided further that no sample of any article of food shall be taken under this Sub-Section from any quantity which is not intended for sale".	Not accepted for the reasons given in para 6 above.	The Commission agrees with Ministry.
8.	There is no provision in the Act for giving a part of the sample to the person from whom the sample is taken.	The sample should be divided into 4 parts instead of 3 and one part should be given to the person from whom the sample has been taken. Section 11(1)(b) and (c) of the Act may be amended accordingly.	We may agree, provided the 4th Counter part of the sample is accepted by the Vendor for his own satisfaction. But the same should not be used for any legal purpose.	Person from whom sample is taken should also be given a sample duly sealed which can be used only in case of dispute regarding authenticity of the sample.
9.	Section 13(2) of the Act provides for notice only to the person from whom the sample is drawn and any person whose name has been disclosed under Section 14 A.	It would be equitable to add a new explanation to Section 13(2) as follows: 'for the purpose of this sub-section all the accused persons in a trial are entitled to notice'.	The proposed suggestion does not appear to be legally and practically enforceable.	The Commission agrees with the Ministry's views.
10.	Unlimited power has been given to the CFL in respect of its test report. When any discrepancy or mistake occurs the same cannot be accounted for. The report of the Public Analyst if believed to be erroneous may be disregarded and another report obtained. CFL are sometimes not well equipped with sophisticated equipment and chances of human error on the part of the analyst are very high. Any penalty decision or fine based on these wrong reports cannot be justified.	Section 13(2E) should be deleted altogether as it provides that the certificate issued by the Director of CFL shall supercede the report given by the public analyst.	Not accepted, as the Report of the Director Central Food Laboratory has to be given higher status for the proper administration of the PFA Act, 1954.	The Commission agrees with the Ministry's views.
11.	There should be some provision for compounding of an offence in the case of 'Sub- Standard' product as in the case of Weights and Measures Act.	Compounding in the case of sub- standard products should be introduced in place of punishment and necessary amendments in the penalty section may be carried out.	The suggestion may be accepted as a proposal on this aspect is already under the consideration of the Deptt. of Health and Family Welfare.	The Ministry should expedite implementation of the suggestion.
12.	In Section 17(2) it is not specified as to which local authorities, a company is supposed to file the papers.	The nomination papers for a company shall only be filed at the State capital with a local authority notified by the State for this purpose. Accordingly, Section 17(2) read with Rule 12-B may be amended.	The existing provisions under Rule 12-B of the Prevention of Food Adulteration Rules, 1955 clearly provide that nominations u/s 17(5) of the PFA Act, 1954 can be sent to the Local (Health) Authority of the concerned Local Area and hence there is no confusion on this point.	The Commission agrees with the Ministry's views.

13.	Under Section 20, the Government can authorise a person to institute prosecution under the Act but no qualifications are laid down.	It is suggested that no prosecution shall be instituted for an offence (other than under Section 14 or 14(A) except by or with the written consent of a Committee to be constituted in this regard by the Central Government or a State Government consisting of 3 Members to be appointed by the Government.	The suggestion has already been considered by the Deptt. of Health in connection with the report of Task Force but the same was not agreed to.	The Commission agrees with the Ministry's views.
14.	There is a need to delete Section 20 AA as it does not provide for probation on very insufficient premises.	This Section should be deleted. The sentencing court is best fitted to assess the criminality of the act committed by an accused.	It may not be rightly resorted to in serious cases where the offender is anti-social and his immediate and prolonged confinement is the best assurance of society's protection. However, the Deptt. of Health may like to consult Ministry of Law on this point.	The Commission agrees with the Ministry's views.
15.	Notice before Prosecution.	There should be a provision (new Section 20 B) to provide for 3 weeks notice and also an opportunity to the accused to present his views orally or in writing and with regard to any contemplated prosecution. The notices should identify in writing, the article of food or adulterant, the conduct alleged, basis of the prosecution, purpose and procedures of presentation of views by the person notified and the place and time when the same may be made orally or in writing.	This is not a feasible proposition, We may not agree.	The Commission agrees with the Ministry's views.
16.	Minor Violations.	It is necessary to have a discretionary power to prosecute in the Act. It is suggested that (new Section 20 C) should be added to provide that where in the opinion of the authority, the public interest will be suitably served by a notice of warning to the person alleged to have committed an offence, no prosecution may be instituted.	A proposal on this aspect has already been accepted by the Deptt. of Health while considering the Report of the Task Force.	The Commission recommends early implementation.
17.	Compounding of offences	Having regard to the fact that many offences under the Act are not causative of serious harm to the public or individuals, power should be given to competent authority to compound such offence. A new Section 20 D may be added to provide that the food (health) authority may have the power to compound the offence on payment of such sum to the State Govt. as the authority may specify.	A proposal on this aspect has already been accepted by the Deptt. of Health while considering the Report of Task Force.	Taken note of Ministry's comments.

18.	There is no time limit under the Act within which a prosecution should be initiated.	A new Section 20 E may be added to provide for a time limit of 6 months for prosecution from the date on which the sample is taken.	The Deptt. of Health has already agreed to provide for a time limit of one year for launching of prosecutions under the provisions of the PFA Act. 1964.	The Commission agrees with Ministry's comments.
19.	Non-interference by Officers.	A new Section 22 C may be added to provide that the officers exercising any function under the Act shall not cause any inconvenience that is avoidable or any interference with trade or business that is not reasonable and it should be provided that a breach of the same will invite penalty for the concerned officers.	The suggestion has been considered by the Deptt. of Health earlier also but not accepted.	The Commission agrees with Ministry's comments.
20.	Action under other laws.	If an offence committed under this Act also amounts to an offence under any other law (not being the IPC) then in respect of such offences, a prosecution shall not be instituted except where the offence may lead to death or grievous hurt. A new Section 228 may be added.	- do -	The Commission agrees with Ministry's comments.
21.	Identifying the Laboratories.	A new Section 23(1) (ee) should be inserted allowing Public Analyst to conduct tests in identified and authorised private laboratories.	The Deptt. of Health has already accepted the suggestion while considering the Report of Task Force.	The Commission noted the comments of Ministry and suggested early implementation.
22.	In the past some State Govts. with delegated powers had issued orders without obtaining the sanction of the State Legislatures.	In Section 24(e), the word 'after consultation with Committee' should be replaced by 'written consent' of the Committee of the CCFS.	The suggestion is not linked with the nature of problem.	The Commission agrees with the comments of Ministry.
23.	Food Inspector	The Act should prescribe uniform method of sampling and analysis for different classes of products and the manual specifying these methods should be notified and made part of the rules. It should be strictly followed by the Food Inspectors and Public Analyst to ensure transparency.	The general procedure for sampling have already been laid down under the PFA Act/ Rules. Guidelines for sampling of milk and milk products and also fats have also been circulated to the States/UTs. The manual of methods of analysis have been brought out and made available to States/UTs, Industry and Consumer Organisations. As these methods need to be updated from time to time, they cannot be brought under the statutory rules.	Comments of Ministry noted.

24. Rationalisation of Penalties	<p>The penalty provided under the Act should be graded as follows:-</p> <ul style="list-style-type: none"> a) substances falling below prescribed standards due to natural factors but not harmful be considered as adulterated. b) substances falling below prescribed standards due to human agency but not injurious may be left to the discretion of the Court. c) food injurious to health - imprisonment or fine or both. d) food likely to cause death or grievous hurt - maximum life imprisonment or fine. e) mis-branding/labelling where consumer is not prejudiced - compounding may be allowed. 	<p>The suggestion for rationalisation of penalties has in principle been agreed to by the Department of Health and is under the consideration of the Govt.</p>	<p>Reference is invited to observation of the Commission at Sl. No.2.</p>
25. Violations of guarantee discretion of the Court.	<ul style="list-style-type: none"> i) Various laws govern labelling such as PFA, Weights and Measures Act, BIS Act, Control order like FPO, VOP etc. Since some of these Acts/Orders are at variance with PFA, this leads to harassment to the food industry and trade. ii) Moreover, many labelling rules under PFA have become obsolete and ought to be deleted in view of the international labelling regulations. iii) At present there are no guidelines for labelling of nutritional food, health food, dietary food. These needs to be provided to protect the consumer exaggerated claims. 	<p>The Prevention of Food Adulteration Rules are amended from time to time in the light of the provisions existing under various other Acts. The person who has made the suggestion may bring out a paper pin-pointing the obsolete provisions.</p> <p>Guidelines for Labelling of Nutritional/Health Foods are being worked out by the C.F.T.R.I. Mysore.</p>	<p>The problem raised by user groups requires serious consideration.</p> <p>Ministry should address the problem in consultation with the user groups.</p> <p>The suggestion deserves serious consideration.</p>
26. Licensing	<p>Licence laws of various State/Corporations for food establishments are not uniform. They do not provide GMP or GHP. The Committee on Subordinate Legislation of Parliament has suggested draft model bye laws for adoption of the States.</p>	<p>Draft Model State Prevention of Food Adulteration Rules have since been circulated to the States/UTs for the purpose of ensuring the uniformity. Moreover other Co-related issues are examined when such draft rules are sent to the Directorate General of Health Services u/s. 24(1) of the PFA Act, 1954 for Consultation of the C.C.F.S.</p>	<p>The Ministry should finalise the model rules early.</p>

27. Problem of State laws and rules for PFA.	Appropos the comments of the Task Force of CIFIL, how to reconcile contrasting provisions for penalty (even life sentence in West Bengal) in different States, and the problems this causes for inter-state movement and trade.	At present there is no inconsistency in the penalty provisions laid down by the Govt. of West Bengal and under the PFA Act, 1954 as far as life imprisonment is concerned. The problem alleged to be faced in the inter-state movement and trade need to be spelt out by the person suggesting the amendment.	The Commission is of the view that the provision of a different punishment in a State Law does not necessarily mean inconsistency with the Central Law.
28. Food standards for imported and exported articles.	CODEX and BIS is also concerned here. Problems of exported Indian foodstuffs conforming to PFA Act but not conforming to international standards, and problems for conformity for exporters to India. This has implications for foreign trade and WTO. What happens if the exporting country's standards are inferior ?	The export and import is always governed by bi-lateral agreements. CODEX Standards are not mandatory. This has been clarified by the SPS Committee of WTO which has held that countries should formulate their own standards.	The Commission agrees with the comments of Ministry.
29. Use of food additives.	Use of food additives namely colour, preservative, anti-oxidant, flavour, artificial sweetness have been added on different occasions in the rules. These need to be re-edited and aligned with international standards as well as WTO Agreement on SPS etc.	The use of additives has to be governed by technological needs, cultural/traditional/ dietary practices prevailing in the country as well as nutritional status of the consumers. CODEX Standards are taken into account but it is not feasible to accept CODEX Standards in toto. WTO Agreement on SPS also does not advocate compulsory adoption of CODEX Standards.	The Commission agrees with the comments of the Ministry.

S.No	Nature of Problem	Suggestions for Reform received from user groups	Comments of Ministries/Depts.	Remarks of the Commission
II. <u>Drugs and Cosmetics Act, Rules and related laws</u>				
1.	Penalties	<p>In the interest of responsive enforcement Graded penalties for offences instead of obligatory imprisonment in all cases. Divide the offences into two categories: those requiring a prison sentence and those with financial penalties.</p> <p>Set up Special courts for cases where Cr.P.C. is not required to be followed, and thus permit award of compensation also.</p>	<p>The suggestion in respect of graded punishments is acceptable. These gradings should be based on intensity of defects as discussed and classified by the Drug Consultative Committee (DCC), viz. lesser defects classified as B-defects and serious defects classified as A-defects. The State Licensing Authorities are competent to award for both A and B defects except in the case of Blood Banking regulations where only DCG(I) is the prescribed Central License Approving Authority. At the moment State Licensing Authorities take administrative action for B type of defects, viz. show cause notice, suspension order, warning etc. A types of defects, viz. grossly substandard, or adulterated or spurious or failing in sterility etc. are subjected to penalties as prescribed under S.27 of Drugs and Cosmetics Act, 1940.</p> <p>Under S.32 of the D & C Act, 1940, no Court inferior to that of a Metropolitan Magistrate of the first class shall try an offence punishable under the relevant Chapter (Chapter IV of D&C Act). Investigation of cases leading to prosecution sometime attracts Cr.P.C. Similarly, manufacture of spurious or adulterated drugs by unlicensed manufacturers is required to be investigated by the Police or with the assistance of the Police.</p> <p>The recommendations of the DCC followed by State Licensing Authorities are advisory in nature and such recommendations including provisions for penal actions, can be made statutory through amendment after approval of</p>	<p>Views of the Commission on all the points:</p> <p>The Commission noted the comments of the Ministry. Observations of the Commission are reflected in the main report.</p>

the same by Drug Technical Advisory Board (DTAB), a statutory body under S.5 of the D&C Act, 1940. The setting up of special courts will, therefore, have to be examined through the above procedures.

2. Enforcement

(a) Strengthen the machinery of Drugs Controllers in the light of observations of the Lentin Commission in Maharashtra.

(a) Under the Capacity Building Project of World Bank, envisaged during the IXth Five Year Plan period, the Drug Controller General (India) in consultation with the States and the UTs has submitted a Plan of Action for strengthening enforcement staff and testing laboratories (to test minimum 1 lakh samples per year), both for the State Drug Control and Central Drug Control System, so as to fall in line not only with the recommendation for strengthening the drug control system, propounded by Hon'ble Justice Lentin but also to fall in line with recommendation of the Task Force, as well as the Central Council of Health & F.W. The Plan is under consideration of the Govt.

(b) enable withdrawal of banned drugs from the stockists and retailers and permit publicity of such action.

(b) At the last meeting of the Committee of the Experts of Core Committee, constituted by Hon'ble Supreme Court of India held on 30.5.98 under the Chairmanship of DGHS, DGAfms and other experts have been asked to give a working paper to ensure how best to comply that drugs and formulations banned from time to time under S.26(A) of Drugs & Cosmetics Act by Government of India through various Gazette Notifications do not surface in the market and a mechanism by which a manufacturer and a distributor can recall from sale as fast as possible the drugs reported to be banned through notification. Once this paper is ready and approved wide publication to the States/UTs would be given by the Govt.

(c) enable inspection of retailers by authorised citizen groups and for such reports to be acted upon by Drug Controllers.

(c) The suggestion to permit authorised citizen groups for inspection of retailers will be discussed as an agenda in the forthcoming DCC Meeting to be held during October, 1998. The

(d) Implement Hathi Committee recommendations e.g. abolition of brand names, revision and updating of national formulary eliminate dangerous formulations.

DCC consist of all State Drugs Control Authorities as members to deliberate on the subject agenda.

(d) As regards Hathi Committee recommendation to abolish brand names, the Hon'ble Supreme Court of India has dismissed the SLP filed by Union of India against the judgement of the Delhi High Court.

The revision of National Formulary is related to the essential formulation of drugs revised and edited from time to time in the official compendium viz., Indian Pharmacopoeia (IP). The IP has been revised in the year 1996, having about 1500 monographs. Govt. is examining the suggestion of constituting independent I.P. Commission which will replace the ad-hoc Indian Pharmacopoeia Committee so that both IP and National Formulary of India (NFI) can be brought out regularly as is done in developed countries. For this purpose, an IP Commission having independent status and also having permanent working scientists under its panel with independent budget is proposed to be constituted. Once IPC is formed the hurdles of bridging the NFI will be overcome. In this context, it may be pointed out that the Govt. of India in consultation with States and UTs and many beneficiary agencies, viz., CGHS, ESIC, DGAFMS, Railways and also expert bodies, viz., WHO, have in 1996 compiled the National Essential Drug List (NEDL) under different therapeutic classifications giving dosage form and strength of each dosage form generally prescribed. The NEDLs contains about 300 drugs and formulations which are considered essential for the country. These lists have been sent to various Govt. Hospitals and UTs and also form a basis for guideline to make hospital formularies. The objective of NEDL giving specific dosage and formulation is very close to the object of NFI, for the benefit of prescribers as well as dispensers.

In 1982, Govt. had empowered itself under Section 10A and Section 26A of the D&C Act, 1940 to prohibit, import and manufacture for sale, respectively, drugs moving in the market licensed by States - which are considered by experts to be harmful or irrational in the context of present knowledge. This is, however, a continuous process and the Expert Committee sits at least once a year to screen formulations in the market. The Govt. has so far banned 53 categories of such drugs and formulations.

(e) Control over the counter sales and sales of drugs without prescriptions.

(f) How to confront problem under point 28 of PFA Act above?

(e) The problem of enforcement at the level of retail sale is expected to be minimised once the scheme for strengthening the enforcement staff for the States is accepted. There are about 6 lakh retail shops all over India, and compared to that the enforcement staff (which has also to inspect manufacturing units, involve themselves in investigation of various nature, preoccupation with court cases etc.) are grossly inadequate under the State Govt. for minimal inspections of retail shops and hence need to be strengthened. In this context, many drugs which are over the counter drugs (OTC) is dispensed without the prescription of an RMP, happen to be prescription drugs under Schedule H of D & C Rule, 1945. It is proposed to discuss in DCC, whether the big list of prescription drugs given in Schedule H can be condensed, as many of such drugs may not need administration under supervision of doctors. This will have 2 advantages, one for the patient, because he does not have to go to the doctor for prescription for which he will have to pay for doctor's consultancy and secondly, it will take away some load from retail chemists as OTC drugs do not have to be dispensed against prescription and for which they are required to maintain separate register.

III. New Laws and Systems

Regulation and accreditation of private nursing homes and clinics proactive health care.

Drafting central legislation or a model law for Advocacy of Citizens' Charter for all hospitals PHC's, Drug Controllers, and Food Inspectorates.

The Citizen's Charter for Dr. Ram Manohar Lohia Hospital, Safdarjung Hospital and Smt. Sucheta Kriplani Hospital, New Delhi has been prepared which has been duly approved by the Core Group constituted by the Cabinet Secretary to monitor operationalisation of the Citizen's Charter. The Charter seeks to provide a framework which enables users to know:

- What services are available in the hospital;
- the quality of services they are entitled to;
- the means through which complaints regarding denial or poor quality of service will be redressed.

A copy of Citizen's Charter prepared for Dr. Ram Manohar Lohia Hospital has been sent to Health Secretaries of all States/UTs with the request to consider framing similar Citizen's Charter of hospitals on the lines of Charter approved for Dr. RML Hospital for the hospitals under their administrative control vide D.O. No.Z.28015/29/97-H dated 14.11.1997.

Note on Nursing Homes Act

There are Nursing Homes Act in Delhi, Maharashtra and some other States in the country which regulate the functions of private hospitals/nursing homes in the respective States. This Ministry has requested National Institute of Health and Family Welfare, New Delhi to frame a model legislation which can be applicable on private hospitals/nursing homes in the country. The National Institute of Health & Family Welfare, New Delhi has framed a draft legislation which is being examined in the Ministry/Dte.CHS.

ENVIRONMENT

Sl.No.	Nature of Problem	Suggestions for Reform received from User Groups	Comments of Ministries/Deptts.	Remarks of the Commission
1.	Consents are required under S.26/25 of Water Pollution Control Act, 1974 & under S.21 of Air Pollution Act, 1981. Authorisation for handling hazardous waste is also required.	It is suggested that a common or a single consent for all of the three purposes may be provided through a common consent format.	It is possible to consider a common consent for all the three purposes although a separate procedure is followed for hazardous tests. Most of the consents are initiated by the Pollution Control Boards on the basis of industrywise guidelines given by the Central Pollution Control Board. However, sometimes State Boards insist on additional conditions which could result in more delay.	The Commission agrees with the views of the Department and recommends early action by the Ministry to implement Common Consent application.
2.	Consent conditions prescribed by State Pollution Boards create confusion.	Industrywise conditions should be formulated by the CPCB in consultation with the State PCBs for the sake of clarity and conformity.	Industrywise guidelines already exist.	The Commission recommends that the available guidelines should be published and enforced.
3.	Consent granted for operation of an industry is against a specific application giving details of manufacturing process, pollution control systems and quantity of waste generated and treated.	In an industry if none of these conditions change, there should be no need for renewal of consent. Alternatively, the processing procedure in the State PCBs may be decentralised, to their Regional offices or renewal be made mandatory once in five years.	It is possible to agree to renewal of consent upto three years and provide it on a decentralised basis. Action can be taken against an industry for default at any time of the year.	The Commission recommends early action by the Ministry to implement the proposed decision on renewal of consent and decentralisation.
4.	Under the existing procedure no objection certificate (consent to establish) has to be obtained from State Board and the application	It is suggested that all papers for environmental clearance be submitted to State Boards which can, after issue of NOC forward the papers to MOEF which can return the papers to the State Board which can issue the final letters. A single window clearance may be adopted.	There are two points of view from the industry. Once view requires the Ministry to give the clearance on the basis of the recommendation made by the State Board, subject to other clearance being obtained simultaneously. However, the other view is to provide for all the	Noted the comments of the Ministry. The Ministry should initiated further action to simplify the procedure for environmental clearance in consultation with user groups and State Boards.

for environmental clearance has to be submitted to Ministry of EF. NOCs are also required from Central & State level for power, water, factory inspector, Controller of Explosives and six months are spent to select site and Environmental Impact Assessment. It takes 18-24 months to get a final clearance.

areas of environmental clearance to be submitted through the State Boards to the Ministry. This may take more time for the industry, but the Ministry had no objection to this procedure. It is suggested that all the Chambers of Commerce could come up with an agreed procedure for getting environmental clearance which could be considered. While some difficult cases would take up to 18 months for clearance, most cases are cleared within one year. Greater time is taken at the State level, even though some States give the approval within three months. The Environment and Forests Ministry takes about six to eight months, but this could be extended on account of court orders or public representations. The clearance in respect of forest is given only at the Ministry level, while in respect other cases the cases are initiated by the State Boards.

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| 5. | Public hearing conducted for small projects results in enormous delays as time limit is not built in the procedure. | Public hearing should be confined to mega projects of over Rs.1500 crores or those likely to displace a large volume of the population. EIA Notification dated 4.5.1994 should be reviewed. | It is difficult to agree to the suggestion in view of the approach to public hearing. | The Commission is unable to recommend linkage of public hearing for Environmental Impact clearance with volume of investment. All efforts should be made by public hearing authorities to expedite the completion of hearing. |
| 6. | Existing format of application needs urgent review. The authorities always ask for clarifications/additional information/specific study reports from project proponents even after receiving filled up application. | A simplified format should be devised and only information relevant to the project should be asked for at one go. | This is acceptable. The Ministry, in fact, had taken up an exercise for prescribing a consolidated form. This included three parts. First part can be filled up by the applicant with all relevant information, along with the floppy. The second part will consist of comments of concerned authorities and will be directly obtained by the Ministry of Environment and Forests with the help of State Boards. This will then be submitted to one of the six Environment Appraisal Committees headed by a non-official expert. The Committee takes about three to six months for a final decision. This will then be submitted to the Minister for approval. Thereafter this will be incorporated in part 3 and will be made available for the information of the industry. | The Commission strongly recommends early implementation of the Ministry's proposals with the time limits for each stage. |

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| 7. | The 'hot spots' identified in the country should be notified for the public for future expansions and modernisations in a planned manner. | Preparation of zonal atlases by the CPCB should be expedited and made public in the interest of entrepreneurs. | The Central Pollution Control Board have identified 22 hot spots, information regarding which is available to the industry. In addition, the Ministry is in the process of preparing a zonal atlas in order to guide the industry about the areas where industries can be located and environmental clearance will be given. Industries are expected to avoid areas of industrial pollution, except where they can convince the Ministry that they will not add to the pollution load. The Ministry of Surface Transport has been requested to identify potential area for future expansion in consultation with the Ministry of Environment and Forests. | The Commission recommends that wide publicity to the proposed measures may be given by the Ministries of Environment and Surface Transport along with suitable steps to guide the industry. |
| 8. | A provision for time bound deemed consents exists for renewal of water and air consents, if there is no response from the State Boards, after expiry of four months from the date of receipt of application. This leads to uncertainty as industry cannot confidently assume deemed consent as the board may at any time refuse to renew the consent. | Some method of rationalising this provision, through issuance of letter at Chairman of Board level or member Appellate authority appointed to formalise such cases should be undertaken so that industry can take advantage of the same. | It is difficult to agree to the concept of deemed consent since it will go against public interest and the objective of reducing pollution. The real solution is to devise a more efficient and prompt system for providing environmental clearance. | The Commission agrees with the views of the Ministry. |
| 9. | Requirement of mandatory Environmental Impact Assessment (EIA) Report. | Submission of EIA Report should be made optional. Modernisation/minor expansion upto 33% additional capacity should be exempted from environment clearance. Review of any case should be completed within 4 weeks and preliminary site clearance be given within 8 weeks. | The submission of EIA report is not legally mandatory. However, the project proponent is expected to submit this report along with all the required information, which in any case is required to be provided by him for other purposes, to the banks etc. It is hoped that the revised form to be introduced by the Ministry will avoid the duplication of information submitted for EIA and for getting clearance from State Pollution Control Boards. It is agreed that the preparation of the EIA report costs over Rs.20.00 lakhs and takes about one year to prepare, but the cost cannot be avoided. It is | The Commission notes the Ministry's comments but recommends simplification of procedures for Environmental I.A. Report and assistance to small units to prepare EIA Reports. |

			not possible to exempt modernisation of the plant from environment clearance.	
10.	Submission of Audit Report.	It is difficult to furnish the requisite details of the report within the short time such as on impact of pollution control measures, on conservation of natural resources etc. Date of submission of EIA should be modified from 15th May to 30th September every year.	The Ministry is agreeable to the suggestion.	The Commission recommends implementation of the suggestion.
11.	Application proforma	<p>(i) It is not possible to give information against point No.9 regarding health status through preliminary screening of work force labour and staff at the time when the project is at the planning stage.</p> <p>(ii) This point should be deleted. Project costs go up because entrepreneur has to collect data himself on noise levels, air and water quality data etc., from the surrounding environment. This is unnecessary.</p>	The suggestion cannot be accepted.	<p>Suggestion of user group may be reconsidered by the Ministry.</p> <p>The Commission is unable to agree with the suggestion of user groups.</p>
12.	Water & Air Pollution Acts.	These Acts are being misused. The Acts must be administered by a quasi-Government body in the interest of sustainable development.	State Pollution Control Boards are already quasi Govt. bodies. No further action is called for.	Noted.
13.	Fees charged.	The fees charged for the grant of consents/Authorisations should be uniform all over the country.	These relate primarily to the State Pollution Control Boards. While generally guidelines are provided by the Central Board for levying water cess or consent fees, it is left to individual States to fix the actual rates.	The Central Government should initiate measures for rationalising the Fee Structure by State Governments.
14.	Water Cess Act, 1977.	It is suggested that industry categories liable to pay water cess may be defined explicitly to avoid difficulties in interpretation. For e.g., item 9 of Schedule I include cement industry even if it is using dry process. Also item 15 thereof.	The Ministry is proposing to amend a legislation to cover all the industries which use water during operations as liable to payment of water cess. This will take care of the suggestions made in points 14 and 15.	Noted.
15.	Water Cess Rebates. Industry is entitled to 25% rebate in payable Water	At present out of 16 sectors covered in Schedule I, water consumption per unit of product is prescribed for 7 sectors only. The remaining sectors may also be		Noted.

	Cess if it conforms to the prescribed consent conditions and having water consumption per unit of product equal to or less than the stipulated quantity.	stipulated at the earliest and till the benefit may be given by the SPCBs.		
16.	Water Cess rates are different in different States.	A guideline needs to be developed for providing a basis for calculation of the Water Cess in various States and any change therein proportionate to the inflationary rates.	This observation is incorrect. Rates are the same.	Noted.
17.	Air Quality Notification No.GSR 176(E) dt. 2.4.96 of MOEF.	Sub Rule 3B of the notification debars discharge or emission beyond the relevant concentration in ambient air as set out against each pollutant in Schedule VII. Dust level in ambient air cannot be released only with industrial emissions. This sub rule may be deleted.	The suggestions cannot be agreed to, since the Central Board fixed the standards on the basis of source of emission.	The Commission agrees with the comments of the Ministry.
18.	Disposal sites for hazardous wastes have not been identified or made public by many States/PCBs as per Hazardous Wastes (Management and Handling) Rules, 1989.	<p>(i) The issue of identification of waste disposal sites requires immediate attention.</p> <p>(ii) There is also the need to harmonise these Rules with Manufacture, Storage and import of Hazardous Chemical Rules, 1989.</p>	The hazardous waste is governed by the Hazardous Wastes Rule 1989 and the Manufacture and Storage of Hazardous Chemical Rules 1989. These rules were designed for different purposes and cannot be combined. Certain amendments have been worked out by the Ministry. It is agreed that waste disposal sites were not identified and this requires to be attended to immediately.	<p>(i) Noted.</p> <p>(ii) The Commission recommends urgent action to identify waste disposal sites.</p>
19.	The Public Liability Insurance Act 191 stipulates that owner is liable to take insurance for an amount upto maximum Rs.50 crores while the Rules under the Act provide for Rs.5 crores.	As insurance companies do not allow enterprises to take policy in excess of Rs.5 crores, the Rule requires immediate amendment.	The suggestion deserves to be accepted, and the Ministry has already taken it up with the Finance Ministry.	The Commission recommends early action to implement the suggestion.

20.	The Forests Act, 1927	The Forest Act of 1927 does not require any amendment. However, the Ministry have taken up an exercise for consolidating different legislations to control the pollution of air and water and environment protection.	The exercise for consolidation of Acts should be expedited.
21.	Coastal Zones	The Ministry is aware that certain regulations such as those prescribed for coastal zones have proved in practice to be highly restrictive, and the environment impact assessment procedures are also found to be difficult to comply. Steps are being taken to reduce the delay and problems involved in compliance with these regulations. The Ministry faces problems in liberalising the laws because of the Supreme Court decisions for strict enforcement of regulations like coastal zones or the preservation of forests, and because of the representations made by environmental groups for strict enforcement.	The Commission recommends that the Government should formulate and implement guidelines for the preservation of coastal zones and environment consistent with the needs of speedy development and the concerns of affected population.
22.	Major Infrastructure Projects	Major infrastructure projects including power and coal mines are facing problems in getting clearance of the Ministry where forest areas are involved. Supreme Court has expanded the definition of forests. At the same time, there is considerable pressure on existing forest areas on account of the population living in adjoining areas and because there is not enough budget provision for afforestation. In respect of mines which have to be set up in forest areas, the Ministry generally permits the activities subject to concerned undertaking providing double the amount of forest land in an alternate area. However, the entire process of clearance can take up a few years. The first stage clearance involving two months is initiated by an application sent through State Forest Department. This permits the location of the industry in the forest area subject to identification of alternate area. In the second stage, clearance is given after alternative land is acquired in the name of the industrial unit, and this can take a lot of time. The permission for locating the unit in the forest area itself is given	Same as above.

at present only for public sector units. They were also permitted to take up afforestation on degraded land in case land cannot be acquired. And this can be executed by the State Forest Department on behalf of the PSU.

23. Environment Impact
Assessment

The environment impact assessment and environmental clearance is required primarily in respect of 29 activities notified by the Ministry in 1994. There is no investment ceiling for clearance, but the criterion relates to pollution load. This is because even small units like tanneries often create lot of pollution. The Ministry has started the procedure of public hearing about 18 months ago which is conducted by State Pollution Control Boards. This helps the Ministry to elicit all the likely objections to the project right at the beginning and minimise litigation. It is true that the Pollution Control Boards take a lot of time to conduct the inquiry but it is not possible to fix any definite time frame. As a result of competition amongst different States for getting investment, the State Pollution Control Boards are under pressure to reduce the time.

Noted. However, the completion of hearing should be expedited.

LABOUR

<u>S.No</u>	<u>Nature of Problem</u>	<u>Suggestions for reforms received from User Groups</u>	<u>Comments of Ministries/Depts.</u>	<u>Remarks of the Commission</u>
I	<u>Industrial Disputes Act, 1947</u>			
1.	The definition of 'workman' defined in Section 2(S) of the Act needs to be amended in the context of certain economic and social realities of today.	It is suggested that monthly income limit be fixed at Rs.3500/-. It is also suggested that uniform definition of workman be laid down in this Act and it should be made applicable to the entire range of Labour Laws. Further it is also proposed that the employees working in hospitals, charitable organisations and educational institutions should be excluded from the definition. The definition as suggested by Section 2(J) as proposed to be amended in 1982 should be notified.	The Mitra Committee constituted by the Ministry of Labour on 20.10.97 has suggested that the title of the Act be amended as "The Employment Relations Act" and the preamble be amended as "regulation of the relations between employers and workmen so as to promote and maintain industrial harmony". In the definition of workman, wage ceiling should have no nexus with the status of workmen and it should exclude supervisory, administrative and managerial personnel. It should also be extended to 'teachers' as an interim measure till separate legislation for them is made by Ministry of HRD.	"The Commission endorses the recommendation of the Mitra Committee on the changes in the preamble and title of the Act. It also agrees that the definition of workman should have no nexus with the wages drawn by the workman. However, it does not agree with the suggestion to bring 'teachers' within the purview of workman. It also suggests that the definition of workman should be made uniform in all the labour legislations. The Commission also endorses the changes in definitions of 'appropriate government', 'state government' and 'industry' proposed by the Mitra Committee. The Commission notes that the Supreme Court has referred the question of reviewing the definition "industry" to a division bench.
2.	The definition of 'lock out' needs to be amended so as to include a part of the place of employment within its scope.	It is suggested that the words "or part thereof" should be added after the words "place of employment" in the definition.	_____	The Commission agrees with the suggestion for amending the definition of 'lock out'.
3.	In the case of industrial dispute raised by individual 'workman', it is necessary to exclude superannuation or retirement from the meaning of dismissal, etc.	It is suggested that in Section 2 A, the words "other than superannuation or retirement" may be incorporated after the words 'otherwise terminates the services of an individual workman'.	_____	The Commission agrees with the suggestion for amendment of Section 2A for excluding superannuation or retirement in the case of a dispute raised by an individual workman.
4.	Works Committee in an industrial establishment where 100 or more workmen are employed.	In case of industrial establishments where recognised trade unions exist, it is not necessary to have a works committee within the meaning of Section 3 as there is a possibility of conflict of interest or over-lapping of interest between trade unions vis-a-vis Works Committee.	In view of the proposal to have Negotiating Councils, the provision relating to Works Committees which has not been effectively used, may be deleted.	The Commission agrees that in view of the proposal for having Negotiating Councils, the provision relating to Works Committees may be deleted.
5.	Under Section 9 A of the Act an employer has to effect	It is suggested that requirement of notice may be removed where the workmen are not affected in terms of	_____	The Government may examine the suggestion.

change in conditions of service after giving notice.

their working hours, wages or number of holidays or where no change is introduced due to modernisation or computerisation.

6. Under Section 10 B of the Act State Government has power to determine the terms and conditions to be observed by employers and employees during pendency of disputes including payment of money by employer.

It is suggested that the State Government may not be vested with powers to direct any employer to make mandatory payment during the pendency of a dispute as that would amount to pre-judging the dispute.

Based on the recommendations of the Ramanujam Committee it has been accepted to have Negotiating Councils. These would act as collective bargaining agents and thus discourage avoidable multiplicity of trade unions which vitiates industrial harmony. These may consist of equal number of representatives of employers and workers not exceeding twenty. The inter se strength of the Unions could be determined either by secret ballot or by check-off system.

The Commission agrees with the views of the Department.

7. Under Section 10A there is a provision for voluntary reference of disputes to arbitration.

As the entire machinery of arbitration of disputes through courts and tribunals are time consuming, it is suggested that appropriate government may make references to an Arbitration Board comprising of two members - one from industry and another from labour with a Chairperson with status of high court judge for resolving disputes quickly.

It is desirable that existing S.9C be replaced by a new section elaborately providing for the establishment of Grievance Redressal machinery at the shop level so that disputes do not develop. Right of two appeals be provided and if the worker is not satisfied, recourse to arbitration or adjudication could be taken.

The Commission endorses the proposal to provide for the establishment of Grievance Redressal Machinery with two right of appeals within the organisation. The Commission also agrees with the proposal to have an independent and autonomous Industrial Relations Commission at the Centre and in the States having three wings i.e. Conciliation, Arbitration and Enforcement. It also agrees that voluntary arbitration should be effectively used as a mode for settling disputes.

The Committee is of the opinion that with the mutual consent of employers and workers arbitration should be effectively used as a mode for settling disputes/grievances amicably. Under existing Section 10A, voluntary arbitration has been seldom used.

8. Under Section 11 A of the Act power has been given to Labour Court/Tribunal/National Tribunals to set aside the case of discharge or dismissal and direct reinstatement.

It is suggested where the enquiry is fair and held in accordance with the principles of natural justice and findings are not perverse the labour court/tribunal/national tribunals should not interfere with the dismissal or discharge of an employee on mere technical grounds.

It is felt necessary to have an independent and autonomous Industrial Relations Commission both at the Centre and in the States. It would be an authority independent of the executive. It may generate funds by prescribing fees for cases. It would have three wings viz. Conciliation, Arbitration and Enforcement Wings with an Administrative Cell.

9. Under Section 17B of the Act there is a provision for payment of full wages to workman pending proceedings in the higher courts if the workman had not been employed in any establishment during such period.

It is suggested that this section may be deleted since it puts unreasonable restriction on the employer. It is suggested that maximum limit of wages which may be permitted to be paid by 50%.

The Commission would suggest that this provision should not be misused by either side and circumstances should be taken into consideration in applying the provisions.

10. Prohibition of strikes and lock-outs.

Under Section 22 of the Act it should be made mandatory that notice of strike and lock-out should be given by all industrial establishments. Notices of strike should be authorised by 2/3rd majority workmen through secret

Based on the recommendations of Ramanujam Committee it is proposed that a mandatory notice of one month should be stipulated for strikes and lock-outs in all services whether public utility or

The Commission agrees with the proposals of the Mitra Committee for a mandatory notice of one month for strikes and lock outs in all services and related recommendations in column 3 and that Sections 22 &

	ballot and 2/3rd majority of the Board of Directors of the Company.	not. Essential services connected with safety, water supply, electricity, medical shall be exempted from strikes and lock-outs. These may also be prohibited during pendency of proceedings before Negotiating Councils. Strike notices should be backed by Union's resolutions having 51% strength of the workers S.22 & 23 may accordingly be amended.	23 may be accordingly amended.
11.	Prior approval of Government under Section 25 M, N & O of the Act.	It is suggested that these Sections may be deleted or alternatively the provision for prior permission should be deleted. Moreover, retrenchment should be classified in two parts i.e. if prior approval is obtained, present retrenchment compensation will continue and if not obtained the retrenchment compensation may be enhanced to three months.	The Commission recommends that keeping pace with the ongoing economic reforms the prior approval of the appropriate Government may not be necessary for lay-off, retrenchment and closure. There is a need to enhance the scale of compensation payable for lay-off and retrenchment including redundancies arising out of closure of industries to 60 days wages for each completed year of service which shall not exceed the wages for the remaining period of service.
12.	Special provision relating to lay off retrenchment closures in certain establishments applicable to industrial establishments in which not less than 100 workmen were employed on an average per working day during the previous 12 months.	It is suggested that minimum number of workmen should be increased to 500 for the purpose of coverage under the Chapter 5-B.	The Commission agrees with the recommendations of the Mitra Committee.
13.	Prohibition of lay off except with prior permission of appropriate Government unless such lay off is due to shortage of power or to natural calamity.	It is suggested that no permission of the appropriate government should be mandatory if lay off is due to shortage of power, natural calamity, strike of workmen, break-down of plant and machinery or shortage of raw material, etc.	The Commission feels that the suggestion for increase in the minimum number of workmen deserves consideration.
14.	Condition precedent to retrenchment of workmen i.e. giving of three months notice in writing and prior permission to be obtained from the appropriate government under Section 25 N.	It is suggested that the employer should be allowed to retrench upto 25% strength of the workmen without prior permission from the Government if the workmen have been given 3 months notice in writing or wages in lieu thereof and compensation at the rate of 2 months wages for every completed year of service.	The Commission agrees with the suggestion at column 2.
15.	Under Section 33(2)(b) of the Act an employer can discharge or punish a workman for any misconduct not connected	It is suggested that no such workman shall be discharged or dismissed unless he has been paid wages for one month and application has been made to the authority/court proceedings for approval of the act provided the wages shall be as per payment of Wages	Reference is invited to Commission's observation at SI.No. 11.
			The Commission agrees with the suggestion made in column 2.

	with the dispute pending adjudication if he has been paid one month wages and application for approval has been moved.	Act and application should be made within 15 days from the date of dismissal or discharge.		
16.	Appeal against awards passed under Act.	It is suggested that appeal against awards of labour court/tribunal should be restricted to one appeal only at the High Court level. A regular Labour Bench may be fixed at the High Court for quick disposal of labour appeals.	_____	The Commission is not agreeable to the suggestion and there is also no provision at present for regular appeal.
17.	Under Section 36(4) a legal practitioner can appear before Labour Court or tribunal with consent of the other party to the proceedings and with the leave of the labour court.	It is proposed that provision may be made to take permission only of the labour court/tribunal before whom the dispute is pending and not any consent from the opposite party.	_____	The Commission is of the view that consent of both the parties is not necessary but the Presiding Officer should give his views after ascertaining the views of either party.
18.	Provision against go-slow.	It is suggested that a definition of the expression "go slow" as defined by the Supreme Court should be provided for in the Act itself. The definition should be 'any conduct by a person or body of persons employed in an industrial establishment which is likely to result in or results in cessation or retardation of work.' It should also be provided that the employer will be entitled to deduct wages from workman who resorts to go slow thereby causing loss to the industrial establishment.	_____	The Commission suggests the inclusion of the definition of the term "go slow" in the Act. Further, depending on the definition of the term "go-slow", the employer would be entitled to take necessary disciplinary action against the employee.
19.	There is a provision for penalty of 1 to 6 months imprisonment or fine which may extend from 1000 to 5000 rupees or with both under Section 25 Q, 25 R and 30 A of the Act as penalties in case of retrenchment lay off, closure without following relevant procedures under Section 25 N, 25 M and 25 F F A.	It is suggested that as held by the Supreme Court and High Court penal provisions are very stringent and in order to promote healthy industrial growth in the country, it is suggested that these Sections 25 Q, 25 R and 30 A be amended so as to delete the penalty of imprisonment.	_____	The Commission does not agree to the suggestion to delete the penalty of imprisonment.
20.	Adjudication Procedure under the Act.	It is suggested that in the interest of productivity bipartism should be encouraged. Certain units at national level, regional level and state level in public and private sector should be identified which should be visited by the national leaders and central trade unions. The time taken by the Labour Ministry on a failure report from	_____	In the views of the Commission, the suggestion is partly covered by the proposal to constitute Industrial Relations Commission. The Commission also agrees with some of the recommendations of the Mitra Committee on

the conciliation officials is more than a year at the level of Desk Officer and other concerned officials. This time should be reduced and judges appointed in the tribunals in time. Though the provisions of the Act require disposal of cases within 3 months or within a year as per procedure laid down in the rules, this time limit is not followed by the tribunal or labour courts. There should be compulsory arbitration where conciliation fails.

rationalization and simplification. These are deletion of certain definitions from Section 2 which are no longer relevant, deletions of sections 5, 13, 6, 14 and 36A, of the Act. It agrees with retention of Section 36-B, and is of the view that delegation of powers by the Central Government to an officer or authority subordinate to State Govt. should be done under Section 39 after consultation with the State govts. It endorses the suggestion to fix a limitation of three years for raising industrial disputes. It is also agreeable to dispensation of publication of Awards of Labour Courts/Tribunals. As regards appointment of Presiding Officers of Labour Courts/Tribunals under sections 7 & 7A, the Commission endorses the recommendations of the Mitra Committee that Additional Legal Advisers who have three years of legal experience and Deputy Chief Labour Commissioners with 5 years experience can be appointed. However, their selection should be made through a selection process.

The Commission also endorses the recommendations of the Mitra Committee on the amendments proposed to the Payment of Bonus Act, 1965 and to the Sales Promotion Employees (Conditions of Service) Act, 1976.

The Commission is of the view that punishment shall be imposed on the Director/occupier only after ascertaining that he had a role in the matter of alleged violation by commission or omission. The Commission does not agree with doing away of the punishment of imprisonment or confining penalty to fines only. In fact, the Commission feels that the quantum of punishment as now prescribed in the Act may be increased and be graded according to whether the offence is of a serious nature. In case of offences punishable by fines only and offences of a minor nature, provision should be made for compounding of the offences at a level higher than the prosecuting authority.

II Factories Act, 1948

The penal provisions of the Act are very rigorous and the occupier of the factory/nominated director as occupier are made liable for any breach of the Act. Stringent punishment of 2 years imprisonment or fine extending to Rs.1 lakh or both are provided for. Sections dealing with provisions relating to hazardous process lays down punishment upto 7 years imprisonment or fine upto Rs.2 lakhs or both.

It is not always possible to attribute the element of mens rea to the Director/occupier of a factory. The punishment provided for is also dis-proportionate and for minor procedural irregularities industry has to face a floodgate of prosecutions. Harsh penalties also promote corruption in the government machinery. It is, therefore, suggested that the provision for imprisonment should be totally deleted from the Act. In the case of multi-nationals the directors live abroad or may be having residences far away from the factory areas. A simple penalty of fine should be sufficient instead of dragging the director to the court on innumerable occasions.

III Employees Provident Fund and Miscellaneous Provision Act, 1952.

¹ In the actual working of this Act is found that the

The implementation of the provision of the Act should be left to the discretion of both the employer or the

The Commission is of the view that this Act is a social security measure and having regard to the problems

provisions are not being used either in the interest of the employees or the employers. A lot of time is taken and work has to be done to remit the contribution of the employees even if an employee works for a day or for years.

employee within the broad framework laid down by the Government.

faced by subscribers in getting back their contributions in time and instances of non-remittance of employers' contributions the scheme under the Act should be implemented effectively.

2. With regard to the issue of infancy protection the government has amended the 1952 Act by eliminating the infancy period of 3 years available to new units. With the result the Act is applicable to a unit right from the day of its establishment.

The Government may re-consider the proposed amendment and revert to the bill in original form.

The Commission is of the view that the exemption period for infancy protection may be fixed at one year from the date of its establishment.

3. It is found that many contractors do not want to become members of the provident fund because withdrawal of provident fund from RPFC is very difficult. Moreover, there are no exemption provisions in respect of employers who are willing to pay suitable terminal benefits to employees in place of pension.

It is suggested that a time limit of 60 days should be provided for obtaining the withdrawal of provident fund from RPFC. Employee should also be paid terminal benefits in place of pension. The contribution of provident fund should be made optional for the employers who may have better terminal provision for their employees.

The Commission is of the view that deduction and contribution of provident fund should be reflected in the Pay-slip issued in respect of an employee. The Commission is of the view that stock-option may be allowed in place of CPF, but only on the application of the employee. Employers may not be given the option to give any other terminal benefit in place of provident fund. The Commission would favour effective monitoring of existing scheme, computerisation and adequate staffing facilities.

IV Employees State Insurance Act, 1948

Section 85 of the Act provides for punishment upto 3 years and minimum imprisonment of six months for failure of contribution on the part of any person who is liable to pay.

These defaults are civil in nature and some time beyond the control of the employer. It is suggested that provision for imprisonment should be deleted.

The Commission is of the view that this Act is a social security measure and it is important to ensure health care of the worker. The Commission would emphasise the need for improving facilities available in ESI hospitals and does not favour any proposal to scrap the scheme or for deletion of imprisonment as a penalty for violation of the Act.

V **Trade Unions Act, 1926**

1. Section 4 of the Act says that any 7 or more employees can form a union and get themselves registered under the Act.
- It is suggested that at least 10 percent of the total strength of workmen in a factory or 100 whichever is less should be the criteria for registration to eliminate large number of unions. It is further suggested that 25% of the total workmen may apply for registration of trade union and a union commanding at least 25% membership should be liable for recognition and also as bargaining agent. Membership must be verified by the Registrar of trade union once in a year during renewal of registration.
2. Section 22 of the Act requires that 1/2 of the total number of office bearers of every registered union shall be actually engaged or employed for the industry.
- It is proposed that 1/2 should be changed to 75% so that internal leadership in the unions develops. The Registrar of trade union should have authority to decide inter se union rivalry and trade union activities during working hours should be strictly prohibited.

The Commission is strongly of the view that for harmonious industrial relations, multiplicity of trade unions should be reduced. The Commission agrees with the criteria of registration suggested in column 2. The Commission is further of the view that, for recognition of the trade unions by the establishment, the Union should command at least 50% membership. The negotiating council suggested by the Mitra Committee should be the sole bargaining council.

The Commission agrees with the suggestion at column 2.

VI **Contract Labour**
Regulation and Abolition
Act, 1970

Prohibition of employment of Contract Labour.

It is suggested that services of supporting nature like canteen, cleaning, etc. should be allowed to have contract labour. Also contract labour working in notified jobs should be absorbed. The emphasis should be to regulate contract labour in core activities only. It may also be allowed in activities related to project work of modernisation or upgradation of existing infrastructure, market survey, loading and unloading of products and mainly in activities which are seasonal in character. It is also suggested that notification to abolish contract labour should be issued in respect of Railway and Public Sector.

The Commission is of the view that the Act should be made pragmatic and services of peripheral nature/supporting nature should be allowed to be engaged on contract. In view of this recommendation the Government may process early amendments for this purpose.

INCOME TAX

<u>S.No</u>	<u>Nature of Problem</u>	<u>Suggestions for reforms received from users groups</u>	<u>Comments of the Ministry/Department</u>	<u>Remarks of the Commission</u>
<u>Income Tax Act, 1961</u>				
1.	Current Tax base is very narrow in view of the population and income distribution of the country.	It is suggested that the focus should shift from meeting very stiff targets from current tax payers to widening the tax base as a whole. It is also suggested that the procedure should be simplified and made transparent.	There is a continuous effort of widening the tax base. Last year a new-economic criteria for filing IT returns was introduced. This is being increased to cover such persons who fulfil one out of the given six criteria. Besides PAN is also being made compulsory. There is very little emphasis on scrutiny this year.	Announced measures should be implemented with due regard for feedback from assessees. Procedures should be simple and transparent.
2.	Existing provisions are complex, discriminating and create distortions. A number of provisions have become redundant.	The law must be made transparent bearing no room for interpretation. The redundant provisions numbering around 50 should be excluded.	Fiscal laws are at times so complex that two views become possible. However, the discretion with the A.O. is being reduced. Many redundant provisions have already been removed on the suggestions of a Committee formed for this purpose. If there are any more such provisions, list may be provided.	Obsolete circulars may be withdrawn/deleted and an updated compendium of circulars should be issued periodically. Efforts should be continued to make the formulations simple and transparent.
3.	Codification.	There should be a separate chapter provided for substantive laws and procedural provisions.	To a large extent this is already there. However, this suggestion will be considered.	The suggestion is commended for early implementation.
4.	Number of Rules.	Certain rules have been omitted but they still exist in the Income Tax Rules, 1962. These should be excluded.	All rules have not been removed from the Act, even though omitted because income can be assessed and also these rules will become relevant in such assessment. However, if a list is provided, it will be considered.	For those omitted rules which are still found in the IT Rules, specific mention should be made of the date of omission.
5.	Settlement Commission.	The scope of Settlement Commission should be increased.	Will be considered.	The suggestion is commended for early implementation.
6.	Return Forms	There should be one consolidated form for Income Tax, Gift Tax and Wealth Tax to avoid multiplicity of authorities.	The authority for Gift Tax, Wealth Tax and Income Tax is the same. In this session, Gift Tax is repealed. If Income Tax, Wealth Tax is put in one form it may make it cumbersome. However, the suggestion will be considered.	The Commission agrees with the comments of the Ministry.

7.	Number of Forms	Certain forms which have been omitted from the Income Tax Rules, 1962 still exist and need to be removed. In certain forms information asked for create unnecessary problems for the assesseees like TDS Forms for salaries. Reliance should be placed on the tax audit Report and government interference should be the exception.	Reply to 4 above may please be seen. Recently some modifications have been made to the TDS Form for salaries. Reliance is placed on audit report and minimum scrutiny.	Efforts may be continued to reduce the number of forms and simplify them.
8.	Arbitrary Assessment	Principle of accountability on the part of Tax Administration should be provided to avoid litigation.	The Department has issued instructions on this.	Reply of the Department is noted.
9.	Creation of National Court of Direct Taxes.	The NCDT should be set-up and its orders may be made final except for writ cases under Articles 32 & 226 of the Constitution.	This is in the purview of the Ministry of Law.	The suggestion is commended for early implementation.
10.	Advisory Committee.	<p>This committee is formal and confines itself with policy aspects and does not take into account the real grievances of day-to-day matters of the assesseees.</p> <p>There should be an Income Tax Payers Advisory Committee constituted with the CBDT and should meet at least twice in a year. Income Tax Officers may be sent in the field for assisting the assesseees.</p>	<p>Tax Payers Advisory Committees are already in existence.</p> <p>This suggestion will be examined.</p> <p>ITOs do camp in remote places.</p>	<p>Procedures and problems of general application, apart from policy matters should be allowed to be discussed in the Advisory Committee.</p> <p>The suggestion should be implemented early.</p> <p>The CBDT may provide guidance service for assesseees.</p>
11.	Deduction be made only on actual payment.	The certificate issued by the Auditor of the company should be taken as sufficient evidence for allowing the deduction under Section 43 B in view of the practical difficulties.	Normally accepted, except for some test check. The report of the auditor is often vague and qualified. Unless the auditor is made accountable, not possible.	Agreed with the comments of Department.
12.	Tax Deduction Procedure.	Government should devise computer based system of clearance to avoid frauds relating to TDS. The need to get permission from the Commissioner is redundant. The requirement of filing TDS certificates with Annual Return should be dispensed with as it makes the return very bulky and does not serve much purpose. The time period for deposit of tax deducted from the previous year should be made uniform.	<p>Being developed.</p> <p>This will have to be filed till such time as a unique PAN and TAN number is allotted to all.</p> <p>Will be considered.</p>	Comments of Deptt. noted.
13.	Income Tax Refunds.	There has been complaints of delay in tax refunds by the assesseees. It is suggested that provisions should be made so that refunds are paid within one month.	The Department is conscious of grievances on account of delay in issuing refund. Existing instructions on the issue will be considered.	A refund order should accompany the Assessment Order, unless there is a problem which should be specifically mentioned in the order.
14.	Delay in decision making.	In the tax laws obligations of the assesseees are time bound. Accordingly the obligations of tax authorities	For tax authorities most actions are barred by limitations. Even for revisions by Commissioners	Positive effort should be made at every level to avoid delay.

		including appellate authorities in taking decisions should be time bound.	time limit has been provided. This may not be possible with appellate authorities.	
15.	Approvals under the Act	Provisions should be made to the effect that if approval is not granted within the prescribed time it should be deemed to have been given.	Will be considered.	The Deptt. should lay down and enforce time limits for various approvals.
16.	Offences and punishment under the Act.	The punishment of rigorous imprisonment needs to be looked into and rationalised.	In this age of voluntary compliance, strong deterrence is important.	The Commission agrees with the views of the Deptt.
17.	Computation of taxable income.	The legislative formulations relating to computation of taxable income and tax liability should be simple to understand and easy to administer.	This is the goal of the Department towards which it is constantly endeavouring.	The Commission noted Deptt.'s views.
18.	Grievances redressal machinery.	This should be activated and the cells attending to this work should be manned by officers especially selected and suitably trained.	There is an effective grievance redressal machinery.	Relevant details of the existing Public Grievance Redressal Machinery and procedure should be adequately publicised in accordance with the Citizens' Charter.
19.	Personal appearance.	There should be minimal requirements of personal appearance for the tax payers. The tax authorities should send all their queries in writing to the assesseees and seek a written explanation or visit the assesseees at a pre-determined time to clarify his doubts.	With minimal scrutiny, personal appearance is not required very often. However, this is a good suggestion and will be considered. Enquiries are normally sent in a written form to which assesseees are required to give a written answer.	The Deptt. should formulate and publicise clear guidelines on the subject.
20.	Prima facie assessment under Section 143(1) results in ad-hoc addition to the income by the assessing officer without giving due opportunity to the assesseees.	It is suggested that no addition to the income should be made without show cause notice and opportunity of personal hearing to the assesseees. Assessing Officer should be made answerable for frivolous additions which are subsequently set aside by the Appellate Authority.	No addition is made without affording the assessee an opportunity of being heard. Only "prima facie" adjustments, which are apparent from the return are made. For this CBDT has issued detailed instructions. If the assesseees are called for this also, it would be contrary to (19) above.	As at Sl.No. 19.
21.	Unnecessary litigation.	In order to reduce the unnecessary litigations and difference of opinion between the assesseees and the income tax department, judicial wing of CBDT should be strengthened. They should issue public circulars every quarter based on Supreme Court and High Court decisions.	Good suggestion.	The Deptt. should implement the suggestion soon.
22.	Accountability.	It is suggested that senior officers exercising any statutory power or any administrative control over the assessing officers should make them accountable for their lapses and omissions which should also be taken	Already being done.	The Deptt. should review the existing system of performance evaluation as soon as possible.

		into account for their annual performance evaluation. Delay in passing orders or assessment certificates should also be taken into account.		
23.	Disposal of pending cases.	In order to accelerate the disposal of pending cases, a review of pending cases may be made to see if they are governed by precedents, cases of similar nature may be grouped, temporary additional benches to clear backlog may be given and the fee structure for appeals may be rationalised.	This bunching has successfully been done in Delhi High Court and the Supreme Court. Fee cannot be reduced. In fact they have been increased in this Finance Bill to discourage litigation.	The reply of the Deptt. is not specific. The system of bunching of cases for quicker disposal, as in High Courts and Supreme Court should be adopted. Noted.
24.	Binding nature of High Court judgment.	Assessing Officer's refusal to follow ratio laid down by the Supreme Court or High Courts on the flimsy grounds that the department had not accepted it may be curbed. In cases where the department has not gone in appeal against the High Court's judgment, it should be made mandatory for the assessing officer to follow the same.	The law is that the judgements of the Supreme Court or of the jurisdictional High Court are binding. Other High Court judgments, unless there is a judgement to the contrary are also binding.	Noted.
25.	Appellate Orders.	Provisions should be made to the effect that CIT (Appeals) and the Tribunal Orders be given effect to by the Assessing Officers within 3 months of the date of receipt of the Appellate Order by the department.	Good suggestion.	Users suggestion should be implemented.
26.	Capital Gains Tax.	It is suggested that domestic companies should be at par with NRIs and FIIs and subject to 10% Capital Gains Tax as provided by Finance Act, 1997 in Section 115 E of the Income Tax Act because fluctuation in value of foreign currency vis-a-vis Indian currency in between the time and in flow or out flow of currency.	Already done. Will be considered.	Noted. Noted.
27.	TDS(Tax Deposit at Source) procedures.	When the tax is deducted at source for salary it is expected that the company would deduct the tax uniformly over 12 months but there is additional tax on account of promotions given to employees or because of the revision in the pay scales. The Income Tax Department issues notices for non uniform deduction. This needs to be reviewed and considered. Also, the limit fixed for not deducting TDS on interest should be raised to Rs.10,000/-.	By introducing this provision the Govt. ensures that TDS is spread over the year and the assessee "Pays as he earns". Otherwise entire TDS would be deferred to March. Will be considered.	The Deptt. should not insist on uniform deduction as a rule. But, if for ulterior reasons there has not been uniform deduction, action can be taken. Noted.
28.	Immunity from TDS, under Section 197A.	It is suggested that the norms for granting immunity from TDS may be suitably amended to avoid inconvenience and hardship that the rigidity of the existing procedure of giving a declaration may cause.	This declaration has to be made to the person paying interest/dividend etc. and not to the department. This is only to inform the tax deductor and safeguard him.	Noted.

29.	Pass Book Scheme.	It is suggested that a Pass book Scheme may be considered for payment of tax by assesseees on his income so that the need for making numerous visits to designated banks to pay advance/self-assessment tax is avoided, misplacement of Challans etc., are also reduced.	Good suggestion. Will be considered.	The suggestion is commended for early implementation.
30.	Tax exempt entitles like recognised Provident Fund, charitable societies etc.	At present these entitles are required to obtain exemption certificate in Form 15AA for receiving interest free TDS. These entitles are in any case exempted from tax under Section 10 of the Act. Hence putting them through rigor of obtaining certificate in Form 15AA is unnecessary.	Same as for 28 above.	The suggestion needs serious consideration.
31.	General issues.	<p>Tax should be deductible only when interest becomes due for payment and not when it merely accrues. There should not be any levy of interest for shortfall in advance tax or penalty under Section 143 (1A) if the approval for scheme of Amalgamation is not ultimately granted by the High Court. Domestic companies involved in Mutual Funds may be allowed to invest in debt instruments.</p> <p>State Governments should eliminate or reduce Stamp duties levied on the issuance and trading of financial instruments related to finance of infrastructure. Stamp duties on debt securities may be made uniform in all States and secondary market transactions should be abolished.</p>	<p>This would lead to problems on implementation with financial institutions/banks.</p> <p>This will be considered. CBDT has already issued a circular where in such cases interest can be waived. However, levy of interest is automatic.</p> <p>This is a state subject.</p>	<p>When the system of taxation is the basis of payment, this requires consideration by the Department.</p> <p>Noted the suggestion.</p> <p>Measures proposed by the Department of Revenue in this regard should be pursued.</p>

Other Observations of the Commission:

1. With a view to making the forms easily available to the assesseees specific publishing firms should be allowed to print and sell approved forms at a fixed price.
2. The Deptt. may consider steps to be taken to prevent filing of ante-dated returns in order to prevent fraud or loss of revenue by collection.
3. The acknowledgement slip of the return filed should be taken as assessment order in the case of individuals except in the case of random checks made within one or two years of the filing of the return.
4. Professionals and others who have to pay service tax should be dealt with by the CBDT and they should not be required to register themselves with indirect taxes authority, like CBEC.

EXCISE & CUSTOMS

S.No	Nature of Problem	Suggestions for Reform received from user groups	Comments of Ministries/Depts.	Remarks of the Commission
1	2	3	4	5
I CENTRAL EXCISE ACT				
01.	The arrangement of Central Excise Rules 1 to 284 indicate that adhoc additions have been made by adding alphabets in the serial numbers of the Rules.	Substantive provisions in the Rules should be transferred to the Central Excise Act as excise duty is being levied on all commodities and the structure and procedures have been enlarged on several occasions.	This exercise is already being undertaken by the Deptt. A Working Group has submitted the Report. Ministry is constituting an "Expert Group" which will also look into various aspects of the Central Excise Act and Rules.	Noted. The Commission also recommends that the process may be expedited.
02.	Tariff rates have been given in 96 Chapters (effective Tariff rates vary from nil to 66%) lead to unnecessary litigation.	Number of Tariff rates should be reduced to 3 (minimum) to bring uniformity and simplicity.	An ideal tax structure would be one where, barring the mean rate, there is one lower rate for items deserving concession and a higher rate for what may be described as demerit goods. The proposals regarding changes in excise duty have been guided by the overall need to rationalise the rate structure so as to reduce the multiplicity of rates and ensure convergence towards a mean rate of 18% ad valorem. F.M's speech (para 152, Part B) during budget 1998 presentation clearly indicates this policy of the Government.	Noted.
03.	Notifications are amended from time to time which create confusion.	To avoid day to day notifications, explanatory notes should be attached.	The notification issued under the Central Excise Law are being tabled in the Parliament in accordance with the provision of Section 38 of Central Excise Act, 1944 along with Explanatory Memorandum explaining the changes made under the respective notifications. However, the suggestion for appending Explanatory Note will be examined in consultation with Law Ministry.	Comments of the Department are noted. The comments for appending the explanatory notes in this notification should be implemented.

04.	In terms of Rule 56B and 173H and Notification No. 177 SS Collector is only empowered to grant permission to enable an assessee to carry out jobs like repairs etc.	Power should be delegated downwards to expedite the formalities and to remove the harassment.	Most of the powers under the Central Excise Rules have been delegated to the subordinate officers. Where revenue is involved power vests with the Commissioner.	Noted.
05.	There is no time limit fixed for giving personal hearing and for passing an order thereafter in regard to a show cause notice or for approval of classification price list.	Classification and price approval should be deemed to have been allowed if not done within 15 days from the date of application. Moreover, prices once fixed should under no circumstances be challenged.	No approval of price list and classification lists are required since 1994 and 1995 respectively. The assessee has to declare correct value on the invoices. Only in few cases, 'declaration' is required from the assessee, which does not require any approval.	Noted.
06.	Some documents to be maintained do not serve much purpose, viz., Form 4, RT 12, RT 5, GR 23A, GP 1 etc., yet they take a lot of time.	The documents can be consolidated into one or two records. Clearance time for RT should be reduced to one month. IIFT may be requested to reduce the paper work.	Rules have been amended in June 1998 to dispense with Form 4 and R.T. 05. G.P.1 has been replaced by manufacturer's invoice. R.T. - 12 has been simplified in 1996. RG-23A is absolutely essential.	Noted.
07.	Three audits take a lot of time of the management as well as the Excise staff. These audits do no good except leading to malpractices.	Mandatory audit needs to be avoided. Selective audit may be done from time to time.	There are only two audits - Selective Audit by the Deptt. and Revenue Audit by the CERA of the C&AG.	Noted.
08.	Some units are put under physical control of the Excise Department which means that all clearances including spare parts etc., are to be done only in the presence of excise officials.	Such physical controls may be dispensed with as a spare part is always needed.	Physical control is in existence in "Cigarettes". All other excisable goods are recovered under Self Removal Procedure, including spare parts.	Noted.

09.	A lot of Inspectors/Collectors visit the factories.	Inspector Raj should be removed and a Data Bank could be designed for requisite information.	Recently, instructions have been issued restricting visits of Inspectors - once in a month for PBC checks with approval of Suptd. SSI Units can be visited only with the approval of Asstt. Commissioner.	Noted. Continuous effort should be made to reduce the Inspector Raj.
10.	Formalities for registration are cumbersome and time consuming.	Registration should be done at the factory itself by the Excise official who visits the factory. Temporary registration should start from the date production commences.	Procedure of registration was simplified in 1992, where production can be started immediately after submission of application for registration. Registration is 'deemed' to be granted after 30 days of applying.	Noted.
11.	Deemed Exports take lengthy and cumbersome procedures, particularly for enhancement/revalidation of export obligation.	Deemed Export Licence (SIL) should also be issued in dollar value like physical exports. Certificate should be issued for deemed exports for which no excise duty is chargeable and this should apply to both manufactured and bought out items. In case duty has already been paid on bought out items, a simple system of refund should be formulated as in the case of physical exports.	Pertaining to Ministry of Commerce.	This should be examined by the Ministry of Commerce.
12.	Litigations take years to settle with Tribunals having huge pendency.	Settlement Commission should be set up at the earliest for expeditious action.	In the Budget 1998-99, 'Settlement Commission' has been proposed and will come into effect with the enactment of the Finance Bill, 1998.	Noted.
13.	There are too many Forms which serve no useful purpose.	Only important Forms should be asked for to cut on delays in availing concessional Excise Duty, Purchase Order should be released along with CT-2 Form and delivery period should be reckoned from the date of receipt of CT-2 Form. This Form should be issued without any expiry date. Procedure Form RWC should be done away with as suggested by the Tribunal in the case of Larsen & Toubro for speedier process.	Minimum forms and procedures are essential as it exist now, under Chapter X procedure where goods are cleared for special industrial purposes without payment of duty.	Number of forms may be reduced and simplified as a continuing process.
14.	There have been disputes on the method of arriving at cost of raw materials where the assessee has	An explanation should be added to Rule 6 b(ii) of Central Excise Valuation Rules, 1975 that excise duty paid on raw materials is not includable in the cost of production even if MODVAT credit is availed thereof.	As far as amendment of Rule 6(b)(ii) of Central Excise Valuation Rules, 1975 is concerned, action could be taken by TRU only.	Noted.

availed of MODVAT credit. CEGAT has ruled that Excise duty paid on inputs should be excluded but some jurisdictional authorities have rejected this.

As far as position in the matter is concerned in the case of M/s Dai Ichi Karkaria Vs CCE the Tribunal has held duty paid on inputs has not to form part of cost of production even if MODVAT credit is availed thereof for determination of assessable value. However, Deptt. has filed an Appeal with the Hon'ble Supreme Court against this order.

Under the circumstances, it will be appropriate to await the decision of the Hon'ble SC in the matter.

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| 15. | Excise duty is required to be paid by manufacturer at the place of removal (depot) and at factory gate. Due to price fluctuations with different customers, there may be litigations. | A simplified procedure may be adopted whereby goods may be cleared from the works at the estimated price and the depots could account for the differential price between the actual realization and transfer price. The excise duty on such differential price may be allowed to be paid at the individual depots and local excise authorities could be entrusted with assessing the differential excise duty at the depot level. | In this regard necessary clarification had already been issued vide C.R. No. 251/85-96-CX dated 14.10.1996 (First point of doubt and clarification thereof) - copy of circular is enclosed. | Noted. |
| 16. | The amended Section 11B of Central Excise Act, 1944 because of its retroactive operation discriminates between assessee whose refund claims made prior to the amendment (i.e. 20.9.1991) have been finally settled with those whose refund claims are pending. It is also silent about refunds where the assessee has not availed of MODVAT or is not entitled to it and the goods manufactured are for captive consumption. | Chartered Accountants' certificate should be accepted as proof that burden of duty has not been passed on to the customer by the assessee. Operation of Section 11B may be made prospective and an exception may be made relating to duty paid on goods manufactured for captive consumption. | As per the Act, Asstt. Commissioner has to be satisfied whether duty has been passed on to the buyer. The suggestion to make Section 11B prospective is not acceptable. Further, the question whether Section 11B is applicable in respect of captive consumption is sub-judice before the Supreme Court. | Noted. |
| 17. | The Supreme Court in the MRF Case (1995) has allowed deductions for transport and some others | A necessary clarification may be issue don whether transport and other charges as admissible by the MRF judgment will be granted, to avoid undue litigation. | All expenses incurred till the removal of goods from "place of removal" will form part of the sale price/assessable value. However, there already exists a provision under Section 4(2) of CE Act, | Noted. |

on the ground that these are post-manufacturing expenses. The benefit of this judgement should be made available in the context of amendment of Section 4 Central Excise Act carried out in the budget of 1996-97 by including godowns (depots) in the expression "place of removal".

providing "Where, in relation to any excisable goods the price thereof for delivery at the place of removal is not known and the value thereof is determined with reference to the price for delivery at a place other than the place of removal, the cost of transportation from the place of removal to the place of delivery shall be excluded from such price".

Under the circumstances, the position is clear in this regard.

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| 18. | Rule 49(1) proviso of Central Excise Rules lends itself to an interpretation that the Commissioner may impose any condition that he desires, when an application is made to reprocess/destroy defective quality goods in the bonded warehouse. | There is no need for the exercise of discretion on the part of the Commissioner in granting permission for reprocessing/destruction. | As it involves revenue, the suggestion is not acceptable. | Noted. |
| 19. | Vide Notification No. 45/97-CE(NT) dated 30.8.1997 it is provided that in case annual capacity of production determined by the formula in Rule 3(3) of Hot Rerolling Steel Mills Annual Capacity Determination (Amendment) Rules, 1997 is less than the actual production of the Mill during the financial year 1996-97, then the annual capacity so determined shall be deemed to be equal to the actual production of the Mill during the financial year 1996-97. This works unfairly if production in 1997-98 is lower than 1996-97. | The provision of determining capacity for the purpose of levy of excise duty based on last year production may be withdrawn. | The problem does not pertain to administrative reforms and relates to a policy decision pertaining to excise duty determination. The issue is already pending decision in the Supreme Court. | Noted. |

20.	<p>It has been held in several judgments of the Supreme Court, High Courts and Tribunal that the department must show the extent of benefit obtained by the assessee on the interest free loan obtained by him and to that extent only the price has to be loaded for the purpose of determining the assessable value. CBEC Circular No.215/49/96-CX(F.No.6/1/91-CX) dated 27.5.1996 was issued as a result of the above cases. Department has been indiscriminately loading the assessable value without bothering about the above judgements.</p>	<p>A notification under Section 37B of the Central Excise Act may be issued putting the onus on the Department to prove the nexus between receipt of interest and a depressed price, and if proved only then interest should be loaded on price.</p>	<p>The matter has again been examined and revised instructions have been issued vide Circular No. 404/37/98-CX dated 22.6.1998.</p>	<p>Noted.</p>
21.	<p>In the case of Khandelwal Metal & Engineering Works (1985) the Supreme Court held that waste and scrap are also commodities which are excisable goods because they are marketable. In the case of Indian Aluminum (1995) the Supreme Court ruled that although dross and skimmings are sold in the market for some price they cannot be taken as marketable goods and therefore they cannot be regarded as excisable goods. But manufacturers hold their waste and scrap as refuse and a lot of appeals have been preferred.</p>	<p>Waste and scrap should be clearly defined so that there is no confusion about its excisability or otherwise.,</p>	<p>Comments in this regard will be furnished separately.</p>	<p>The comments have not been received. The Deptt. should examine the suggestion and decision be taken as soon as possible.</p>

22.	Under Rule 173H(3) of Central Excise Rules powers to grant permission vest with the Chief Commissioner who takes a long time to grant permission in respect of loading of two different end products of different units of same management in one truck.	To reduce the delays involved, CBEC may delegate the powers to Assistant Commissioner instead of Chief Commissioner of Central Excise and a time limit be fixed for granting such permissions.	The matter is under examination.	The decision should be expedited
23.	Where repair/rectification of duty paid goods rejected by the buyer can be carried out manually without the aid of power and machinery the manufacturer should be allowed to carry this out at the depot itself situated near the buyer's premises.	CBEC may issue a general circular that the rejected goods can be brought at Depot under Rule 173H or 173L and after rectification in the Depot the goods can be removed under Movtable invoice under CE Rule 57GG.	It is not applicable as rules are applicable for factory premises only and not depot premises.	Noted.
24.	Very often the manufacturer finds that the duty paid material rejected by the buyer is beyond repair/rectification and has to sell it as scrap after it is received back under Rule 173H or 173L.	CBEC may issue a circular to clarify whether provisions of CE Rule 57(18) are applicable on such scrap or not and if not, to make the necessary provision for refund of the differential amount of duty paid on initial removal of goods and the scrap under Rule 173H as it amounts to payment of duty twice on the same material	Rule 57F(18) is not applicable. Goods brought in under Rule 173H, no duty is to be paid at the time of clearance.	Noted.
25.	Under Rule 51A and 173H entry of Traded Items in the factory is restricted if they are similar or identical to the items manufactured by an assessee.	Rule 51 A should be amended to allow temporary entry for 7-10 days for export purposes in factory for common container load and combined load and combined AR 4 and other documents should be executed by Excise staff.	Matter is under examination.	Should be expedited.

26.	Some excise formations have taken the view that plastic products made by the plastic processing unit from the 'moulds' supplied by the user industry should include the value of the mould since the final product cannot be made without the use of mould. This view is disputable as it is difficult to ascertain the number of components which could be made with a particular mould during its life-span. Whatever duty is paid on the raw materials or at the semi-finished stage is set off against duty on the final products and thus there is no revenue loss whatsoever to the Government.	Valuation procedure should be based on clear provisions of Section 4(1) (a) of the Central Excise Act and inclusion of value of the mould should not be insisted upon.	As the matter has already been clarified by Board Circular NO.170/4/96-CX dated 23.1.1996 (copy enclosed). It has been clarified that the proportionate cost of pattern has to be included only in the assessable value of the casting even in cases where such patterns are being supplied by the buyers of the casting or are got prepared/manufactured by the job worker at the cost of the buyer.	Noted.
27.	There is some ambiguity in the language of the entry under Chapter 9 subheading 09.02 on two elements, namely, (a) unit container and (b) brand name of the Central Excise Tariff Act in relation to classification of packaged Tea in branded form.	<p>The Tariff description under 0902.10 should be:-</p> <p>"0902.10 Packed in Unit containers of content not exceeding 20 kgs and ordinarily intended for sale to consumer in that pack".</p> <p>The words "retail sale to consumers" may be inserted in place of the word "trade" in Note NO. 5 explaining "brand name".</p>	Comments in this regard will be furnished separately.	Same as at Sl. No. 21.
28.	Notifications under the Central Excise Act, 1944 are being issued on 'non-economic basis' and their increased numbers are leading to complex situations, disputes and dissatisfaction amongst tax payers.	There has to be a clearer policy on issue of notifications and existing regulatory mechanism has to be strengthened to prevent misuse of notifications. Exemption notifications no longer relevant should be discontinued.	The policy of the Government has been to rationalise duty structures and to minimise the number of notifications. Specific cases may be brought to the notice of the Board for appropriate action.	The views of the Deptt. are noted. CBEC should take appropriate steps to examine all exemption notifications which are not in force and they should be rescinded.

29.	Procedural delays are affecting administration of tax laws adversely.	There is need for timely finalisation of provisional assessments and adjudication of cases.	Instructions have already been issued to finalise provisional assessment and adjudication in time bound manner.	Noted. CBEC should monitor strict adherence to specified time limits.
30.	Overassessment should be made accountable.	Where tribunals reject more than 50% demands, action should be taken against assessment officer.	Adjudication of demand is a quasi-judicial function and there, the officers cannot be accountable in case demand is dropped by Tribunal.	The Department should review the existing guidelines for performance evaluation.
31.	The provisions in the Central Excise Act and rules provide for offences which are punishable by imprisonment and levy of penalty. Mandatory penalty and interest provisions have also been made.	Mandatory penalty and interest provisions be amended in such a manner that the provisions act as a deterrent rather than a tool of punishment which gives considerable discretionary powers to the officials. There should be provision that launching of proceedings will only be after concurrence by the concerned Commissioner.	There is no discretion in respect of mandatory penalty. Prosecution is launched after obtaining sanction of Chief Commissioner.	Noted.
32.	Self removal procedures in Central Excise was introduced to enable the assessee to pay the duty and clear the goods with minimum interface with the department. But many SRP rules requiring prior intimation, declaration, documentation etc. are causing many problems to assessees.	It is suggested that the following Rules may be deleted as being irrelevant in the context of liberalisation: Rule 9(Except tobacco). Rules 44,45,46,55,173D,173E, 210(redraft) Rule 224, 273C(1)	Rule 55 & Rule 173D have already been deleted. Rule 273C(i) does not exist. Rules 173E and 210 cannot be amended or deleted. Other rules are being looked into by a Working Group.	Noted.
33.	Various kinds of audit are carried out by the Excise Department including Special Audit (Section 14A) and Audit of MODVAT Credit (Section 14AA).	Proper guidelines should be issued for selection of cases for special audit under Section 14AA. The assessee should be allowed to nominate a Cost Accountant from a panel maintained by the Department. MODVAT Credit should not be frozen during the period of Cost audit.	The instructions have already been issued not to freeze Modvat Credit during Cost Audit. There are inbuilt provisions under Section 14A for its restrictive use. The suggestion for nominating Cost Accountant by the assessee cannot be accepted.	Noted. The suggestion for allowing the assessee to nominate a Cost Accountant from a panel maintained by the Deptt. should be reconsidered.

34.	Excessive [powers have been given to Central Excise Officers at the level of Inspectors/Superintendent /Asstt. Commissioners such as free access to premises or goods (Rule 197), unlimited power of search (R.200), night without search warrant (R.201) and power to summon any person to give evidence or produce documents. These powers are often misused, summons issued without cause, show cause to senior company officials on flimsy grounds are also issued.	It is suggested that the powers enjoyed by junior officers should be reviewed.	The powers in these rules are to meet exceptional situations and are necessary.	Noted.
35.	Under Rule 187 Central Excise Officials are making 100% check of export goods resulting in interface causing unhealthy practices. Customs officials have the powers of selectively opening and checking the consignments.	Self-sealing should be permitted in the case of export consignments at least in the case of those who are trading houses, star trading houses etc.	Matter is under examination.	Should be expedited.
36.	Section 11B provisions may result in unjust enrichment if due to bonafide mistakes or suppression of facts or misrepresentation by the assesseees, refund of duty is obtained where it has already been passed on to the consumer.	The entire law relating to unjust enrichment should be reviewed.	Provisions relating to unjust enrichment have already been upheld by the Supreme Court.	No comments.

II CUSTOMS ACT

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| 1. | <p>"The Fast Track Clearance for Imported Goods" was introduced vide Circular No.63/97-Cus dated 21.11.1997 with further improvements made on 11.3.1998 to speed up clearances at the ports. Some important auto parts and components which are imported by actual users and contribute customs revenue have been left out.</p> | <p>It is suggested that bearings, motor vehicle parts and diesel engines should also be included in the scheme. There should be time bound feeding of manifest to avoid delay in filing of Bill of Entry.</p> | <p>It was a conscious decision to exclude sensitive goods from the purview of the Fast Track Scheme. It will be looked into at the time of next review of the scheme.</p> | <p>Noted.</p> |
| 2. | <p>There is delay of 3-6 months in logging of DEEC Book at all major ports after submission of all relevant documents.</p> | <p>The delay can be overcome if all the ports are linked up with computers. Customs authorities should put in their endorsement in the DEEC Book at the time of clearance of export consignments.</p> | <p>Computerization of all major ports is going on at a fast pace.</p> | <p>The Commission recommends early computerisation of all major ports and customs transaction. The suggestion regarding endorsement in the DEEC Book deserves to be examined.</p> |
| 3. | <p>Delay and hardship is caused because under the DEEC Scheme shipping bills are allowed to be filed only along with Application for Removal i.e. AR4 duly attested by the Central Excise authorities after goods are packed in the container and sealed.</p> | <p>At the time of filing of shipping bills, AR 4 should not be insisted upon and it should be allowed to be produced to the Assistant Commissioner at the time of clearance of the consignment at the port.</p> | <p>Yes, agreeable.</p> | <p>The Deptt. should implement the suggestion.</p> |
| 4. | <p>Notification No.43/96-Customs dated 23.7.1996 permits exports of material for purposes of coating, electroplating or polishing and thereafter being reimported into India. The customs duty on the reimport is levied only upon the to and fro freight and charges for the process carried out overseas.</p> | <p>It is suggested that for the benefit of stainless steel industry customs duty on reimport should be levied only upon the to and fro freight (including insurance) and actual charges paid for the rolling. The said notification may therefore be modified.</p> | <p>The notification seeks to exempt the customs duty to the extent specified only in cases of the specified processes, namely, coating, electroplating or polishing. Extension of the exemption also to rolling requires a policy decision not related to administrative reforms.</p> | <p>Noted.</p> |

5.	Customs clearance procedures are perceived as cumbersome and involve time consuming documentation, scrutiny of goods and a high degree of individual discretion.	Preclearance scrutiny of import/export declarations should be minimised. Effective targeting of 'at risk' goods to minimise physical examination of goods, should be achieved.	The suggestion is too general. Scrutiny for export is less than 5% and is done at random.	The Commission recommends that the existing procedure should be simplified as a part of the EXIM policy.
6.	The various provisions of the Customs Act, 1962 provide for offences which entail punishments including imprisonment, payment of fine and penalty not exceeding five times the duty sought to be evaded. These provisions presume a culpable mental state of the accused/assessee.	<p>There should be time bound programme for adjudication of cases:-</p> <p>Show cause notices - 3 months time.</p> <p>Appeals before the Commission - 6 months time</p> <p>Appeals before the Tribunal - 1 year.</p> <p>A Settlement Commission for Indirect Taxes may be set up to which pending cases can be referred. Mensrea should be an ingredient for offences under the Act. Threshold limit of turnout/duty/fine/penalty may be fixed for cases and immunity be provided to assessees where cases are decided by the Commission.</p>	Time limit for issue of show cause notice is 6 months. In other case the time limit cannot be fixed statutorily.	<p>Noted.</p> <p>All possible efforts should be made by the Deptt. for expeditious disposal of cases and a monitoring scheme should be evolved by them for the purpose.</p>

EXIM POLICY AND PROCEDURAL ISSUES

S.No	Nature of Problem	Suggestions for Reform received from user groups	Comments of Ministries/Depts.	Remarks of the Commission
<u>Export Promotion Capital Goods Scheme</u>				
a)	Enhancement of export obligation by 50% stipulated in para 6.5(i) of Exim Policy dated 13.4.1998 if the exporter is further processing the goods to add value on goods manufactured or produced would cause hardship to exporter, as being on the high side. Value addition may be done at job worker's place and goods exported from there.	Enhancement of export obligation be linked to actual value addition, the enhancement should not affect the first manufacturer and exports may be allowed from the premises of the job worker where value addition has been carried out.	The suggestion can be agreed to, but the export should be made in the name of the licensee.	The Commission noted recent initiatives and measures taken by the Govt. in the areas of exports and imports, and the Commission endorses these. Most of the suggestions/points raised by the user groups pertain to policy issues on which the Commission does not consider it proper to express any views. However, the Commission feels that the suggestion at 1(b) deserves sympathetic consideration provided it is followed uniformly. Regarding 4(g) the Commission understands from a press report that the Finance Ministry has already taken a decision to refund the amount due to the exporters within a fixed time failing which an interest for the delay would be paid.
b)	Sometimes the EPCG Committee/COS meet and approve the exporter's application in one year but the EPCG licence is issued after the close of the year in which approval has been given. This prevents the exporter from reflecting the average level of exports achieved in the preceding three licensing years.	For the purpose of average level exports made during three preceding years, the year when application for EPCG licence was submitted should be taken irrespective of the year when the licence was actually issued.	This can be considered on merits by the Commission.	
c)	Deemed export supplies made by the domestic manufacturers are made in competition with foreign	Para 6.5(iv) of Exim Policy be amended suitably so that 'deemed export' supplies by EPCG licence holders be considered towards fulfilment of export obligation with full deemed export benefits.	This cannot be agreed to in view of the prevailing policy on deemed exports.	

suppliers so far as price, delivery period and quality are concerned. But for such supplies deemed export benefits mentioned in para 10.3 of Exim Policy will not be admissible which means benefit of duty free Special Imprest Licence/Drawback Refund of Terminal Excise Duty and STL are to be foregone.

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| d) | Rupee Trade with Russia is not considered towards fulfilment of export obligation under EPCG Scheme because para 6.5(iii) of Exim Policy provides that export proceeds shall be realised in freely convertible currency for fulfilment of export obligation under EPCG Scheme. | Rupee exports to Russia should be made eligible for meeting export obligation under EPCG Scheme upto certain percentage. | This cannot be agreed to in view of the prevailing policy on deemed exports. |
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II Duty Exemption Scheme

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| a) | As per para 7.13 of Exim Policy exporters having past export performance in the preceding three licensing years are eligible for Advance licence and Intermediate licence without an export order upto average FOB value of exports during last 3 years. As a result, new units are not eligible for licence without an export order even though they have exported goods in a big way during the previous year. | Manufacturer exporters having made exports of Rs5 crores or more during previous year or committed export obligation of Rs.5 crores for current year may be allowed to take duty free licence without an export order. There should be relaxation of the present 3 years provision on the basis of value of exports made during previous year or export obligation committed for the current year. | This cannot be agreed to in view of the clear policy underlying the sanction of advance licence without export order. Others could follow the normal route of advance licence. |
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b) As per para 7.25 of Handbook of procedures Vol.1, a Payment Certificate in the format given in Appendix 14B is required to be furnished in support of fulfilment of export obligation against Special Imprest Licence issued under Duty Exemption Scheme for Deemed exports. In the event of delay in delivery of equipment/completion of order, the Project Authorities enforce Liquidated Damages clause of the contract which results in reduction in payment (Export Obligation Value) by an amount ranging from 5% to 10%. Also, it is common practice for the Project Authorities to hold back some payment, particularly in large projects, till the performance of the plant is evaluated to be totally satisfactory. Without payment certificate bank guarantee/bond is not released. Customs authorities at the port issue notices to deemed exporters to furnish required documents failing which enforcement of bank guarantee is threatened. Exporters are not able to avail of reduction in value of export under Para 7.28(iv) of Handbook of Procedures Volume 1 in cases where export obligation has been fulfilled in terms of quantity but there is shortfall in terms of value.

Fulfilment of export obligation should not be linked up with payment and instead the exporters may be permitted to furnish a prescribed certificate from the Project Authority to the effect that 100% supplies have been made in terms of the contract entered into with the supplier.

Deemed export benefits are given with reference to the realisation of value and not the fulfilment of obligation in terms of quantum. Hence the suggestion cannot be agreed to.

III Duty Entitlement Passbook Scheme

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| a) | <p>In the revised Handbook of Procedure Vol.1 issued on 13.4.98 para 7.50 stipulates that no exports shall be allowed under post export or pre -export DEPB Scheme unless the DEPB rate of export is notified. Earlier, exports under DEPD scheme exports were allowed in anticipation of notification of credit rate for products covered under standard Inputs Outputs norms. Exporters were thus motivated to undertake exports but now withdrawal of flexibility acts as disincentive to the exporters. For formulations of bulk drugs the DGFT has relaxed the new provision vide Circular No.4(re98) 98-99 dt.15.5.98.</p> | <p>It is suggested that provisional shipment under DEPB Scheme pending fixation of DEPB rate may be allowed for all export products covered under the standard Input Output Norms.</p> | <p>This cannot be agreed to since DGFT has consciously decided not to permit export under DEPB of those items where DEPB rates have not been notified, and to notify new rates only for items where export potential is more than Rs.20 crores. Out of 4000 items, only about 2000 items are frequently traded, and most of these items have been notified. Those who wish to export other items can follow the normal duty draw-back scheme.</p> |
| b) | <p>Vide Public Notice No. 39 DGFT issued on 5.8.97 exporters have been required to file application for fixation of rate of credit under DEPB Scheme and a format of the application form has been incorporated in the revised Handbook of Procedures, Vol.1(App.52).</p> | <p>In order to reduce the time lag between submission of application by the exporter and fixation of DEPB rate, time schedule for fixation of DEPB rate may be laid down in the Handbook in para 15.10. Apart from 264 additional items have been covered by DEPB Rates on 15.4.98, there are still large number of items for which DEPB rates have not been announced.</p> | <p>Same as above.</p> |
| c) | <p>Para 7.36 of Handbook Vol.1 states that exports/imports made from the ports mentioned in para 7.19 alone shall be entitled to DEPB and certain ports are</p> | <p>It is suggested that ICDs at Singanallur, Tiruppur, Salem may be included in para 7.19 for the purpose of export and import since Coimbatore Commissionerate has 4 revenue district and different parts of it are having different items of export such as yarn, tea and machinery at Coimbatore, garments at Tiruppur, gems jewellery at Singanallur and steel products at Salem. All these ICDs</p> | <p>DGFT has no objection if the Department of Revenue agrees. CBEC agreed to examine the suggestion.</p> |

considered as single port for the purpose of DEPB. This list includes Coimbatore Airport and Coimbatore ICD.

may be treated as single port for the purpose of DEPB.

IV Deemed Exports

- a) In the case of deemed exports, terminal excise duty is paid by the manufacturer and later refund is claimed from DGFT offices as per para 10.3(c) of Exim Policy. For claiming refund as per procedure in para 10.15 of Handbook, Payment Certificate from customer is required which is not always available on time and in that way getting refund is delayed. Working capital is thus blocked putting the manufacturer to extra cost.
- Execution of Bond instead of payment of excise duty by manufacturer may be allowed as in the case of physical exports. Refund of Terminal Excise duty may be allowed on submission of Project Authority Certificate of having received the supplies instead of Payment Certificate.
- This is acceptable to DGFT. Department of Revenue could consider a system of running bonds, and would discuss the matter further with DGFT for a solution. They would also consider the other proposal of DGFT for accepting bonds in the place of bank guarantees for manufacturer, exporters and export goods of more than Rs.100 crores.
- b) Para 10.2(g) of Exim Policy states that supply of 'goods' to Power Projects are entitled for deemed export benefits while in para 10.11 of Handbook supply of 'capital goods alone' is mentioned which creates confusion. Under the same para 10.11 domestic supplier of capital goods to power projects are eligible for deemed exports benefits provided the same is certified by Central Electricity Authority and
- The words 'capital goods alone' in para 10.11 of Handbook should be replaced by 'goods' to cover items like cables etc. In case of Central/State undertakings like NTPC/State/Electricity Boards, list of goods to be supplied should be certified by Project Authority. In case of private party, list of goods signed by IPP/EPC contractor countersigned by Chief Engineer of concerned State Electricity Board who has signed the Power Project Agreement with the Independent Power Plant should be allowed. ICB condition may be amended in line with the provisions for Refinery and Oil & Gas sectors.
- This would not be agreed to by DEA or DGFT.

International Competitive Bidding procedures have been followed.

- c) Para 10.10(b) was added in the Handbook Vol.1 vide Public Notice No 45(PN) dated 29-1997 and the benefits of deemed exports were extended to fertiliser plants which are set up/revamped/modernised during 9th Plan with a new stipulation that provided price preference is not available to the supplier of capital goods and its spares. If a PSU Fertiliser plant gives price preference for CST and Octroi, the indigenous supplier is not eligible for deemed export benefits.
- The abnormal situation created by the Public Notice dated 29.9.97 may be examined and the new condition imposed about price preference may be deleted.
- It is felt that the position may be reviewed by DEA in the light of conditions prescribed for international competitive bidding for World Bank projects.
- d) Customs Notification 23/98-SI.No. 178 dated 2.6.1998 allows import of specified goods required for the purpose of on-shore or off-shore oil exploration or oil exploration at Customs duty of 20% and CVD of 10% which benefits ONGC & OIL. DGFT has governed such supplied by indigenous manufacturers under Deemed Export category under para 10.2(g) of Exim Policy and para 10.11 of Handbook with limited benefits of terminal excise duty refund restricted to 3% and SIL @ 6% of FOR value.
- Necessary clarification about the eligibility of refund of 3% Excise duty under the said circumstances may be incorporated in para 10.11 of Handbook as OIL is interpreting that in view of said provision of refund upto 3%, they would pay the supplier 7% Excise duty out of 10% charged under CE 212/87 for such common items and the balance 3% is to be claimed by supplier from DGFT in terms of para 10.3(c) of Exim Policy.
- It is a matter of policy to be decided by Government.

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| e) | <p>Para 10.12 of Handbook of Procedures Vol.1 provides that supplies made by an Indian sub-contractor of an Indian or foreign main contractor are eligible for deemed export benefits provided that the name of the sub-contractor is included in the contract and payment certificate is issued by the Project Authority in the name of the Sub-contractor.</p> | <p>Supplies made by indigenous manufacturers to foreign main contractors within India against payment in free foreign exchange through Banking channel should also be treated as deemed exports. Otherwise, indigenous manufacturers would not be able to give competitive offers in contracts awarded to foreign companies against ICB procedure as they are not eligible for deemed export benefits even if the foreign contractor is willing to pay in foreign currency.</p> | <p>This is acceptable to DGFT subject to clearance by DEA.</p> |
| f) | <p>In terms of para 10.2(g) of Exim Policy read with para 10.11 of the Handbook of Procedures Vol. 1 deemed export benefits of refund of Terminal excise duty and Special Import Licence are allowed for supply of goods to Power Projects. These deemed export benefits are given to indigenous manufacturers in view of the fact that Addl Duty (CVD) is nil on Power Project Imports under Customs Notification 23/98-SI No. 261 dt. 2.6.98 but the indigenous supplies suffer excise duty. Same is the case for import of goods under Chapters 72, 73, 84, 85, 90 by Power Plants for Renovation etc.</p> | <p>Supply of goods of Chapter 72, 73, 84, 85 or 90 of Customs Tariff by indigenous manufacturers to Power Plants for the purpose of Renovation/Modernisation may be treated as deemed exports with limited benefits of Refund of Terminal Excise duty & SIL.</p> | <p>This would be examined by Department of Revenue in consultation with DEA, but it was felt that decision may not be favourable.</p> |
| g) | <p>Every deemed exporter has to claim refund of Terminal Excise duty from the various offices of DGFT as also Drawback under Deemed Export Drawback Scheme which involve a lot of delay. The</p> | <p>Time bound programme for fixation of Drawback rate as well as for processing of deemed export benefits claim may be incorporated in Para 15.10 of Handbook of Procedures Vol.1. Availability of funds with the disbursing officers throughout the year may be ensured.</p> | <p>This is acceptable to DGFT. However, the availability of funds with DGFT to meet all the claims was dependant on adequate budget provision. Steps had been taken to reduce the time taken for processing claims, and it was hoped that this could be reduced from three months to 2 weeks.</p> |

delay is caused by delay in fixation of drawback rate, in processing of claim and non-availability of funds with the paying authority.

h)

In view of the importance of technology imports, plans, drawings and designs falling under Customs Tariff heading 49.11 are exempted from whole of Customs duty even under the latest Notification 23/98-SI No. 97 dt. 2.6.98. In ITC(HS) Classification of Import and Export items issued by the Ministry of Commerce, plans, drawings and designs would be covered under Exim Code 49119100. Customs authorities are taking the view that while plans, designs and drawings can be imported duty free, these items are not covered under OGL and therefore specific licence is required. They hold that plans and drawings under Exim Code 490600 00 freely importable refer to drawings prepared by hand and their reproductions on sensitised paper and carbon copies. But these days drawings are prepared on CAD machines and prints taken out and thereafter photocopies are sent out.

There is a need to incorporate another entry after 491191 00.10 for 'plans, drawings and designs' with import policy as "Free".

This suggestion would be considered in the next meeting of the DGFT Committee.

POWER

S.No	Nature of Problem	Suggestions for Reforms received from user groups	Comments of Ministries/Depts.	Remarks of the Commission
1.	For setting up a project, clearances are required from 17 agencies. And different authorities use different Forms.	To avoid multiplicity of authorities which add to project implementation time and cost, single window clearance should be implemented. One comprehensive single Form should be introduced which should cover all the requisite information.	The Ministry of Power had constituted an Expert Committee in May 1994 to review the existing provisions of Indian Electricity Act, 1910, Indian Electricity (Supply) Act, 1948 and Indian Electricity Rules, 1956. The recommendations of the Committee were examined by a Consultant who made the suggestions for amendments. A National Electricity Regulatory Authority and State Electricity Regulatory Authority at State level was proposed to empower the State Governments to reform their respective power sectors without coming to Ministry of Power. The Chief Ministers Conference approved setting up of CERC and SERCs. Draft Bill to this effect was introduced in Parliament on 14.8.1997 and has since been passed by Parliament. The Electricity Regulatory Commission Act, 1998 will prevail over the existing Electricity Laws. This Act provides for the establishment of Central Electricity Regulatory Commission and State Electricity Regulatory Commissions rationalisation of electricity tariff, transparent policies regarding subsidies, promotion of efficient and environmentally benign policies and for matters connected therewith. An Electricity Laws (Amendment) Bill, 1998 was passed in Parliament which provides for amendment of Indian Electricity Act, 1910, creation of Central and State Transmission utilities and amendments to Electricity (Supply) Act, 1948. To that extent review/amendment of existing laws may not be required.	The Commission commends various initiatives of the Ministry. These however need to be matched by actions at State level to create the desired impact and investor confidence. It is noted in the paper circulated by the Ministry of Power that the number of required clearances is reduced from 17 to 5, and many powers of CEA and Ministry of Environment for approvals are delegated to state agencies. This needs to be pursued actively further. Single Window systems should be installed as far as possible. Even where statutory approvals can be given only by particular agency like Ministry of Environment & Forests, the designated state agency can secure all approvals from different agencies at central, state and local level on behalf of the project proponent, and will canalise queries back to him as far as possible by electronic mode. The Commission welcomed the move for the state govt. itself to get all necessary clearances before selection of the project proponent and then assign it to the selected proponent. The concurrence of concerned agencies to this procedure may be examined soon, and rules amended where necessary.

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| 2. | <p>Procedure for Power Connection is quite cumbersome, lengthy and needs drastic simplification. To obtain power connection, entrepreneur has to file as many as 15 documents.</p> | <p>If the State Govt. is of the view that all the documents are important then the procedure which is followed after the filing of documents should be stopped such as visits of Inspector several times after installation of meter and transformers. Inspector Raj should go and if permission for power connection is not granted within 60 days of re-submission of defective documents, the permission should be deemed to be given.</p> | <p>The complaint is genuine and has to be addressed jointly by the Ministry of Power and State Govts. having regard to the improvements made in a few States. The Inspector Raj should be eliminated and documentation simplified. Insistence on many NOCs for the grant of power connection and sanction of power load should be waived on the basis of single window systems devised by State promotional agencies and District Industries centres.</p> |
| 3. | <p>There is inordinate delay upto 6 months for construction power. The temporary connection is for two months only extendable by another two months. Delay is involved in finalization of maximum demand, laying of mains, availability of meters. Inadequate provisions for upgradation of Substation, capacity additions, trained manpower. There is lack of testing equipment, manpower and procedures are outdated. Cumbersome procedures delay availability of Coal, Oil, Gas, Naptha LSHS, FO, HFO, etc.</p> | | <p>Same as above. Generally enough attention and funds have not been given for distribution and maintenance of systems, upgrading and adding transformers and substations, training and orientation, computerization of procedures, improving billing systems, checking leakages and thefts of power etc. This has to be pursued as at (1), having regard to response of the Ministry on this item. The SEB's should stick to preannounced power cuts and ensure prompt and decentralised response to complaints on the basis of a Citizens' Charter. Computerised customer care centres for power connections, complaints on supply and billing should be set up.</p> |
| 4. | <p>Transmission</p> | <p>Inadequate existing transmission lines for transmitting and evacuating power from the upcoming IPP projects. Huge investment is required in this sector. Problems of interstate wheeling of power generated by IPPs. Poor equipment leads to high transmission losses.</p> | <p>The Ministry of Power, on the advice of Chief Ministers' Conference has also initiated another exercise to recognise transmission as a separate entity to ensure higher investment including private investment in this sector.</p> <p>Excessive transmission and distribution losses was due to unauthorised use of electricity by families in slum colonies. Steps have been</p> |

The Ministry of Power is to be commended for passing three important laws on this subject in the Budget session. This should be operationalised soon, along with steps to privatise/corporatise transmission and distribution. The problems of interstate wheeling of power, transmission losses, supply of power by Independent Power Producers (IPPs) etc. need to be addressed by clearly stated and enforced guidelines.

taken to reduce theft of electricity by industrial consumers in Delhi.

5. Distribution

Wide fluctuation in frequency is harmful to the large equipment particularly motors causing adverse impact on the manufacturing process. Due to inefficient distribution network low voltage power is supplied.

The problem related to distribution losses, meter tampering, pilferage etc. can be dealt with primarily by privatization or corporatisation of distribution. This has been taken up in Orissa already.

This should be attended to in the course of SEB reform including provision of funds for and attention to periodic maintenance and replacement, field supervision and interacting with user organisations. Computerised MIS similar to Andhra Pradesh will help. Reference is invited to comments at Sl.Nos.(3) & (4) also.

For review of the DVC Act and BBMB Rules, Committees have been set up for the purpose who are yet to submit their reports. The Coelho Committee Report which has made several suggestions to improve the Distribution System has been circulated to the States for considering the same while privatising the distribution system.

6. Meter Calibration

High percentage of distribution losses due to pilferage and meter tampering. Third party independent calibration not acceptable to SEB's. Lack of coordination between SEB and Electricity Inspector obstructs supply to consumer.

Improvements in Delhi Vidyut Board by making adequate investments, setting up of a Tariff Regulatory Authority have been initiated and DVB has sought PPF from World Bank. Engagement of outside meter readers on contract basis to counter wrong, inflated and provisional billing, monitoring of No Current Complain Centres, posting of Supervisors & AEs mobile distribution transformers, breakdown gangs, redressal of public grievances, bijli and Lok Adalats and theft prevention measures are being undertaken.

This can be attended to by franchising meter reading and replacement as in New Mumbai. The state government has to review the role of Electricity Inspector in the liberalisation context and transfer his powers to Regulatory Commission. The performance of DVB has to be monitored by Delhi Government and Ministry of Power with due regard to all points noted here.

7. Clearances

IPP projects subjected to multiple clearances from CEA/SEBs/State Govt. u/s 15A, 18A, 29, 30, 44 of Electricity Supply Act, 1948 leads to long gestation periods. Obtaining other clearances under other laws is cumbersome.

It is not possible to have a single window clearance but steps are being taken to minimise the number of major clearances for State/ Central Governments and their agencies required by the CEA while according its TEC to generation, supply and distribution projects of the private sector after due compliance of Section 29(2) of the Electricity(Supply) Act,

Problems of fuel linkage, counter guarantees and capital should be clearly addressed by transparent and predictable guidelines. Reference is invited to the comments at Sl. No. 1 also.

1948. The process of grant of TEC by CEA has been speeded up. Out of 44 TEC cleared power projects, 13 projects have succeeded in tying up Finances with Indian Financial Institutions of which only 9 projects have achieved financial closure. Construction has begun in 11 projects, of which 4 have so far been fully commissioned. The real constraints hampering the progress of private power projects is not delay in obtaining various clearances but other issues like tying up of finances with financial institutions arranging escrow facilities from the State Government/SEBs, finalising commercially viable fuel supply agreements and transportation agreements. Since various agencies/departments required interministerial/departments consultations, the statutory bodies, agencies cannot pronounce their orders without adhering to the principles of natural justice. It is therefore, not possible to give all clearances under the single window. The actions initiated by the Ministry should be vigorously pursued. The roles of CEA and the Regulatory Authority should be clarified. Environmental clearances should be decentralised nodal points on centre and state should hold themselves responsible to pursue all clearances.

A number of States have already set up Electricity Regulatory Commissions. The Ministry has taken various steps to simplify the procedures for private investors in India and abroad. The CEA has so far approved 44 proposals for private generation. A number of powers of the CEA and Ministry of Power have been delegated to the States. They could now approve projects upto specified level of investment and specified generation capacity at their level. It has not been possible to achieve single window approval because there are too many statutory authorities to be approached at Central and State level. However clear guidelines have been issued for this purpose by CEA. Considerable powers have been delegated to State Governments by CEA and Ministry of Environment. State Govts. could arrange all clearances before bids are invited so that delays are avoided after approval.

8.	Penalty Clauses	There are no enforcement provisions.	<p>The commission recommends that this should be resolved soon.</p> <p>Statutory provisions and procedures should be clarified and publicised urgently and effectively enforced.</p>
9.	Quality of Power	Power supply is erratic and never supplied as per standard supply and frequency. SEBs should be made to pay compensation for failing to provide continuous supply on 66 KV lines and for unscheduled shutdown.	Reference is invited to comments at Item(3). The Commission is of the view that the consumer should be compensated for failure of SEBs/distributive authorities to provide continuous power supply of the requisite quality and for unscheduled power cuts.
10.	Electrical Inspection	The PWD Inspector conducts delayed inspection. Private parties should be appointed to collect revenue on behalf of the Government. This will help to identify safety hazard in industries as well as improve cash flow in Government revenues.	SEB's may consider using accredited or licensed electrical contractors instead of inspectors. The role of Electrical Inspector could be subsumed by the Regulatory Authority.
11.	Tariffs are different in all the States, the patterns are highly skewed and these are fixed without consultation with affected parties.	Frequent amendments to the Principal Notification dated 30.3.92 should be avoided to reduce instability.	All the states should set up Regulatory Authorities. Consistency, consultation and transparency is needed in this regard. The Regulatory Authorities should specify clear guidelines and operate consistent provisions for channelling budgetary subsidies for defined groups of consumers together with swift mechanisms for dispute resolution. Reference is invited to comments at Sl. No.(4) also.
12.	Payment Security	Commercially unviable SEBs are not able to provide payment guarantees/back up payment facilities from SEBs/State Govts. or Counter Guarantees from GOI. Govt. establishments are unable to undertake/bear risks and penalties to make some key arrangements/contracts bankable and financeable.	There is need for predictable and transparent guidelines for this also on the basis of ongoing centre-state dialogue. Long-term policies are needed to attract foreign investment as the investment in the sector is of long gestation.
13.	Power Sector	Like penalty imposed on industry in cases of low power factor SEB could consider to give concession for high power factor above 0.9	The suggestion may be examined.

14.	Electricity Duty		The present system has electricity duty as the percentage of bill amount. With increase in the tariff rates the duty amount increases. Thus the electricity duty should be on the Kwh basis and not on bill amount.		This should be considered by Regulatory Authority/State Govt.
15.	Fuel Cost Adjustment (FCA)		The SEB recover from users the cost of fuel consumption used in producing the electricity. The recent pattern of FCA has shown that some other inadmissible expenses are being forced on the industry in the disguise of FCA.		This should be based on transparent parameters, to be decided by Regulatory Authority/State Govt.
16.	Minimum Demand	Contract	This is fixed between the SEB and the consumer industry. The minimum number of units have to be consumed and if not consumed for the reasons like plant breakdown etc. the consumer industry is billed which has to face additional burden of financial loss and also lose production at the same time.		Should be examined by Regulatory Authority/State Govt.
17.	Interest on Deposit.	Security	The electricity supply companies take security deposit equivalent to a month's bill amount and give only 5.5% annual interest on this amount. These interest rates should be increased as per the existing bank rates.		Should be considered.
18.	Captive Power		<p>The bottlenecks towards setting up of captive power plants are several. Policy differs from State to State. For granting Approvals there are no guidelines to SEBs and other State Authorities. Wheeling charges vary from State to State. SEBs take uneconomical charges for wheeling third party sales not allowed and concept of banking is averse to them. Policy regarding taxes and duties on electricity generated from captive power plants viz. DG sets is inconsistent. State Govts. could consider to exempt industry from payment of electricity duty and follow uniform policies.</p> <p>The process of according clearance to captive/cogeneration plants have been simplified. Permission has been given for setting up of captive generation Plants fully dedicated to an industry or group of industries by an independent power company without having to go for competitive bidding for selection of the IPP. A programme for reforms and restructuring of the State Electricity Boards in order to tone up the financial health of the States has been initiated by the Government. In the meanwhile Ministry of Power has suggested some alternatives to the counter guarantee of the Government of India to provide some financial security to the promoters such as direct supply of power by IPP to high tension consumers, opening of an Escrow Account in</p>		These steps are commendable. The Ministry should pursue present initiatives and operate consistent and predictable guidelines across all the projects. The tariff policy should also be guided by uniform parameters to be taken into account by Regulatory Authorities.

which identified payments by consumers are credited and the payment liabilities to the IPP is the first charge on this account and linking power generation with distribution. It is proposed that State Governments, SEBs, implementing agencies will obtain clearances from the concerned agencies before inviting bids for the projects. Once the bidding process is completed, the clearances obtaining from the respective Ministries will be transferred in favour of the IPP selected through the ICB route, subject to certain conditions like there being no change in the scope of the project and the new promoter adhering to the conditions laid down by the concerned Ministries/Agencies. The revised guidelines for international competitive bidding for private power project are being finalised and would be sent to the State Governments soon.

Delegation of Powers to States to give a fillip to the power projects have been initiated. States can clear generation projects having capital costs upto Rs.1000 crores, for R&M Schemes of existing power stations upto Rs.500 crores and all other schemes upto Rs.100 crores. Debt limit of 40% from Banks/FIs relaxed for small hydroelectric schemes in private sector, environmental clearances delegated to the States, foreign equity participation upto 100% on the automatic route upto Rs.100 crores, creation of Website on the Internet, competitive bidding based on tariffs linked to plant availability, modifications in the liquid fuel policy have been introduced. It is proposed to set up a Power Trading Corporation for power across state borders.

19. Safety

The Rules and Regulations have inadequate provisions. Electrical Inspectors should be subordinate to Central and State Governments.

Reference is invited to comments at Sl.No.(10).

20. Fuel linkage

Fuel linkage in respect of the projects have been issued by the Ministry of Petroleum & Natural Gas who have also circulated a model fuel supply agreement. A national policy on hydro power development is being finalised.

Both policies on fuel linkage should be finalised and announced soon.

Status of follow-up action taken by M/o Railways on review of rules, laws, regulations, etc.

Expert Group constituted in the M/o Railways has given its report in two volumes. Generally, items requiring inter-ministerial coordination are dealt with in Volume-I and those issues pertaining to Railway Department only are deliberated in Volume-II.

Findings relating to Volume-I of the Report

The Committee in Volume-I undertook a detailed review of the various laws, particularly Railways Act, Railways Protection Act and Rules. It was indicated that the old Indian Railways Act, 1890 was repealed and revised by an Act, in 1989 incorporating various changes dictated by developments of the past few decades. Similarly, RPF Act, 1957 alongwith Railway Protection Force Rules, 1987 as amended in 1997 is of recent vintage. Railway Claims Tribunal Act, 1987 is also a recent piece of legislation.

Under the rules of Railway Act, 1989, the following areas have been suggested for amendment :

- i) Payment of accident compensation should be expedited by authorising the railway administration to pay the compensation directly to the claimant except in case of disputes/doubts which can be decided by the Railway Claims Tribunal. (Para 7.3.1 (i))
- ii) Rules regarding refund of fares and change of name of passengers should be liberalised. (Para 7.3.1 (ii))
- iii) Rules regarding change of name of passenger to be modified. (Para 7.3.1 (iii))
- iv) The role of travel and tourism trade as an important intermediary should be recognised by Railway Administration by accrediting their apex bodies. Necessary changes in the rules to be made.
- v) Rules regarding Rationalisation of tariff and the rationalisation scheme issued there-under to be resolved. (Para 7.3.1. (v))

- vi) Powers and jurisdiction of Railway Rates Tribunal needs to be widened. (Para 7.3.1. (vi))
- vii) Rules regarding movement of salt traffic under Section 71 (IRA-89) should be dispensed with. (Para 7.3.1. (vii))
- viii) Amendment in Sec. 93 (I) of IRA-89 regarding repudiation of Claims on the grounds of unforeseen risk. (Para 7.3.1. (viii))
- ix) Compensation for damage to consignment carried in open wagon without reckoning the commission given on account of provision of tarpaulin by the customer needs to be reviewed. (Section 104/RA 89). (Para 7.3.1. (ix))
- x) Amendment in Section 176 (c) of IRA, 1989 to prevent tampering of communication equipment. (Para 7.3.1 (x))
- xi) Amendment in Railway Property (Unlawful Possession) Act, 1966 to prevent theft of electricity. (Para 7.3.1. (xxi))
- xii) Amendment in IRA-1989 to protect OHE from trees infringements/encumbrances. (Para 7.3.1 (xxii))
- xiii) Amendment for providing for punishment for negligence of motor drivers at manned level crossing also. (Para 7.3.1 (xxiii))
- xiv) No compensation to passengers in case of passenger travelling on the roof of bogie. (Para 7.3.1. (xxiv))
- xv) Amendment with respect to auction of undelivered goods (Section 83 & 84 of IRA-89). (Para 7.3.1 (xxvi))
- xvi) Amendment regarding auction of perishables in case of accidents (Section 85 of IRA-89 (Para 7.3.1 (xxvii))
- xvii) Percentage charges to be reviewed in view of escalation in prices since enactment of Railway Rules, 1990. (Para 7.3.1 (xxiv))

- xviii) Amendment for notice of claim for compensation and refund of overcharge (Section 106 of IRA-89). (Para 7.3.1 (xxx))
- xix) Amendment of penalty for unauthorised carrying of business of processing and supply of railway tickets (Section 143 of IRA-89). (Para 7.3.1 (xxxi))

Under the Railway Claims Tribunal Act, 1987, accident compensation, direct payment to party, counter claims of railway administration are the areas suggested for amendment.

Amendment in Contract Labour Abolition Act regarding monopolies certificate, engagement of idle labour etc., is also suggested.

Similar small amendments under the Railway Protection Act, Prevention of Corruption Act, 1988, Indian Telegraph Act, 1885 etc. have been suggested. Certain changes like abolition of 15% price preference to National Small Scale Industries Corporation (NSIC) and its continuance of the preference given to Govt. agencies have also been suggested as part of revision of rules, regulations and orders.

Findings relating to Volume-II of the Report

The items, which are listed below, pertain to the Railways on which the Committee has given its recommendations :

1. Time limit for payment of claims
2. Siding agreements to incorporate local conditions also. (IRCA Commercial Manual (Para 2503 to 2505)
3. Rules regarding lien in the Indian Railway Establishment Code
4. Rules regarding payment from Provident Fund towards Insurance Policy
5. Exercise of option for fixation of Pay on promotion
6. Leave Rules
7. Minimum Educational Qualification for Group 'D' Staff
8. Assessment of vacancies
9. Medical Attendance Rules
10. Indian Railway Code for the Accounts Department, 1984
11. Reduction in cash handling
12. Cash Exchequer Control System
13. Indian Railway Finance Code, 1982
14. Amending IRS conditions of contract in regard to Arbitration clause.
15. Procedures related to interface with Stores suppliers
16. Acceptance of Banker's cheque towards earnest money
17. Ancillarisation and procurement of critical stores involving safety of Railway working to be procured only from known sources.

The recommendations pertain to the above items, in brief are summarised below :

1. The Railways should self-impose a time limit of six months to settle a compensation claim or to pay interest for delayed payments.
2. Difficulties of siding owners in the use of the siding and calculation of free time for loading/unloading should be resolved. Necessary amendments are suggested.
3. Rules regarding lien retention etc. being redundant may be discarded.

4. Provisions regarding payment of insurance policies from provident fund are redundant.
5. Exercise of option for fixation of pay on promotion-time limit to be increased from one month to two months.
6. Certain restrictions are called for in regard to option available with a Government servant to convert leave from one account to another account.
7. Minimum qualification for Group D staff may be fixed as 10th standard or above.
8. Period for assessment of vacancies to be increased from one year to two years.
9. Rationalisation and simplification of internal check procedures through extensive computerisation of various kinds of transactions.
10. Reduction in cash handling taking advantage of improvement in the banking services.
11. Refinements in cash exchequer control systems.
12. Updation of General Conditions of contract-A revised version under issue.
13. Continuous review of delegation of powers to make it sensitive to change and comprehensive review once in two years.
14. In view of new arbitration and conciliation act of 1996, IRS Conditions of Contract should include provision for alternative dispute resolution- A.D.R.
15. Time bound procedures relating to Stores supplies should be laid down.
16. Acceptance of banker cheque toward earnest money.
17. Ancillarisation and procurement of critical store involving safety fo railway working to be procured only from know sources.

Status Report on follow-up action taken by Ministry of Surface Transport on review of rules, laws, regulations etc.

Task Force was constituted in September, 1997. Four sub-groups were constituted to look into different areas such as ports, roads, road transport and shipping. A note issued by the Ministry on constraints in the freight transportation sector is enclosed as appendix.

i. Shipping Wing :

Of the 24 Acts and Rules under this Wing, no change has been made in case of 6 (six) and it is observed that no review is required in case of 5 (five). Amendment to rules is under process and at different stages of review in case of the following Acts/Rules :

<u>Name of the Act/Rule</u>	<u>Current Status</u>
1. Merchant Shipping Act, 1958	Certain amendments in the Act were last made in October, 1993. A couple of amendments were also made in pursuance of ratification of ILO convention No. 147 in September, 1997 by promulgation of an Ordinance twice, last being on 23.4.98. It will be replaced by a bill in the ensuing Session of Parliament. A couple of urgent amendments in sections 76 and 95 of the Act are also being made and approval of Cabinet is being sought afresh. Comprehensive amendments to the Act, covering more than 170 Sections is under finalisation in consultation with Law Ministry. For amendment of Section relating to pollution control, four Cabinet Notes have been floated separately. Thus the Act is under constant review.

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| 2. Admiralty Act of India | A proposal to replace the British Admiralty Act of 1861 as recommended by the Law Commission in its 151 report has been under active consideration. Fresh approval of the Cabinet is being sought, whereafter, the requisite bill shall be introduced in Parliament. |
| 3. Multi-modal Transportation of Goods Act, 1933 | Amendments in some sections of the Act are being finalised in consultation with Ministry of Law. |
| 4. The M.S (Continuous Discharge Certificate) Rules, 1960 (As amended in 1972 & 1978) | Published in the Gazette of India on 27.12.97. |
| 5. Recruitment Rules relating to Group A&B (Non-Technical Posts) in the Directorate General of Shipping & R.O. (Sails) | In pursuance of last amendment notified in March, 1996 further minor amendments have become necessary. Relaxation from ban orders of DOP&T have been obtained and necessary notification has been sent to the Govt. of India Press for publication on 17.4.98. |
| 6. M.S. (Examination of Engine Drivers of Sea Going Ships) Amendment Rules, 1992. | Review made. No further amendment is necessary for the present. |
| 7. M.S. (Sailing Vessels) Rules, 1997. | Six different Rules on the subject have been clubbed and one single set of Rules framed. |
| 8. M.S. (Apprenticeship to Sea Service) Rules, 1997 | Classification received from DG (S). Amendment to Rules under process. |
| 9. M.S. (Crew Accommodation) Rules, 1997. | Final draft notification referred to Ministry of Law for vetting. |

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| 10. M.S (Registration of Indian Fishing Boats) Rules, 1988. | Information received from DG (S). Amendment to Rules under process. |
| 11. M.S (Standards Training Certification and Watchkeeping) Rules, 1998. | Published in the Gazette of India (Extra-ordinary) on 24.4.98. |
| 12. M.S. (Registration of Indian Fishing Boats) Rules, 1997. | Amendment to rules under process. |
| 13. Light Houses Accounting Rules | The Light House Accounting Rules proposed to be amended. |

II. Roads Wing :

Of the 8 Acts and Rules under this Wing, no change is required in case of two. The status of amendment/ Review in case of others is as follows :

<u>Name of the Act/Rule</u>	<u>Current Status</u>
1. The National Highways Act.	These Acts are undergoing regular periodic review. As a consequence of the last review of the National Highways Act, 1957, amendments were carried out therein in March, 1997. Similarly NHAI Act was amended after review. As a result of the latest review, amendments to National Highways Act were proposed during the last session of earlier Lok Sabha, which included acquisition of land for housing etc. as part of National Highways land required for public purposes. However, due to dissolution of Lok Sabha, the Bill in respect of the amendments could not be introduced.
2. The National Highways Authority of India Act, 1988	
3. The National Highways Rules, 1957	As a result of review, it is proposed to amend the Rules. Necessary action to obtain the approval of the Minister (SFT) is being taken. After Minister has accorded his approval, steps will be taken to issue the notification.

4. The National Highways Authority of India (Budget, Accounts and Audit investment funds and Powers to enter the premises) Rules, 1990.

Amendments to these rules have been notified on 11.12.97.

5. The National Highways (Rates of Fee) Rules, 1997.

Notified on 27.9.97.

6. The Control of National Highways (Land & Traffic) Bill, 1997.

The Bill is to be introduced in the Parliament.

III. **Road Transport :**

Of the 5 Acts & Rules, the status of amendment/review in case of two is as follows :

<u>Name of the Act/Rule</u>	<u>Current Status</u>
1. Road Transport Corporations Act, 1950.	A Review Committee which was set up for the purpose submitted its report on 17.3.93. The Main recommendations of the committee are (a) the Composition of Board of Directors of SRTCs should be more broad based and should include professionals as well as representatives of the commuters; (b) the Corporation shall act on business principles in such a manner as to ensure a minimum rate of return of 3% on the capital invested (Section 22) and (c) to give greater autonomy to the Corporations in its functioning. In the light of recommendations made by the committee, the Road Transport Corporations Act, 1950 is proposed to be amended. The Ministry proposes to approach Cabinet with such proposal very soon. The proposal to amend the Act was submitted for obtaining the approval of New Minister (SFT), before sending the same to the Cabinet.
2. Motor Vehicles Act, 1988	Amendment to the Act is under process by the Ministry. A draft Cabinet Note containing the proposed amendment was earlier approved by Ministry of Law. However, as the new Government has taken over, fresh concurrence/comments of the concerned Ministries are being obtained on the above draft Cabinet Note as per the advice of Ministry of Law. After obtaining the same, it will be placed before the Cabinet for its approval.

IV. Ports Wing :

The status of amendment/review in case of the 3 Acts is as follows :

<u>Name of the Act/Rule</u>	<u>Current Status</u>
1. Indian Ports Act, 1908	The Committee constituted to review the Act has almost finalised its recommendations.
2. Major Port Trusts Act, 1963.	The Committee constituted to review the Act has completed more than 80% of its work. Remaining part is under process. The Committee is to submit its report expected by the end of June, 1998.
3. Dockworkers (Regulation of Employment) Act, 1948.	Rajya Sabha has passed the Bill to amend the Act.

Status Report on follow-up action taken by Deptt. of Telecommunications on review of rules, laws, regulations etc.

The Deptt. of Telecommunications has taken up the review of Telephone Rules/Procedures which have been brought into force under the statute of Indian Telegraph Act with a view to make the Deptt. more responsive and customer friendly. The review of the Telephone Rules is an ongoing exercise since the rules need to be changed/modified as and when a new service is introduced. In addition, following specific changes in procedures/regulations have been taken up to improve the functioning of the Telecommunications sector :

1. NEW TELEPHONE CONNECTIONS

The proforma for registration of new telephone connections now provide for joint registration as well as nomination facility. It is also now possible to register from outsations.

2. SHIFTING

A. Local Shift

- i) The orders for the usage of latest technologies such as "pair gain" systems and 'WILL' have already been issued to facilitate the consumer with a quicker shift.
- ii) Computerised service for commercial, TR, fault control, DQ etc. is already in use in Mumbai and Delhi Telephones. The orders for having a customer service centre in all exchanges of above 1600 lines capacity have already been issued. These customer service centres are to have a single window concept for all consumer services.

B. Shifting of Telephones on All India Basis

- i) The Orders permitting shift of telephone under "TATKAL" Scheme have already been issued.
- ii) Widespread use of E-Mail is being contemplated to adhere to the time limit specified in this regard in the interest of the consumer.

3) TRANSFERS

- i) The permission fee for the usage of the telephone of the landlord by the tenant has been reduced to Rs. 100 from Rs. 500. The permission also is being granted for asking.

4) ACCESSORIES

- i) The Consumer is free to use any accessories subject to their being compatible with the telephone network and also have the AC isolation facility. The orders for display of a list of such standardised accessories at the consumer service centres are being processed.
- ii) The use of cordless telephone has been now totally deregulated.

5) DATA FACSIMILE SERVICE

- i) Licences for the commercial use of fax machines..

The use of fax machine is not being allowed freely subject to their conforming to TEC/DOT specifications. The orders for display of a list of TEC/DOT approved machines at all customer service centres are being processed.

- ii Rules for issue of permission to use FAX equipment on PSTN for public purposes.

Payment of annual charges of Rs. 300 for access to PSTN by the bonafide users has already been dropped. The action to drop the annual charges for the service if it is to be put public use has also been initiated.

6) PUBLIC CALL OFFICES

- i) To avoid the overcharging to the consumer by the PCO's normally the pulse for the operation of generator at the PCO end is being provided from the exchange. However, at time due to capacity constraint, it is technically not feasible to extend it to all PCO's. Moreover, there are technical problems with regard to the PCOs outside a radius of 5 KMs from the exchange. In these cases the use of individually owned programmable pulse generator after TEC/DOT approval is under consideration.
- ii) The transfer of public call offices is now being allowed to their legal heir only subject to unemployment condition.

7) PAY PHONES

- i) The coin operated pay phones presently in network are highly prone to tampering by the unscrupulous elements. The introduction of card pay phones is in advance stage.

8) EXCESS METERING COMPLAINTS

- i) After the introduction of electronic exchange on a mass scale, there has been a quantum drop in the excess metering complaints. Notwithstanding, orders have been issued to investigate the excess billing complaint promptly and wherever the excess bill exceeds the previous bi-monthly bills by substantial amounts, temporary relief to subscriber by way of issuing a split bill is being considered.

9) PAYMENT OF BILLS

- i) Presently by and large the collection of telephone bills is being done at the CTOs/DTOs in telecom centres. In a number of places these centres have been computerised for the benefit of the consumer. However, one problem generally being faced by all telephone users is the limited availability of collection centre for the payment of bills. Presently only the State Bank of India is authorised to receive the payments of telephone bills and more often than not the branches of this bank refuse to accept bills on the pretext of not being adequately staffed. Efforts are afoot to draw consent from the Department of Banking/Economic Affairs to make use of services of other nationalised banks to mitigate the problems of the consumers.
- ii) In rural areas where the bill collection centres are at large distance from the users, plying of a collection van in the usage areas on predetermined dates is under consideration.

List of Persons/Organisations with whom the Commission interacted

S.No.	Name of the Organisation	Name of the Person	Designation	Date (s)
1	2	3	4	5
1.	M/O Personnel, P.G. and Pensions	Sh. K.M.R. Janarathanan	Ministry of State	08-07-98
2.	Law Commission	Justice B.P.Jeevan Reddy	Charirman	12-08-98
3.	M/O Commerce	Sh. S.M. Acharaya	Jt. Secy.	18-06-98
		Sh. N.L. Lakhanpal	DGFT	23-07-98
		Sh. Ajai Sahai	Dy. DGFT	18-06-98
		Sh. L.B. Singhal	Dy. DGFT	23-07-98
4.	M/O Communications (D/O Telecommunications)	Sh. G.D. Gaiha	DDG (Pers)	21-07-98
		Sh. H.S. Dubey	DDG (CMR)	21-07-98
		Sh. V.K. Mahendra	DDG (SR)	21-07-98
		Sh. O.P. Khanna	Dir (TR)	21-07-98
		Sh. R.K. Shukla	Dir (PG)	21-07-98
		Sh. S.K. Bhardwaj	AGD (PHA)	21-07-98
5.	M/O Environment and Forests	Sh. V. Anand	Secretary	31-07-98
		Sh. K. Roy Paul	Addl. Secy.	31-07-98
		Sh. R.H. Khawaja	Jt. Secy.	27-05-98
				31-07-98
		Sh. Vijai Sharma	Jt. Secy.	31-07-98
		Sh. A.B. Akolkar	Scientist (CPCB)	31-07-98

1	2	3	4	5
6.	M/O Finance (D/O Economic Affairs)	Sh. Anoop Mishra Sh. G.R. Summan Dr. K.Shivaji	Dir (FI) Dy. Secy. Dy. Secy.	10-07-98 10-07-98 10-07-98 22-07-98
		Sh. P.R. Suresh Sh. K.S. Saha	OSD (EE) Under Secy.	22-07-98 22-07-98
	(Banking Division)	Sh.P. Mohan	Director	29-06-98
	(D/O Revenue)	Sh. R.N. Das Ms Mala Dutt	Dir (IT) Dy. Secy.	27-05-98 02-07-98
	(Central Board of Direct Taxes)	Sh. Ravi Kant	Chairman	02-07-98 27-07-98
		Sh. V.M. Muthuramalingam Ms. Archana Ranjan	Member (P&V) Dir (Hqrs)	02-07-98 02-07-98 27-07-98
	(Central Board of Excise & Customs)	Sh. S.K. Mishra	Jt. Secy.	27-05-98 18-06-98 23-07-98 27-07-98
		Sh. Amitab Hajela	Director	18-06-98 02-07-98 23-07-98 27-07-98
		Sh. M.K. Jain	Dy. Commr	02-07-98
7.	M/O Food and Consumer Affairs (D/O Consumer Affairs)	Sh. N.N. Mukherjee	Secretary	26-06-98 07-07-98 29-07-98
		Sh. R. Srivastava	Addl. Secy.	07-07-98 29-07-98
		Sh. P.S. Das Sh. P.A. Krishnamoorthy	DG (BIS) Dir (LA)	29-07-98 07-07-98 29-07-98

1	2	3	4	5
		Sh. B.K. Bal	Director	29-08-98
		Sh. K.V.S. Rao	Under Secy.	29-07-98
8.	M/O Health and Family Welfare	Sh. K.K. Bakshi	Secretary	06-07-98
		Mrs. Renu Sahni Dhar	Jt. Secy.	06-07-98
				18-08-98
		Dr. Saroj Sagar	Addl. D.G. (CGHS)	06-07-98
		Dr. P.K. Baliar Singh	Jt. Director (CGHS)	06-07-98
		Sh. B.R. Wadhawan	ADC (I) (DGHS)	06-07-98
				18-07-98
		Mrs. Debi Mukherjee	ADC (PFA)	06-07-98
		Sh. Vineet Chowdhry	Director (ME)	18-08-98
		Dr. P. Dasgupta	DCG (I)	06-07-98
				18-08-98
9.	M/O Industry (D/O Industrial Policy, Promotion and Industrial Development)	Sh. Ashok Kumar	Jt. Secy.	27-05-98
				10-07-98
				22-07-98
		Ms. Aditi S. Ray	Director	27-05-98
				10-07-98
				22-07-98
		Sh. Hasmukh Adhia	Director	29-06-98
		Sh. Subhash Chandra	Dy. Secy.	22-07-98
	(D/O Small Scale Industries and Agro & Rural Industries)	Sh. Sat Paul	Director	27-05-98
		Sh. M.P. Singh	Director	22-07-98
		Sh. C.S. Prasad	Addl. Dev. Commr.	22-07-98
10.	M/O Labour	Sh. S.K. Das	Jt. Secy.	07-07-98
		Sh. D.K. Trehan	Labour & Emp. Adviser	07-07-98
				27-07-98

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11.	M/O Law & Justice and Company Affairs (D/O Legal Affairs)	Sh. A. Sinha	Jt. Secy & L.A.	07-07-98 12-08-98
	(Legislative Deptt.)	Sh. Raghbir Singh Sh. T.K. Viswanathan	Secretary Addl. Secy.	12-08-98 18-06-98 23-06-98 26-06-98 12-08-98
	(D/O Company Affairs)	Sh. T.S. Krishnamurthy	Secretary	26-06-98
12.	M/O Power (Central Electricity Authority) (Delhi Vidyut Board)	Sh. R. Kakar Sh. R.K. Jain Sh. S.P. Agarwal	Jt. Secy. Ch. Engineer Member (Tech)	10-07-98 10-07-98 10-07-98
13.	M/O Railways	Sh. J.K. Thapar Sh. N.P. Singh	OSD (Traffic) ED/E&R	07-07-98 07-07-98
14.	M/O Urban Affairs and Employment	Sh. Hemendra Kumar Sh. Shivraj Asthana Ms. Nivedita P. Haran Sh. V.L. Joshi Sh. S.K. Singh Sh. D.K. Bhalla Sh. S.P.S. Parihar Sh. R.D Sahay	Addl. Secy. Dir (Hsg) Dir (DD) Director Director Dy. Secy. Dy. Secy. Dy. Director (Estates)	31-07-98 25-05-98 25-05-98 31-07-98 31-07-98 25-05-98 31-07-98 25-05-98

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15.	D/O Electronics	Sh. Ravindra Gupta	Secretary	23-06-98
16.	Govt. of NCT of Delhi (D/O Consumer Affairs)	Sh. K.C. Agarwal	Director	23-06-98
17.	Reserve Bank of India	Sh. P.V. Subba Rao Sh. P.K. Mishra Sh. H.R. Khan Smt. G. Koshie Sh. G.B. Sehgal	Genl. Manager Genl. Manager Genl. Manager Genl. Manager Asstt. Manager	29-06-98 18-06-98 18-06-98 10-07-98 10-07-98
		Sh. A.K. Khound Sh. Arnab Roy Sh. B.K. Vasudev	Dy. G. Manager Dy. G. Manager Dy. G. Manager	23-07-98 23-07-98 29-06-98 23-07-98
18.	National Informatics Centre (NIC)	Sh. K.K. Bajaj Sh. V.K. Gupta	DDG Sr. Tech. Dir	23-06-98 23-06-98
19.	HUDCO	Sh. V. Suresh	CMD	25-05-98
20.	Indian Investment Centre	Sh. S.K. Mitra	Sr. Adviser	10-07-98
21.	Associated Chambers of Commerce and Industry of India (ASSOCHAM)	Col. Prithvi Nath Sh. S. Prahalathan Ms. Sheela Batra Sh. T.G. Keswand	VSM (Retd.) Adviser Secretary	25-05-98 25-05-98 27-05-98 26-06-98 02-07-98
		Sh. S.S. Gulati Dr. M.V.B. Rau Sh. Nihal Kothari		26-06-98 29-06-98 02-07-98

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22.	Confederation of Indian Industry (CII)	Ms. Parvin Krishnan Sh. Arun Anand Sh. K.C. Ravi Sh. Deepak Roy Sh. Deepak Singh Sh. K.S. Ghai Sh. U.K. Chaudhary Sh. Vinod Gupta Sh. M.K. Gambhir Sh. Amerjeet Singh Sh. Mukesh Bhutani Sh. D.S. Chadha Sh. P.S. Mukherjee Ms. Rohit Dogra Sh. P.N. Haridas Sh. T. Tiwari Ms. Shruti Bhatia	Exe. Officer MD (Wise Infrastructure) Chairman Public Policy Adviser Corporate Lawyer Tech. Adviser Member (SCCA)	25-05-98 25-05-98 27-05-98 27-05-98 07-07-98 27-05-98 18-06-98 18-06-98 26-06-98 26-06-98 29-06-98 02-07-98 29-06-98 02-07-98 02-07-98 06-07-98 07-07-98 06-07-98 06-07-98 07-07-98 07-07-98 10-07-98
23.	Federation of India Chambers of Commerce and Industry (FICCI)	Sh. S. Dasgupta Sh. D.S. Rajora Sh. B.K. Singh Sh. Ashok Kumar Sh. S.B. Gupta	Dy. Dir. Genl.	27-05-98 18-06-98 18-06-98 18-06-98 26-06-98 02-07-98

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		Sh. Mahim Bisht Sh. Vijay Sardana (CIFTI) Sh. P.K. Diwan	Jt. Secy.	29-06-98 06-07-98 10-07-98
24.	Punjab Haryana Delhi Chambers of Commerce and Industry (PHDCCI)	Dr. J.A. Siddiqui		27-05-98 18-06-98
25.	Consumer Edn. and Research Centre, Ahmedabad	Prof. Manubhai Shah Hon. Managing Trustee		26-06-98
26.	Consumer Coordn. Council	Maj. Genl. Ravi Verma AVSM (Retd.), Director		06-07-98
27.	Indian Banks Association	Sh. M.N. Dandekar,	Chief Exe. & Secretary	10-07-98
28.	All India Central Conf. of Pensioners Association	Sh. R.N. Vasisht Sh. S.S. Ramachandran Sh. M.V. Shankaranarayan Sh. A.R. Bindumadhavan	President Secy. Genl. Jt. Secy. Genl. Treasurer	06-07-98 06-07-98 06-07-98 06-07-98
29.	All India Trade Union Congress (AITUC)	Sh. K.L. Mahendra	Genl. Secy.	21-07-98
30.	Bhartiya Mazdoor Sangh (BMS)	Sh. Mange Lal Rustagi		21-07-98
31.	National Front of Indian Trade Unions (NFITU)	Sh. O.P. Verma		21-07-98

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36. 25th Report of the Deptt. Related Parliamentary Standing Committee-Demands for Grants :98-99 (Ministry of Industry)
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67. Report of the Committee to review the existing laws and procedures for regulations and development of minerals received from Ministry of Mines (January, 1998).
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