

**THIRTY SIXTH SESSION OF
THE INDIAN LABOUR CONFERENCE
(NEW DELHI - APRIL 14-15, 2000)**

AGENDA



**MINISTRY OF LABOUR
GOVERNMENT OF INDIA
NEW DELHI**

THIRTY SIXTH SESSION OF THE INDIAN LABOUR CONFERENCE

(NEW DELHI - APRIL 14-15, 2000)

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**THIRTY SIXTH SESSION OF
THE INDIAN LABOUR CONFERENCE
(NEW DELHI - 14TH & 15TH APRIL, 2000)**

**ITEM I: ACTION TAKEN ON THE CONCLUSIONS OF 35TH
SESSION OF THE INDIAN LABOUR CONFERENCE HELD
ON 3RD & 4TH APRIL, 1999.**

CONCLUSION

I TRIPARTISM

The conference reiterated its commitment to tripartism and exhorted the Central and State Governments as also the Social Partners to implement in letter and spirit the ethos of tripartism in the best possible manner.

The ILC emphasised the need for close monitoring by a special cell in the Ministry of Labour the functioning of tripartite apparatus at the States/UTs. It exhorted the States/UTs to ensure submission of accurate and up to date reports about functioning of tripartite bodies at various levels.

ACTION TAKEN

The State Governments and Union Territory Administrations have continuously been requested to evolve and implement a tripartite mechanism for evolution of Policy and implementation of laws and programmes pertaining to Labour. Letters have been issued from Labour Minister to State Chief Ministers and from Labour Secretary to State Chief Secretaries to implement the ethos of tripartism in letter and spirit. 26 States/UTs have already confirmed of having set up such a mechanism. Four States/UTs viz. Andaman & Nicobar Islands, Mizoram, Sikkim & Lakshadweep have not constituted any tripartite committee, so far as they do not have significant organised labour force and industrial/factory sector. No response has been received from 2 States/UTs viz. Manipur and Pondicherry. The functioning of tripartite apparatus in States/UTs is monitored by LC Section/Cell in this Ministry. All State Governments/UT Administrations have been requested to furnish details of the meetings of tripartite committees held in their respective States/UTs each year.

CONCLUSION

II SECOND NATIONAL COMMISSION

The ILC complimented the Union Labour Minister for having taken the initiative for setting up the Second National Commission on Labour.

It recommended that the Commission be constituted without further delay.

The terms of reference should be clearly formulated after in-depth consultation with all concerned interests.

ACTION TAKEN

Second National Labour Commission has been constituted vide this Ministry's Resolution No. Z-20014/8/99-Coord dated 15th October, 1999. The composition and Terms of References of the Commission are attached herewith as Annexure.

CONCLUSION

III MINIMUM WAGES-FIXATION, REVIEW, REVISION AND ENFORCEMENT

Floor level wage is different from Minimum Wage. What was recommended by the ILC was floor level wage of Rs.35.00 for rural areas and Rs.39.00 for urban areas. By fixing a floor level wage of Rs.35.00 and later Rs.40.00, the concept of Minimum Wage seems to have been diluted. The norms and criteria behind such fixation should be clearly identified and made known to the ILC and clear instructions issued to all States/UTs.

The State Governments/UTs as also the Central Government should review and revise Minimum Wages at regular intervals corresponding to changes in the labour market and revision of Consumer Price Index (CPI) from time to time. High importance should be attached to enforcement of minimum wages.

ACTION TAKEN

The Minimum Wages Act does not define the term minimum wages nor provides the criteria for fixation of minimum wages. In the absence of proper explanation to the concept of minimum wage, the Committee on Fair Wages defined the minimum wage as a wage necessary for bare sustenance and preservation of efficiency of a worker. However, in 1957 the 15th Indian Labour Conference had laid down the following norms for fixation of minimum wages:

- (I) 3 consumption units for one wage earner.
- (ii) Minimum food requirement of 2700 calories per average Indian adult.
- (iii) Clothing requirements of 72 yards per annum per family.
- (iv) Rent corresponding to the minimum area provided for under Governments' Industrial Housing Scheme.
- (v) Fuel, lighting and other 'Miscellaneous' items of expenditure to constitute 20% of the total minimum wage.

Besides the aforesaid norms prescribed by the ILC, the Hon'ble Supreme Court in a judgement in 1991 prescribed childrens' education, medical requirement, recreation including festival/ ceremonies and the provision for old age/marriage etc. as an additional component to the extent of 25% of minimum wage. The norms recommended by the ILC and the directions of the Hon'ble Supreme Court were brought to the notice of all State/UT Governments as guidelines for fixation of minimum wages.

Further, the appropriate governments also take into account the local conditions and other factors influencing the wage rate while deciding the minimum rate of wages.

In the absence of national minimum wage, the Central Government worked out National Floor Level Minimum Wage of Rs.35/- per day in 1996 based on the minimum wage of Rs.20/per day recommended by the National Commission on Rural Labour in 1990 and further rise in price level. Keeping in view the subsequent price escalation, it was felt desirable to raise the National Floor Level Minimum Wage from Rs.35/- per day and accordingly enhanced it to Rs.40/- in August, 1998 simply based on the increase in the Consumer Price Index Number. The Hon'ble Prime Minister thereafter wrote to all States/UTs to ensure minimum wages not below Rs.40/- in any scheduled employment.

The Union Labour Minister has approved the proposal to enhance the National Floor Level Wage from Rs.40/- per day to Rs.45/- per day in January, 2000 and has requested the Prime Minister to write to all the State Governments, requesting them to ensure that the minimum wages in all the scheduled employments under their respective jurisdictions, is not below Rs.45/- per day.

The Central Government made a provision of Variable Dearness Allowance linked to CPI Number in all the scheduled employments under the central sphere since 1989. This component of VDA is revised every 6 months commencing on 1st of April and 1st of October each year. The last revision of VDA was made w.e.f. 1.4.99. The State/UT Governments are also being requested from time to time in the various fora

like conferences, seminars, meetings of Regional Labour Ministers etc. and through demi-official letters at various levels to -

- (i) cover more employments in the sweated sectors and notify them as scheduled employment under Minimum Wages Act.
- (ii) link minimum wages to CPI and provide VDA thereon.
- (iii) fix, review and revise the minimum wages within a period not exceeding 2 years or on a rise of 50 points in CPI whichever is earlier.

The Central Government has from time to time advised all State Governments/UT Administrations for rigorous and strict enforcement of Minimum Wages Act and Payment of Wages Act. The need to devise a mechanism for monitoring, settlement of claims under Minimum Wages Act has also been emphasized.

The Central Government which is the appropriate Government in respect of scheduled employments in the establishments under the central sphere have been revising the minimum wages applicable to the scheduled employments at a regular interval of 5 years. The last revision of the minimum wages in respect of scheduled employments other than agriculture was done in July, 1994. In respect of agriculture, minimum wages have been recently revised vide Gazette Notification No.671 dated 11.11.99. As regards revision of minimum wages in the scheduled employments other than agriculture, the reconstituted Minimum Wages Advisory Board in its first meeting held on 15.9.99 recommended to issue draft notification and accordingly the matter has already been processed and the notification is likely to be issued shortly. The minimum wages fixed/revised by the Central Government are further increased by adding variable dearness allowance to it. The variable dearness allowance is linked to All India Consumer Price Index. The VDA is revised every six months. As regards enforcement of minimum wages, it is stated that the officers of CIRM as Inspectors under Minimum Wages Act carry out inspections of the establishments under central sphere to detect cases of less payment or non-payment of minimum Wages. The field officers are also issued directions from time to time to carry out crash programmes of inspections under the MW Act. The establishments found violating the provisions of Minimum Wages Act are advised to comply with the provisions and failing compliance, necessary actions such as filing of claim cases before the Authority under MW Act and prosecution are launched against the defaulting establishments. The enforcement of minimum wages especially in the unorganised sector is always attached high importance by the CLC(C)'s Organisation.

CONCLUSION

IV EQUAL REMUNERATION FOR WOMEN & MEN FOR SAME AND SIMILAR NATURE OF WORK.

The ILC deplored the inordinate delay in reconstitution of the Advisory Committee under the Equal Remuneration Act as also in convening its meeting.

The ILC recommends that the Advisory Committee should take a holistic view of all aspects of employment and wages for women in totality instead of confining itself to the limited issue of equal wages for women as those of men for same or similar nature of work.

ACTION TAKEN

The Central Advisory Committee under Equal Remuneration Act, 1976 was reconstituted on the 2nd January, 1999 and first meeting of the re-constituted Committee was held on the 5th February, 1999. The Committee discussed in detail the following matters concerning the women workers:

- i) Working of Employment Exchanges in the country*
- ii) Provision of sufficient facilities for facilitating registration of women*
- iii) Dissemination of information regarding available job opportunities*
- iv) To provide an Institutional mechanism for vocational guidance*
- v) Skill development of women workers*
- vi) Revitalisation of scheme of State Women's Development Corporations;*
- vii) Schemes of Rashtriya Mahila Kosh*
- viii) Price preference and special incentives to products produced by women.*

The Central Advisory Committee is already taking a holistic view of the overall problems of women workers and nearly not restricting itself to the matter of equal wages.

CONCLUSION

V FIXATION AND ENFORCEMENT OF WAGES FOR CENTRAL PUBLICSECTOR UNDERTAKINGS:

Guidelines issued by the Bureau of Public Enterprises for wage negotiations for the employees of CPSUs are faulty and dilute the principles of collective bargaining. They need to be reviewed.

There has been inordinate delay in commencement of 6th round of negotiations for wage revision of employees of CPSUs. The Ministry of Labour should convene a meeting to finalise this at the earliest.

The management of CPSUs should pay special attention to ensure disbursement of timely wages to their employees. The cases of employees of CPSUs who have died due to non-payment of wages in Bihar should be investigated and corrective action taken.

ACTION TAKEN

In view of the concerns expressed by Trade Unions regarding the guidelines issued by the Bureau of Public Enterprises for wage negotiations of employees of CPSUs, the Government has constituted a Group of Ministers to, inter alia, consider and make recommendations in respect of problems relating to payment of wages and salaries and statutory dues of employees of Central Public Sector Undertakings (CPSUs), particularly the sick CPSUs.

A Standing Committee of Secretaries under the Chairmanship of Secretary (Labour) met on 14.2.2000 to consider the strategy for payment of wages and salaries and other statutory dues of workers in CPSUs and recommended that adequate budgetary provision should be made for this purpose and also that management should accord top-most priority to payment of these dues.

The Ministry of Labour is deeply concerned about non payment of wages to workers employed in CPSUs including those located in Bihar. The issue of non payment of wages has been taken up with the concerned administrative Ministries at the highest level. The Ministry of Labour has emphasised time and again to the administrative Ministries that they should accord topmost priority to payment of wages over and above meeting other liabilities of the Company. In the case of sick CPSUs which have to be wound up, adequate budgetary resources are to be provided for payment of wages to workers. The matter was recently discussed in the meeting of the Standing Committee of Secretaries held on 14.2.2000. A Group of Ministers has been set up to work out the strategy for payment of wages and salaries and other statutory dues of workers. The

revised to make it more effective in dealing with this problem.

CONCLUSION

VI FUNCTIONING OF EPZ UNITS

The details of action taken by the State Governments on the findings of the inspections conducted by the Central Team should be reported to the ILC.

The rationale of notifying all EPZ units as public utility services under the ID Act by the State Government of Uttar Pradesh should be explained to ILC.

Similarly the rationale of the recent announcement of the Government of India in the EXIM policy on the applicability of labour laws to EPZ units and exclusion of the latter from the purview of labour laws should be reported to the ILC.

Inspections of future of EPZ units should be conducted with Trade Unions in the area concerned.

ACTION TAKEN

The RLC(C)s under whose territorial jurisdiction the EP Zones are located are being advised to obtain follow-up reports on inspections from State Labour Departments and to persuade State Labour Departments to associate local trade unions in inspection of EPZs.

The Regional Labour Commissioners (Central) have after obtaining the position from the concerned State Labour Departments reported as under :

EPZs FAULTA, CALCUTTA/ HYDERABAD

RLCs Calcutta and Hyderabad have reported that the State Labour Departments of Govt. of West Bengal and Andhra Pradesh are not responding positively to their request for the details on the follow up action report.

EPZ COCHIN

RLC(C), Cochin has reported that as per the report received from State Labour Department no further action has been taken by them on the inspection of the EPZ Cochin.

EPZ AHMEDABAD

RLC(C), Ahmedabad has intimated that ALC(C), Adipur has written letters to the

Govt. Labour Officer and to the Factory Inspector on 28.7.99, 20.8.99 and 27.9.99 to inform about the follow up action taken up by them in respect of last inspection of the units in the Kandla EPZ. However, the Factories Inspector and the Govt. Labour Officer did not submit any information about the follow up action taken by them. He has also mentioned that the State Government is the appropriate Government in respect of units situated in the EPZ and without their cooperation it is very difficult to collect the information.

EPZ MUMBAI

RLC(C) Mumbai has, based on the report of the State Labour Department, intimated that during the course of joint inspection on 9-10/2/99 by the officers of the Central State Labour Authorities in SEEPZ area, 13 establishments were inspected under different labour laws. In all 48 inspections have been recorded by the officers. The employers in respect of 12 establishments have reported compliance relating to irregularities detected during the inspections, one case of prosecution has been launched under MW Act.

EPZ CHENNAI

RLC(C) Chennai has, based on the report of the State Labour Department, intimated that the Chief Inspector of Factories office has filed prosecution cases in the court of Tamba Ram, Chennai in respect of violations under the Factories Act detected during the inspections.

EPZ NOIDA

The UP State Labour Department has initiated the follow up action by directing the establishments to rectify the irregularities. 7 employers have not complied with the directions. The State Labour Department has filed prosecutions under the respective labour laws in the appropriate Court.

As regards notifying the units located in the Noida EPZ as public utility service under the Industrial Disputes Act, the Labour Commissioner, State Government of Uttar Pradesh has intimated that in accordance with the export policy 1998-2002 issued by the Government of Uttar Pradesh, the Industrial Units which export 50% or more of their total production are to be given the status of public utility service so as to control unwarranted incidents of strikes and lock-outs in these units. The Joint Development Commissioner, Govt. of India, Ministry of Commerce, Noida EPZ, has also advised that the units in the Noida EPZ should be declared as public utility services under Section 2(q)(4) of UP Industrial Disputes Act, 1947.

AMENDMENT TO LABOUR LAWS

CONCLUSION VII (1)

All amendments to Labour Laws should be shared with the Central Employers' and Trade Union Organisations.

ACTION TAKEN

Amendment proposals to the Industrial Disputes Act, 1947 received from Central Employers' and Trade Union Organisations, have been discussed by the Committee of Secretaries who have given certain suggestions for being incorporated in the amendment proposals. These proposals would again be discussed by the Group of Ministers before a final view is taken on the matter. The thrust of these amendment proposals is to promote bipartism and to strengthen cooperation between workers and management so that the two social partners work in unison for the national development taking into consideration a new global economic realities.

Amendments to the Trade Unions Act, 1926 have been proposed with the objective of reducing multiplicity of trade unions, ensuring their orderly growth and for general development of a responsible trade union movement in the country. The amendment proposals to the two Acts have been discussed within the general ethos of tripartism which the Ministry of Labour is committed to and no unilateral decision is taken to impose any views on the social partners.

Amendments in the following laws are under active consideration:

- i) *The Mines Act, 1972*
- ii) *The Factories Act, 1948*
- iii) *The Employees State Insurance Act, 1948*
- iv) *The Workmen's Compensation Act, 1923*
- v) *The Dock Workers (Safety, welfare and health) Act, 1986*
- vi) *The Employees' Provident Funds & Misc. Provisions Act, 1952*

The proposed amendments aim at either providing better safety and health facilities to the workers or extending the social security benefits to larger number of workers.

Various amendments to Minimum Wages Act and Payment of Wages Act have been proposed by the Central Government. The status of proposed amendments is as

under:-

PAYMENT OF WAGES ACT, 1936 :

The draft Cabinet Note containing the amendment proposals has been finalised in consultation with the Ministry of Law and is in the process of being sent to the Cabinet Secretariat.

MINIMUM WAGES ACT, 1948 :

Based on the study undertaken by the V.V. Giri National Labour Institute, a Note was sent to the Committee of Secretaries (COS). The COS has directed that the amendments be further discussed in the Labour Ministers' Conference to be preceded by a meeting of Labour Secretaries. Accordingly, a meeting of the State Labour Secretaries has been convened on 13.4.2000 to discuss the proposed amendments.

CONCLUSION VII (2)

Delegation of powers under various labour laws should be need based.

While powers of the appropriate Government have been delegated to State Governments, similar delegation should also be issued under the Contract Labour (Regulation and Abolition) Act.

Clear instructions should be issued to the appropriate Government alongwith delegation of powers under respective labour laws.

ACTION TAKEN

After the judgement in Air India case by the Supreme Court, the Central Government became appropriate Government in respect of Central Public Sector Units under I.D. Act, 1947. Keeping in view the meagre enforcement machinery available with the Ministry of Labour, powers of the Central Govt. have been delegated to the State Governments under Section 39 of the I.D. Act in respect of Central Public Sector Undertakings. In other words, every care is being taken while delegating powers to various authorities under the I.D. Act, 1947.

The Central Government has not delegated powers of the appropriate government to the State Government under the Contract Labour (Regulation and Abolition) Act, 1970 (as in the case of the Industrial Disputes Act, 1947) because there is no provision in this Act to make such delegation. However, a proposal to make such enabling provision in the Contract Labour (Regulation and Abolition) Act, 1970 is under consideration.

CONCLUSION VII (3)

The judgement of the Supreme Court in Air India Corporation Vs. United Labour Union (December, 1996) and the recent judgement on regularisation of contract workers should be fully implemented.

ACTION TAKEN

It is the responsibility of the concerned Ministry/Department to implement the judgements of the Supreme Court in so far as regularisation is concerned. However, after the decision in Air India Statutory Corporation vs United Labour Union and others (AIR 1997 SC 645), the Chief Labour Commissioner (Central) has issued instructions to its field offices to strictly enforce the provisions, among others, of the Contract Labour (Regulation and Abolition) Act, 1970, in the light of the above judgement.

CONCLUSION VII (4)

Action should be taken to review the wage ceiling in all labour laws and in particular in Payment of Wages Act which has become obsolete and the ceiling should be revised to make it relevant and meaningful.

ACTION TAKEN

A proposal to remove wage ceiling limits prescribed in the following Acts is under process :

(a) *Industrial Disputes Act, 1947*

(b) *Plantations Labour Act, 1951*

In the amendment proposals, the wage ceiling limits prescribed in these Acts are being reviewed.

CONCLUSION VII (5)

Simplification and rationalisation of forms in various labour laws should be taken up without further delay.

ACTION TAKEN

There is no proposal/suggestion from any social partners for simplification and rationalisation of forms used in the following three Acts -

- (a) *Industrial Disputes Act, 1947*
- (b) *Trade Unions Act, 1926 and*
- (c) *Plantations Labour Act, 1951*

SOCIAL SECURITY

CONCLUSION VIII (1)

The resolution passed by the SLC in its meeting held on 19.9.1997 regarding release of pension funds from Public Account and their investment according to the same pattern as PF should be fully implemented without further delay. The existing rate of interest at 8.5% is too low and needs to be raised without further delay.

ACTION TAKEN

The matter was taken up with the Ministry of Finance. However, they have rejected the proposal.

CONCLUSION VIII (2)

The Task Force on Social Security should complete its tasks at the earliest. The interim report submitted by them, if any, should be placed before the ILC.

ACTION TAKEN

The task force has submitted a report. It has been decided to refer the report of the task force to Second National Commission of Labour for further indepth study.

CONCLUSION VIII (3)

Social Security for industrial workers is the mandate of the Ministry of Labour. With constitution of the Dave Committee by the Ministry of Social Justice and Empowerment, this mandate seems to have been taken away. The Ministry of Labour should question this and also question the recommendations of the Dave Committee Report and in particular the recommendation in regard to investment of PF money in share market which has been consistently and unanimously opposed by all Central Trade Union Organisation and members of the CBT-EPF.

ACTION TAKEN

The recommendations of the Dave Committee have been considered by the Central Board

of Trustees & Employees Provident Fund in its meeting held on 8.2.2000. The Board has since unanimously rejected all the recommendations of the Dave Committee in respect of Provident Fund & Pension Schemes on the ground of being contrary to the provisions of the EPF & MP Act, 1952. The decision of the Board has since been communicated to the Ministry of Social Justice & Empowerment who had appointed the Dave Committee.

CONCLUSION VIII (4)

The Ministry of Labour should ensure that the decision of the CBT-EPF for an adhoc increase of 4% in Employees Pension is implemented without further delay.

ACTION TAKEN

Instructions have been issued to all the Regional Provident Fund Commissioners, Incharge of the Regions as well as Controllers of Pension to ensure that 4% relief is paid to all the Pensioners. Relief has since been made available to the beneficiaries with effect from 16.11.96. The order granting 5.5% additional relief consequent to second valuation of the fund as on 31.3.1998 has also been issued on 11.1.2000.

CONCLUSION VIII (5)

Exemptions under EPF and MP Act should not be granted liberally but only after ascertaining and fully satisfying that the conditions under which exemptions are being sought for are rational and not to the detriment of the interests of the employees.

ACTION TAKEN

Under the provisions contained in Employees' Provident Funds & Miscellaneous Provisions Act, 1952, the powers to grant exemption from Employees' Provident Fund Scheme & Employees' Pension Scheme are vested with the appropriate Government. Such exemption is granted after consultation with the Central Board of Trustees, which is a tripartite body. The basic condition provided under the Act for the grant of exemption is that the employees should be in enjoyment of benefits in the nature of Provident Fund, Pension or Gratuity which are on the whole not less favourable than the benefits provided under the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 and Schemes framed thereunder. The compliance of these provisions is being scrupulously ensured before exemption is granted.

CONCLUSION VIII (6)

Stringent and deterrent measures should be taken to ensure total probity, rectitude

and cleanliness in all the transactions of the social security institutions (PF, ESI).

ACTION TAKEN

This has been brought to the notice of the ESIC and the EPFO for compliance.

PROBLEMS OF SICK UNITS

CONCLUSION IX (1)

Ministries of Labour and Textiles should initiate a dialogue about problems of Textile units.

ACTION TAKEN

A meeting of Tripartite Industrial Committee on Cotton Textiles Industry was held on 26.7.99 under the Chairmanship of Hon'ble Minister of Labour to discuss the problems of textile industry in general and cotton textiles industry in particular. The issue discussed included sickness in textile industry, VRS, textile workers Rehabilitation Fund etc.

CONCLUSION IX (2)

In all proceedings relating to sick units in BIFR, workers' dues (PF, Gratuity, Bonus, Workmen's compensation etc.) should be given the highest priority and necessary amendments to labour and other laws should be carried out to make this possible.

ACTION TAKEN

The Ministry of Labour has taken up this matter with Banking Division and suggested amendments in SICA to take care of the concerns expressed by ILC.

CONCLUSION IX (3)

The balance between VRS vs rehabilitation of retrenched and displaced workers under NRF seems to have been completely tilted with over Rs.2000.00 crores going in for VRS. This balance should be restored.

ACTION TAKEN

The question of maintaining balance between VRS and rehabilitation through counselling, retraining & redeployment etc. does not arise as VRS by nature, involves

large amount of funds per workers even though number of workers covered under both the schemes are comparable.

FILLING UP VACANCIES IN CGIT-CUM-LCS

CONCLUSION X (1)

- All vacant posts in CGIT-cum-LCS (both old and new) should be filled up at the earliest.

ACTION TAKEN

The posts of Presiding Officers keep falling vacant in different CGIT-cum-Labour Courts from time to time and action to fill them in is promptly initiated in anticipation of these future vacancies. This is an ongoing process which is required to pass through a number of stages before a final selection is made. The Ministry of Labour closely monitors the entire process till the end.

At present, the posts of Presiding Officers have been lying vacant in the following Tribunals. They are, Jabalpur, Calcutta, Hyderabad, Bangalore, Asansol, Dhanbad-II and Mumbai-I. The process of recruiting eligible judicial officials (serving or retired) in these posts has already begun and is lying at different stages.

The procedure does not provide for filling the vacant posts of Presiding Officers by inviting names of eligible judicial officials (serving or retired) through advertisements. Only the panel of names recommended by the High Courts are considered and selection is made from among them.

The vacancies of supporting staff as obtaining in different CGIT-cum-Labour Courts are as follows :

- | | | | |
|----|-------------|---|--------------------|
| 1. | Asansol | - | P.A. & LDC |
| 2. | Bangalore | - | UDC & LDC |
| 3. | Jabalpur | - | Secretary to Court |
| 4. | Jaipur | - | Daftry |
| 5. | Bhubaneswar | - | Daftry |
| 6. | Nagpur | - | P.A. & UDC |

The vacancies of Presiding Officers and supporting staff at CGITs occur from time to time. Ministry of Labour has been regularly monitoring the situation and steps are expeditiously taken with the concerned authorities to fill up these vacancies as early as possible.

CONCLUSION X (2)

The Ministry of Labour should monitor the pace and progress of disposal of cases pending for years before CGIT-cum-LCs.

ACTION TAKEN

Ministry of Labour constantly monitors the pace and progress of disposal of cases pending in CGIT-cum-Labour Courts. The need to reduce pendency of industrial dispute cases in CGIT-cum-Labour Courts was impressed upon the Presiding Officers in a meeting held on 6.4.1999. Apart from this, a Departmental manual of procedure for use of Presiding Officers has also been finalised which is expected to be useful for the Presiding Officers to dispose of cases quickly.

MISCELLANEOUS

CONCLUSION XI (1)

The involvement of both the State Government and the Trade Unions in proper functioning of NCLPs is absolutely essential.

ACTION TAKEN

State Governments and Trade Unions have already been involved in the functioning of NCLPs.

CONCLUSION XI (2)

Trade Unions should be involved in the NCLP Advisory Committees at the District level. This will facilitate better monitoring.

ACTION TAKEN

The Chairpersons of all the Child Labour Project Societies have already been advised by Secretary (Labour) that trade unions should actively be associated in the running of the NCLPs. All District collectors have also been informed to set up District Child Labour Rehabilitation-cum-welfare Fund with one of the representatives of trade unions. All major trade unions have already been addressed by Secretary (Labour)

to visit the National Child Labour Projects from time to time so that the functioning of the NCLPs could be more effectively monitored and deficiencies rectified.

Central Advisory Board on Child Labour which will involve all major trade unions is in the process of reconstitution.

CONCLUSION XI (3)

The Ministry of Labour should tighten its monitoring over NGOs receiving grant-in-aid from the Ministry of Labour under various schemes. The Ministry of Labour should consider sanction of grant in aid to NGOs through the State Governments.

ACTION TAKEN

Ministry of Labour is implementing one Grants-in-aid scheme under which grants are provided to research and academic institutions, voluntary organisations/NGOs for undertaking research in approved labour related matters. Under the terms of the scheme it is mandatory for the institute/organisation to maintain separate accounts for the project for which it receives grants from the Ministry and to get the final accounts audited by Govt. auditors/Chartered Accountants. The recipient organisation is also required to prepare a quarterly Progress Report on the study and submit the same with an expenditure statement. The accounts related to the project are open to check by the Comptroller & Auditor General of India or his nominee. Further, if the Ministry finds any violation of the terms and conditions by the recipient organisation it can levy damages at the rate of 6% p.a. besides asking the NGO concerned to refund the entire amount of the grant.

The grants-in-aid scheme implemented by the Planning Unit is not operated through State Governments. This may not also be feasible at present as the scheme is still in its early years of implementation. But at the same time the Ministry has requested every State/UT to give publicity to this scheme and as a consequence of initiatives taken by certain State Governments the Ministry has started receiving a number of good proposals. The Ministry is also contemplating to tighten the monitoring mechanism under this scheme through periodic inspections by its officers. The inspection would not only cover accounts of the organisation getting grants under the scheme, but also the various research documents scrutinising data collected etc. so as to assess the actual progress made under the project.

Proposals from NGOs are being considered for sanction under the scheme of Grant-in-aid to voluntary Organisations after receiving recommendations from the State Governments. State Governments are also being addressed for carrying out inspections of projects from time to time. In some cases, similar inspections are being carried out by teams of officers from the Ministry of Labour and its field offices. Further grants are released to NGOs after receiving inspection report from the

respective State Governments.

The Women Labour Cell sanctions grants-in-aid to NGOs for undertaking action oriented projects for the welfare of women labour. The State Governments are duly associated in the process of sanctioning of grants-in-aid to the voluntary organisations. The projects are cleared and the funds released to the organisations only after the projects are recommended by the State Governments. Mid-term appraisal of the projects is made through the field offices under the control of Ministry of Labour to assess the progress. The Ministry has been financing Voluntary Organisations since 1981-82, by way of Grants-in-aid for taking up action oriented projects including running of special schools/centres for rehabilitation of children withdrawn from work through non-formal education, vocational training, nutrition, health care etc. Release of instalments of grants is subject to fulfilment of prescribed terms and conditions to the grants.

The proposals received from the organisations are examined by a Grants-in-aid committee headed by Joint Secretary, incharge of Child Labour and Women Cell after being recommended by the State Governments.

State Governments are requested to carry out inspections of the NGOs receiving grants from this Ministry. The projects are monitored through quarterly reports, audited accounts and inspections by State Governments/Regional Labour Commissioners/Welfare Commissioners. All State Governments have also been addressed regarding comprehensive evaluation of projects which is an ongoing and continuous process. As regards sanction of grants-in-aid to NGOs through the State Government, it is not provided in the Scheme.

We have also written to Department of Women & Child Development and CAPART seeking information regarding black-listed NGOs.

CONCLUSION XI (4)

A separate cell should be set up in the Ministry of Labour to follow up timely and proper implementation of the recommendations of the ILC.

ACTION TAKEN

Labour Conference Section in the Ministry of Labour is monitoring the follow-up on various recommendations of ILC. A Tripartite Review Committee has also been constituted for this purpose. A meeting of the Review Committee was held on 7.1.2000 and reviewed the progress of implementations of various conferences of Standing Labour Committee and Indian Labour Conference.

CONCLUSION XI (5)

There is need for proper orientation and training of functionaries of CIRM to make them more positive, responsive and pro-active towards labour.

ACTION TAKEN

At present the training programmes for CIRM officers for different levels are being conducted at V.V.G.N.L.I, Noida. There are regular training programmes such as "Towards Better Labour Law Enforcement" and "Making conciliation effective". The other training programmes namely "Induction/Orientation Training Programme for Grade V Officers of CLS", "Management of Labour Welfare" and "Labour Administration and Labour Welfare" are conducted on as-and-when-required basis depending on the availability of officers of particular levels.

CONCLUSION XI (6)

There should be no injunction on statutory dues. Ministry of Labour should examine in consultation with Ministry of Law as to how to ensure this.

ACTION TAKEN

The Ministry of Labour is in full agreement that there should be no injunction in the way of payment of statutory dues to workers. The difficulties arising out of certain provisions of SICA, in this regard were conveyed to the Ministry of Law for their view/comments. Amendment/repeal of SICA is under consideration of the Government and a Group of Ministers has been set up to go into various issues regarding this.

CONCLUSION XI (7)

There should be a proper co-relation between budgetary outlay (both plan and non-plan) and activities of the Ministry of Labour. The current outlay should be substantially augmented.

ACTION TAKEN

While formulating the Annual Plan proposals the physical requirement of each scheme is strictly taken into account so that there is perfect co-relation between the physical activities to be undertaken and financial outlays for each scheme.

So far as current outlay is concerned, the same is fixed by the Planning Commission after taking into consideration the performance of the Ministry in previous years and the overall requirement of funds by the various Central Ministries/

Departments. The Ministry of Labour is making a concerted effort to improve its performance in the expenditure front through a tight monitoring of plan schemes every year. With such an effort it is expected to significantly improve its performance in the coming years and consequently claim a larger current outlay in subsequent years. However, there is a steady increase in the plan outlay with every Five Year Plan since the Fifth Plan.

REPORT ON MEASURES TO REDUCE INDUSTRIAL SICKNESS

CONCLUSION XI (8)

There was consensus among members that sickness should be defined properly so that it is detected at the incipient stage itself when revival is possible. Early signs of sickness are under-utilisation of capacity, accumulation of stocks of inventories, default in payment of statutory dues including delay/default in interest payment and payment to workers. There should be a monitoring mechanism to identify sickness in the initial stage.

ACTION TAKEN

The Govt. fully agrees with the view of ILC that industrial sickness should be detected in early stages when remedial action is possible for restoring the health of the Company. The Govt. is also in agreement that there should be a monitoring mechanism for detection of sickness. These points are being taken into account by the Group of Ministers constituted for this purpose.

CONCLUSION XI (9)

Sickness could be related either to erosion of net worth or defaults in payment.

ACTION TAKEN

This suggestion of ILC has been communicated to Department of Banking for consideration.

CONCLUSION XI (10)

Causes and factors responsible for industrial sickness should be properly identified so that timely remedial measures are taken. These are: Managerial, production and technology related, marketing and finance related and related to Government policies. Improper identification of entrepreneurs and absence of work ethics and work culture which results in low productivity is yet another important cause of sickness.

ACTION TAKEN

The Reserve Bank of India regularly monitors the factors responsible for industrial sickness. However, not all factors causing industrial sickness are under the control of the Government. The Unions and the management have to play an equally important role in detecting early signs of sickness and devising measures to check sickness from growing.

Among the top priorities of financial institutions these days is proper assessment of projects before sanction of funds. Managerial capability, economic and technological viability, financial risks, marketability of product, etc., are parameters which are taken into account before sanction of projects. A greater vigilance on the part of banks and other financial institutions in detecting early warning signals of industrial sickness is expected to go a long way in preventing this phenomenon to take root.

CONCLUSION XI (11)

There should be full accountability and fixation of responsibility to the extent possible. If default is willful and there is evidence of diversion of funds, punitive action should be taken against those responsible for it.

ACTION TAKEN

The capital adequacy norms/ norms for non-performing assets (NPAs) and other regulatory measures taken by the RBI from time to time are expected to reduce defaults, bogus loans, diversion of funds, etc. This in turn is expected to make the financial institutions as well as the borrowers more responsible and accountable to the system.

CONCLUSION XI (12)

Both the workers and management representatives felt that there should be greater availability of funds for modernisation and technological upgradation. There was a suggestion for establishing a restructuring fund for assisting units undergoing financial problems. The workers' representatives suggested a Cess Fund for revival of sick units by way of levy of cess on the basis of turn over of units.

ACTION TAKEN

The needs of individual industries for technological upgradation and modernisation are subject to large variations. This needs to be tackled at the level of individual industries rather than all sick industries put together. For instance, in the textile sector where there is rampant sickness a Technological Upgradation Fund (TUF) has already

been established by the Ministry of Textiles.

CONCLUSION XI (13)

Several recommendations were made for improving the institutional mechanism for dealing with problems of industrial sickness. These include the following:

CONCLUSION XI(13) (i)

Law and institutional framework should be for prevention of sickness, monitoring of sickness and rehabilitation of workers who are rationalised, retrenched and displaced from sick units which are also unviable for revival. They should be an instrument of nursery and not a mortuary as is the case with BIFR today.

ACTION TAKEN

Necessary amendments are being carried out in the SICA to make BIFR a more effective institution for handling the problem of industrial sickness. The Government is also considering to have a more adequate safety net for workers who are retrenched and displaced on account of closure of sick units. Emphasis is also being given to increase the "employability" of workers affected by restructuring of industries by upgrading their skills.

CONCLUSION XI (13) (ii)

The immunity given under section-22 of SICA for recovery of statutory dues given to sick companies referred to BIFR should be deleted so that hardships to workers are minimised.

CONCLUSION XI (13) (iii)

Separate provision should be made in the revival plans for giving primacy and centrality to payment of statutory dues of workers.

CONCLUSION XI (13) (iv)

Vacant Benches in the BIFR should be filled in expeditiously; the Benches should be manned by professionals drawn from a variety of relevant disciplines. There should be more Benches at Regional Level also.

CONCLUSION XI (13) (v)

Decisions on revival and winding up should be taken on a time-bound basis.

CONCLUSION XI (13) (vi)

Mandatory powers should be given to BIFR as opposed to its advisory role.

CONCLUSION XI (13) (vii)

Public Sector Undertakings may be excluded from the purview of BIFR and an empowered authority be established to deal with sickness in PSUs. Separate revival fund may be evolved for PSUs.

CONCLUSION XI (13) (viii)

Working capital and term loans should be given at the same time to the same institution.

CONCLUSION XI (13) (ix)

Primacy and Centrality should be accorded to workers' dues while disposing off assets of a sick unit in a liquidation proceeding as against the pari-passu arrangements as at present.

CONCLUSION XI (13) (x)

Contingency loan/credit card facilities should be given to sick units to facilitate revival.

ACTION TAKEN

Suggestions from (ii) to (x) were communicated to Banking Division for consideration while making amendments to SICA, 1985 and while framing guidelines to banks/financial institutions. The Banking Division has already initiated the process of consultations with BIFR, Industrial Houses, financial institutions, etc. for amendment of SICA, 1985. The concerns of Trade Unions and the need to take into account workers' interest while amending SICA have been communicated by the Ministry of Labour at the level of Minister as well as Secretary. The matter is now before a Group of Ministers set up to consider repeal/amendment of SICA.

CONCLUSION XI (13) (xi)

Workers' participation should be ensured at all levels on all issues so that industrial sickness could be preempted.

ACTION TAKEN

The Government is considering measures to strengthen workers' participation in management.

CONCLUSION XI (14)

BIFR, Banks and High Courts should fix a time bound schedule for disposal of the proceedings and for complying with the various directions of the competent authority so that revival/liquidation proceedings can be expeditiously completed.

ACTION TEKAN

One of the objectives of amending/repealing SICA, 1985 is to reduce the delays, closure or revival of industrial establishments.

CONCLUSION XI (15)

Government policy by way of reduction on import duty on certain products to allow cheap imports, the policy of industrial incentives, the policy of allowing promoters to avail of a set of concessions not eventually resulting in implementation of the package, the policy of requiring disproportionate sacrifices asked from Central Vs. State Govt. need to be critically reviewed.

ACTION TAKEN

The Government is to take a holistic view of interests of the domestic industry and the norms laid down by the World Trade Organisation (WTO) for reduction of tariffs. Govt. policy with regard to concessions and sacrifices called for from various parties as well as state and central Govt. is to be taken in the larger interest of the entire country.

CONCLUSION XI (16)

Adequate tariff levels should be created within the framework of WTO to allow Indian Industries to face the onslaughts of global competition and to enable them to survive.

ACTION TAKEN

In the latest round of negotiations of WTO at Seattle the problems being faced by industries in developing countries in dealing with global competition was addressed by the Indian delegation.

CONCLUSION XI (17)

The manner in which VRS packages are being formulated and implemented takes away the voluntary character and leads to a lot of social and demographic imbalance. The entire policy relating to VRS needs to be reviewed.

ACTION TAKEN

The VRS policy has been reviewed by the Government and packages for viable and non-viable PSUs are to be formulated and notified by the Department of Public Enterprises.

CONCLUSION XI(18)

A legislative framework on the role of Labour Department in sick industries legislation should be considered.

ACTION TAKEN

The Ministry of Labour is consulted while bringing about all important legislations, including the one relating to sick industries. The Labour Minister is one of the members of the Group of Ministers set up to consider repeal/amendment to SICA.

CONCLUSION XI (19)

A legislation on Sick Industries Workers' Rehabilitation with provision for insurance of gratuity and other legal dues of workmen should be enacted. A social safety net should be considered for giving protection to workers affected by industrial sickness.

ACTION TAKEN

An adequate social safety net to give protection to workers affected by industrial sickness has been reviewed by the Government. A Separation Scheme has been approved by the Government for those PSUs which are sick/unviable and have to close down. Detail guidelines in this regard are to be formulated and notified by the Department of Public Enterprises.

REPORT ON MEASURES TO INCREASE EMPLOYMENT OPPORTUNITIES

CONCLUSION XI (20)

Indian Labour Conference appreciated the efforts of Ministry of Labour in

including this item in the agenda as per the decision taken in the SLC and for preparing a background paper flagging all important aspects requiring consideration.

CONCLUSION XI (21)

ILC recognised the severe problem of unemployment being faced by the labour force of our country. They noted with concern the present level of employment opportunities being created in the organised sector and recognised inter alia, the desirability of expanding informal sector activities through encouragement of self-employment.

CONCLUSION XI (22)

As substantial scope for expansion of employment opportunities exist in informal as also in tiny and small sector, these sectors will require attention. Labour laws and their application would have to be particularly streamlined in this area. Access to technology, markets and institutional finance need to be simplified and made transparent. Formalising informal activities with employment intensity and capacity to absorb modern technology is an important consideration. The labour laws in the small/tiny/informal sectors should ensure effective implementation of timely payment of wages, social security cover and observance of norms of occupational safety.

ACTION TAKEN

National Council for Vocational Training (NCVT), an Advisory body was set up by Government of India under the chairmanship of Union Labour Minister with members representing Central and State Governments, Employers and workers Organizations etc. The Council advises Government of India on overall policies, prescribes norms & standards, conduct of All India Trade Tests for award of Trade Certificates. The Council holds its meetings regularly to discuss issues relating to Craftsmen Training programmes implemented through Industrial Training Institutes (ITI)s and makes recommendations for bringing in qualitative improvement.

CONCLUSION XI (23)

Area specific employment planning integrating small, medium, tiny and large industries will be required. Development of infrastructure in rural areas for agriculture related activities, agro processing, better implementation of land reforms and more optimal use of water can go a long way in providing self employment and wage employment in rural areas. This kind of planning can best be done by State Governments.

CONCLUSION XI (24)

Fiscal incentives related to employment intensity may be worked out by employers' organisations and submitted through Ministry of Labour for forwarding with their comments to Ministry of Finance.

CONCLUSION XI (25)

ILC feel that employment opportunities for women and their remunerative employment should receive focussed attention.

CONCLUSION XI (26)

It was also reiterated that enhanced investment in education is essential for improving HRD.

ACTION TAKEN

Issues relating to employment both in the Organised and Un-organised sector including small and tiny sector has been drawing attention of the various Ministries like Industry, Rural development, Urban Affairs etc. Various schemes including the Employment Assurance Scheme have been included and are being implemented during Ninth Five-Year Plan.

Recognising the high incidence of unemployment, as per the Directive of Hon'ble Prime Minister, a task force under the Chairmanship of Dr. M.S. Ahluwalia, Member, Planning Commission has been set up with a view to suggesting various measures required to be taken to create at least 100 million jobs in a period of 10 years (10 million each year). The task force had a number of meetings and is at the final stage of submitting their recommendations. Action as per the recommendation will be taken by various Ministries accordingly.

CONCLUSION XI (27)

ILC emphasised the need for proper interaction between skill training institutes and industry so as to ensure quality and sustainability of vocational training in the labour market. Periodic review of the sector-wise skill training needs and employment potential may be undertaken by Ministry of Labour so as to ensure proper human resource development and equipping the existing manpower with updated modern technology.

The responsibilities of the various sectors may be as follows:-

CONCLUSION XI (27) (1)

EMPLOYERS

- i) Earmark HRD budget
- ii) Outline their training/retraining policy
- iii) Earmark training areas in their units
- iv) Collaboration between groups of small industries for organising systematic skill development.
- v) Actively participate in the management of training institutes and also provide back up support.

ACTION TAKEN

The Employer's Organisations have been requested to take necessary action and they may like to indicate initiatives taken by them during the discussion in ILC.

STATE GOVERNMENTS

CONCLUSION XI (27) (2) (i)

Promote industry-institute interactions for vocational training.

ACTION TAKEN

The following steps have been taken for proper interaction between Training Institutes and industry.

- i) *Partnership between ITIs and companies :*

In Maharashtra, CII member companies have formed partnership with some ITIs. Areas of mutual interest identified and an action plan has been worked out for implementation. Several activities related to training of instructors in industry have already started. Haryana, Chandigarh T.N., UP, AP & Punjab have also signed MOU for establishing proper Industry-Institute Linkage.

- ii) *Formation of Institute Managing Committees (IMCs) and Steering Committees:*
 - a. *Institute Managing Committee in ITIs having representative of Industry,*

State Govt., DGE&T and faculty of the ITI at Ludhiana, Gurgaon, Solan, Jammu & Kashmir and Chandigarh have been formed under the chairmanship of the representative of local industries.

b. Action to constitute Institute Management Committee for MITI Jodhpur in collaboration with CII has been initiated.

c. Punjab, Haryana, H.P., Jammu & Kashmir and Chandigarh have formed Steering Committees at the State level.

MOU was signed in May, 1999 between Government of Tamil Nadu and CII for improving Industry-Institute interaction. MOUs between CII and 5 ITIs viz., Madurai, Tiruchirappally, Hosur, Ambattur and Coimbatore were also signed.

CONCLUSION XI (27) (2) (ii)

Higher allocation for labour market information.

CONCLUSION XI (27) (2) (iii)

Higher allocation for vocational training budget.

ACTION TAKEN

A letter to all State Directors dealing with CTS has been issued requesting them to take up the matter with the concerned authority for higher allocation of budget for Vocational Training so that the training can be imparted effectively.

CONCLUSION XI (27) (2) (iv)

New ITIs/trades may be opened after taking into account current labour market information.

ACTION TAKEN

NCVT during its recent meeting held on 3rd July, 1999 has recommended to streamline the procedure for opening new ITIs/ITCs. The council recommended that the proposal to start new ITIs or trades may be considered after keeping in view the total number of ITIs/ITCs already in existence in the district/block level, forecast of skilled manpower requirement for the new trades in the next 5 to 10 years period and number of Ex-ITI trainees on live register of Employment Exchanges. The council also recommended that a Standing Committee under the Chairmanship of respective State Secretary dealing with Vocational Training with adequate

representation of bodies of industry, trade and commerce and workers organisation may be constituted which will consider these cases and accord necessary permission for opening new ITIs.

CONCLUSION XI (27) (2) (v)

Allow more delegation of authority to Principals of ITIs.

ACTION TAKEN

The machinery & equipments are not being maintained properly because of lack of financial powers with the Principals of ITIs. Therefore, on recommendation of NCVT, all the State Directors have been requested to delegate full power to the Principals of ITIs for undertaking the work of repairing & maintenance of machinery and equipment.

CONCLUSION XI (27) (2) (vi)

Take steps to formalise and promote informal sector activity in areas of higher productivity and higher level of employment opportunities.

ACTION TAKEN

As far as the training in unorganised sector in the rural and urban areas is concerned, this is dealt by Ministry of Rural Development for the rural areas and the Ministry of Urban Development and Employment for urban areas. There are several other organisations both governmental and non-governmental engaged for imparting vocational training in the non-formal sector such as MHRD, KVIC, ICAR, Ministry of Textiles etc.

The Craftsmen Training Scheme being implemented through ITIs largely caters to the need of Organised Sector and meets the need of unorganised Sector in a limited manner. However, on the recommendation of NCVT during its 32nd meeting all the State Directors have been requested to carry out district level studies to identify short-term training programmes for school drop outs and neo literates and introduce them as per local needs under SCVT. In response, States of AP, Haryana, Gujarat, Maharashtra & Rajasthan have started such Training Programmes.

CONCLUSION XI (27) (2) (vii)

Facilitate functioning of unorganised/informal sector.

ACTION TAKEN

I.L.O. has organised a high level national Workshop to identify solutions for urban informal sector in February, 2000.

CONCLUSION XI (27) (2) (viii)

Strengthen State Councils for Vocational Training. Be sensitive to local training needs.

ACTION TAKEN

At State level there are State Council for Vocational Training corresponding to National Council for Vocational Training to deal with all matters relating to Vocational Training at the State level. At many of the States these councils are non-functional, thus all the State Directors dealing with CTS have been requested to strengthen/constitute their State Councils where these are non functional.

CENTRAL GOVERNMENTS

CONCLUSION XI (27) (3) (i)

Ensure co-ordination of skill training efforts carried out by various organisations.

ACTION TAKEN

DGET has recently taken up an initiative to restructure NVTs under which formation of a statutory All India Council for Vocational Training (AICVT) has been proposed. It is envisaged that creation of AICVT will respond better to local and regional needs. It will co-ordinate and streamline the various training activities being organised by different government departments and agencies in the private sector, so as to ensure integration of various vocational training programmes.

CONCLUSION XI (27) (3) (ii)

Periodic modernisation of skill training efforts so that training is imparted as per requirements of the labour market.

ACTION TAKEN

The trade under CTS are reviewed from time to time. The obsolete trades are deleted and the new trades are introduced under the scheme. The curriculum of various trades

are also revised from time to time to meet the technological changes. Syllabi of 39 trades have been revised recently. Work related to revision of 10 more syllabi have been initiated.

A new trade "Information Technology and Electronics System Maintenance" has been introduced from August, 1999 in selected ITIs throughout the country after upgrading the facilities in the trade "Electronics Mechanic or Mechanic Radio and TV."

A Sub-Committee of NCVT was set up to identify training need in 11 emerging areas for introduction of necessary training courses under CTS. The Chairman of the Committee have intimated the member of NCVT during its 33rd meeting held in July, 1999 that they would submit the report shortly.

The following steps have been recommended by NCVT during its 33rd meeting held in July, 1999 for overall qualitative improvement in Craftsmen Training Scheme.

- i) Introduction of payment of incentives to better managed ITIs by State Governments to foster the spirit of healthy competition.
- ii) Introduction of modular training programme for women in Advanced Skill Courses being conducted at NVTI/RVTIs.
- iii) Four new trades each of two years duration namely, Computer Hardware, Medical Electronics, Consumer Electronics and Industrial Electronics have been recommended by NCVT for their introduction in ITIs under CTS.
- iv) All the State Directors dealing with CTS have been requested to open new ITIs/ trades after taking into account the current Labour market information. This would help in removing the mismatch between demand and supply.

CONCLUSION XI (27) (3) (iii)

Ensure better integration of skill training programmes with other avenues of education/training so as to bring about better employment generation opportunities.

ACTION TAKEN

Some headway has been made in regard to the trade COPA/DPCS with "O" level courses being conducted by DOE. The passed out trainees of these two trades under CTS are permitted to take admission for "O" level examination conducted by DOE without having practical training.

CONCLUSION XI (27) (3) (iv)

Initiate policy initiatives as would ensure better utilisation of the already existing training infrastructure.

ACTION TAKEN

A provision to admit 20% training in Engineering trades and 10% in Non Engineering trades have been made in ITIs/ITCs to ensure proper utilisation of the facilities to make up the shortfall due to dropouts.

Better utilisation can also be realised by improving interaction with industry, for which efforts have been initiated as indicated in earlier paragraphs.

A proposal to run one trade in the morning shift and another trade in the 2nd Shift in the same area of workshop was considered by National Council for Vocational Training during its meeting held on 3rd July 1999. The Council recommended that the State Directors may examine the proposal of co-sharing the workshop area for similar trades in different shifts. The reports received from various State Directors would then be examined by a committee under Chairmanship of DG/JS for its consideration.

CONCLUSION XI (27) (3) (v)

Most of the funds of NRF have gone for VRS. There is need to give more allocation for retraining; it is also essential that the efficacy of existing retraining programmes should be reviewed.

ACTION TAKEN

DGET has been conducting training programmes for rationalised workers at Government ITIs under NRF Scheme. Necessary funds are provided by Department of Industrial Development (DOID) on year to year basis for conducting of such training programmes for rationalised workers. So far training is being organised for 50 days with 3 to 4 hours training per day to rationalised workers, which is quite inadequate to impart effective training in various engineering and non-engineering trades. Thus, Ministry of Industry, the nodal Ministry for NRF, has been requested to enhance training duration up to 120 days as well as for stipend limit from Rs.3000/- upto Rs.7200/- per worker per course. As soon as the approval is obtained, courses of longer duration would be conducted so as to make training more effective.

2. *Recommendations of the ILC regarding allocating more funds for retraining and for the review of the efficiency of retraining programmes have also been sent to*

Ministry of Industry for appropriate action at their end.

3. *DGET at its end makes regular checks of the training courses during its operation for ascertaining quality of training. Subsequent follow up is done for the placement of retrained rationalised workers for wage/self employment.*

4. *As informed by the DOID, Ministry of Industry, under NRF Scheme, so far 57991 rationalised workers have been counselled, 40519 retrained and 12867 redeployed as on 30.11.99.*

TRADE UNIONS

CONCLUSION XI (27) (4) (i)

Assist in identifying new areas requiring skill training and retraining.

CONCLUSION XI (27) (4) (ii)

Motivate employees to acquire new skills especially in the event of certain jobs becoming redundant.

CONCLUSION XI (27) (4) (iii)

Assist in making continuous education/life long learning a way of life so as to combat effectively the challenges of rapid technological changes.

CONCLUSION XI (27) (4) (iv)

Help inculcating among workers the attitude of acquiring multi skills and further training to improve productivity and continued relevance in the face of technological changes.

CONCLUSION XI (27) (4) (v)

Be effective and important partners in the movement towards productivity enhancement.

CONCLUSION XI (27) (4) (vi)

Ensure effective coordination with employers for periodic skill upgradation of workers so as to avoid redundancy.

ACTION TAKEN

Delegates of Central Trade Union Organisations assured the Tripartite Review Committee in its meeting on 7.1.2000 to work closely with Employers in implementing these conclusions of Indian Labour Conference.

ANNEXURE
(Referred to in ATR in r/o conclusion no.II of ILC)

(TO BE PUBLISHED IN THE GAZETTE OF INDIA PART I SECTION I)

GOVERNMENT OF INDIA / BHARAT SARKAR
MINISTRY OF LABOUR / SHRAM MANTRALAYA

SHRAM SHAKTI BHAWAN, RAFI MARG
New Delhi, dated the 15th Oct, 1999

R E S O L U T I O N

No.Z-20014/8/99-Coord - The Government of India have decided to set up a National Commission on Labour consisting of following :-

CHAIRPERSON

Shri Ravindra Varma

FULL TIME MEMBER

1. Dr. B.R. Sabade

PART TIME MEMBERS

1. Shri Sunil Shastri
2. Shri Sudharshan Sarin
3. Shri G. Sanjeeva Reddy
4. Shri Jitendra Vir Gupta
5. Smt. Ela R. Bhatt
6. Shri Arvind R. Doshi
7. Shri Hasubhai Dave

MEMBER - SECRETARY

1. Shri N. Sanyal
2. The terms of reference of the Commission will be as follows :-
 - (a) to suggest rationalisation of existing laws relating to labour in the organised sector; and
 - (b) to suggest an "umbrella" legislation for ensuring a minimum level of protection to the workers in the un-organised sector.

While developing the framework for its recommendations, the Commission may take into account the following :-

- (i) Follow up implications of the recommendations made by the commission set up in May 1998 for review of various administrative laws governing industry;
 - (ii) the emerging economic environment involving rapid technological changes, requiring response in terms of change in methods, timings and conditions of work in industry, trade and services, globalisation of economy, liberalisation of trade and industry and emphasis on international competitiveness and the need for bringing the existing laws in tune with the future labour market needs and demands;
 - (iii) the minimum level of labour protection and welfare measures and basic institutional framework for insuring the same, in the manner which is conducive to a flexible labour market and adjustments necessary for furthering technological change and economic growth; and
 - (iv) improving the effectiveness of measures relating to social security, occupational health and safety, minimum wages and linkages of wages with productivity and in particular the safeguards and facilities required for women and Handicapped persons in employment.
3. The Commission will make its recommendations as soon as practicable but not later than 24 (twenty four) months from the date of publication of the resolution in the Gazette of India. It may, if it deems fit, submit interim reports for any specific problem(s).
 4. The Commission will devise its own procedure. It may call for such information and take such evidence as it may consider necessary. The Ministries /Departments of the Government of India will furnish such information and documents

and render such assistance as may be required by the Commission.

5. The Government of India trust that the State Governments/Administrations of Union Territories, Public Sector Undertakings, Organisations of Employers and Workers and all other concerned Organisations will extend to the Commission their fullest cooperation and Assistance.

Sd/-
(Dr. L. Mishra)
Secretary to the Government of India

Z-20014/8/99-Coord

New Delhi, dated the 15th Oct, 1999

O R D E R

Ordered that the resolution be published in the Gazette of India Part I Section I.

Ordered also that a copy of the resolution be communicated to all Ministries/Departments of the Government of India, State Governments /Administrations of Union Territories and all other concerned.

Sd/-
(Dr. L. Mishra)
Secretary to the Government of India

ITEM II : ACTION TAKEN ON THE CONCLUSIONS OF 36TH SESSION OF STANDING LABOUR COMMITTEE HELD ON 9TH FEBRUARY, 2000.

CONCLUSION I

While appreciating the initiatives taken by the Ministry of Labour to bring the urgent and important concerns regarding payment of wages and statutory dues and bringing down periodicity of wage revision to five years, in respect of employees of Central Public sector Undertaking, before the Government at the highest level, the Committee recommended that the Group of Ministers set up to examine and make suggestion on the issue should meet regularly and submit their proposals preferably within two months' time.

ACTION TAKEN

A Group of Ministers (GOM) was constituted on 9.2.2000 to consider, inter alia, the problems relating to non-payment of wages and statutory dues of employees of PSUs and the periodicity of pay/wage revisions. The GOM will meet regularly and submit its report after considering the demands of the Unions and arriving at a consensus on how best these demands could be met. The first meeting of the GOM is scheduled in April, 2000.

CONCLUSION II

Noting the emerging trend towards disinvestment and privatisation, the Committee recommended that the concerned Ministries as well as the Ministry of Disinvestment should consult the Tripartite bodies before taking action with regard to disinvestment in Central Public Sector Units as the decision of the Government has implications on employment and social security of the workers.

ACTION TAKEN

While examining and commenting on the proposals for restructuring/disinvestment/privatisation of PSUs sent by various administrative Ministries/Departments, Ministry of Labour has emphasised that trade unions should be consulted and taken into confidence so that the process of restructuring does not impose disproportionate burden on workers.

CONCLUSION III

While noting the constitution of the second National Commission on Labour,

the Committee recommended that representatives of the Central Trade Union Organisations and Employers Organisations should be given adequate representation in the Working Groups/Task Forces to be set up by the Commission and they should be fully associated in the consultation process of the Commission.

ACTION TAKEN

The recommendation of the Committee that representatives of the Central Trade Union Organisations and Employers Organisations should be given adequate representation in the Working Groups/Task Forces to be set up by the Second National Commission on Labour has been noted and they will be given adequate representation in the Working Groups/Task Forces as and when these are set up by the Commission. They will also be fully associated in the consultation process of the Commission.

CONCLUSION IV

The Committee noted that despite consultations spanning over two decades no progress has been achieved in enacting a Central Legislation for agricultural workers and recommended that the Bill for the purpose should be introduced in the forthcoming Budget Session of the Parliament.

ACTION TAKEN

A Conference of Labour Ministers from all States/UTs alongwith their Labour Secretaries/Commissioners was held in New Delhi on 18.1.2000 to discuss the proposal of a Central Legislation for Agricultural Workers. There was no consensus on some of the major components of the draft Bill. The matter is being re-examined on the basis of views/comments obtained during the Conference.

CONCLUSION V

The Conference also suggested that amendments to the Contract Labour Act, Industrial Disputes Act and Minimum Wages Act and implementation of other labour laws should be considered for employment generation, better working conditions and harmonial industrial relations.

ACTION TAKEN

Industrial Dispute Act, 1947 is an Act to make provisions for investigation and settlement of industrial disputes and for certain other purposes. The thrust of the act is to maintain harmonial industrial relations. To make this Act more effective, certain amendments in this Act are under consideration of the Government. Similarly amendments to Minimum Wages Act, 1948 and Contract Labour (Regulation and

Abolition) Act, 1970 are under consideration.

CONCLUSION VI

The Committee recommended that the Central Government should initiate action to formulate and implement a national policy on home work.

ACTION TAKEN

National consultation to formulate a National Policy on Home Work was held on 17th January, 2000 under the Chairmanship of Union Labour Minister. In this meeting also a decision was taken to formulate a National Policy on Home Work. A draft National Policy on Home Based Workers is under preparation in this Ministry.

CONCLUSION VII

The Committee suggested that labour rights should be protected in the Export Processing Zones (EPZ) and compliance to labour laws should be achieved through labour inspection.

ACTION TAKEN

For Export Processing Zones, State Governments are the appropriate Government for implementation of labour laws. State Labour Machinery is conducting inspections accompanied by the officials of the C.I.R.M. in these Zones.

CONCLUSION VIII

The Committee decided to have the following agenda items for the 36th Session of the Indian Labour Conference:

- (1) Industrial Sickness
- (2) Workers participation in industry
- (3) Workers Education

ACTION TAKEN

The above agenda items are placed before the 36th Session of the Indian Labour Conference.

CONCLUSION IX

The Committee noted with concern that the recommendations made by Dave Committee for investing provident fund and pension fund in the market, recommended that the Ministry of Labour should reject the recommendation of Dave Committee in so far as it relates to the investment of funds from EPF Scheme.

ACTION TAKEN

The recommendations of the Dave Committee have been considered by the Central Board of Trustees & Employees Provident Fund in its meeting held on 8.2.2000. The Board has since unanimously rejected all the recommendations of the Dave Committee in respect of Provident Fund & Pension Schemes on the ground of being contrary to the provisions of the EPF & MP Act, 1952. The decision of the Board has since been communicated to the Ministry of Social Justice & Empowerment who had appointed the Dave Committee.

CONCLUSION X

The Committee also recommended that tripartite committees under the Ministry of Labour and State level should be activated by properly constituting, by holding meeting regularly and by taking follow up action promptly.

ACTION TAKEN

The Tripartite Committees under the Ministry of Labour are constituted either on the basis of an established procedure or as indicated in the statute. The representation of Central Trade Union Organisations in various committees of the Ministry of Labour is determined, by and large, proportionate to the varified membership strength prevailing at the time of constitution of the Committees. It is always not feasible to accurately follow proportional representation and occasionally marginal adjustments are made especially when the size of the Committee is small.

Meetings of the following tripartite committees were held during 1999 :

- (i) Tripartite Industrial Committee on Sugar Industry held on 18.1.1999.*
- (ii) Central Advisory Committee under Equal Remuneration Act, 1976 held on 5.2.1999.*
- (iii) 35th Session of the Standing Labour Committee held on 6.2.1999.*
- (iv) 32nd meeting of the Minimum Wages Advisory Board held on 28.2.1999 & 15.2.1999.*

- (v) *Central Advisory Contract Labour Board on 4-5 March, 1999, 28-29 April, 1999, 7-8 July, 1999 and 18-19 November, 1999.*
- (vi) *35th Session of Indian Labour Conference held on 3-4 April, 1999.*
- (vii) *Central Advisory Committee on Beedi Welfare Fund on 26th May, 1999.*
- (viii) *Tripartite Industrial Committee on Cotton Textile Industry held on 26th July, 1999*

Meetings of following Tripartite Bodies were held in 2000:

- (i) *Tripartite Review Committee to implement the decisions of the SLC and ILC on 7.1.2000*
- (ii) *Contract Labour Advisory Committee on 20-21 January, 2000.*
- (iii) *Tripartite National Committee on Home Workers held on 17th January, 2000.*
- (iv) *National Safety Conference on 2-3 February, 2000.*
- (v) *Central Board of Trustees of EPF held on 8.2.2000.*
- (vi) *36th Session of Standing Labour Committee held on 9th February, 2000.*
- (vii) *E.S.I.C. held on 15th February, 2000.*
- (viii) *Standing Committee of ESIC held on 16th February, 2000.*
- (ix) *Executive Committee of CBT held on 14th March, 2000*

The Ministry is organising the meetings of various Tripartite Bodies in a phased manner. Arrangements are being made to convene the following meetings during April - June, 2000 :

- (i) *E.S.I.C.*
- (ii) *Central Board of Trustees*
- (iii) *Central Labour Advisory Board*
- (iv) *Minimum Wages Advisory Board*
- (v) *Advisory Committee on Beedi Welfare Fund*

- (vi) *Iron Ore and Manganese Ore Welfare Fund*
- (vii) *Limestone and Dolomite Stone Welfare Fund*
- (viii) *Committee on Conventions*
- (ix) *Tripartite Industrial Committee on Electricity Generation and Distribution Industry*
- (x) *Tripartite Industrial Committee on Jute Industry*
- (xi) *Tripartite Industrial Committee on Road Transports Industry*

The State Governments and Union Territories have continuously been requested to evolve and implement a tripartite mechanism for evolution of Policy and implementation of laws and programmes pertaining to labour. Letters have been issued from Labour minister to State Chief Ministers and from Labour secretary to State Chief Secretaries to implement the ethos of tripartism in letter and spirit. 26 States/UTs have already confirmed of having set up such a mechanism. Four States/UTs viz. Andaman & Nicobar Islands, Mizoram, Sikkim & Lakshadweep have not constituted any tripartite committee, so far as they do not have significant organised labour force and industrial/factory sector. No response has been received from 2 States/UTs viz. Manipur and Pondicherry.

CONCLUSION XI

The Committee welcomed the decision to enhance import duty of sugar and recommended that similar enhancement on other items should be encouraged to protect job and local industry.

ACTION TAKEN

The recommendation of the SLC has been communicated to the Ministry of Finance.

ITEM III : INDUSTRIAL SICKNESS

The Indian industry is now showing signs of recovery, after a relatively modest performance during the last few years. The industrial growth rate is expected to exceed 6 per cent during 1999-2000 compared to merely 4 per cent during the previous year. Basic goods, intermediate goods and consumer goods have all recorded accelerated growth. It is reported in the Economic Survey, 2000-2001 that the emerging pattern and composition of industrial growth can set in motion mutually supportive forces for sustained industrial recovery which are also reflected in improved efficiency, productivity and international competitiveness.

However, despite these encouraging trends, industrial sickness is a problem which continues to deserve attention. The first phase of reforms undertaken in the country include reduction of tariff barriers / liberalisation of trade, relaxation of restrictions on foreign investment / entry of multinationals, etc. The World Trade Organisation (WTO), of which India is a member country, requires removal of quantitative restrictions on imports unless permitted under certain specific provisions in various Agreements. The member countries, in accordance with these agreements, can provide protection to the domestic industry by way of tariffs under certain circumstances. Besides, trade protection measures such as anti-dumping, safeguards and anti subsidy actions can also be taken for protection of the domestic industry in specific cases.

The issue of industrial sickness has acquired even greater significance in the context of the second phase reforms. Reforms are required in the existing institutions which may have either outlived their utility or are not working efficiently. Reforms are also required to promote efficiency and impart dynamism to the overall process of growth and employment. There is a need for redeployment of capital and labour from unproductive to productive uses in a fast changing economic environment so that the competitive strength of the country is enhanced for future growth and employment generation.

Magnitude of the Problem and Trend in Industrial Sickness

The Reserve Bank of India (RBI) compiles data on Sick Industrial Units assisted by banks in the country. The position according to the latest RBI Report for March, 1998 is given below :

Category	Units	Outstanding Bank Credit (Rs. crore)
SSI sick	2,21,536	3,856.64
Non-SSI sick	2,030	9,861.67
Non-SSI weak	446	1,963.58
Total	2,24,012	15,681.89

According to this information there were more than 2.2 lakh sick/weak units, the majority of which were in the SSI sector. The viability position of the non-SSI sick/weak units according to this Report, may be summed up as follows :-

Category	Units	Outstanding Bank Credit (Rs. crore)
Viable	592	3537.81
(under nursing)	(370)	(2341.96)
Non-viable	1262	3668.27
Viability not Decided	622	4619.17
Total	2476	11825.25

It can be seen from above that though in terms of number of sick units the non-SSI sector is insignificant compared to the SSI sector, in terms of bank credit locked up in sick enterprises, the non-SSI sector is more significant. Whereas the SSI sector accounts for merely 25 per cent of the bank credit locked up in sick units the non-SSI sector accounts for as much as 75 per cent of such credit. The total outstanding credit in sick and weak enterprises is in excess of Rupees 15 thousand crore.

During the year 1998, there was a reduction in number of sick SSI units over those during 1997. Though the number of sick SSI units has declined, the number of sick/weak units in the non SSI sector has increased somewhat during this period. In fact there has been an overall decrease of 5.64 per cent in total number of sick/weak units between 1997 and 1998. However, total bank credit blocked in the sick units has increased from Rs.13.7 thousand crore as on 31-3-1997, Rs.15.7 thousand crore as on 31-3-1998.

When a longer time period is considered from 1980 to 1998, the secular trend is industrial sickness is quite revealing.

Category	June '80	March '98	Rate of increase
SSI Sick	22,325	2,21,536	13.6%
Non-SSI Sick/weak	1,415	2,476	3.2%
Total	23,740	2,24,012	13.3%

It can be seen from here that increase in number of units going sick in the SSI sector has been much higher than that in the non-SSI sector.

Causes of Industrial Sickness

Industrial sickness is an essential feature of a dynamic economy. It is the law of change that units which are non-competitive, uneconomical and inefficient should die out as new and more efficient units come up to take their place. The RBI report indicates that a number of causes, both internal and external, often operating in combination, have been responsible for industrial sickness. The main causes include deficiencies in financial management, administrative management, production management, marketing etc.

The main reasons for industrial sickness in respect of sick and weak non-SSI units as reported by banks in 1998 are categorised as follows :-

A. Internal Factors & Planning Management		Percentage		
(I) Project appraisal - deficiencies in				
(a)	Technical feasibility	5.2		
(b)	Economic Viability	2.1	7.3	
(ii) Project management - deficiencies in				
(a)	Implementation	3.9		
(b)	Production	8.6		
(c)	Labour	4.8		
(d)	Marketing	5.6		
(e)	Financial	11.0		
(f)	Administrative	9.2	43.1	50.4
B. External Factors		Percentage		
(iii) Other than marketing				
(a)	Non-availability of raw materials	2.9		
(b)	Power shortage	4.2		
(c)	Transport bottlenecks	0.3		
(d)	Financial bottlenecks	10.4		
(e)	Change in Govt. policy	3.0		
(f)	Natural calamities	1.1		
(g)	Strike	2.3		
(h)	Increase in import cost	0.5		
(i)	Increase in overhead cost	4.8	29.5	

(iv) Marketing

(a)	Market saturation	3.3		
(b)	Product obsolescence	0.4		
©	Fall in demand/recession	6.0	9.7	
(v)	others(not specified)	10.4	10.4	49.6
	Total	100.0		

It can be seen from above that management deficiency is a major cause of sickness accounting for 43.1% of the cases of industrial sickness.

Social Dimension of Industrial Sickness (Non-payment of Statutory Dues of Workers, Loss of Jobs, etc.)

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. Non-payment of statutory dues such as wages and salaries, provident fund dues, ESI dues, gratuity, bonus, pension, etc. has assumed serious proportions in recent years. Sick Companies referred to BIFR have immunity against recovery of dues under Section 22 of SICA. This makes it very difficult to enforce labour laws relating to payment of these statutory provisions. Consequently, the workers are put to great hardship.

Sometimes in view of the delicate financial position of companies, the workers 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 in the form of delayed payment of wage arrears, etc. In view of lack of immediate job opportunities many workers have no option but to make such sacrifices with a view to retaining their existing jobs.

In some cases where closure of certain units is inevitable, the retrenched workers are not in a position to find jobs immediately. The retrenchment compensation being modest, the transition period is generally difficult for them. With change in the structure of the economy and shift towards services and knowledge based sectors, workers rendered surplus in some conventional manufacturing units may not be "trainable" in new trades. There is a shift in demand for labour from unskilled and low-paid jobs to skilled jobs requiring greater professionalism. This has created a demand - supply mismatch which may take some time to be bridged through greater efforts in education and training during the transition phase.

Institutional Mechanism for Handling Industrial Sickness

The Board of Industrial and Financial Reconstruction (BIFR) was established in May 1987 to take care of the difficulties resulting from overlapping laws and agencies, inadequate and time consuming procedures, obsolete policies and lack of scope of rehabilitation and revival of industrial units. The Sick Industrial Companies (Special Provisions), Act, 1985 was enacted for identification of sickness in industrial companies, for making suitable enquiry into incidence of sickness and taking suitable remedial measures for their revival or for recommending their closure.

The BIFR follows the following criteria to determine the sickness :

1. Accumulated losses should be equal to or more than the net-worth; and
2. The industrial company should have completed five years after incorporation.

The onus of reporting sickness to the BIFR is laid on the Board of Directors of the company (Section 15 of SICA). It has also been provided that they shall do so within 60 days from the date of finalisation of duly audited accounts of the company for the relevant financial year.

The references received by the Board are scrutinised by the Registrar as to whether prima facie they conform to the provisions of the Act. Those which conform to the provisions are registered.

Registered cases are placed before the Chairman, BIFR for allocation to one of the benches for further action under the Act. The inquiry is made under Section 16 of the Act, to determine whether the company is a sick industrial company in terms of Sections 3(1)(o) of the Act. To reach a view in this regard hearing(s) is/are held giving opportunity to all concerned. If the company is not found to be sick, the reference is dismissed as "non-maintainable."

Further, while under inquiry, the cases are dropped/closed due to net worth of the company becoming positive etc.

On the other hand, if the bench determines that the industrial undertaking is sick in terms of SICA, the reference is taken up for further provisions as per the Act.

If the Board finds that it is feasible to rehabilitate the company and the rehabilitation is in public interest, the Board sets forth to consider proposals for rehabilitation, by considering the company's rehabilitation proposal under Section 17(2) of SICA or by appointing Operating Agency (OA) under Section 17(3) of SICA for preparation. The OA is given 90 days to compile the data and submit its report. Thereafter, a draft scheme is prepared and published in two dailies to receive objections

within 60 days. If there is a consensus, the draft scheme is sanctioned by the Board as a scheme for rehabilitation under Section 18(4) of SICA.

On the other hand, on the recommendations of the OA, the Board may form a prima facie opinion that it is just and equitable to wind up the company and a show-cause notice is issued inviting comments/objections within a period of 60 days.

Thereafter, the Board confirms its decision for winding up of the company under Section 20(1) of SICA and forwards its opinion to concerned High Court for further action.

The BIFR, thus, provides a forum where the agencies concerned are brought in a platform analysing, diagnosing and evolving a reasonable decision for revival or otherwise of a sick industrial unit.

Flaws in the Existing Institutional Mechanism to Deal with Industrial Sickness

It is a fact that the BIFR as it exists today has been ineffective in handling the problem of industrial sickness. The BIFR has received for 4001 references since its inception in May, 1987 and upto November 1999 of which 240 references are from Central and State sector undertakings (CPSUs and SPSUs). Out of the references received 2841 cases were registered while 516 references were dismissed as non-maintainable. A total of 646 rehabilitation Schemes have been approved/sanctioned so far whereas 658 cases have been recommended for winding up. Only 223 companies have been declared no longer sick.

Of the total of 992 cases pending with BIFR, 787 are still under enquiry, 24 schemes have failed and have been reopened, 25 cases have been remanded by AAIFR/Courts, 45 cases have been stayed by Courts. In 61 cases draft schemes are under circulation and in 50 cases winding up notices have been issued. Of the total number of Companies referred to BIFR only 17 per cent of the Companies have been rehabilitated and that too not necessarily on account of BIFR. In more than 50 per cent of the cases winding up orders have been issued. In the meeting of the Indian Labour Conference in April, 1999 the BIFR had earned the epithet of being a "mortuary" rather than a "nursery" for sick enterprises.

The functioning of BIFR has been disappointing for the following reasons:

1. As soon as an industrial establishment accumulates losses equal to or exceeding its entire net worth it is to be reported under Section 15 of SICA to BIFR. Only terminal cases of sickness get reported. Furthermore as soon as a company is referred to BIFR its financial position deteriorates even further as banks withdraw lending facilities as a result of which the incidence of sickness deepens further.

2. Under section 16 of SICA the Board may make an inquiry to determine sickness. Under sections 17, 18 & 19, only after completion of inquiry a suitable order is passed and scheme for rehabilitation is prepared. This is a time consuming process. The average time take for disposal of cases from the date of registration is more than five years. In many cases final decision takes even longer.
3. Section 25 of SICA provides that every person aggrieved by an order of the board may refer an appeal to the AAIFR. More than 1400 appeals have been filed in AAIFR. The majority of these appeals are against the order of the Board under Section 20 (1) or against the winding up provisions. This delays implementation of decisions even further.
4. Under section 22 of SICA there is suspension of legal proceedings including recovery of dues. A large amount of workers' dues have accumulated as a result of non-payment of wages and salaries, provident fund dues, ESI dues, gratuity etc. The total amount of outstanding dues of workers employed in Central Public Sector Undertakings alone is close to Rs.2000 crore. This has put the most vulnerable of the social partners, i.e., labour at great risk of not being able to maintain their livelihoods when the Company is referred to BIFR.
5. In case the sick company is not revivable, winding up order can be issued by BIFR under Section 20 of SICA. The Board only has recommendatory powers for referring the matter to High Court which in turn appoints an official liquidator for winding up the Company under the Companies Act. This is a time consuming procedure and there is no mechanism for protection of labour interest as the liquidation proceeds are distributed according to the Companies Act where secured creditors have precedence over other parties including labour.
6. The revival schemes sanctioned by the Board are implemented generally over a period of 5 to 7 years. However, the majority of these schemes have failed on account of non-compliance by various parties to the measures stipulated in the Scheme. In certain cases, it has been observed that even after complying with the provisions of the Scheme the company has not been able to come out of sickness. Around 400 rehabilitation schemes sanctioned by BIFR have failed in achieving the desired results and, therefore, have had to be reopened.

Definition of Sickness

According to the existing definition of the Sick Industrial Companies (Special Provisions) Act (SICA), 1985 a Sick Industrial Company means an industrial company which has, at the end of any financial year, accumulated losses equal to or exceeding its entire net worth. The experience with SICA over the past years has shown that the definition of sickness based on total erosion of net worth primarily identifies terminally sick firms when they are referred to BIFR at a very late stage when the potential viability

is absent or at best marginal. This also seems to be one of the main reasons for unsatisfactory success rate of revival schemes sanctioned by BIFR.

The Goswami Committee which submitted its report in 1993 had suggested that a sick company should be defined on the basis *defaults during two quarters or more* (i.e. 180 days or more) to public financial institutions/banks. It is, however, felt that a period of two quarters may be too short and may give rise to premature precipitative action. The apprehension in changing the definition based on debt default in two quarters is that this may entail coverage of companies which are not sick in the true sense of the term. Secured creditors may use the opportunity to refer companies to BIFR even when the default is on account of temporary or extraneous factors. It was, therefore, suggested that an industrial company would be termed as sick if it has either:

- (1) defaulted for four quarters or more (i.e. 365 days or more) on repayment of Principal and /or interest to one or more of its secured creditors, or
- (2) has been irregular on cash credit or working capital for four quarters or more.

Such default need not necessarily be continuous and defaults in any two quarters during the period of two successive years could be covered under the definition. Another change which was suggested is that 50% erosion of net worth instead of 100% erosion should be considered for defining sickness.

Other Remedial Measures

Remedial measures can be categorised in two parts :

- (a) relating to non-SSI units
- (b) relating to SSI units.

Sickness in small scale sector is primarily the responsibility of the State Governments. Government of India have announced following reliefs and concessions for rehabilitation:

- (a) Equity Assistance Scheme
- (b) Setting up of Small Industrial Development Bank of India (SIDBI)
- (c) State Level Inter Institutional Committee (SLIIC).

For non-SSI units, legislative enactment, namely, Section 72 A of the Income Tax Act, 1961 and Sick Industrial Companies (Special Provisions) Act, 1985 deals with revival and other measures. Institutional Mechanism for controlling sickness of non-SSI

units consists of following agencies:

- (a) Board of Industrial and Financial Reconstruction.
- (b) Specified Authority.
- (c) Empowered Authority of the National Renewal Fund.
- (d) Administrative Ministries dealing with the industry concerned.
- (e) Reserve Bank of India/banks/financial institutions.
- (f) State Governments.

WORKERS SAFETY NET-NRF

National Renewal Fund was set up to protect the interest of workers affected by industrial restructuring. Presently, assistance from NRF is permitted for implementation of Voluntary Retirement Scheme (VRS) for Central PSUs and counselling/ retraining/ redeployment of rationalised workers.

So far 1,27,464 workers of Central PSUs have availed of VRS funded from the NRF. Under the worker retraining scheme, 95,070 rationalised workers have been surveyed. 48,558 rationalised workers have been counselled and 34,918 retrained. 11,024 rationalised workers are reported to have redeployed.

Role of Government in Reducing Incidence of Industrial Sickness

The Government is seriously reviewing the institutional mechanism in existence for dealing with sickness and revival of companies. Among the issues being considered are whether defaults in payment should be a more appropriate indicator of capturing sickness in the incipient stage or erosion of net worth. It goes without saying that the existing mechanism for monitoring of sickness needs to be improved further with greater involvement of banks in detection of sickness at the default stage itself. Banks / financial institutions also have an important role to play in not only detecting early signs of sickness but in also taking appropriate steps for nursing companies back to health.

The Government is also of the view that sickness should not be willful. The Central Vigilance Commission in a recent report has indicated that there should be full accountability and fixing of responsibility to the extent possible and punitive action should be taken against those responsible for willful default and diversion of funds. Section 22 of SICA which provides virtual immunity to the management against any recoveries/ punitive action needs to be done away with.

At times paucity of funds is considered as a major reason for deepening industrial sickness and hampering revival. The Govt. has been providing plan assistance for restructuring of PSUs to enable modernisation, technological upgradation as well as for protection of jobs. Infusion of more than Rs. 8000 crores in SAIL is a standing example of this. The Govt. has also created Rehabilitation Fund for units in the private sector as in the case of textile mills. Given the fact that technological improvement is an important pre-requisite for reviving sick mills, assistance is given to small scale industry for bringing about technological improvements. The textile industry also receives support under the Technology Upgradation Fund set up for this purpose. In addition the Cotton Technology Mission has been constituted to ensure improvement in the quality and yield of cotton.

For some industries where reduction in tariff barriers is considered to be the main reason for industrial sickness, the Government has increased the custom duty. The Government imposed 5 per cent customs duty on the majority of previously zero-duty imports and extended countervailing duty to capital project sectors. The recent hike in custom duty on sugar industry to 60 per cent was also done with a view to protecting this labour intensive industry from indiscriminate imports. However, continued protection of domestic industries is known to lead to inefficiency, high cost of production and lowering of growth prospects and general living standards of the people. Hence this option should be avoided to the extent possible unless there are strong reasons on case to case basis.

In case some units are not viable it is the view of the Government that they should be allowed to close down to allow scarce economic resources to move away from non-productive uses to productive ones. However, the Government thinks it imperative to give a human face to restructuring of enterprises. So far as public sector units are concerned the Government is actively reviewing the voluntary retirement scheme. A large number of workers have already opted for voluntary separation scheme in those PSUs which are not viable and are required to close down. However, much more requires to be done in this regard.

Role of Management

The Committee of Experts on Industrial sickness observed that the single 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.1(2), Textiles, p.1.)"

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. The Report of the Central Vigilance Commissioner brought out recently has also pointed to the phenomenon of corruption as a result of protection given to the management under the existing provisions of SICA, 1985. There should be greater accountability in the system so that those guilty of diversion / misappropriation of funds are brought to book.

The management has a special role to play in early detection of sickness. The management also has an important role to play in avoiding sickness by taking timely remedial action as and when danger signals are first noticed. Industrial sickness most often than not is a sign of inefficient management which is unable to take the right decisions at the right time. At the same time a closer partnership with workers, sharing with them the goals and visions of the Company as well as the difficulties / problems being faced or to be faced by the Company can bring about the necessary flexibility to face hard times and emerge unscathed out of business slumps.

Role of Labour

It is borne out by empirical evidence and analysis of causes of sickness that workers have very little role to play in causing industrial sickness. However, their resistance to change may sometimes result in some managerial decisions which impinge on the future prospects of the establishment. Conciliatory rather than confrontationist approach is known to yield better results. It is therefore essential that just as management should share a closer working relationship with workers the workers too should be sensitive and responsive to the needs of the corporation. Resistance to change is sometimes the death knell of the Company. At times short- term sacrifices are required for long term gains. Many firms have emerged out of serious crises on account of cooperation of workers. It also needs to be recognised that for maintaining the health of the Company manpower restructuring in some cases be essential. Protection of less productive jobs at present may pose constraints on creation of more productive jobs in the future. Many trade unions have been insightful about this and have in their wisdom accepted change as a necessary corollary of growth. The Unions have an urgent responsibility to bear in creating awareness among workers about the need for change. At the same time the Unions have an equally responsible role to play in ensuring that workers alone do not have to bear the burden of transition and that they at the same time have a fair share of the benefits of growth.

Issues for Discussion

1. What according to the members are the main causes of industrial sickness in the current economic scenario?
2. What are the suggestions on how industrial sickness could be prevented by the management, the workers and the government?
3. What are the early signs of sickness? What indicators / criteria should be used to detect sickness in the early stages?
4. Who should monitor industrial sickness - the financial institutions / banks or BIFR?
5. Has BIFR outlived its utility as an institution to tackle industrial sickness? If so, what should be the alternative institutional mechanism in place of BIFR?
6. Once a Company becomes sick what immediate steps should be taken for its revival?
7. What is a reasonable time frame within which it could be decided whether a Company can be revived or should be wound up?
8. How could it be ensured that revival plans work?
9. How could it be ensured that workers dues are paid without delays? Should Section 22 of SICA be amended to exclude workers' dues from its ambit?
10. In case a Company is to be restructured or wound up what should constitute an attractive Voluntary Retirement Scheme (VRS) or a Voluntary Separation Scheme (VSS)?
11. How should VRS / VSS be funded?

✓
ITEM IV :

WORKERS' PARTICIPATION IN INDUSTRY

by

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PHILOSOPHICAL AND FUNCTIONAL CONTENT OF
WORKERS' PARTICIPATION IN INDUSTRY

Participation of workers in industry has a philosophical and functional content. The philosophical content derives itself from the fact that workers are primarily human beings and secondarily workers. As human beings they have their strength and weaknesses, frailties and shortcomings as also a tremendous potential for evolution and growth. A large cross section of the industrial workers come from a traditional agricultural background and are not fully equipped to confront and grapple with the stresses and strains emerging from the new environment at the workplace. They, therefore, find it difficult to identify themselves fully with the ethos and culture of the work environment; many of them tend to alienate/dissociate themselves from that environment and eventually from the industrial enterprise. Workers association with industry should, therefore, be viewed as a means to arrest such trends of alienation and to secure total involvement of the workforce - physical, psychological and emotional with the industry and the industrial environment. The entire philosophy of workers' participation in the management of industry rests on the premise, 'Capital creates labour in as much as labour creates capital and the two together will have to contribute to the foundations of a strong, vibrant and resilient national economy'.

Secondly, despite problems of lack of literacy and numeracy workers as human beings have a normal and natural curiosity or inquisitiveness to know more about the industry, its mission and activities. They would be interested to know the source or origin of raw materials, how they are transported from the site to the plant, the manufacturing process, the product mix, functioning of the various components of the plant and machinery, the end-product, standardisation and quality control which need to be observed to ensure marketability of the product and so on. This would mean that a proper institutional mechanism and procedure is in place for sharing of information by the management with the workers in such manner that it promotes two way communication for dissemination of information in a normal and natural manner. It is well known that if the workers have access to the basic information about the industry, the industrial

process and industrial environment and if they are better informed this would have a direct bearing on their involvement with the various processes in the enterprise and eventually on the productivity of the enterprise.

Thirdly, the basic cannons of industrial democracy dictate that the workers should have a say in the decision making process of the industrial enterprise at various levels. Such participation in the decision making process would make them responsible stake holders in the enterprise, would heighten their motivation and morale and would make them more responsive to the dictates of a given situation. This would eventually contribute to their own empowerment and growth and prosperity of the enterprise.

Fourthly, such involvement would remove a lot of distrust and suspicion which the workers may have towards the management or the management may have towards the workers; it would bring them together and enable them to think, plan and act together for the common cause of promoting the prosperity and growth of the industrial enterprise and sharing of the gains by both capital and labour.

Fifthly, despite lack of formal education many workers in an industrial (both manufacturing and service sector) enterprise are endowed with a lot of imagination, ingenuity, creativity, resourcefulness and skills. It is necessary that a proper mechanism such as a suggestion scheme or the scheme of 'quality circles' for Total Quality Management (TQM) or schemes of awards, rewards and incentives be evolved so that such imagination, ingenuity and creativity could be harnessed optimally which would contribute to furtherance of the objectives of the enterprise.

Viewed in this perspective workers association or participation in industry is not a mere rhetoric but a dire need for the very survival and growth of the enterprise. Before, however, enumerating the various measures taken right from 1947 onwards to promote and secure workers' participation in industry through both statutory as well as non-statutory mechanisms it may be necessary to analyse as to why workers alienate or dissociate themselves from the industry / industrial enterprise. What are the causes and factors in terms of physical environment and its impact on the attitude, approach and psyche of the workers / employees on account of which they are unable to associate and identify themselves fully with the enterprise and the tasks mandated for the enterprise?

Let me start with the physical or occupational environment and its effect on physical and mental health of workers.

OCCUPATIONAL ENVIRONMENT AND ITS EFFECTS ON PHYSICAL AND MENTAL HEALTH OF WORKERS

The occupational environment can be simply defined as any place, indoors and