

APPENDIX-III

**INSPECTIONS MADE DURING THE CRASH PROGRAMME
OF INSPECTIONS OF SMALL ESTABLISHMENTS IN THE
CENTRAL SPHERE (1997) (P) SHOWING NUMBER OF
IRREGULARITIES DETECTED ETC.**

Sl. No.	Enactments	No. of Inspect-ions	No. of irregu-larities detected	No. of cases of short payment/ non-payment detected	No. of cases in which employment cards to work were not issued/ partially issued
1.	2.	3.	4.	5.	6.
1.	P.W. Act	2092	21752	26	---
2.	M.W. Act	3019	27553	696	---
3.	C.L.(R&A) Act	895	7503	18	1403
4.	E.R. Act	1250	738	3	---
5.	P.B. Act	5	8	2	---
6.	P.G. Act	33	132	---	---
7.	I.S.M.W. Act	5	138	2	---
8.	C.L.(P&R) Act	764	412	---	---
Total		8063	58236	747	1403

ANNEXURE-II
(Annexure to Item No.x of conclusions of 34th Session of ILC)

DETAILS OF 13 UNITS OUT OF 168

NAME OF THE UNIT	NO. OF WORKERS	PLACE OF RELOCATION	REMARKS
1. Swatantra Bharat Mills	2162	Tonk, Rajasthan	Many workers shifted to Tonk
2. Birla Textile Mills	2407	Baddi, H.P.	Court directed 3 months salary to workers who did not receive/encashed compensation
3. Nova Steel	160	Bilaspur, M.P.	Court directed payment of all dues by 30.6.98.
4. K.L.Rathi Steel Mills	165	Ghaziabad, U.P.	Settlement arrived at regarding dues between management and workers.
5. G.D.Rathi Steel Mills	99	M.P.	Workers filed an application in Supreme Court directing management to pay dues.

6. Sriram Food & Fertilizers	655	Rajpura, Punjab	37 workers have accepted final dues. 219 have shifted to Punjab.
7. DCM Silk Mills	108	Alwar, Rajasthan	101 accepted shifting bonus. 8 have reported for duty.
8. Hindustan Insecticides Limited	564	Not yet decided	22 have accepted final payment. Remaining workers are being paid at Delhi.
9. Hindustan Genl. Industries	446	Gurgaon & Nimrana	112 workers have accepted final payment. 88 are shifting.
10. Sawhney Rubber Industries	577	Not yet decided	All workers getting wages as per Court direction.
11. BOC Gases Ltd.	74	Closed w.e.f. 29.11.96	All workers have accepted VRS.
12. Umashankar Khandelwal & Co.	50	Restarted activities.	Non-hazardous

13. Hindustan Vegetable 260

Closed w.e.f.
30.11.96

One worker
accepted final
retirement dues
while others are
being paid wages
at Delhi.

Total workers
In 13 Units.

7727

ANNEXURE-III

(Annexure to Item No.xix of conclusions of 34th Session of ILC)

**STATEMENT SHOWING THE VACANT POSTS OF
PRESIDING OFFICERS AND STAFF IN CGIT-CUM-LABOUR
COURTS**

S. No.	Name of CGITs	Vacancy Name of posts	position No. of posts	Date of Vacancy
1.	Bangalore	*1. LDC *2. Daftry	two one	27-10-93 27.10.93
2.	No.I Dhanbad	Presiding Officer	one	01.09.97
3.	Asansol	1. P.A. 2. LDC	one one	01.06.96 01.04.93
4.	Jabalpur	1. Secretary to the Court	one	31-03-98
5.	Jaipur	1. P.A 2. Secretary to the Court 3. UDC 4. LDC 5. Daftry 6. Peon 7. Chowkidar 8. Safaiwala	one one one two one one one one	Vacant since its creation on 13-1-92. Presiding Officer joined only on 1-5-98. The posts lapsed as it remained Vacant for more than one year. Presiding Officer advised to prepare panel and send the same for revival of posts. He

has prepared panel and send the same for revival of posts. He has prepared panel for the post of UDC and two LDCs. The proposal has been sent to IFD on 9-2-99 for its revival.

6. Lucknow & Nagpur

The post of CGIT, Lucknow & Kanpur have been made head of Office and advised to fill up the posts. The details of sanctioned posts for Lucknow & Nagpur is given at appendix 'A'.

* The proposal has been submitted to IFD for its revival

Appendix- 'A'

Sl. No.	Name of the post	Group	No. of Posts	Scale of pay
1.	Presiding Officer	'A'	Two	Rs. 14,300-18,300
2.	Secy. to Court	'C'	Two	Rs. 5000-8000
3.	Personal Asstt.	'C'	Two	Rs. 5000-8000
4.	Upper Division Clerk	'C'	Two	Rs. 4000-6000
5.	Lower Division Clerk	'C'	Four	Rs.3050-4590
6.	Daftry	'D'	Two	Rs. 2610-3540
7.	Peon	'D'	One	Rs. 2350-3200
8.	Chowkidar	'D'	One	Rs. 2350-3200
9.	Safaiwala	'D'	One	Rs. 2350-3200
Total			22	

ANNEXURE-IV
(Refer Item No.1 of 33rd ILC)

**STATEMENT SHOWING THE POSITION OF WAGE CEILING
EXISTING IN DIFFERENT LABOUR LAWS**

SL. NO.	NAME OF THE LABOUR ACT/ LAW	EXISTING WAGE CEILING	REMARKS
1.	Industrial Disputes Act, 1947	The Supervisory workman drawing wages upto Rs.1600/- per month are covered for benefits under the Act. However, no Ceiling is stipulated for other workmen.	
2.	Plantation Labour Act, 1951	Workman in Plantation who are drawing wages upto Rs.750/- per month are entitled to get benefits under the Plantation Labour Act whether Supervisory or others.	
3.	Payment of Wages Act, 1936	The Wage Ceiling as defined under Section 1(6) of the Payment of Wages Act, 1936 restricts the coverage of the Act	The proposal to revise/ abolish this Ceiling is under consideration of the Government.

to employed persons
drawing salary/ wages
below Rs.1600/- p.m.

- | | | | |
|----|--|--|---|
| 4. | Employees'
Provident Fund
and Misc.
Provisions Act,
1952. | A Wage Ceiling of
Rs.5000/- p.m. has
been prescribed. | It is proposed to do
away with the Wage
Ceiling. |
| 5. | Employees'
State Insurance
Act | A Wage Ceiling of
Rs.6500/- p.m. had
been prescribed. | This Ceiling has been
enhanced to Rs.6500/-
p.m. from 1.1.1997. |
| 6. | Payment of
Bonus Act,
1965 | Before 9.7.1995 the
eligibility limit for
b o n u s was
Rs.2500/-p.m.and
calculation ceiling
was Rs.1600/- p.m.
These limits were
revised to Rs.3500/-
p.m. and Rs.2500/-
p.m. respectively
w.e.f. 9.7.1995. | The Government is
contemplating review/
abolition of Wage
Ceiling. |
| 7. | Sales Promotion
Employees
(Condition of
Service) Act,
1976 | There is Wage
Ceiling for the
Supervisory workman
drawing wages upto
Rs.1600/- p.m. | |

ITEM 2 : MEASURES TO REDUCE INDUSTRIAL SICKNESS AND TO INCREASE PRODUCTION AND PRODUCTIVITY

I. BACKGROUND

1.1 Sick industries along with healthy ones are an integral part of a nation's economy. In a dynamic set up, industrial units which are non-competitive, uneconomical and inefficient become sick and die out as new and more efficient units come up to take their place. This process takes place as a cycle in sequence of economic restructuring. Re-allocation of resources, both material and human, from less efficient to more efficient areas is not only expected to increase production and productivity but is also likely to lead to higher employment generation in the long run. However, if for some reason or the other, restructuring and re-organisation of business is constrained, industrial sickness may grow and assume serious proportions thereby bringing about a slow down in growth, erosion of competitiveness, stagnation in employment and a general decline in the welfare of the people.

1.2 The problem of industrial sickness in India is not of recent origin. Protected market structures and policies reflected in high tariffs, quantity restrictions on imports, price regulation on inputs and barriers to domestic competition contributed to cost inefficiencies and dampened the incentive to restructure. Way back in 1981 the Government set up a Committee of Experts under the Chairmanship of Shri T. Tiwari to examine the matter and to suggest suitable remedies. Based on the recommendations of this Committee the Board for Industrial and Financial Reconstruction (BIFR) was established in 1987. The objective of the Board was to facilitate smooth and speedy restructuring of the industrial sector. It was expected that as inefficient units die out and more productive and cost effective units take their place, the pace of industrial development would quicken widening the avenues of employment.

1.3 The industrial sector recorded an average annual compound growth rate of 6.6 per cent from 1980-81 to 1989-90 (at constant prices) of which growth in the Seventh Plan (1985-90) was as high as 8.5 per cent per annum. The main reason for the good performance of the industrial sector during the eighties was starting of the liberalisation process and a number

of policy measures including changes in the areas of licensing and procedures, import of technology, import of capital goods coupled with a reasonable rate of public investment and almost total protection to domestic industries from international competition through quantitative restrictions on imports as well as high tariff rates.

1.4 With the launching of the new economic policy during the nineties the protective barriers for the Indian industry started getting dismantled one by one. The average annual growth rate of the industrial sector (including mining, manufacturing and electricity generation) slumped to 0.6 per cent in 1990-91 as a short-term response to the reform process. However, in a few years the overall rate of industrial growth gradually recovered. It increased from 2.3 per cent in 1992-93 to 6.0 per cent in 1993-94, 9.4 per cent in 1994-95 and 12.1 per cent in 1995-96. Since 1996-97, however, there was a decline in the rate of growth of industrial production and it may be less than 5 per cent during the financial year 1998-99.

1.5 The present agenda for discussion is framed with a view to assessing the extent and impact of industrial sickness on workers, the efficacy of the institutional framework to deal with this problem, the weakness of the legislative framework and mechanisms for restructuring industry and the workforce and the possible areas requiring direct intervention / action on the part of the Government, the management and the workers' unions for increasing production and productivity for revival of industrial growth.

II SOCIAL DIMENSION OF INDUSTRIAL SICKNESS

2.1 The basic issue of concern is the impact of industrial sickness on workers. The immediate fallout of sickness is default in payment of dues including those of workers. As a result of accumulating losses and liquidity constraints, the workers are compelled to go through a process of "belt-tightening" and are called upon to make sacrifices in order to improve the viability and financial health of the enterprise. These sacrifices can be in the form of exemption from wage awards (existing as well as prospective), non-payment of bonus, reduction in wages, postponement of annual increments, modification of service conditions, etc. Some of the sacrifices could be forced and take the shape of delayed payment / non-payment of statutory dues such as wages and salaries, provident fund dues, ESI dues, gratuity, bonus, pension, etc. With increase in rate of

inflation and spiralling of prices and decline in purchasing power of the currency the economic condition of the workers, the standard of living and the total quality of life get adversely affected. The reduced quantum of payments does not leave the workers much 'cushion' to make sacrifices specially, when the cost of living index is going up.

2.2 In case the process of restructuring and revival is slow, funds for investment are locked up in unproductive sectors affecting overall productivity and future prospects of employment. In order to cut down costs, employers may resort to retrenchment and lay-off without seeking permission of the Govt. The management may also declare lockouts in order to contain losses. In the case of a lockout the management has to pay only 50 per cent wages for 45 days. If the period of lockout continues beyond 45 days, the worker is not entitled to any payment. Data shows that the number of lockouts and workers affected as a result of this has registered a sharp increase in growth during the nineties compared to the eighties. Whether it is lay-off or retrenchment or lockout, it is the worker who suffers the maximum.

2.3 There is also the question of ethics, equity and social responsibility. There is a viewpoint that sacrifices accepted by workers in a rapidly shrinking job market are intrinsically unfair not only from equity considerations but also from the point of social responsibility. It is borne out by empirical evidence and analysis of causes of sickness that workers have a very little role to play in causing industrial sickness. The Committee of Experts on Industrial sickness observed that the factor most often responsible for industrial sickness is management itself. This could be in the form of poor production management, poor labour management, poor resource management, lack of professionalism, dissensions within the management or even dishonest management. The BIFR has also recognised the role of poor management in the following words,

" The blame for this state of affairs (sickness) has rested in no small measure on the management which was family-type non-professional, and even operating at times as absentee management. The management structures continued to be weak... The perceptions of management were static in regard to technology, products, markets and changing labour management relationship. In short, management attitudes were complacent and were not equipped to cope with the changing demands of the industrial scene. (BIFR, Industrial Sickness - Case Studies, vol.I(2),

Textiles, p.1.)"

2.4 Over and above unintended omissions and neglect, there are instances of wilful acts of asset stripping, strategic debt defaults, besides non-payment of statutory dues by the management.

2.5 The basic issue for consideration should, therefore, be how to minimise the suffering of workers in the context of industrial sickness leading to default in payment of dues and loss of jobs. A related issue is the extent to which the workers should share the burden of restructuring when they may not directly be responsible for sickness and when no adequate safety nets are in place to ameliorate the hardships on account of loss of employment. However, before such deliberations it is important to take stock of the incidence of industrial sickness, its root causes and the weaknesses of the existing institutional framework to deal with this problem.

III. INSTITUTIONAL MECHANISM TO DEAL WITH INDUSTRIAL SICKNESS

3.1 Based on the recommendations of a Committee of Experts under the Chairmanship of Shri T. Tiwari, the Government of India enacted a special legislation namely, Sick Industrial Companies (Special Provisions) Act, 1985 commonly known as the SICA. The Board of experts as envisaged in the Act was established in January, 1987 as the Board for Industrial and Financial Reconstruction (BIFR). The Board became operational from 15th May, 1987. The Appellate Authority for Industrial and Financial Reconstruction (AAIFR) was established in April 1987 as the appellate authority for the BIFR's decisions. The SICA was later amended in 1991 to bring government companies under its purview and again in 1993 when extensive changes were made in the Act including inter-alia changes in the criteria for determining industrial sickness. The SICA lays down the legal framework for reorganising the affairs of a sick industrial company. The main objective of SICA is to determine sickness, expedite the revival of potentially viable units and effect closure of unviable units. Prior to the establishment of BIFR, the process of restructuring, rehabilitation or winding up was severely complicated due to divergent approaches followed by different institutions. This was compounded by the long procedural delays in courts, and the overlapping jurisdiction of a number of central and state-level acts. The SICA was enacted with a view to accelerating the

process of restructuring through the BIFR and imparting it with the much needed coherence and consistency. The BIFR was visualised as a fast track facilitation agency, with a single-point reference for rapid disposal.

IV. INITIATIVES TAKEN BY RESERVE BANK OF INDIA (RBI) TO DEAL WITH INDUSTRIAL SICKNESS

4.1 The Reserve Bank of India (RBI) has also been attaching a lot of importance to revival of potentially viable sick/weak industrial units. Detailed guidelines have been issued for rehabilitation of these units and matters relating to better coordination between commercial banks and term lending institutions for formulation and implementation of rehabilitation programmes. Certain broad parameters have been evolved for grant of reliefs/concessions by banks as part of such revival packages. Banks have also been advised to set up cells which could make use of the information system suggested by the Tandon Study Group and detect early warning signals. Non-submission/incorrect submission of stock statement, inability to make stipulated margins, binding difference between outstanding balance and sanction limits, diversion of sale proceeds through accounts with other banks, return of cheques or bills etc., are to be monitored for early detection of industrial sickness. Comprehensive half-yearly returns are to be submitted by the banks in respect of sick/weak industrial units for the purpose of monitoring the progress made by them in the matter of rehabilitation. However, the basic deficiency of such a system is that industrial sickness is treated as a financial problem where the concerns of labour are by-and-large ignored.

V. INCIDENCE OF INDUSTRIAL SICKNESS - Recent Trends

5.1 An important question deserving an answer is whether the incidence of industrial sickness and the number of workers affected as a result of this have risen in recent years. Prima facie there is reason to believe that with opening of the economy and reduction of tariff barriers some segments of the Indian industry have been severely affected and have become sick. There are basically two sources of data on industrial sickness - the RBI and the BIFR. The RBI brings out a quarterly review of sick / weak industrial units at the end of each quarter based on returns furnished by the scheduled commercial banks. The coverage of RBI data is wider as it pertains to SSI sector besides non SSI sick and non-SSI weak units.

5.2 The RBI data indicates that the extent of industrial sickness in terms of number of units as well as the amount of outstanding bank credit has registered a notable growth during the nineties compared with the eighties. Non-SSI sick units account for more bad debts than SSI units. The incidence of sickness is the highest in the textile sector followed by the engineering and the chemicals sector. There is, however, no information on the number of workers affected as a result of industrial sickness which is defined mainly in terms of outstanding bank credit.

5.3 The main reason for industrial sickness according to RBI data is deficiency in project management followed by fall in demand / recession and deficiencies in technical feasibility of the project. Labour related problems account for less than 10 per cent of sickness.

5.4 Sector-wise position of industrial sickness in non-SSI units shows that the maximum sickness is in the private sector accounting for almost 90 per cent of units and more than 80 per cent of outstanding bank credit. Public sector accounts for a little more than 5 per cent of non-SSI units and around 12 per cent of outstanding bank credit. The remaining sickness is accounted for by the joint sector.

5.5 The BIFR data pertains to units registered with the BIFR and hence covers only the organised/non-SSI sector. This shows that since 1990, the number of cases referred to the BIFR has increased significantly. The BIFR had received 3441 references till November 30, 1998 of which 3216 references have been from the private sector, 82 from Central PSUs and 143 from State PSUs. The number of cases registered has been the maximum from the private sector (90 per cent) followed by the State PSUs (6 per cent) and Central PSUs (4 per cent). State-wise dispersal of registered cases shows that Maharashtra leads followed by Andhra Pradesh, Uttar Pradesh, W. Bengal and Gujarat. About 12 lakh workers are involved in the registered cases of which around 50 per cent belong to the public sector undertakings. The maximum number of cases has been registered in the metallurgical sector followed by textiles, paper and pulp, engineering and chemicals.

VI. REASONS FOR INDUSTRIAL SICKNESS

6.1 The main reasons for sickness given by the companies at the time of registration in BIFR fall into the following categories :

- a) managerial problems
- b) production and technical problems
- c) marketing problems
- d) financial problems
- e) government policies

6.2 While reasons for sickness vary from case to case, some factors have been observed as being common across industries. Preparation of a detailed project report involving in depth techno-economic analysis of all factors relevant to the success of the proposed project is generally not resorted to by the entrepreneurs. Detailed assessment of market demand for the proposed product vis-a-vis capacity has been conspicuous by its absence. In many cases failure to identify the minimum economic size of the plant and machinery and the use of appropriate technology has led to sickness. Sickness in Jute and Textiles is largely attributable to failure to modernise equipment, enhance productivity, to move into higher value added products in time and shed certain lines of production. The continuation of losses over a long period leads to accumulation of liabilities, which are very difficult to discharge even if modernisation is attempted later on because the anticipated operating surpluses are not adequate to meet the restructured liabilities. These units are also characterised by large manpower which may sometimes be surplus and of low productivity. Competent and professional management which is very vital to the success of all industrial undertakings has been absent in many cases. Time and cost overruns in completion of the projects and absence of built in margins for such overruns in the project report have created difficulties for the entrepreneurs who tend to divert working capital obtained from the banks and financial institutions for meeting capital cost. According to BIFR, such diversion of working capital has produced even more disastrous results.

6.3 Cheaper imports due to reduction in import duties, growing competition from multinational companies with wider market access and quality products, competition from unorganised sectors which can offer cheaper products due to lower taxes and overhead charges, inadequate power supply, high interest costs of finances, etc. are also cited by the companies as causes of their sickness in more recent years.

6.4 However, there is a need to recognise that there are some endemic and historical causes of industrial sickness as well. As stated in the Report of the Committee on Industrial Sickness and Corporate Restructuring, "Decades of 'development' financing certainly played a positive role in catalysing fairly rapid industrialisation in India from the late 1960s. However, it also created an environment where everyone believed that soft loans with generous interest rate concessions were obligatory for industrial development. When these subsidized funds were bolstered by high tariff walls, quotas and product/sector reservations, the upshot was widespread inefficiency in the use of scarce resources. Eventually, firms started to make losses and default on interest payments. Once again, it was deemed obligatory to rescue these companies by pumping in subsidised 'developmental' funds. In the process very little attention was paid to the opportunity cost of loanable funds, how these could be put to the best economic use, and to alternative methods of promoting new firms or reorganising existing ones".

6.5 One of the routes for "rescuing" / reviving some of the units in textile, jute and engineering sector with a view to protecting labour was by nationalising them. The government diversified its involvement from core sectors to non-core sectors stretching its capacity and capability to manage these units to challenging limits. A large number of the already sick units in the private sector was "inherited" by the Government along with their surplus workforce. As part of a research study conducted by T.C.A. Anant, in 1992, it was found out that interest and wage costs are both statistically significant determinants of industrial sickness - increase in such costs heighten the firm's probability of being sick. There is, therefore, reason to believe that soft loans and protection of labour contributed in no small measure to sickness of the Indian industry.

VII. SICKNESS IN CENTRAL PUBLIC SECTOR UNDERTAKINGS

Status

7.1 The Central Public Sector Undertakings (CPSUs) have played a pivotal role in the Indian economy encompassing a wide range of activities including those in the core sectors. As on 31.3.97, there were 242 CPSUs which had Rs.193000 crores of investment, Rs. 53000 crores of sales turn over, Rs. 10,000 crores of profit, contributed Rs. 37000 crores to the exchequer and had Rs.16,000 crores of export earnings. For the year

1996-97, enterprises manufacturing/producing goods generated a total value added of more than Rs. 56000 crores and employed about 20 lakh workers. It is, therefore, evident that sickness in CPSUs is expected to affect the entire industrial sector.

7.2 According to information available up to November, 1998 the BIFR received 82 cases of industrial sickness from Central Public Sector Undertakings (CPSUs) out of which 15 registrations were declined, 67 references were registered and 5 references were dismissed as non maintainable. During the same period, i.e., since the inception of BIFR and upto November 1998, rehabilitation schemes were approved/sanctioned in 21 cases, winding up was recommended in High Courts in 10 cases and winding up notice was issued for 4 units.

Reasons for Industrial sickness in CPSUs

7.3 In an analysis made by the Standing Conference of Public Enterprises (SCOPE) it has been found that industrial sickness is not as pervasive as it is generally thought out to be. There are well performing units who are known by the acronym 'Navaratna' such as Indian Oil Corporation, Bharat Petroleum, Oil & Natural Gas Corporation, Bharat Heavy Electricals, National Aluminium Company, National Fertilisers, etc. In fact going by the number of units registered with BIFR, the number of sick units in the private sector far exceeds the number of CPSUs.

7.4 Categorisation of sick CPSUs shows that about half of the CPSUs referred to BIFR had already become sick at the time of nationalisation. Some of these have remained unrevivable from the very inception. Other CPSUs have been structurally sick. Sickness in these enterprises is a product of faulty investment decisions where commercial objectives are given a go-by in the face of social compulsions. Some cases of sickness are generated by management failures also. Management intervention like advanced techniques of Human Resource Development (HRD), Total Quality Management (TQM) etc. have been missed where they were most needed i.e. sick enterprises. Some of these CPSUs have not adopted even the basic framework of corporate planning and are in the grip of a non-committed and un-accountable work culture. Administrative price subsidy regimes, dilatory decisions and clearances and high levels of levies have also worsened sickness in CPSUs. Some of the undertakings have become sick because of exogenous factors such as default of contractual

obligations by foreign Govts. or other governmental agencies or a sudden change in technology or exposure to global or unequal competition.

Remedies

7.5 The study of SCOPE has delineated the following strategies for recovery of CPSUs :

- * Revival packages should be holistic, adequate and should be implemented fully. Piecemeal approach is self-defeating and would be a case of throwing good money after bad.
- * Recovery should be designed with a clear reference to identified causes leading to sickness. Financial support without a clearly defined strategy to adopt a correction course is counter productive.
- * Decision for revival should be taken without necessary delays. The cost of indecision is fairly heavy.
- * VRS schemes and closures should be recognised as an important and efficient strategy for "freeing" of human and other resources for more productive uses.
- * Restructuring should be attempted wherever synergies and core competencies exist. Smaller units could be amalgamated or absorbed by bigger ones so that the need for disposal of assets at low prices is avoided and acquisition of assets and skills is at an optimal price.
- * A separate Restructuring Fund could be set up to provide a safety net to the workers. Since in some cases a decision on closure is delayed on account of concerns about workers, the terms and conditions of the Separation Package / VRS should be attractive so that the desired number of workforce opt for the scheme. Once the labour is separated the assets of the company could be made available for disposal at the best economic price.

VIII. SHORTCOMINGS IN THE EXISTING INSTITUTIONAL MECHANISM TO DEAL WITH INDUSTRIAL SICKNESS

8.1 The BIFR was intended to provide a fast track mechanism to detect

industrial sickness, rehabilitate viable units and wind up non-viable ones. However, these objectives have been far from fulfilled. The concept of erosion of net worth as the criterion for assessing industrial sickness has resulted in the units approaching BIFR in the terminal stages of sickness where revival is difficult. Of the 2145 cases registered with BIFR as on 31.3.98 rehabilitation schemes were approved/sanctioned for 599 cases of the Board and for 26 cases for AAIFR. Winding up was recommended to the concerned High Courts in 579 cases. 491 cases were pending at various stages of inquiry.

8.2 There is also considerable delay in examination of cases. Some of the main reasons for delay are given below :

- (a) Delay on the part of promoters to submit a viable rehabilitation proposal with finances fully tied up.
- (b) Delay in obtaining consent under Section 19(2) to the reliefs and concessions from various parties.
- (c) Prolonged litigation : Appeals against the orders/directions of the Board lie with AAIFR. 1484 appeals were filed during the period in the AAIFR mostly against the orders of the Board. 207 cases which were decided by the Board were remanded to the Board by courts on appeal for fresh consideration. (this includes 34 cases remanded in 1997 and 6 cases in 1998). Proceedings in 49 cases were stayed by courts. In the judicial hierarchy under SICA the Board occupies the lowest rung after AAIFR/High Court.
- (d) Non constitution of the Benches : The Board is authorised to function with four Benches. However, except during 1990 and 1995, the Board had to function with three Benches due to non filling up of vacancies caused by retirement of Members. While only two benches were functional during 1997 (upto 31.8.1997), only one bench is in existence since 1.9.97.

8.3 An analysis of average time taken for disposal of maintainable cases shows that between January 1997 - March 1998, the average time gap between registration and first hearing took 97 days to 115 days, between first hearing and disposal took 1332 days to 1700 days, between registration to disposal took 1468 to 1797 days. The number of Bench hearings utilised for disposal was anywhere between 33 to 916.

8.4 Even in cases where rehabilitation of units was recommended, the rehabilitation package has not worked. Several cases have been listed for failure of rehabilitation scheme. These are as follows :

a) **Non Compliance By Promoters/Co-Promoters**

- i) Not bringing in the promoter's contribution within the time frame envisaged in the scheme
- ii) Not completing the capital expenditure programme, both in physical and financial terms, as envisaged.
- iii) Not taking timely action to dispose of the surplus assets to mobilise resources in the manner and within the time frame envisaged.
- iv) Not completing the essential documentation required for release of term loans and working capital by Financial Institutions and Banks.

b) **Non Compliance by Financial Institutions and Banks**

There have been instances of delay in releasing term loans and need based working capital as provided in the scheme by the banks and financial institutions. Generally, such delays are due to non-fulfilment of procedural formalities by the sick company. Consequently, the implementation of the scheme gets delayed which further leads to cost over-runs.

c) **Instances of Non Compliance by Govt. Agencies**

The Central Government, State Government and State Electricity Boards also in some cases do not release the reliefs and concessions as per the provisions of the sanctioned scheme. For instance, the state Governments do not release the sales tax loan, or do not ensure availability of adequate power, or do not pay the outstanding dues relating to the goods supplied by the company to Government departments, or do not release in time the subsidy amounts due as per the provisions of the sanctioned scheme.

d) **Market Conditions**

Changes in market conditions can make the product of the company

under rehabilitation non-competitive as a result of which the performance of the company may not be in tune with the projections made in the sanctioned scheme. Shift in Govt. policies which were not anticipated at the time of formulation of the rehabilitation schemes also contributes to the failure of the schemes.

8.5 In the wake of guidelines issued by the RBI to banks, pursuant to the recommendations of Narashimahan Committee in 1993, the banks provisioning requirements in regard to non-performing assets (NPAs) have become more stringent. This has resulted in increasing unwillingness on the part of banks to take additional exposure to the sick companies. Even in the rehabilitation schemes sanctioned earlier, the banks have been reluctant in releasing additional working capital assistance already committed. Of late, the banks are indicating preference for One Time Settlements (OTS) of their dues rather than participating in rehabilitation schemes for sick companies. The banks which agree to an OTS of working capital dues from the company are understandably not inclined to continue their association with working capital financing of the company further. The sick company or its promoters are in the circumstances, required to arrange for necessary working capital funds on their own or tie up with alternative bankers for financing the working capital gap consequent upon exit of the existing banker after the OTS. Against the background of its sickness and OTS, the company finds it difficult to tie-up alternative bankers

IX. OTHER LIMITATIONS OF SICA / BIFR

9.1 The Report of the Committee on Industrial Sickness and Corporate Restructuring (1993) had enumerated a number of additional factors which act as a barrier to the restructuring process. Some of these factors are listed below :

* If a firm is operationally viable but financially sick banks and other institutions lose confidence in the existing management and demand change in management as a pre-condition for corporate reorganisation. However, it is very difficult, if not impossible, for secured creditors to force a real change in management. The courts also have a view that a lender cannot dictate such replacement.

* Fraud, breach of trust, malfeasance, etc. are fuzzy concepts and

virtually impossible to prove. Since the BIFR is a quasi-judicial body, the Directors who are guilty of misutilising funds can always change these allegations in courts. Such proceedings take a long time.

* BIFR can only recommend change in management of a SICA company since SICA overrides the Companies' Act. However, BIFR's quasi-judicial nature ensures that it can only recommend not order.

* Under section 22 of SICA no recovery proceedings can be initiated against the management of the company.

* SICA does not over ride ULCRA. Under section 20 and 21 of the Urban Land Ceiling Regulation Act (ULCRA) (now repealed) vacant land cannot be sold and dues cannot be used for revival or for payment of dues.

* Though BIFR's opinion on winding up operations is binding upon the Court the minimum delay between BIFR forwarding its opinion and the court passing winding up orders is up to three years. The petitioner who is generally the promoter or his agent files a writ petition under Article 226 of the Constitution of India to stay the order on the claim that his legal rights have been infringed. It is always in the promoter's interest to extend the hiatus between BIFR decision and the passing of the winding up order in court. During this period the firm is totally unprotected and in limbo, outside the purview of SICA and also of the winding up provisions of the Companies Act. The longer the gap the greater is the scope to strip assets and sell off as much immovable property and inventory as possible.

* There is also delay in preparation of accounts, detailed listing of all assets and inventory and valuation of assessment. The settlement and distribution of sale proceeds among claimants take even longer. When all the details are accumulated, the total time taken in liquidation is rarely less than 10 years.

X. HOW TO DEAL WITH INDUSTRIAL SICKNESS?

Evolving a Liberal VRS/Separation Scheme

10.1 One of the important reasons why the process of restructuring is prolonged and industrial sickness is allowed to continue is because closure of establishments entails retrenchment of workers. In an economy where output is growing along with employment the process of restructuring is less painful. However, in the event of a slow down in growth of industrial

output and contraction of job opportunities restructuring of the workforce imposes severe hardships on labour. This is true in the present Indian context.

10.2 There are basically two options available to workers of unviable/non-revivable sick units i.e. VRS compensation or retrenchment. The VRS package as evolved by the Deptt. of Public Enterprises provides for compensation @ 45 days wages and salary for every year of completed service. For a worker who has completed 20 - 30 years of service the compensation would be equivalent to 2.5 - 3.5 years salary. The retrenchment compensation on the other hand is even more modest and is fixed at 15 days salary for every completed year of service. For a worker completing 24 years of service, the compensation would amount to merely one year's salary.

10.3 In the situation where job opportunities in the organised sector are limited and gradually shrinking, resistance on the part of workers to retrenchment/separation from jobs is understandable. Unless there is an adequate safety net to provide a cushion during the transition period of unemployment, restructuring of the workforce may be a difficult task to accomplish. According to an estimate made by Dr. S.P. Gupta (1998) the average number of workers per sick BIFR unit up to March, 1998 was 602. Out of 1204 sick units 296 units have been recommended for winding up. In this case, the number of workers to be covered under VRS would be approximately 1,80,000. Assuming 20% down-sizing of work force in the units which had to be rehabilitated the total estimate of redundant work force in the BIFR sector was estimated by Gupta at 2.18 lakh workers. In another estimate made by ILO redundancy in India has been estimated at 4.4. million (3.4 million in the public sector and 0.99 in the private sector).

10.4 The basic problem of evolving an adequate safety net for workers undergoing transition due to economic restructuring is the funding of such a scheme. If the workers have to be separated the cost of separation should be balanced against the cost of retaining the workers without much addition to production. The total wage bill of public sector enterprises / cost of retaining the workers in employment is at times much higher than the value added by them. If workers were separated on the basis of salary last drawn payable for five to six years, even then, the total cost of such payments on annual basis would be less than the cost of retaining the workers in non-productive / sick PSUs. Not only would this option be more

cost effective without putting workers to undue hardships but it would also "free" resources from uneconomic use for more productive investments resulting in long term productive gains.

XI. Suggestions for Improvement in VRS/Separation Scheme

11.1 Any revised proposal for the voluntary retirement scheme or introduction of a Separation Scheme should be viewed in the light of absence of a social security net for workers specially when they voluntarily opt out of employment or are statutorily retrenched. The basic differences between VRS/Separation Scheme and retrenchment compensation are:

- VRS/Separation Scheme does not have statutory backing - retrenchment compensation is part of the ID Act, 1947.
- The amount of compensation under VRS is substantially higher than retrenchment compensation as provided for in Section 25 of the I.D. Act.
- The VRS/Separation Scheme provides a fast track mechanism for restructuring the workforce as it is not directly related to the liquidation / closure of the unit.

11.2 In recent judgements of the Supreme Court in respect of relocation of hazardous and polluting industries in Delhi and other similar cases, six years' wages and salary as compensation to workmen has been made a benchmark. The payment of this amount at one go may pose a problem for the company. But if this amount is staggered over six years on a monthly basis, the initial provision will be less.

11.3 Apart from the consideration of not imposing a heavy financial burden on an already sick unit, staggered monthly payments are advantageous to workers. Micro level studies of workers who have already taken VRS under various schemes shows that in a very little time the compensation is expended on meeting past liabilities or in the marriage of children, or for payment of medical bills, etc. This is specially true for workers who are in the higher age group and have substantial financial and social liabilities. It is difficult to train and redeploy such workmen and in a very little time they are reduced to indigency. The govt. could explore options of linking other benefits to VRS for meeting requirements of medical expenses, investment in pension schemes, insurance scheme etc.

These schemes should form an essential part of the VRS package.

11.4 Finally there is also a need for taking the workers into confidence about the process of restructuring/closure . Suggestions should be invited from them regarding components of the VRS package, how they would like to invest the money and what are their future needs. Regular counselling should be given to them even before they opt for VRS. This would not only ensure better compliance but also give the workers a choice regarding investment/redeployment of funds received under the VRS.

11.5 The other suggestions to improve the efficacy of VRS are:

- The benefits should be applied to a higher base of salary which includes besides basic pay, D.A. as well
- The scope of the scheme should be extended to badli workers / temporary workers who have completed a specified number of years of service
- The co-operative sector may also be considered for availing benefits under VRS.
- Part of the funds obtained from disinvestment of PSU shares should be earmarked for VRS.

XII. Amendment of SICA

12.1 The basic objectives of SICA which were to secure timely detection of sick and partially sick companies and to determine speedily the preventive ameliorative remedial and other measures which needed to be taken with respect to these appear to be largely unfulfilled. The major shortcomings of the Act have been identified as follows:

- * Definition of sickness too narrow - Hence the Act cannot deal with incipient and potential sickness.
- * Success rate of revival schemes sanctioned by BIFR not satisfactory.
- * No opportunities to concerned parties (workers unions and management) to work out a revival scheme outside the BIFR mechanism.

* Unscrupulous promoters able to misuse certain provisions (such as automatic stay of legal proceedings including suits of recovery as against interim and final orders of BIFR/AAIFR) resulting in delay in disposal of cases.

* Time taken to dispose of BIFR cases far too long

* Cases for winding up / closure recommended by BIFR to High Courts for liquidation of assets and recovery of sale proceeds also take a long time harming in the process the interests of workers.

* No provision for payment of statutory dues to workers when the company is recommended for being wound up.

12.2 In view of the above it is imperative that SICA is amended in order to make it more effective. Some of the suggestions for amendment are:

* Change in the definition of sick industrial company from "erosion in net worth" to "debt default"

* References to BIFR to be made optional in the case of sickness of those companies where accumulated losses are less than fifty percent or less than its net worth,

* Role of the BIFR to be that of a mediator in order to eliminate court culture,

* Time limits to be imposed for different stages of proceedings to expedite processing of references,

* Stay on legal proceedings, suits for recovery of money or enforcement of security, etc. not to be automatic but to operate when specifically so declared by the Board,

* Monitoring of sanctioned schemes by the Board to be made mandatory, and

* The Appellate Authority for Industrial and Financial Reconstruction (AAIFR) to be dissolved.

12.3 Suggestions Concerning Labour

- * Payment of current and past liabilities to be taken care of in the revival package**
- * Statutory dues not given primacy at the time of liquidation proceedings.**
- * Greater representation of trade unions in the composition of BIFR and more opportunities to be given to them for hearing by BIFR during its proceedings.**
- * Recovery of workers' dues to be exempted under Section 22 of the Act.**

XIII. Other Measures for Reducing Industrial Sickness

Increase in Production and Productivity

13.1 One of the useful ways of dealing with the problem of industrial sickness is to provide the pre-requisites for growth of production and productivity. Industrial sickness is itself a fallout of policy restrictions on companies in various matters including that of restructuring its labour force. Labour in excess of requirements results in reduced productivity. According to estimates of redundancy made by Sudipto Mundle, it was found that 18.2 per cent of the employment in the CPSUs is redundant. However, retrenchment of workers, modernisation and technological change are generally opposed by Trade Unions. Whereas representatives of workers tend to look at labour laws regulating labour market as a protective cover delinked from economic and commercial viability of the enterprise, management of industrial enterprises look upon them as militating against labour market flexibilities and increasing costs. Wage increases are given to permanent labour whose wages do not reflect their productivity and whose number cannot be reduced. With legal restrictions on adjusting manpower and given rigidity of wages, employers are forced into labour saving / capital intensive technology.

13.2 There is a viewpoint that the mismatch between wage and productivity in the formal organised sector is one of the important reasons for industrial sickness, lack of competitive edge, loss of business, slowdown

in exports and adoption of labour saving devices resulting in "jobless growth". According to a study conducted by IIM Ahmedabad, the wage index overtook the productivity index in 1977-78 and wages increased thereafter at a higher rate than productivity. In another study done by the Asian Productivity Organisation (APO), India's labour productivity compared unfavourably with neighbouring countries like Pakistan and China. Low productivity of labour sets about a chain reaction whereby the industry becomes uncompetitive, leading to loss of business and shrinkage of jobs.

13.3 The question, therefore, is what measures should be taken to increase production and productivity so that there would not only be an expansion of employment opportunities but the real wages would also grow in a sustained manner along with industrial growth.

XIV. Linking Wages with Productivity

14.1 There are various ways of fixing wages in India. These are through Commissions and Committees, Wage Boards, guidelines issued by the Bureau of Public Enterprises, Pay Commissions and Judicial authorities. In the normal course there are certain segments of the workforce which are able to put pressure for effecting relatively high increase in wages and create high wage islands in the economy. However, with scope of expansion of capacity in these sectors, the employment generation was limited. On the other hand, specially in the unorganised sector, wages are low as the majority of the workforce is not unionised and the employers are not in a position to offer high wage increase.

14.2 The unions have a special role to play in ensuring that wage increases are in consonance with productivity of workers through the process of collective bargaining. A strong and institutionalised industrial relations machinery could be developed to oversee that bipartite industrial relations work smoothly. Awareness and consciousness among the workers that the enterprise is their own and its prosperity depends on their hard work and loyalty would go a long way in improving work culture and productivity. In some of the enterprises the management takes initiative to consult trade unions of new incentive schemes in a transparent manner. With greater participation of workers in management valuable suggestions could be received about the allotment of work, norms of deployment in operations, etc. In those enterprises where there is a practice to undertake elaborate

exercises of various aspects of demand of workers before the announcement of formal wage negotiations there is greater perception of each others problems and the need for reaching settlements amicably. The impact of mutual consultations and settlements arrived at through meetings and consultations is the following :

- * Peaceful industrial relations ensuring uninterrupted production, enhancement of productivity, improvement in quality, reduction in unit cost resulting in competitive prices of products for overall prosperity, exports, etc.

- * Creating awareness about quality and realising that global competitiveness can come not only through reduction in cost but also through setting of high quality standards will also improve production. Apart from constituting quality circles and adopting Total Quality Management (TQM) practices, some of the factories have been displaying at prominent places the quality status of products on a day-to-day basis which is instrumental in achieving encouraging results through appropriate incentive schemes.

- * Reduction in wastes and rejects can be launched as a movement in improving quality and enhanced market share of final products. The workers could be compensated for reduction in wages through innovative compensation schemes.

- * A large number of enterprises have been undergoing structural reforms in consultation with trade unions. Transparency, openness and building of credibility could go a long way in gaining cooperation of workers in times of difficulty. Many industries resorted to down-sizing of workforce after taking workers into confidence. Workers are also known to accept the scheme for deferred payment of accrued pay and allowances. The workers may be given an assurance to be paid the gratuity dues if the enterprise starts generating profits through extra efforts of both the management and the workers. Managements have also been adopting a liberal policy to grant loans at concessional rates of interest for meeting long term needs of the workers. This is a commendable innovation of encouraging the workers to extend cooperation to the management for the prosperity of the enterprise whenever called upon.

- * In a free market economy development of human resources has to be

given top most priority. It is recognised by both managements as well as the unions that efficiency can come mainly through efforts of educated active young and trained dedicated workers. In some of the enterprises the management ear-marks high allocation for HRD in view of the long term gains. This is known to pay rich dividends in the future in terms of productivity gains.

* Modern managers also attach importance to building a synergetic relationship with the workers and inculcating a team spirit by sharing the goals and visions of the corporation with them. By cultivating a sense of belonging among the workers they can identify themselves more closely with the enterprise and participate more actively in its growth and prosperity.

* Multi skilling has also acquired importance in view of the need for updating technology/ introducing new technology. Interest has to be generated in learning new skills so that the existing workers do not become redundant but continue to serve the same enterprises. Workers have now been accepting the prerogative of the employers to advise the operation plans for fixing work norms for the new technology.

XV. ISSUES FOR DISCUSSION

15.1 The ILC may consider the following items for further discussion :

- i) How to make BIFR more effective?
- ii) What should be the definition of industrial sickness?
- iii) How to reduce delays in processing of cases?
- iv) How to improve formulation of rehabilitation schemes?
- v) How to ensure that workers' dues get the necessary priority and centrality?

15.2 With regard to other barriers to restructuring, ILC may like to deliberate upon the provisions under Chapter-V B of the I.D.Act and if this has protected labour's interests both in the short and the long run. They may also like to give their views on what constitutes an attractive VRS/separation scheme so that restructuring of labour force can be faster and not related to winding up / liquidation of Companies. Furthermore, what strategy should be adopted to ensure that workers of sick units are paid their statutory dues? Even if workers have the first charge on the

assets of the company, if liquidation proceedings take several years, the workers may be the worst sufferers. In such an eventuality what are the solutions / suggestions of members regarding recovery of dues? Whether a financial intermediary could play a role in this?

15.3 The Unions and the management may like to share their experience regarding workers' participation in management, investment in HRD, adoption of new management practices, etc, as a means of avoidance of wastage & leakage of resources, optimal harnessing of scarce resources with a view to increasing production and productivity which is the final solution to industrial sickness. Participants may also like to discuss methods of restructuring without tears, efforts to take workers into confidence about the restructuring plans and their results, features of innovative incentive schemes which have helped the worker to identify himself/herself with the establishment and share its goals and visions, etc.

ITEM 3: MEASURES TO INCREASE EMPLOYMENT OPPORTUNITIES

Global Employment Scenario

According to the World Employment Report 1998-99, the global employment situation remains unfavourable and is a matter of considerable concern. In most regions the level of unemployment continues to remain high and although in some regions employment has grown as rapidly as the growth of labour force, this alone is not sufficient to reduce the high level of unemployment. The report has estimated that before the East Asian crisis in July, 1997 the number of world's unemployed was about 140 million. By the end of 1998 this figure would be rising to 150 million. In addition, about 25 to 30 % of the world's 3.0 billion strong workforce are underemployed. The report has clearly brought out that demand for skilled labour has risen as a result of technological development and changes in the organisation of work. It has also brought out that there is considerable redundancy of labour due to technological changes and there has generally been a lack of attention for timely training to prevent redundancy. The report has emphasised the importance of investment in education and skill development in the new global environment; it has also stressed the need for retraining in respect of workers who are rationalised, retrenched or displaced, in collaboration with employers' and workers' organisations.

2. Concepts of Employment and Unemployment

The NSSO surveys on employment and unemployment aim to measure the extent of 'employment' and 'unemployment' in quantitative terms disaggregated by various household and population characteristics. The concept and procedure followed are primarily based on the recommendation of the 'Expert Committee on unemployment estimates' popularly known as the Dantwala Committee appointed by the Planning Commission. The persons surveyed are classified in to various activity categories on the basis of the activities pursued by them during

certain specified reference periods. Three reference periods are used in these surveys. These are (i) one year (ii) one week and (iii) each day of the week. Based on these three periods three different measures are arrived at. These are termed as usual status, current weekly status and the current daily status respectively. The procedure adopted to arrive at these three measures is given below:

(i) **Classification according to usual status:** In this approach the status of activity on which a person spent relatively longer time of the preceding 365 days from the date of survey is considered as the principal usual status activity of the person. Accordingly, a person is considered 'working or employed' if the person was engaged for a relatively longer time during the past year in any one or more work related activities (economic activities). The person is considered as 'seeking or available' for work or 'unemployment' if the person was not working but was either seeking or was available for work for a relatively longer time during the past year. If the person was engaged in any non-economic activities for a relatively longer time of the reference year he/she is considered as 'out of labour force'. The specific activity category is determined on the basis of time spent criterion, i.e. the activity on which major time was spent being assigned as the usual status activity. A person categorised as 'worker' or 'employed' on the basis of the principal status is called a 'principal status worker' or 'principal status employed'. A person categorised as a non-worker (i.e. unemployed or out of labour force) who pursued some economic activity in a subsidiary capacity is called a 'subsidiary status worker' or 'subsidiary status employed'. These two groups viz. principal status workers and subsidiary status workers together constitute 'all workers' according to the usual status classification.

(ii) **Classification according to current weekly status approach:** For classification of persons according to current weekly status approach, they are assigned a unique activity status with reference to a period of 7 days preceding the date of survey. This is easily done in the case of persons having only one status during the reference week. But for persons pursuing more than

one activity a priority-cum--major time rule was applied to obtain a unique activity status. Under the priority rule, the status of working got priority over the status of not working but seeking/available for work. Further the status of not working but seeking/available for work got priority over the status of not working and not seeking/available for work. Within the broad category of working and not working, the detailed activity category was assigned by major time spent criterion. Using this procedure in the current weekly status a person is considered working or employed if the person was engaged for at least one hour on any one day of the previous week on any work related (economic) activity. A person who had not worked for even one hour on any one day of the week, but had been seeking or had been available for work at any time for at least one hour during the week was considered 'seeking/available for work'. Others were considered 'not available for work' or as out of labour force.

(iii) Classification according to current daily status approach: The activity pattern of people particularly in the unorganised sector is such that a person might be pursuing more than one activity during a week and sometimes even during a day. In the current daily status (CDS), up to two activity statuses were assigned to a person on each day of the reference week. The unit of classification was thus 'half day' in the CDS. In assigning the activity status on a day a person was considered working for the entire day if he had worked 4 hours or more during the day. If he had worked one hour or more but less than 4 hours, he was considered working (employed) for half day and seeking/available for work (unemployed) or not available for work (not in labour force) for the other half day depending on whether he was seeking/available for work or not. On the other hand, if a person was not engaged in any work even for one hour but was seeking or available for work 4 hours or more, he was considered unemployed for the entire day. If he was available for work for less than 4 hours only, he was considered unemployed for half day and not in labour force for the other half of the day. A person who neither had any work to do nor was available for work even for 'half' of the day was considered not in labour force for the entire day and was assigned one or two non-economic

activity status codes. The aggregate of person days classified under the different activity categories for all the seven days gave the distribution of persons day by activity category during an average week over the surveys period of one year.

In India, open unemployment as per Usual Principle Status has been estimated to be around 2.56 % of the total labour force. Under employment as observed from the survey is to the extent of 6 % of the total employed labour force [Basis : NSSO 50th round)

3. Changes in Nature of Employment

The traditional organised sector, particularly manufacturing, has registered only a marginal increase in terms of availability of employment opportunities. This is partly due to changes in technology and partly due to change in the nature of work and reorganisation of the entire work process. In the wake of liberalisation and privatisation, there is a tendency to off-load regular work in favour of contractors or what is known as out source. This together with in time/zero inventory concepts has shifted considerable number of jobs from the organised to the unorganised sector. But as manufacturing tends to move from developed countries to developing countries, India ought to have been in a better position to increase employment in organised sector. The increase in employment in the organised sector would, therefore, improve if foreign direct investment results in labour intensive growth. Such a growth is possible only when the perception of the investors is that Indian labour force has a high level of skills.

4. Education & Skill Training

A part of the unemployment problem emanates from the mismatch between the skill requirements of the labour market (which is emerging as fiercely aggressive and aggressively competitive) and the skill base of the job-seekers. The mismatch is likely to become more acute in the process of rapid structural changes in the economy. It is, therefore, necessary to re-orient the educational and training systems towards improving the

capability of the labour force to supply the requisite skills in the medium and long term and introduce greater flexibility in the training system so as to enable it to quickly respond to the change in the labour market in the short run and to improve the rate of adjustment with the change in the long run. Besides, the system should also be in a position to impart suitable training to the large mass of workers engaged as self-employed and wage earners in the unorganised sector for upgradation of their skills, as an effective means for raising their productivity and income levels. The training system should also be geared to increase the share of self-employment in the total employment. The strategy should also aim at improving the rate of participation of women in sectors where they had hitherto not had an appropriate share i.e. identifying areas which are gender unspecific as also others which are consistent with specific gender needs. As the responsibility for imparting training as above devolves on a number of agencies - in central and state governments, NGOs and private bodies; and as such agencies do not interact regularly with the agencies that generate employment, there is need for clearly identifying and strengthening the coordinating agencies at various levels.

The existing training institutions like the ITIs have, no doubt, been meeting a small part of the requirement of the skilled manpower of organised industry. It, however, seems necessary that the process of restructuring and reorientation of their courses is accelerated with a view to quickly responding to the needs and requirements of a fast changing labour market. A greater involvement of industry in planning and running the training stream would also be necessary for this purpose. For skill upgradation of the workers in the unorganised sector, flexibility in the duration, timing and location of training courses would need to be introduced. To the extent a sizable proportion of employment would have to center round self-employment in tiny and small units in various sectors, the training system should also be reoriented not only for providing "hard" skills in suitable trades, but also the "soft" skills of entrepreneurship, management and marketing as part of training courses

It is widely recognised that rapid expansion of education, particularly of higher education, has also contributed to the mismatch in the labour market. While shortages of middle level technical and supervisory skills are often experienced, graduates and post-graduates in arts, commerce and science constitute a large proportion of job-seekers. High private rates of return on higher education, to a large extent resulting from low private cost, is an important reason for the rush for higher education despite high incidence of educated unemployment. At the same time, efforts to divert the school leavers to the vocational stream have so far been too little in relation to the size of the problem. To illustrate, as against 4.8 million students turning out of the school system at Class X level and 2.0 million students turning out at Class XII level, barely one million can be absorbed in the existing 4086 ITIs, 1200 Polytechnics. Entering the ITIs - Polytechnics is not associated with the same urge, inclination and seriousness as the desire to enter the higher education stream which is a regrettable trend. While these efforts need to be strengthened, a proper climate of higher motivation and incentive to enter the vocational/educational and technical training stream will have to be created. Simultaneously mechanisms also need to be evolved in the training and employment system to ensure that those graduating out of the vocational and middle level technical training courses, have the route to a higher ladder open to them, through upgradation of their qualifications and skills by undergoing training in higher level courses during their employment career.

5. Employment Opportunities For Women

According to the labour force survey conducted by NSSPO in 1993-94 around 33 % and 16 % of the women were in the labour force in rural and urban areas respectively. In absolute terms it works out to be around 104.7 million in the rural area and 18.4 million in the urban area. Out of this again about 103.7 million in the rural areas and 17.3 million in the urban areas were employed as per usual status which covers those involved in gainful activity regularly plus those involved in gainful activity occasionally during the last 365 days. It may, therefore, be seen that as per usual status concept only 1.0 million women in the

rural area and 1.2 million women in the urban area were unemployed; these figures do not include those women who are engaged in a number of daily chores and economic activities.

Employment of women constitutes an important component of the organised sector employment in the country. Their participation has been continuously rising over the last few years. At the end of 31st March, 1997 out of a total of 27.9 million employment in the organised sector about 4.6 million were women which is around 16.4 %. More than 50 % of the women were employed in community, social and personnel services industry. There is a need for facilitating women's employment in non-traditional areas.

NSSO survey results show that about 93.7 % and 88.8% women labour force in rural and urban areas respectively did not possess any vocational skill. Under such circumstances more investment in vocational skill development for women becomes imperative.

6. Employment Planning and Policy

Employment has been an important objective of development planning in successive five year plans. But the approaches to tackling the unemployment problem have been varied. In the initial years of planning reliance was placed primarily on the expectations of a rapid industrial development and control of population. These expectations did not materialise; it was observed that the rate of growth of employment was much lower than the GDP rate of growth of economy. The successive plans, strategies, policies and programmes were, therefore, designed to bring about a special focus on employment generation as a specific objective. With the ushering of green revolution, the country was able to put behind it the era of famines. Around the same time, the paradigm of social policy had shifted from the modernisation theory and the theory on 'trickle down'. It was increasingly realised that unless economic growth and equity concerns were harmoniously blended together, wide spread deprivation could not be ameliorated. Thus, the seventies and eighties saw the emergence

of special programmes or wage employment through public works programme and self employment and entrepreneurship through provision of assets, skills and other support to the unemployed and the poor.

While employment levels expanded steadily in the seventies and eighties, the rate of growth of employment was around 1.75 % to 2 % as against the rate of growth of labour force which was of the order of 2.5 %. There was also a shift in the nature of unemployment from one of wide spread unemployment towards larger open unemployment with a rising proportion of the unemployed being educated. Another feature of the employment situation is the sizeable proportion of the employed working at low levels of productivity and income.

The strategies adopted in National Five Year Plans have oscillated in terms of emphasis on agriculture, industry and tertiary sectors so has also the patterns of investment. These strategies are contained in Annexure II.

Limitations of Wage Employment Programmes :-

The wage employment programmes have prevented large scale deprivation in rural areas and protected the entitlement of the poor. But most of employment generated is of a short term and supplementary nature and by itself will not convert an unemployed person into a fully employed one. Further all the employment generated under JRY kind of programmes from year to year do not represent a net addition of employment, as employment generated during one year terminates during the year and a similar quantum of employment has to be created during the next year to maintain the employment level. Besides, despite best intentioned efforts wage employment fluctuates and is often not stable and durable. This gives rise to the incidence of migration from one district to another or from one State to another. The whole family often migrates causing large scale dislocation of family life and denial of children's access to educational opportunity. Wage employment is highly vulnerable to the ills of contract labour system in which wages are not paid in time, minimum wages are not paid, wages are subjected to

deductions by way of commissions to middlemen and so on. In other words, the quality of wage employment in the unorganised/informal sector leaves much to be desired. As against these limitations and ills of the system of wage employment, self employment has several silver linings. Self-employment opens up vistas of new opportunities and challenges, it brings in a lot of excitement, enjoy of creativity and it eliminates the evils of the contract system. Self-employment, however, becomes meaningful and successful only if (a) there is proper market survey on the salability of the product (b) the access to raw materials, skills, credit, technology and market is facilitated and © the chain of malfunctional and dysfunctional middlemen do not create hurdles or stumbling blocks in obtaining the aforesaid access in a normal & natural manner.

7. World Summit on Social Development.

The World Summit for Social Development of March, 1995 was in many ways, a reaffirmation of the spirit of ILO Convention No. 122 concerning employment policy. It is pertinent to mention that India has ratified this convention 35 years after it was adopted by ILC, Geneva in 1964. It pointed out the key role of ILO in promoting freely chosen, full and productive employment for the population of member countries, and for developing greater policy dialogue with all relevant international bodies. India presented a country paper in that summit; the chapter on employment outlines the strategies for tackling the unemployment question as proposed in the Eighth Five Year Plan.

8. Recent Policy Initiatives Influencing Employment Opportunities

According to the Planning Commission, the primary objective of the Ninth Plan is to generate greater productive employment in the growth process itself by concentrating on sectors, sub-sectors and technologies which are more labour intensive in regions characterised by higher rates of unemployment and under employment. Improvement in the quality of employment can be achieved only in a situation of

rapidly growing productivity to which the labour can lay a just claim. The approach paper indicates that a high rate of output growth is necessary but not always a sufficient condition for high growth employment. It is estimated that to achieve full employment by 2007, the rate of growth of employment has to be about 2.8 %.

In this context, the Finance Minister's recent budget speech has spelt out a number of policy measures to combat unemployment. Three broad thrust areas that emerge are-

- (i) Revitalisation of micro enterprises for generating productive employment, especially in rural areas, by doubling the target of self help groups to the benefited by NABARD and SIDBI.
- (ii) National Programme for Rural Industrialisation with a mission to set up 100 rural clusters every year to give a boost to rural industrialisation. This is expected to benefit rural artisans and unemployed youth.
- (iii) Consolidation of self-employment and wage employment schemes, with decentralisation to the district and panchayat level institutions. The existing Jawahar Rozgar Yojana will be run by empowering Gram Panchayats for creating rural infrastructure. The wage employment programmes of employment assurance scheme will be implemented at the district and block levels with delegation of powers to Zilla Parishads. Large number of self employment programmes for rural poor will be merged into a single programme and implemented henceforth with greater participation of Gram Panchayats.

In addition following the Prime Ministers initiative for creating ten crore employment opportunities in the next ten years, a high level task force on 'employment opportunities' has been set up by the Planning Commission. The team, chaired by a Member, Planning Commission, has also representatives from Research and Development Institutions, representative bodies of industries, as well as the major ministries which generate employment.

9. Simplification/Rationalisation of Labour Laws for stimulating employment in small and medium enterprises

The small scale industries have a significant role in generation of employment, as is evident from the table given below:

Overall Performance of SSI Sector

Year	No. of units (In lakhs) As on 31st December	Output (At Current Prices) (Rs. Crore)	Employment (Lakhs Nos.)	Export (Rs. Crores)
1991-92	20.82 (6.9)	1,78,699 (15.0)	129.80 (3.6)	13.883 (43.7)
1992-93	22.46 (7.9)	2,09,300 (17.1)	134.06 (3.3)	17.785 (28.1)
1993-94	23.81 (6.1)	2,41,648 (15.5)	139.38 (4.0)	25.307 (42.3)
1994-95	25.71 (7.8)	2,93,990 (21.7)	146.56 (5.2)	29.068 (14.9)
1995-96(P)	27.24 (8.1)	3,56,213 (21.2)	152.61 (4.1)	36.470* (25.5)

***Quick Estimate (P) Provisional**

Note: Figures in the brackets given the increase over previous year.

(Source : Office of D.C., SSI)

The Ministry of Labour have been receiving representations from time to time that the small scale industries although playing an important role in the economic development of the country and contributing significantly to its industrial output, employment and

export are, however, being burdened with the maintenance of various forms and registers under the various labour laws and that they be exempted from the purview of various Labour Laws. The following factors seem to contribute to the irritation and suffering of industrial employers in small-scale enterprises:-

- * Existence of multiplicity of labour law without undergoing any change for years together.

- * The same establishment would be subjected to inspection by a number of inspectors under Acts such as Payment of Wages Act, 1936, Minimum Wages Act, 1948, EPF & MP Act 1952, ESI Act, 1948, Payment of Gratuity Act, 1972, Bonus Act, 1965, Maternity Benefit Act, Equal Remuneration Act, 1976 etc.

- * Very often prosecutions are filed for minor offences like non-submission of returns or submission of faulty returns, non-maintenance of records and registers in conformity with the legal provisions etc. Industrial employers of small-scale enterprises who have limited resources human-material and financial and who are required to co-ordinate with a number of agencies for procurement of raw material, access to technology and credit, uninterrupted supply of electricity, sale of products and collection of the amount against the goods sold would be driven from pillar to post if they receive too many summons or legal notices from the courts and if they have to consume a major portion of their time, energy and resources in the courts.

- * Industrial employers of small-scale establishments are sometimes vulnerable to extraneous pressure and compulsions which cause them avoidable difficulty.

(ii) The above issues have been discussed from time to time in the meetings of Standing Labour Committee and Indian Labour Conference. While, the difficulties experienced and the concerns expressed by the industrial employers of small-scale sector are genuine and like the workers in the unorganised and informal sector they are also in need of sympathetic attention of the authorities concerned, it is possible to minimise the extent of their suffering by undertaking the following measures :-

* Need for continuous guidance of the industrial employers of small-scale enterprises in the matter of securing timely compliance with labour law provisions through dialogue and discussion between the officers of labour law enforcement machinery and the industrial workers.

* Giving a patient hearing to their problems and difficulties both at the level of individual officers as also through a larger fora like State Labour Advisory Board and Indian Labour Conference.

* Initiating follow-up action for simplification, rationalisation and streamlining of laws to remove irritants and stumbling blocks therefrom.

* To provide proper orientation and training to the officers of labour law enforcement machinery and to impress on them that while it is necessary and desirable to protect and safeguard the interests of labour through payment of wages in time and without deduction through regulation of hours of work, through observance of health, safety, welfare etc., a positive climate could be created which would make the industrial employees of small-scale enterprises feel assured that inspection is not meant for harassment but for compliance with law and judicial direction and that it is in the larger interest of the enterprises itself that the employer should comply with the statutory provisions and judicial directions.

* It is necessary and desirable to impress on the employers of small-scale enterprises that social schemes like PF and ESI are meant for creating a body of healthy, contented and stable workforce which will eventually contribute to production and productivity and, therefore, these need not be viewed as unnecessary burdens or restrictions imposed on the industry by Government.

Accordingly, the Labour Secretary, Government of India has written to the Chief Secretaries of all State Govts./UT's Administration, DGESIC, CPFC and CLC @ the all concerned may be impressed upon a to give a patient hearing to the problems

of small-scale sector in various tripartite fora like State Labour Advisory Boards, Regional Board of ESIC, Regional Committee of EPF etc. and help to ventilate and redress the grievances of these enterprises.

In many sub-sectors of the economy, adoption of latest technology will be crucial for small and medium sector in order to be competitive. The only choice appears to be to retrain existing labour force so that they attain the requisite skill levels. But in some sub-sectors like horticulture, floriculture and biotechnology applications, labour intensive choices can be competitive.

10. Informal Sector

Due to its capacity to absorb large number of job-seekers amongst urban dwellers and rural migrants who have been unable to secure employment in formal sector, informal sources of employment are also important. After the ILO study of 1972, it was informed that much of the urban employment was in low productivity activities in manufacturing, construction, trade; commerce, hotel repair and other services. Some of the inferences of Hart's study for ILO on characteristics of informal sectors like ease of entry and reliance on indigenous resources have been challenged by further studies. Due to the extent and variations in the types of informal sector employment, policy measures have to be fine tuned to specific needs of the particular sub-sector in order to stimulate employment.

In the context of globalisation, the choice and access to appropriate technology will also determine the growth of employment. The key interventions in informal sector will be by way of promoting self-employment and in giving a formal status to the micro enterprises of the informal sector. Regarding the former, it is essential to distinguish the assured career of self-employment with its concomitant autonomy and flexibility of working regimes as against unsatisfactory forms of self-employment such as short term disguised wage work and precarious self-employment.

11. Conclusions

A view popular with certain sectors of the population is that labour laws in this country are responsible for fall in employment growth. It must be pointed out here that employment growth in the organised sector has come down due to changes in technology, changes in nature of work and reorganisation of the work place. It is also pertinent that historically productivity rises in U.K. and other countries of Western Europe have taken place in line with better public health measures and improved working condition of labour. In the Indian context, it is also relevant that there has been a steady decline in hours lost due to industrial unrest after 1991. Thus there should be a paradigm shift in the thinking of certain sections of Government and employers. Payment of wages, social security measures and occupational safety should, therefore, continue to be the main thrust areas; but there is a case for rationalising and simplifying labour legislation on these core thrust areas. The workers will also have to realise that life time employment in a single place may not be feasible in many contexts in the coming years. It is submitted that the best job security lies in constant upgradation of skills and multi-skilling and not in legislative protection. These measures will ensure labour mobility consistent with remunerative employment. Thus it is important that the stake holders allocate higher resources for upgradation of skills of existing workforce. At the same time, it is necessary to decentralise and empower vocational training institutions with active participation by industry.

Structure of employment in Organised sector

A broad picture about the structure of employment in the organised sector in different industries and services as on 31st March, 1990 and 1995 is presented below:

EMPLOYMENT IN INDUSTRIES /SERVICES BY GROUPS

NIC Code 31st March	Description of Industries/ Services	Employment (in lakh) as on	
		1990	1995
0&1	PRIMARY SECTOR	24.92	25.96
0	Agriculture, Hunting, Forestry & Fishing	14.23	14.39
1	Mining & Quarrying	10.69	11.17
2,3&4	SECONDARY SECTOR	72.66	76.28
2&3	Manufacturing	63.27	66.21
4	Electricity, Gas & Water	9.39	10.07
5	Construction	12.01	12.18
6,7,8 & 9	TERTIARY SECTOR	153.94	165.84
6	Wholesale and Retail Trade & Restaurants & Hotels	4.41	4.76
7	Transport, Storage & Communication	30.75	31.75
8	Financing, Insurance Real Estate & Business Services	14.02	16.56
9	Community, Social & Personal Services	104.76	112.95
Total		263.53	279.87

It will be observed from the above Table that during 1990-95 Primary Sector comprising Agriculture, Hunting, Forestry and Fishing and Mining & Quarrying Industry division showed an over-all increase of only 2.6.% in the employment. Under this sector, Agriculture, Hunting, Forestry and Fishing recorded growth of 1.1.%, whereas the increase under Mining & Quarrying Division was 4.5%.

Employment growth during 1990-95 in the Secondary Sector was 5.0%. Under this sector, electricity, Gas and Water Division recorded an employment growth rate of 7.2%. Manufacturing Division contributed an increase of 4.6%. Employment in Construction Industry, however, showed a marginal increase of about 1.4%.

The overall increase in employment in the Tertiary Sector was 7.7.%. All industrial in this division recorded employment growth, the highest units being in financing, Insurance, Real Estate and Business Services (18.1%).

**STRATEGY ADOPTED IN NATIONAL FIVE YEAR PLANS
WITH REGARD TO EMPLOYMENT**

1. FIRST PLAN (MARCH 1951 TO MARCH 1956)

- Recognised the unemployment and underemployment problems.

STRATEGY

RURAL

- Agriculture Development
- Major & minor irrigation works
- Large Scale land reclamation.
- Revival and Development of Rural Industry.
- Small scale industries.
- Extension of mixed farming.
- Undertaking public work programmes in slack agriculture seasons.

URBAN

- Expansion of existing large scale industries.
- Starting of new large scale industries.
- Save existing small scale industries.
- Encourage new small scale industries.

2. SECOND PLAN (MARCH 1956 TO MARCH 1961)

- Recognised the unemployment and underemployment problem.

STRATEGY

- Labour intensive techniques both in rural and urban
- Construction of roads, housing, railways.
- Irrigation and power.
- Railways.
- Other transport & communication.
- Industry & Minerals.
- Cottage & small scale industry.
- Forestry, fishing and allied scheme.
- Education.
- Health
- Social Service
- Government Service.

THIRD PLAN

(MARCH 1961 TO MARCH 1966)

- Recognised unemployment & underemployment.

STRATEGY

- Development of agriculture, irrigation, power, village and small industries, communication and social service.
- Rural electrification and industrialisation.
- Comprehensive programme for rural sector
 - (i) Scientific agriculture, diversification and strengthening rural economic scheme village housing rural amenities.
 - (ii) Linkages of the economy of the village with growing urban areas.
 - (iii) Setting up pioneering industry on a co-operative basis.
 - (iv) Carrying new industry into rural areas.
- Organisation of work programme for rural areas.
 - (i) Works projects included in the plans of States and local bodies which involve the use of unskilled and semi-skilled labour.
 - (ii) Works undertaken by the community or by the beneficiaries in accordance with the obligations laid down by law.
 - (iii) Development works towards which local people contribute labour while some measure of assistance is given by Government.
 - (iv) Schemes to enable village communities to build up remunerative assets; and
 - (v) Supplementary works programmes to be organised in are in which there is high incidence of unemployment.

FOURTH PLAN

(1969 TO 1974)

- Recognised the unemployment and underemployment problem.
- Set up a Committee of Experts to examine into the estimate of unemployment.

STRATEGY

Labour intensive programmes through development of agriculture, rural infra-structure including communication and transport links, rural electrification, water management, rural industries, decentralisation and dispersal of industrial investments, rural and urban housing. Large scale capital intensive investments are limited to projects where technological considerations and economy of scale do not permit adoption of labour intensive techniques. While creation of employment opportunities has been an important consideration, emphasis has equally been placed on productive employment on a sufficiently high level of efficiency.

FIFTH PLAN

(1974 TO 1979)

Recognised the problem of unemployment under employment.

STRATEGY

- The strategy for growth of employed followed broadly was same as followed for the Fourth Plan.
- Introduction of 20 point Economic Programme from 1st July, 1975.

- Recognised the unemployment and underemployment problems.
- Recognised the incidence of poverty.

STRATEGY

Following special schemes were introduced.

1. Integrated rural development programme extended to all the blocks in the country.
 2. The operational flood-II.
 3. Fish farmer's development agencies.
 4. Various schemes for village and small industry sector.
 5. National Rural Employment Programme (NREP)
 6. Environmental sanitation, slum improvement, tree plantation, construction of houses for the economically handicapped people.
 7. Various components of the minimum needs programme.
 8. National Scheme of Training Rural Youth for self-employment (TRYSEM).
 9. Special Employment scheme by various States.
 10. A wide variety of income earning occupations for the Scheduled Castes and Scheduled Tribes.
- Determined efforts to promote self-employment or ensuring a progressive reduction in the instance of poverty and unemployment.
 - Assistance to a large number of urban self-employed.
 - Setting up of District Manpower Planning Employment Generation Council.
 - Linkages between district manpower planning and employment generation council with the local educational and training institutes.

SEVENTH PLAN

(1985 TO 1990)

Recognised the unemployment and under employment problem

- Incidence of poverty.

STRATEGY

- The growth of employment opportunities is faster than the growth of labour force.
- Rapid agriculture development (specially in areas agriculturally backward)
- Expansion of irrigation facilities.
- More intensive cropping.
- Continuation of the employment oriented programmes such as National Rural Employment Programme, Rural Landless Employment Guarantee Programme etc.
- Faster rate of growth of industry.
- Expansion of housing programme in the private sector by providing finance through institutional finance.

Recognised the unemployment and under employment problem.

STRATEGY

Labour intensive growth has been accorded a high priority. Emphasis on faster and geographically diversified growth of agriculture, high value and more labour-intensive crops like vegetables and fruits, development of rural infrastructure and marketing for agro-based industries in the rural areas, development and utilisation of wastelands, development of the rural non-farm sector through appropriate policy support and strengthening of basic health and education facilities especially in rural areas, faster development of the service sector especially the urban informal sector, greater attention to the growth of small scale industries, promotion of self-employment through provisions of various support systems, revamping of the educational and training system to make it responsible to the labour market and development of entrepreneurship and closer integration of special employment programmes with area development.

Recognised the problem of unemployment and underemployment.

STRATEGY

Recongising the high incidence of underemployment and increasing casualisation of labour, there is a need to enhance employment opportunities for the poor. In this context, the Ninth Plan proposes to implement a national Employment Assurance Scheme. The strategy of Ninth Plan envisages adoption of technologies which are labour intensive, simple, cost effective and easily adaptable, in regions characterised by high rate of unemployment and underemployment, improvement in the quality of employment with special thrust on productivity.