

**ESTIMATES COMMITTEE  
(1971-72)**

**NINETEENTH REPORT**

**(FIFTH LOK SABHA)**

**Ministry of Industrial Development  
(Department of Industrial Development)  
INDUSTRIAL LICENSING**



**LOK SABHA SECRETARIAT  
NEW DELHI**

*April, 1972/Vaisakha, 1894 (Saka)*

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(1971-72)

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\*Died on the 27th January, 1972.

(iv)

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Shri M. S. Sundaresan—*Deputy Secretary.*  
Shri Y. Sahai—*Under Secretary.*

## INTRODUCTION

1. the Chairman, Estimates Committee, having been authorised by the Committee to submit the Report on their behalf, present this Nineteenth Report on the Ministry of Industrial Development (Department of Industrial Development)—Industrial Licensing.

2. The Committee took evidence of the representatives of the Ministries of Industrial Development (Department of Industrial Development), Defence (Department of Defence Supplies), Finance (Department of Expenditure, Department of Economic Affairs and Department of Banking), Foreign Trade, Petroleum and Chemicals (Department of Petroleum and Department of Chemicals), Steel and Mines (Department of Steel and Department of Mines), Cabinet Secretariat (Department of Cabinet Affairs), Department of Company Affairs, Department of Electronics and Planning Commission on the 18th to 21st January, 1972. The Committee wish to express their thanks to the Officers of these Ministries etc. for placing before them the material and information which they desired in connection with the examination of the subject and for giving evidence before the Committee.

3. The Committee also wish to express their thanks to Shri N. D. Sahukar of the All India Manufacturers' Organisation, Bombay, Shri Sanjoy Sen, President, Indian Engineering Association, Calcutta and Shri S. S. Kanoria, President, Federation of Indian Chambers of Commerce and Industry, New Delhi for furnishing Memoranda to the Committee and also for giving evidence and making valuable suggestions.

4. The Committee also wish to express their thanks to all the Associations and Bodies of Trade and Industry and individuals who furnished memoranda on the subject to the Committee.

5. The Report was considered and adopted by the Committee on the 21st April, 1972.

6. A statement showing the analysis of recommendations/conclusions contained in the Report is also appended to the Report (Appendix VII).

KAMAL NATH TEWARI,  
*Chairman,*  
*Estimates Committee.*

NEW DELHI;  
April 25, 1972.

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Vaisakha 5, 1894 (Saka).

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**PART I**  
**INDUSTRIAL LICENSING POLICY**

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# CHAPTER I

## INTRODUCTORY

### A. Introduction and Background

#### *Industrial Policy Resolution 1956*

1.1. The Industrial Policy of the Government of India continues to be governed by the Industrial Policy Resolution of the 30th April, 1965 which had, in the wake of Second Five Year Plan, replaced the Policy enunciated in the earlier Policy Resolution of the 6th April, 1948. Referring to the acceptance by Parliament in December, 1954 of the socialist pattern of society as the objective of Social and Economic Policy, the Resolution stated:

“In order to realise this objective, it is essential to accelerate the rate of economic growth and to speed up industrialisation and, in particular, to develop heavy industries and machine making industries to expand the public sector, and to build up a large and growing co-operative sector. These provide the economic foundations for increasing opportunities for a gainful employment and improving living standards and working conditions for the mass of the people. Equally, it is urgent, to reduce disparities in income and wealth which exist today, to prevent private monopolies and the concentration of economic power in different fields in the hands of small numbers of individuals. Accordingly, the State will progressively assume a predominant and direct responsibility for setting up new industrial undertaking and for developing transport facilities. It will also undertake State Trading on an increasing scale. At the same time, as an agency for planned national development, in the context of the country's expanding economy, the private sector will have the opportunity to develop and expand. The principle of co-operation should be applied wherever possible and a steadily increasing proportion of the activities of the private sector developed along co-operative lines.”

1.2. The Resolution classified industries into three categories. The first category of industries enumerated in schedule 'A' to the Resolution included industries the future development of which would be the exclusive responsibility of the State. “All new units in these industries, save where their establishment in the private sector had

already been approved, will be set up only by the State. This does not preclude the expansion of the existing privately-owned units or the possibility of the State securing the co-operation of private enterprise in the establishment of new units when the national interest so requires . . . Whenever co-operation with private enterprise is necessary, the State will ensure either through majority participation in the capital or otherwise, that it has requisite powers to guide the policy and control the operations of the undertaking."

1.3. The second category—Schedule 'B'—consisted of industries "which will be progressively State-owned and in which the State will, therefore, generally take the initiative in establishing new undertakings, but in which private enterprise will also be expected to supplement the effort of the State." The State will increasingly establish new undertakings in these industries, while "at the same time private enterprise would have the opportunity to develop in this field, either on its own or with State participation."

1.4. All the remaining industries were placed in the third category. The Resolution expected that their development would be undertaken "ordinarily through the initiative and enterprise of the private sector, though it will be open to the State to start any industry even in this category." It was emphasised that the State would "facilitate and encourage the development of these industries in the private sector in accordance with the programmes formulated in the successive Five Year Plans . . ." It was mentioned that in suitable cases, the State might grant financial assistance to the private sector but such assistance "especially when the amount involved is substantial, will preferably be in the form of participation in equity capital, though it may also be in part in the form of debenture capital."

1.5. The complementary nature of the private and public sectors was emphasised in the Resolution and it was repeatedly mentioned that the categories did not imply any water-tight compartments. Possibilities of over-lapping as well as a great deal of dovetailing between industries in the private and public sectors were envisaged and it was stated that it will be open to the State to start any industry not included in Schedules 'A' and 'B' to meet the requirement of planning or for other important reasons, while private units might, in appropriate cases, be permitted to "produce an item falling within Schedule 'A' for meeting their own requirements or as by-products."

1.6. The policy of supporting cottage and village and small-scale industries was emphasised and the instruments in use for this

purpose such as restricting the volume of production in the large-scale sector, differential taxation and direct subsidies were mentioned. It was also recognised that it was necessary to improve the competitive strength of the small-scale producer and various measures for that purpose were suggested. The importance of progressively reducing the disparities in levels of development between different regions was stressed and measures for achieving a balanced industrial development among different regions were indicated.

1.7. The primary objectives of the Industrial Policy Resolution of 1956 may be summarised briefly as follows:—

- (a) Acceleration of the rate of economic growth and the speeding up of industrialisation, and, in particular, the development of heavy and machine building industries;
- (b) Prevention of undue concentration of wealth in a small section of the population;
- (c) Reduction of disparities in levels of development between different regions;
- (d) Protection of the small scale sector; and
- (e) Encouragement of the cooperative sector.

#### *Industries (Development & Regulation) Act, 1951.*

1.8. The Industries (Development and Regulation) Act, 1951 was enacted by Parliament as an instrument designed to provide the Central Government with the powers and means to implement the Industrial Policy of the Government. Taking into account the principles enunciated in the Industrial Policy Resolution of 1948, the Act provided for the development and regulation, by means of registration and licensing by Central Government, of industries specified in the First Schedule of the Act. The Act came into force on the 8th May, 1952. In 1953, Government acquired, by an amendment to the Act, powers also to cause investigation to be made into the affairs of any industrial unit and to take over its management, if it was running in a manner highly detrimental to the industry concerned or the public interest. Certain short-comings such as those relating to licences for shifting, manufacture of new articles and for "carry-on-business" were also removed. Although the Industrial Policy as re-enunciated in 1956 contemplated a number of important changes in the approach to the problems of industrial development, no significant amendment was made to the basic provisions of the Act such as those relating to Industrial Licensing. The only substantial amendment was the addition of some industries in the First Schedule



of the Act and their arrangement in a more rational manner. These industries were those mentioned in Schedules 'A' and 'B' of the 1956 Resolution which were not in the First Schedule of the Act earlier.

1.9. The important provisions of the Industries (Development and Regulation) Act, 1951 as amended from time to time are as follows:

- (i) All the existing industrial undertakings in the scheduled industries have to be registered with the Government within a prescribed period;
- (ii) No new industrial unit can be established or substantial expansion to existing plants made or manufacture of 'new article' taken up without a licence from the Central Government;
- (iii) The Government can order an investigation in respect of any scheduled industry or undertaking if, in its opinion, there has been or is likely to be an unjustifiable fall in the volume of production in the industry or undertaking or if there is a marked deterioration in quality or an increase in price for which there is no justification; a similar investigation can also be ordered in respect of any industrial undertaking being managed in a manner highly detrimental to the industry concerned or the public interest;
- (iv) In the event of an industry or undertaking not carrying out the directions issued after such an investigation, the Government may take over its management;
- (v) For the purpose of advising the Government on matters concerning the development and regulation of the scheduled industries, the Act provides for the setting up of a Central Advisory Council representing owners, employers, consumers and certain other classes including primary producers;
- (vi) The major instrument envisaged under the Act for establishing the necessary liaison between the public and private sectors and for ensuring that private industry conforms more and more to the planned pattern of development is the institution of Development Councils;
- (vii) Central Government can regulate supply, distribution price etc. of the products of scheduled Industries.

*Exemptions under Section 29B of IDRA*

1.10. According to the provisions of the Industries (Development and Regulation) Act, 1951, the industrial undertakings pertaining to industries included in the First Schedule thereto are subject to regulation and control by Central Government by means of registration and licensing. Section 29B of the Act provides that "if the Central Government is of opinion, having regard to the smallness of the number of workers employed or to the amount invested in any industrial undertaking or to the desirability of encouraging small undertakings generally or to the stage of development of any scheduled industry, that it would not be in public interest to apply all or any of the provisions of this Act thereto, it may, by notification in the Official Gazette, exempt, subject to such conditions as it may think fit to impose any industrial undertaking or class of industrial undertakings or any scheduled industry or class of scheduled industries from the operation of all or any of the provisions of this Act or of any rule or order made thereunder." Under this Section, Government have been notifying exemptions from the licensing and other provisions of the Act. At a given time, the prevailing exemptions from the requirement of licensing etc. under the Act represent the licence-free area available to industry. This licence-free area has been restricted or liberalised by policy announcements of Government from time to time to meet the exigencies of a new situation or in pursuance of the various objectives enunciated in the Industrial Policy Resolution of 1956 which continues to remain the basic document on industrial policy of the State.

1.11. The general exemptions under Section 29B of the Act were first announced by Government by a notification issued on the 26th February, 1960. The change made in the exemptions from time to time are indicated below in chronological order:

16.2.1960. Industries employing less than 100 workers and which had fixed assets not exceeding Rs. 10 lakhs in value were exempted from the licensing provisions of the Act.

13.1.1964. All undertakings, other than undertakings pertaining to coal, textiles and roller flour milling industry, oil seed crushing, vanaspati, leather and matches having fixed assets not exceeding Rs. 25 lakhs in value were also exempted from the licensing provisions of the Act.

1966—68. During the period from 1966 to 1968 Government issued orders exempting a number of industries from the licensing provisions of the Act. These industries were

such as did not involve any substantial import of components or raw material. The industries in respect of which protection to the Small and Cottage Industries was of importance were, however, not de-licensed.

1966. In the year 1966, with a view to facilitating fuller utilisation of installed capacity, Government announced that licensed or registered industrial undertakings would be free to diversify their production upto 25 per cent of the licensed or registered capacity without the formality of obtaining an industrial licence subject to certain conditions, such—(i) no additional plant and machinery was installed except minor balancing equipment procured indigenously (ii) no additional expenditure of foreign exchange was involved, (iii) the items into which the production is diversified were not reserved for the Small Scale Sector.

1967. In December, 1967, Government announced that if the industries into which diversification of production has taken place were priority industries, import of raw material could be allowed for diversification in those industries. The industrial undertakings were also permitted to expand their production upto 25 per cent of the licensed capacity subject to the condition that (i) no additional plant and machinery was installed except minor balancing equipment procured indigenously; (ii) no additional expenditure of foreign exchange was involved; and (iii) extra production did not occasion any additional demand for scarce indigenous raw materials.

### *Hazari Committee Report*

1.12. Though Industrial Licensing under the Industries (Development and Regulation) Act, 1951 has been in force since 1952, the first appraisal of licensing attempted was by the Industrial Development Procedure Committee (Swaminathan Committee) appointed in September, 1963. This Committee submitted its final report on the 18th March, 1964. The Committee, however, confined itself to licensing procedures and allied matters. An inquiry into the role and purpose of Licensing Policy as an instrument of industrial planning in an industrial environment which had changed considerably since the enactment of the Industries Act, was entrusted for the first time

to Dr. R. K. Hazari of the University of Bombay who was appointed an honorary consultant in the Planning Commission in July, 1966 for the purpose. The study had two objectives:—

- (i) To review the operation of licensing under the Industries Act broadly over the last two Plan periods and more closely over the last six-seven years, including the orderly phasing of licensing with reference to targets of capacity.
- (ii) To consider and suggest in the light of the present stage of economic development, where and in what directions modifications may be made in the licensing policy.

1.13. Professor Hazari submitted an Interim Report in December, 1966. One of his conclusions was that the large and medium-sized Business Groups enjoyed a higher ratio of approval in licensing application as compared to others and that their share in the investment applied for and approved had tended to rise over the period and that this was specially true about certain Business Houses. These Industrial Houses, according to Prof. Hazari, tended to pre-empt licensable capacity in many industries and, by not following through it, took advantage of the foreclosure of markets and economic resources. One of his salient recommendations was that the Planning Commission should specify the major priority areas and lay down fresh estimates of aggregate, sectorial and industry-wise requirements, consistent with overall plan and availability of resources. This exercise, according to Prof. Hazari, would enable the Planning Commission to know in advance the implications of various lags and leads in different areas and thereby to suggest the corrective action that is necessary and/or to modify the individual targets. Having indicated the priorities and selected a few basic industries/projects which qualify for them, Government should, Prof. Hazari suggested, undertake to pre-empt foreign exchange and rupee resources and arrange to provide key physical resources, like power, transport and land for their benefit. There was a discussion on this Report in the Rajya Sabha on the 22nd May and 1st June, 1967, during which the Minister of Industrial Development made an announcement that Government would appoint a Committee to go into the basic questions regarding the functioning of the licensing system and any advantages obtained through it by some of the Larger Industrial Houses.\*

1.14. Dr. Hazari submitted his final Report in September, 1967. The analysis of Licensing Policy and frame-work as well as the major

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\*Rajya Sabha Debates, Volume LX, Nos. 1-8, 22nd May—1st June, 1967, page 1591.

recommendations made in the final Report were substantially the same as in the Interim Report. The recommendations relating to tax and credit policy and measures to reduce the concentration of economic power had, however, been further elaborated.

*Industrial Licensing Policy Enquiry Committee*

1.15. In pursuance of the assurance given by the Minister of Industrial Development in the course of the debate on the Interim Report of Prof. Hazari in Rajya Sabha in May, 1967, Government appointed on the 22nd July, 1967 "an Expert Committee to inquire into the working of the industrial licensing system during the past 10 years", under the Chairmanship of Prof. M. S. Thacker. Later, Shri M. S. Thacker resigned from the Committee and Shri Subimal Dutt was appointed to succeed him as Chairman and he joined the Committee on the 4th May, 1968. The name of the Committee was also later changed to "Industrial Licensing Policy Enquiry Committee" (Dutt Committee). The terms of reference of the Dutt Committee were set out as follows:—

- “(i) To enquire into the working of the industrial licensing system in the last ten years with a view to ascertaining whether the larger industrial houses have, in fact, secured undue advantage over other applicants in the matter of issue of such licences; and if they have received a disproportionately large share of such licences, whether there was sufficient justification for this;
- (ii) to assess to what extent the licences issued to the larger industrial houses have been actually implemented and whether the failure to do so has resulted in pre-emption of capacity and the shutting out of other entrepreneurs;
- (iii) to examine to what extent the licences issued have been in consonance with the policy of the Government as laid down in the Industrial Policy Resolution of 30th April, 1956, particularly in regard to the regional dispersal of industries, the growth of small scale and medium industries and the policy of import substitution.

The Committee will also inquire whether, and if so how far, the policies followed by specialised financial institutions, such as the Industrial Finance Corporation and the Industrial Credit and Investment Corporation of India in advancing loans to industries have resulted in any undue preference being given to the larger industrial houses.”

1.16. The Committee submitted its Report in July, 1969. It covered a very wide field and included subjects like Industrial Licensing, Concentration of Economic Power, the role of the Larger Industrial Houses and the Joint Sector concept besides the functioning of the specialised financial institutions.

1.17. Some of the major recommendations of the Dutt Committee accepted by the Government as summarised as under:—

- (a) Government accepted the recommendation for the constitution of a 'core' sector and announced a list of industries that would comprise that sector. (Appendix I, Schedule III). The Planning Commission was entrusted with the responsibility of framing detailed industry plans for industries in this sector. Though the Dutt Committee thought that such detailed plans should be drawn up for a period of 15 years, Government felt that it was not practicable to plan for such a long period in the context of rapidly changing technology and conditions and that the plans should be drawn up for the period of the Fourth Plan, but keeping in view the projections for the Fifth Plan.

Government decided that, apart from the 'Core Sector', individual investment propositions of over Rs. 5 crores should be treated as being in the 'heavy investment sector.' Government announced that the Larger Industrial Houses as well as foreign concerns (i.e. Companies of which over 50 per cent paid-up capital is held by non-residents) would be expected to channelise their energies, resources and expertise primarily in the 'Core' and 'heavy investment' sectors leaving the opportunities in other fields to the smaller entrepreneurs. However, in these sectors, public enterprises might be set up if warranted in the light of the Industrial Policy Resolution or otherwise. Entrepreneurs, other than those belonging to the Larger Houses and foreign concerns might also apply and would, in fact, receive preferential consideration provided the proposals were technically sound and feasible.

- (b) Government accepted the criteria for classification of 'Houses' adopted by the Committee.

The suggestion that all the delicensed industries should be re-licensed was accepted and implemented so as to secure a better control over attempts at concentration of economic power. The exemption limit was, however, raised from

Rs. 25 lakhs to Rs. 1 crore subject to certain conditions relating to foreign exchange. This exemption would not apply to Larger Industrial Houses, foreign concerns and dominant undertakings. These categories of entrepreneurs would have to apply for a licence irrespective of the value of the fixed assets of the undertaking. In the middle sector applications other than those from these specified categories would be granted liberally. Government also abolished the "banned list" altogether so as to facilitate grant of licences to smaller entrepreneurs. For the same reason undertakings, other than those belonging to the specified categories, as well as those with fixed assets upto Rs. 5 crores could undertake substantial expansion by Rs. 1 crore by way of fixed assets provided certain conditions were satisfied. This was an improvement in liberalisation in the middle area over what was suggested by the Dutt Committee. Similarly, the raising of the exemption limit to Rs. 1 crore as against Rs. 25 lakhs as suggested by the Dutt Committee was also positive measure of liberalisation in favour of the smaller entrepreneurs. Though the Dutt Committee had suggested the automatic rejection of applications from the Larger Industrial Houses and foreign concerns in this sector, Government felt that a total and automatic ban was not necessary as this might not only be deemed to be discriminatory but might result in certain remote areas not getting industrialised though these Groups might be willing to invest in such areas which other parties might not be willing to so invest. Positive preference, however, would be given to the smaller and medium entrepreneurs, who would be given licenses liberally. The expansion of industrial units belonging to these categories might be allowed if this was in the interest of cost efficiency or if a substantial export obligation was furnished. Such cases would be decided by Government on merits.

- (c) Government accepted the recommendations of the Dutt Committee regarding reservation of industries for the small scale sector and also enlarged the list of industries reserved for the small scale sector (from 47 items to 128 items now). This list was put on a statutory basis as distinct from its enforcement through the system of banned list previously.
- (d) Government accepted the concept of 'joint sector' in prin-

ciple. Details in this regard were worked out by the Department of Banking.

The Public Sector was also proposed to be expanded and quick yielding short-gestation projects taken up. It was decided that public financial institutions in the same manner as private enterprises. Government accepted that the Public financial institutions would have option to convert loans granted to private entrepreneurs into equity. In so far as past cases were concerned, such option could be exercised in cases of default.

- (e) Government examined the recommendations regarding procedural reforms with a view to streamline the licensing system and issued necessary guidelines to the Licensing Committee as well as to the Licensing authorities. Government also appointed a Commission of Inquiry to go into the lapses, improprieties and irregularities committed by some of the Large Industrial Houses as brought out by the Report.

1.18. The recommendations of the Dutt Committee with which the Government were unable to agree are summarised below:—

- (i) The Committee recommended that detailed industry plans for the core sector should be drawn up for a period of 15 years. Government, however, considered that it would not be practicable to plan for such a long period in the context of rapidly changing technology and conditions.
- (ii) The Committee recommended that the Larger Industrial Houses and foreign concerns should concentrate in the core sector. While Government accepted this recommendation, they also decided that apart from the 'core' sector, individual investment propositions of over Rs. 5 crores should be treated to be in the heavy investment sector and the Larger Industrial Houses and foreign concerns should be allowed to participate in this sector also.
- (iii) The Committee recommended to continue the exemption limit upto Rs. 25 lakhs. Government, however, raised the exemption limit from Rs. 25 lakhs to Rs. 1 crore subject to certain conditions relating to foreign exchange etc.
- (iv) The Committee suggested automatic rejection of applications from the Larger Industrial Houses and foreign con-



cerns in the middle sector. Government felt that a total and automatic ban was not necessary as this might not only be deemed to be discriminatory but might result in certain remote areas not getting industrialised though these Groups may be willing to invest there. Larger Industrial Houses and foreign Companies would be allowed in the middle sector if it was in the interest of cost efficiency or developing the undertakings to the minimum economic size or if it was in the interest of export promotion. Positive preference, however, would be given to the smaller and medium entrepreneurs, who would be given licence liberally.

- (v) The Committee recommended a ban on further investments in industries whose growth was considered undesirable for a period of time, such as non-essential luxury goods, which would make large drafts on scarce resources. Government felt that it would be neither practicable nor desirable to restrict the further production of luxury articles in the country. They considered that apart from preparing a list of such commodities, which would be extremely difficult in itself, any restriction would tend to place producers of such commodities in a very disadvantageous position. In their opinion, if consumption of luxury articles was to be discouraged, the appropriate means to bring this about should be heavy taxation and exercise measures rather than curtailment of production.
- (vi) The Committee also recommended area bans to avoid concentration of industries in big cities and metropolitan areas. Instead of placing any ban on the setting up of industries in such areas, Government decided to take certain positive measures with a view to ensuring development of industrially backward regions and areas which are likely to accelerate the pace of industrial development in the backward and remote areas.

1.19. After consideration of recommendations of the Dutt Committee and also those of the Administrative Reforms Commission and the Planning Commission and various other aspects of Licensing Policy, Government decided to modify their Licensing Policy "to accelerate the pace of industrial development but at the same time to avoid concentration of economic power and provide adequate opportunities and scope to medium small entrepreneurs." The policy that finally emerged is held to be a "compromise between the necessity for

greater liberalisation on the one hand so as to encourage the development of small and medium entrepreneurs and the need for regulation and control on the other hand, of certain special categories of undertakings like Larger Industrial Houses, Foreign concerns etc.”

### B. Industrial Licensing Policy in Force

1.20. Every non-Government industrial undertaking existing at the commencement of the Industries (Development and Regulation) Act (i.e., on the 8th May, 1952) is required, under section 10 of that Act, to be registered with the Central Government. Section 11 of the Act prohibits the establishment of any private undertaking except under and in accordance with a licence issued by the Central Government. Under Sections 11A and 13(d) and (e) of the Act, licence is necessary for undertaking the manufacture of a new article or for effecting substantial expansion or for shifting the undertaking to a new location. Section 29B of the Industries Act, however, empowers the Government to exempt from the operation of all or any of the provisions of the Act any industrial undertaking|scheduled industry or class of industrial undertakings|scheduled industries. Based on the recommendations of the Industrial Licensing Policy Inquiry Committee (Dutt Committee) and other bodies accepted by Government, a new industrial licensing policy was announced by Government in February, 1970 which was radically different from the previous licensing policy of the Government. Under the new policy, the area of exemptions from the licensing provisions of the Industries Act has been expanded subject to certain conditions. The exemptions are, however, generally not applicable to certain classes of industrialists, namely, “Larger Industrial Houses” (these have been identified), foreign companies or branches or subsidiaries of foreign companies and dominant undertakings (as defined in Section 2(d) of the Monopolies and Restrictive Trade Practices Act). The exemptions allowed and the conditions thereof are summarised briefly in the following paragraphs:—

#### *Licence for New Units*

1.21. In regard to proposals for setting up new undertakings requiring licence under section 11 of the Industries Act, the exemptions are laid down in the Ministry of Industrial Development Notification No. S.O. 713|DRA|29B|70|1 dated 19th February, 1970 (Appendix I). According to this Notification, all industrial undertakings which have or propose to have fixed assets in land, buildings, plants and machinery not exceeding one crore are exempted from the licensing requirements of the Industries Act, subject to the following conditions:—

- (1) Larger Industrial Houses, foreign majority companies,

dominant undertakings and undertakings related to industries listed in Schedule I to Notification, will have to take out an industrial licence in all cases.

- (2) In case of undertakings other than those regarded as on small scale (i.e. where the unit has or proposes to have fixed assets in plant and machinery not exceeding Rs. 7.5 lakhs), an industrial licence is required to be obtained:
- (a) by categories of entrepreneurs/industries mentioned in (1) above;
  - (b) if the undertaking is related to any of the industries listed in Schedule II to the Notification (Small Scale Sector);
  - (c) if the undertaking is related to any of the industries listed in Schedule III to the Notification (Core Sector);
  - \* (d) if it requires foreign exchange more than the equivalent of:—
    - (i) rupees five lakhs or ten per cent of the additional fixed assets by way of land, building and machinery, whichever is higher, for the import of machinery and equipment; or
    - (ii) ten per cent of the ex-factory value of the annual production of an article in any year, after three years of the commencement of production, for the import of components to be used in that article; or
    - (iii) five per cent of the ex-factory value of the annual production of an article in any year or rupees five lakhs, whichever is less, for the import of raw materials (excluding steel and aluminium) to be used in that article.

### *Substantial Expansion*

1.22. According to Section 13(d) of the Industries Act, an industrial licence is necessary for effecting any 'substantial expansion' of a licensed or registered industrial undertaking. The Explanation to

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\*As amended by Ministry of Industrial Development Notification No. S.O./INDRA 29B/71/10 dt. 21-7-1970.

the Section defines 'subsstantial expansion' as "expansion of an existing industrial undertaking which substantially increases the productive capacity of the undertaking, or which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion". Section 23 of the Act provides that if, for the purpose of the Act, any question arises as to whether there has been a 'substantial expansion' of an industrial undertaking, the decision of the Central Government thereon shall be final. At present expansion without a licence is permissible upto an extent of 25 per cent of the registered/licensed capacity subject to certain conditions, namely, (i) no additional plant and machinery is installed except minor balancing equipment procured indigenously and (ii) no additional expenditure of foreign exchange is involved and the extra production does not occasion any additional demand for scarce raw materials. A copy of Press Note dated 18th July, 1970 is at Appendix II.

1.23. The Estimates Committee had, in their Ninth Report (Fourth Lok Sabha), recommended that the term "substantial expansion" appearing in Section 13 of the Industries (Development and Regulation) Act might be clearly defined in terms of percentage. This recommendation was reiterated by them in their Seventy-Ninth Report (Fourth Lok Sabha). On being asked to indicate their final view in this regard, Government have stated that the recommendation of the Estimates Committee for clearly defining of 'substantial expansion' in terms of percentage has been noted and that it is being considered alongwith other proposals for amendment to the Industries (Development and Regulation) Act, 1951.

1.24. The Committee reiterate the recommendation made in their Ninth and Seventy-Ninth Reports (Fourth Lok Sabha) that the term 'substantial expansion' referred to in the Industries (Development and Regulation) Act, may be clearly defined in terms of percentage so as to introduce a certain amount of definiteness in the application of the relevant provisions of the Act to individual cases.

*Relaxation affected in January, 1972*

1.25. According to the Press Note issued by Government on 1st January, 1972, (Appendix III), industrial undertakings in 54 specified industries are allowed to take advantage of rationalisation of production patterns and modernisation of equipment. Industrial undertakings in these industries licensed for a certain capacity on the basis of one or two shift working would be allowed an increase

in their licensed capacity on the basis of maximum utilisation of plant and machinery and in other cases the undertakings have been allowed to expand upto 100 per cent of the licensed or registered capacity including the 25 per cent free expansion already allowed previously to them.

1.26. This relaxation is, however, not allowed in regard to the production of goods which have been exclusively reserved in the small scale sector.

1.27. The relaxation will also not apply automatically to the Larger Industrial Houses and the foreign concerns who will have to apply to the Ministry of Industrial Development for being allowed an expansion. Such application will, it is stated, be considered by a Task Force which will dispose of the applications on considerations of 'public interest-keeping in view also the requirements of the MRTP Act.' According to the information furnished by the Minister of Industrial Development in Lok Sabha in response to a question on the 22nd March, 1972, the Task Force has started receiving applications only from 8th March, 1972 and upto 16th March, 1972, 8 applications had been received and these are under consideration by the Task Force.

1.28. The Committee welcome the relaxations announced by Government on the 1st January, 1972 for fuller utilisation of installed capacities by taking advantage of rationalisation of production and modernisation of equipment in 54 specified industries. They, however, feel that unless systematic follow-up action is taken in pursuance of Government's announcement to help established units to produce upto their installed capacity without undue restrictions the rate of growth of industrial development may not come up as rapidly as desired. The Committee therefore recommend that simple and streamlined procedures and modalities may be evolved to give effect to these relaxations and decisions in individual cases may be taken swiftly, so that production is maximised in as large a number of industrial units as possible and within a short time. Since it is only when there is a climate of easy availability of basic raw materials including ferrous and non-ferrous metals that industries can be expected to get into full swing of production, the Committee would like Government to make arrangements for promptly meeting the increased raw material demand of industrial units wishing to take advantage of the new policy. The Task Force appointed to process cases for expansion under the new policy should, in this context, give immediate attention to the applications of such industrial

undertakings as are engaged in the production or manufacture of materials which, in turn, are required for the manufacturing operations of other industries, more particularly the small scale industrial units.

*Licence for Substantial Expansion*

1.29. Exemption of licensing requirement under Section 13 of the Industries Act in respect of proposals for substantial expansion are laid down in the Ministry of Industrial Development Notification No. S.O. 912/IDRA/29B/70/3 dated 28th February, 1970 (Appendix IV). The Notification provides that all registered or licensed industrial undertakings which have fixed assets in land, building, plant and machinery in value not exceeding Rs. 5 crores can carry out substantial expansion (i.e. expansion beyond 25 per cent of their registered or licensed capacity) without taking out an industrial licence therefor, subject to the following conditions:—

- (1) the categories of entrepreneurs and industries mentioned in para 1.21 (2) above (namely, Larger Industrial Houses, foreign majority companies, dominant undertakings, undertakings related to industries listed in Schedules I to III to the Notification and proposals involving foreign exchange beyond a certain limit) will require licence before substantial expansion can be carried out.
- (2) if the value of fixed assets of an undertaking after substantial expansion exceeds, at any stage, Rs. 5 crores, licence will be necessary for carrying out the expansion.
- (3) licence will be necessary if the aggregate value of the substantial expansion (whether in one or more stages) under this exemption exceeds Rs. one crore.

*Licence for New Article*

1.30. As for diversification of production (i.e. production or manufacture of new article) by a registered or licensed undertakings, Ministry of Industrial Development Notification No. S.O. 2443/IDRA/29B/70/5 dated 18th July, 1970 (Appendix V) exempts from the requirement of licensing under section 11A of the Industries Act, all such undertakings subject to the following conditions:—

- (1) Undertakings belonging to or controlled by any Larger Industrial House or foreign-majority Company will have

to obtain a licence before they undertake manufacture of a new article.

- (2) licence will be necessary if the new article proposed to be manufactured is any of those listed in Schedule I, II (Small Scale Sector), III (Core Sector) or IV (Public Sector).
- (3) undertakings registered or licensed for an industry in the Core Sector will have to take out a licence if they propose to manufacture a new article even if it is outside the Core Sector.
- (4) licence will be necessary if the new article to be manufactured exceeds 25 per cent of the registered or licensed capacity (by value) of the undertaking.
- (5) undertakings with total assets in land buildings, plant and machinery exceeding Rs. 5 crores will require licence before they can undertake the manufacture of a new article.
- (6) undertakings proposing to manufacture a new article "other than those which belong to allied lines of manufacture, namely; involving the same technological process as the article or articles for which the undertaking is registered or licensed" will have to take out a licence.
- (7) licence will be necessary if the manufacture of the new article would involve any expenditure of foreign exchange, directly or indirectly.
- (8) if the manufacture of the new article involves installation of additional indigenous machinery of advance exceeding 10 per cent of the value of the total installed machinery or Rs. 10 lakhs, whichever is less, the production of new article will require a licence.
- (9) undertakings producing less than 50 per cent of their existing registered or licensed capacity will require a licence before they can undertake the manufacture of a new article.

### *Main Features of Policy*

1.31. The main features of the new licensing policy are stated to be as follows:—

- (i) The exemption limit from licensing provisions including

licences of *new* undertakings and substantial expansion of existing units has been raised from Rs. 25 lakhs to Rs. 1 crore (by way of fixed assets in land, buildings and machinery) provided certain conditions are fulfilled.

- (ii) The facility of *expansion* of production upto 25 per cent in the line of manufacture for which an undertaking is licensed has been continued, subject to the conditions as in the past (*i.e.* no additional plant and machinery is installed, except minor balancing equipment procured indigenously and no additional expenditure of foreign exchange is involved and the extra production does not occasion any additional demand for scarce raw materials).
- (iii) Registered or licensed industrial undertakings having fixed assets not exceeding Rs. 5 crores would be exempted from industrial licensing, if they effect substantial expansion involving a total further investment of Rs. 1 crore, whether in one stage or in more than one stage provided that the value of fixed assets after substantial expansion does not exceed Rs. 5 crores and certain other conditions are also fulfilled.
- (iv) The policy of diversification by way of manufacture of new articles upto 25 per cent of the licensed or registered capacity without licence is being continued, though in future. Larger Industrial Houses and foreign concerns will require a licence before further diversification is effected. Also, diversification without a licence in the case of others can only take place if no foreign exchange is involved and if the production is in allied lines of manufacture. Besides, undertakings with fixed assets over Rs. 5 crores will also have to obtain a licence for diversification.
- (v) With the exemption limit for licensing having been raised to Rs. 1 crore and in view of other policy objectives sought to be achieved, the earlier exemptions of a number of industries from licensing requirements have been *withdrawn*.
- (vi) Such of the industrial undertakings as are now exempted from the licensing provisions of the Act, would have to get themselves registered with the DGTD or any other concerned technical authority. The registration procedure



has been considerably simplified and in future, the process of registration would be automatic and mainly for statistical purposes.

- (vii) Government have drawn up a list of 'Core Industries' consisting of certain basic, critical and strategic industries in respect of which detailed industry plans would be prepared and essential inputs provided on a priority basis. Care is being taken to ensure that an adequate proportion of foreign exchange is kept apart for non-core industries also.
- (viii) In addition to the 'core sector' all new investment propositions of over Rs. 5 crores shall be deemed to be in the 'heavy investment sector'.
- (ix) The 'Core' and the 'heavy investment sectors' of industry are subject to industrial licensing and the Larger Industrial Houses and foreign concerns, together with other applicants, would be expected to participate in and contribute to the establishment of industries in those sectors leaving the opportunities in the remaining sectors primarily to the other classes of entrepreneurs. In the middle sector, involving investments ranging from Rs. 7.5 lakhs to Rs. 5 crores, licence applications of parties other than undertakings belonging to Larger Industrial Houses etc. are being granted liberally, except where foreign exchange implications necessitate careful scrutiny.
- (x) Though the Larger industrial Houses and foreign concerns are ordinarily expected to participate in the 'Core' and 'heavy investment' sectors, applications for expansions from them in the middle sector would be considered favourably if such expansions are in the interest of cost-efficiency [or if the units are to be established in industrially under-developed areas]\*. The Larger Industrial Houses and foreign companies would also be licensed in the middle sector if a substantial export commitment of 60 per cent or more of the new or additional production is undertaken. The export obligation will have to be achieved within a period of 3 years. A similar safeguard of a high export obligation (a minimum of 75 per cent) has been provided in the case of industries reserved for the small scale sector.

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\*At the time of factual verification, the Ministry of Industrial Development have pointed out that the final decision on this question was yet to be taken.

- (xi) The existing policy of reservation of industries for the small scale sector will be continued and the area of such reservations will be extended. 73 new industries have now been added to the reserved list (making a total number of 128 items) for the small scale sector.
- (xii) Capacity considerations will no longer be rigidly applied in the matter of industrial licensing. In the past certain items used to be put in the 'banned list' for licensing on the ground that adequate capacity had been licensed. This 'banned list' has now been given up permanently.
- (xiii) In respect of agro-industries, particularly undertakings processing sugar-cane, jute and other agricultural commodities, preference will be given in licensing to applications from the co-operative sector.
- (xiv) The role of the public sector is sought to be re-oriented to cover major production gaps likely to develop in the economy, particularly in respect of short-gestation and quick yielding projects, including consumer industries and intermediates.
- (xv) Apart from the above modifications in industrial licensing policy, Government have also accepted in principle the joint sector concept and in future, it is intended that there would be greater participation in management, particularly at policy levels, by public financial institutions in the case of major projects involving substantial assistance from such institutions who would be able to exercise option for converting loans into equity either wholly or partly within a specified period of time.

Government expect that with the major policy decisions relating to industrial licensing explained above, there will be a substantial acceleration in the rate of industrial growth in the years to come, combined with the realisation of other important socio-economic objectives.

### *Stability of Licensing Policy*

1.32. During evidence of the representatives of Government, a point was made that the Industrial Licensing Policy of Government has not been stable over the years and that was a great inhibiting factor for industrial growth. It was pointed out that with the experience of past several years for which the system of industrial

licensing had been in force, we should have been able to evolve a policy which would have remained firm for some period of time, so that anybody who desired to start an industry or to expand the existing industry, knew ahead of time what the policy of Government was going to be, say, five years hence, regarding the industry that he was contemplating to set up. While agreeing that "as far as possible, our policy in the matter of industrialisation and in issuing licences etc. should be a stable policy", the Secretary, Ministry of Industrial Development stated:

"But as time goes on, various circumstances develop. For example, in 1965-66 we had a terrific drought which completely upset not only our agricultural production but even our industrial production because the consumer market had shrunk and various other requirements which are based on industry or agriculture were not there. In 1966, we de-licensed industry with a view to give a fillip to industrial growth which had suffered a set-back on account of the earlier drought...this new policy was followed for some years and Government found that the rate of growth by 1969 or so had come up to a satisfactory level...I am only submitting that in course of time certain unusual incidents take place... I, for one, am not able to think of any (long term) policy which is able to take account of unusual circumstances like drought, war or things like that".

1.33. Another point made by the Secretary, Ministry of Industrial Development was that it was difficult to visualise the changes taking place in the popular attitudes and thinking over the matter within the last three or four years, he stated, there had been a considerable change in the thinking about what kind of parties should or should not be given industrial licences. Besides, according to him, in a democracy, long term policy commitment by one Government was almost meaningless as succeeding Governments could always change it. The witness added:

"...any period that you name as a period during which there will be no change can only be a short period, say, three or four years or at the best you may say for a five year period there will be no change, but, considering that normally it takes 3 to 4 years for any major industry to be set up, I doubt that any indication that there will be change for three to four years or even five years will be really of much help for a party in deciding whether he will go in a particular line or not."

Alluding to the liberalisation in the interest of maximum utilisation of existing capacities announced by Government on 1-1-1972 as a corrective to the falling rate of growth, the Secretary stated:

“...in a situation like this to say that this policy will not change for 5 years or 10 years may not be to the good of the country. We can't say 'We have to declare such and such policy no matter what happens in between.' Situations as they arise, have got to be taken note of and they have been taken note of. The main basic objective is to increase the rate of industrial growth, not to bring it down....”

Apart from this, the Secretary, Ministry of Industrial Development held that the industrial policy of the Government was enunciated in the Industrial Policy Resolution of 1956 and it has not undergone any change whatsoever. The changes were only in the means and instrument of attaining the objectives contained in the Industrial Policy Resolution of 1956.

**1.34. The Committee agree that while unforeseen circumstances or sudden developments in the economic field may call for temporary modifications of the Industrial Licensing Policy, they are driven to the conclusion that for sustained industrial growth it is imperative that industrial licensing procedures and policy should generally hold good for a reasonably long period, say a minimum of 5 years coinciding with the Plan period. The Committee, therefore, suggest that the Central Government should formulate and announce the Industrial Licensing Policy for the next Plan period well before the commencement of the Plan so as to attract most competitive applications for issue of licences on merit. The Committee need hardly underline the fact that if procedures and policy are clearly and unambiguously announced it would make for keener competition on merits and help to dispel any suspicion of policy being strained to favour any individual firm or party.**

*Limit of exemption from the requirement of licensing*

1.35. During evidence a point was raised that, on account of a sizeable appreciation in the value of land and the cost of construction of buildings, the exemptions limit of Rs. 1 crore would appear to be too low if the value of fixed assets included the value of land and buildings also. In this regard the Secretary, Ministry of Industrial Development stated that the exemption limits were laid down only in February, 1970 and at that time “the price level of various commodities like land, buildings, machinery etc. were taken into

account while fixing this ceiling." Stating that "it will be a little too early to enhance this limit now", he, however, assured that "after two or three years, if it is considered necessary in view of the rise in prices etc., it will be kept in view."

1.36. It was represented to the Committee by a non-official organisation that the value of residential accommodation or housing colonies for workers should not be taken into account in computing the total assets for the purpose of exemption from the requirement of licensing, particularly for manufacture of new articles where undertakings were allowed to manufacture new articles without licence only if the value of their fixed assets (including land and buildings) did not exceed Rs. 5 crores. Asked to offer his reactions to the representation, the Secretary, Ministry of Industrial Development stated during evidence that in the accounts of the companies usually the capital investment was shown without any break-up for building, factory, housing colony, etc. He, therefore, felt that "it will be a little complicated if we introduce this differentiation that housing colonies will not be accounted for but the other buildings for factory will be accounted for; it will mean looking, in great detail, into the accounts of the companies." He further stated that industries involving capital investment upto Rs. 1 crore were unlikely to provide a lot of investment for accommodation for their workers. He, however, assured the Committee that "the suggestion can be considered" and that "there was nothing wrong in it."

**1.37. The Committee recommend that, as the value of fixed assets varies with the price level, Government should from time to time, say after an interval of 3 years, review the limits of exemption from licensing provisions of the Industries (Development and Regulation) Act laid down in terms of the monetary value of fixed assets of an industrial undertaking.**

**1.38. The Committee also recommend that, in social interest, Government may consider the suggestion of excluding the value of Housing Colonies for workers from the value of assets reckoned for the purpose of exemptions from the licensing provisions of the Industries Act, so as to encourage entrepreneurs who wish to provide housing for workers to do so.**

## CHAPTER II

### CLASSIFICATION OF INDUSTRIES AND SPECIAL ENTREPRENEURIAL GROUPS

#### A. Classification of Industries

##### (a) CORE INDUSTRIES

#### *Recommendations of Dutt Committee*

2.1. Dutt Committee, in Para 8.20 of their report, expressed the view: "One of the reasons why licensing is ineffective in most cases is that there is no properly worked out overall framework or plan of development on the basis of which individual decisions on licensing can be taken by the concerned authorities . . . . Without detailed planning, decisions relating to applications for licences, whether in terms of size, technical process or location, would continue to be *ad hoc* and purely discretionary in character. In that case, the various faults that the licensing system has been found to suffer from cannot be avoided". In para 8.21, the Committee observed: "With all the possible improvements in the machinery for detailed industrial planning—both in the Planning Commission and in the various developmental agencies such as the concerned Ministries, the Directorate General of Technical Development and other technical authorities, the Development Councils, etc., it is not likely that such detailed and fully co-ordinated plans will be formulated in respect of all the industries that are included in the Schedule to the Industries (Development and Regulation) Act. What is important, however, is that industries that constitute the basic, strategic and critical sectors of economic development should be so planned. This would include all the industries whose products enter into the production processes of a large number of industries, those which are potentially capable of production for Defence requirements and those whose development is crucial for the overall economic growth of the country".

2.2. Underlining the importance of preparations of detailed industry plans in respect of the industries constituting "the basic, strategic and critical sectors of economic development", the Report stated:

"a major reason for Plan priorities not being observed in the licensing process was that the overall requirements of

investment as well as foreign exchange, if all the targets laid down in the plans were to be attained, were much larger than the available resources. The result was that the grant of an industrial licence could not ensure that resources for the setting up of the industrial unit would actually be available. There was, therefore, a scramble for resources in which priorities often came to be overlooked. Once it is decided to work out detailed plans for the sector comprising basic, strategic and critical industries, it will be possible to ensure that licensing decisions in these fields are based on the framework provided by these plans. This would provide criterial to ensure rational decisions and avoid *ad hoc* and arbitrary ones. It is true that significant proportion of the projects to be developed in this sector of industry might be those reserved for the public sector. To that extent, of course, licensing would not be important. However, it is likely that quite a number of projects even in this area would have to be developed in private or rather the 'joint sector'.... Here, licensing can play a crucial role applicants would have to be considered within the frame work provided by the plan for the industry. Because of the existence of the framework, and also because the number of proposals to be considered would be small in relation to the machinery available for scrutiny of the applications, the examination could be more meaningful and not superficial as in the past".

2.3. In regard to the period to be covered by the industry plans for such industries, Dutt Committee stated: "taking note of the fact that in many industries the gestation periods run into a few years and in some they may run for longer than one Plan period, the licensing decisions taken during one Plan period have to be related to the scheme of development envisaged not only for that Plan period but for the next one, if not for the next but one. The detailed plan for the industry has, therefore, to cover a ten year period, if not a fifteen year one, and it has to be coordinated with the overall perspective plan for the country."

2.4. According to the Dutt Committee, in the present circumstances the use of Industrial Licensing "as a positive instrument for coordinated and planned development" should be confined to industries which come within the basic, strategic and critical sectors for which a preparation of detailed industrial plans was envisaged.

### *Government's Decision*

2.5. As stated earlier, Government had accepted this recommendation of the Dutt Committee with the observation that it was "not practicable" to draw up industry plans in respect of 'basic, strategic and critical' industries for as long a period as 15 years "in the context of rapidly changing technology and conditions" and that the plans would be drawn up "for the period of the Fourth Plan, but keeping in view the projections for the Fifth Plan." In pursuance of the decisions taken by the Government, a list of the 'basic, strategic and critical' industries (Core Sector) was drawn up and announced along with other Licensing policy decisions of Government in February, 1970. This list was revised in February, 1971. It is stated that the Planning Commission was consulted while drawing up the list of industries in the 'Core Sector' initially as well as at the time of its revision. An upto date list of industries included in the Core Sector is appended as Schedule III to the Government's Notifications\* at Appendices I, IV and V.

2.6. In the preliminary material furnished to the Committee, Government have stated: "in respect of these industries, detailed industry plans would be prepared and essential inputs provided on a priority basis. Here, licensing would be used as a positive instrument for development and achievement of the detailed production plans drawn up for each of these items.... The Larger Industrial Houses and foreign companies are expected to participate in and contribute to the development of industries in the 'Core Sector' and the 'Heavy Investment Sector'".

2.7. In a subsequent written reply furnished to the committee, Government have again spell out the object of drawing up a list of 'Core' industries thus:

"The industries included in the core sector are basic, critical and strategic industries. These represent industries vital for the economy and where production gaps have to be reduced during the Fourth Plan. Most of the industries included in the core sector require relatively large investments and have also a long gestation period. It was also intended that definite targets should be laid down in the Plans for these industries and full efforts made to achieve these targets. This does not, however, mean that

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\*GOI, Miny. of Ind. Dev., Int. Trade & Company Affairs (Deptt. of Ind. Dev.) Notf. No. S.O. 713/IDRA/29B/70/1 dated 19-2-70; No. S.O. 912/IDRA/29B/70/3 dated 28-2-1970; No. S.O. 12443/IDRA/29B/70/5 dated 18-7-1970; as amended by Notifrs. dated 24-2-1971.



industries not included in the core sector are not of any importance. It is a question of giving relative priorities. It was also intended that the list of industries included in the core sector should be relatively small so that it is possible to devote greater attention to these industries as compared to others.

The main idea in preparing a separate list of core industries is that detailed industry plans are to be prepared for these industries and the essential inputs including foreign exchange and scarce raw materials provided to these industries on a priority basis."

*Preparation of detailed industry plans for core industries*

2.8. The Ministry of Industrial Development had in the preliminary material furnished to the Committee informed the Committee "The Planning Commission has been entrusted with the responsibility of framing detailed industry plans for industries in this (Core) sector." During evidence, the representative of the Planning Commission was asked to state as to when was the Commission requested by Government to take up the preparation of detailed industry plans for the core sector. In reply he stated: "the Planning Commission took note of the decision of the Government that detailed industry-wise plans had to be prepared for the core industries. This was part of the decision taken on the industrial licensing policy in February, 1970. So, this was the date on which the Planning Commission was asked to take up this work."

2.9. Asked to state the progress in the preparation of the detailed plans in respect of the core industries, he stated:

"We have gone a good way in regard to the preparation of the detailed plans for the core industries. In fact, even before this decision, a good deal of work had been done for the more important industries which form the core sector. In regard to steel, fertilizers, non-ferrous metals and the like, through the working groups set up for the formulation of the Fourth Plan, very detailed plans had already been worked out. The core sector now includes a few other industries also for which such detailed plans were not available at that time. There are industries like pesticides, electronics and the like which are now included in the core sector.

In the preparation of the detailed plans for the core sector, one of the points first considered is to identify the specific projects which would contribute, on implementation, to the fulfillment of the targets in the core sector..... For

example, of steel, how exactly the steel target would be achieved, what kind of projects would go into it, what would be their time phasing, what kind of financial resources etc. would be required and so on..... For a number of industries this work had already started, and these in fact form the operative plans in terms of allocation of resources through the mechanism of the annual plans. In some industries like pesticides and electronics, where the number of units that are involved in achieving these specific targets are far too many, it has not been possible to do the kind of detailed planning which we have done with respect to major industries like steel, non-ferrous metals etc., but this work is still in progress."

2.10. It was pointed out during evidence that the Government had, while taking decisions on the recommendations of the Dutt Committee, decided that detailed industry plans would be prepared for the core industries for the Fourth Five Year Plan, taking into consideration the projections for the Fifth Five Year Plan. The view of the slow progress of work in regard to preparation of detailed plans, it might not be possible to complete this work early so as to be of any use in industrial licensing during the Fourth Plan period. The Secretary, Ministry of Industrial Development explained: "the list of core industries was finalised only after the report of the Industrial Licensing Policy Inquiry Committee came out in July, 1969. By that time, the Fourth Plan had already started. So, for that Plan, that kind of meticulous programming of the core industries may not be possible." The representative of the Planning Commission agreed that "the kind of detailed plans about which the Dutt Committee report mentioned.....have not been prepared for the Fourth Plan" and stated that the Planning Commission "have now initiated work on the Fifth Five Year Plan so that much before the beginning of the Fifth Five Year Plan we would have enough number of projects prepared in sufficient details so that the Planning Commission could make an evaluation of these various projects and exercise some economic choice as to the kind of projects that should be included in the Fifth Plan Since this takes considerable time, 2 to 3 years time of preparatory work, we have initiated work for the Fifth Plan."

2.11. Spelling out the programme of work of the Planning Commission in this regard, the representative of the Commission stated:

"During the next two years, we would be in fact taking up the preparation of detailed plans for the Fifth Plan. We are setting up very shortly planning groups for all the core industries which will consist of technical and economic experts, along with officers of the respective Ministries

and the Planning Commission. They would undertake detailed studies, make estimates of the requirements, go into the question of existing capacity, its current rate of utilisation, the problems of under utilisation, identify possible locations for new units, work out estimates of capital, foreign exchange requirements, etc. and also prepare projects which would not only total up to the requirements of the Fifth Plan but something more than that. For instance, if there are to be 4 projects, we shall prepare project reports for 6 projects, so that we can make choice. These are the kind of detailed studies which we are initiating now through the setting up of planning groups, which in turn would make use of the existing consultancy organisations wherever necessary for the purpose of preparing feasibility studies."

2.12. The role of the Planning Commission in the preparation of the detailed industry plans for industries in the core sector was, however, made clear by the representative of the Commission during evidence thus:

"Planning Commission has got a relatively small staff and by itself it cannot prepare all the detailed plans that are required.... there would be planning groups in the Planning Commission which will consist of technical and economic experts plus the representatives of the Ministry... as far as staff is concerned, after the new Planning Commission has taken office, it has set up an internal reorganisation committee to go into the functions of the Planning Commission and the kind of expertise and staff required for performing that task. This committee is completing its deliberations and we have every confidence that the additional staff or expertise that the Planning Commission would require would be forthcoming.... however much the Planning Commission may strengthen itself in terms of expertise, the detailed planning of the core industries is such a gigantic task that we will necessarily not be able to do it within the Planning Commission. We will try to coordinate and put them together but quite a part of this work will have to be done in the ministries, in the various public sector undertakings, consultancy firms. But, to the extent to which the Planning Commission would need to be strengthened for this purpose, action has already been taken and, in regard to

others, we have no hesitation that we would get all the cooperation that is required from the administrative Ministries and other technical agencies."

2.13. The representative of the Commission informed the Committee that the Commission have laid down a target that this work should be completed before March, 1973. Asked whether he was satisfied with the target fixed by the Commission, the Secretary, Ministry of Industrial Development stated: "when the Planning Commission say they will do it by that date, I take their word for it. We shall get in touch with the Planning Commission and we shall go along with them and see that this is done by that time."

2.14. The Secretary, Ministry of Industrial Development was asked during evidence that, in the absence of detailed plans, how were licences being issued for industries in the Core Sector. He replied that, for the Fourth Plan, Government "were able to get all the estimates of requirements" from the Fourth Plan document itself which "gives the level of production needed not only at the end of the Fourth Plan period but also at the end of 1980-81."

2.15. The Committee are unhappy to note that although Government took a decision in February, 1970 that the detailed industry plans should be prepared in respect of the industries included in the Core Sector for the Fourth Five Year Plan and entrusted this task to the Planning Commission, until January, 1972, i.e. after a lapse of two years, the Planning Commission were still at the stage of devising a suitable machinery for undertaking the task systematically. The Committee are also distressed to note the admission of the Planning Commission as well as of the Secretary, Ministry of Industrial Development that the detailed industry plans would not be available for use in licensing undertakings in the Core Sector during the Fourth Plan period and that, as hitherto, licensing decisions during this Plan period would continue to be based on the data, indicative targets and projections given in the Plan document. They also note with alarm the submission of the Planning Commission that the task of preparing the detailed industry plans, even in respect of what are deemed to be basic, strategic and critical industries constituting the Core Sector, is such a "gigantic task" that the Planning Commission would not be able to do it "by itself" and that "quite a part of this work will have to be done in the Ministries, the various public sector undertakings, consultancy firms etc." They further note that the Commission have laid down the target of the completion of this work as "before March, 1973."

**The Committee agree with the ILPIC (Dutt Committee) that the indicative targets and projections given in the Fourth Plan document cannot, by themselves, provide an adequate basis if the system of industrial licensing is to be effectively used as a positive instrument for coordinated and planned economic development. They, therefore, recommend that the detailed industry plans should be prepared expeditiously, at least for the Core industries, as recommended by the Dutt Committee which has been accepted by Government. Since the Fourth Five Year Plan period is likely to be over before the detailed industry plans could be ready for use in industrial licensing, the industry plans would necessarily have to be for the Fifth Five Year Plan period, but keeping in view the projections for the five years thereafter. The Committee urge that the Planning Commission and the Government should apply themselves seriously to the task and try to complete this work well before the target date of March 1973 fixed by the Planning Commission.**

*Shortage of certain commodities*

2.16. It was pointed out during evidence that the shortages of various items in the country was indicative of the fact that the production targets set down by the Planning Commission, on the basis of which capacities were licensed by Government, were not correct. In this regard, the representative of the Planning Commission stated: "it is not that the targets *per se* have gone wrong, but, in the course of implementation, several projects which were assumed to come up, have not come up. This has happened in the public sector as also in the private sector." The Secretary, Ministry of Industrial Development agreed that the shortages in regard to various items were more due to difficulty in the 'timely implementation' of the targets indicated by the Planning Commission, the responsibility for which was with the concerned Ministries. Admitting that "we should have licensed more units for manufacturing these items (where shortages have occurred) earlier", he stated:

"Our main difficulty is perhaps that in the past we have not been watching the utilisation of capacity in certain important industries....whenever an industry has reached 75 per cent utilisation of its capacity, we should think in terms of expansion, and if people are not readily coming forward themselves to apply for licence etc, we should issue public notices inviting applications. We have done it in a number of industries. For example, in cement, we issued a public notice recently as a result of

which we got a large number of applications from various parties for setting up cement factories in various areas. We have given letters of intent to something like 16 or 20 people. Similarly in caustic soda, soda ash, torch cells etc. where a shortage is experienced. Actually, we should have issued these notices two or three years earlier, because there is a time lag of about three years for an industry to come up after it is licensed. But this difficulty will not arise in future because of the practice of issuing notices which we are now following. Wherever we see there is a shortage of capacity which is going to be apparent in two or three years, we should take this step."

### *Abolition of Banned Lists*

2.17. Another measure taken by Government which, it is stated, would help in avoiding shortages of commodities is the abolition of 'banned lists'. In the past 'banned lists' were drawn up from time to time for the purpose of indicating the industries in respect of which licence applications would ordinarily be rejected without reference to the Licensing Committee. These lists normally comprised (a) items reserved for development in the small scale sector and (b) items for which adequate capacity had already been licensed. The list of industries reserved exclusively for development in the small scale sector were, since February, 1970 covered by separate orders issued in this regard. In order that the capacity considerations were no longer rigidly applied, the banned lists were given up for a period of six months as an experimental measure in March, 1970. The period of suspension of the banned lists was extended for another six months ending the 12th March, 1971. This period of suspension of the banned list was again extended upto the 12th September, 1971. A study was made by Government regarding the impact on different industries of the removal of the banned lists and they came to the conclusion that the suspension of the banned lists had not resulted in undesirably high investments in various sectors nor any significant pressure was being felt on scarce raw materials. Government therefore decided in May, 1971 to dispense with the banned lists altogether.

2.18. The Secretary, Ministry of Industrial Development explained the policy of Government to the Committee during evidence as follows:

"In our own Ministry... till about two years ago, we used to have a system of estimating what the requirement of a particular commodity is going to be and we used to restrict licences up to that limit or 10 to 20 per cent more...

a lot of shortages in various consumer items that we see today is the result of that policy of restricting licences to a certain level. We used to put a number of items on the banned list when we thought that we have given enough licences to meet the requirement estimated for five years.... But if, as is likely to happen, in some cases the demand grows faster than the anticipation and the estimates turned out to be wrong, we found that we had a shortage of that commodity.... it was on account of this experience of meticulous planning in regard to particular consumer items that we have given up the system of estimating what is going to be the demand and restricting licensing up to that limit. This has been one of the good things we learnt from this system of trying to estimate the requirements and restricting licences to that requirement. In other countries, particularly the countries in the West, there is no system of licensing. Anybody who wants to set up an industry, has to judge for himself what is going to be the requirement of that commodity and whether he would be able to sell what he is going to make. If he makes it better, he will catch consumers better. So an element of competition is produced and..... this competition is a sort of incentive for achieving efficiency, for price reduction and for giving the consumer what he wants at the minimum price..... After a long experience of the system of evaluating the demand of consumer items and restricting licences to that extent, we have ourselves given up this system and we have now come to the conclusion that the person who is going to invest his future in an industry should be left free to judge how much the demand is going to be and whether he should or should not make this commodity.... this kind of approach where we leave it to the entrepreneur himself to decide whether there is room for further manufacture in the particular line or not is a more effective method of arriving at an estimate of the requirements than any system of our trying to judge what the requirement would be and then trying to restrict licensing to that extent."

**2.19. Until March, 1970, Government were, in the matter of industrial licensing, following the policy of capacity restraints on the basis of indicative demand and production targets given in the Five Year Plan documents. Therefore, at least in some cases, the shortages could have been due to production targets being based on a faulty assessment of the demand by the Planning Commission. To**

meet the situation, Government have, since March, 1970, given up the policy of applying rigidly capacity considerations in the issue of industrial licences. The Committee are, however, of the view that the new policy of freeing industrial licensing from the limitations of assessed demand and indicative production targets given in the Plan, may be justified as a short term measure to tide over the current shortages of goods but in the long run, this policy is fraught with danger inasmuch as it would generate undue pressure on scarce resources and may well lead to excess capacity. Besides, it would set at naught the whole concept of development through planning. They trust that assessment of demand and determination of production target, for various commodities for the Fifth Five Year Plan period would not suffer from the shortcomings noticed in respect of the current Plan.

2.20. The Committee agree that in some cases, the current shortages may be due to licensed capacity having not fructified. This underlines the need for a proper follow up action and a contemporaneous watch being kept on the implementation of the licences issued which the Committee have commented upon later in this Report.

2.21. Government have admitted that if the steps taken by the Ministry of Industrial Development, namely to invite applications and licence additional capacity as soon as utilisation of existing licensed capacity had reached 75 per cent., had been taken earlier, the shortages would not have occurred. The Committee regret that this step was not taken by Government earlier. They recommend that, in future, this procedure should be observed invariably and suitable administrative instructions may be issued to all the Economic Ministries in this behalf.

*Provision of inputs on a priority basis*

2.22. It had been stated that in respect of industries in the "Core" Sector, essential inputs would be provided on priority basis. During evidence, the representative of the Ministry of Industrial Development was asked to indicate whether, in pursuance of this policy, any instructions had been issued to all the authorities concerned to accord priority to the requests of industries in the 'Core' sector for essential inputs—imported as well as indigenous—and whether such industries were actually receiving such priority considerations from the authorities responsible for provision of essential inputs, imported as well as indigenous. He replied:

"The essential inputs are (i) the finance (ii) equipment in terms of capital goods, both indigenous and imported, and (iii) the raw material requirements, both indigenous and



imported. So far as finance is concerned, a list of these core industries has been given to all the financing institutions so that they might see, subject to the viability of a project placed before them, that the highest priority is given to the financing of core industries. This list of core industries has been sufficiently published and there has been no particular problem in regard to core projects which are economically viable securing their financial requirements. Secondly, so far as the capital goods are concerned, even in a situation when availability of foreign exchange has been a problem, in the Capital Goods Committee highest priority is given to the clearance of the essential imports of capital goods needed for core projects. This I say with full knowledge because the Capital Goods Committee is in our Ministry and our Secretary is the Chairman of this Committee and our Economic Adviser is overall incharge of the Secretariat of this Committee. So far as the raw materials are concerned, here again, even in situations where it has not been possible to meet the full requirements of raw materials of all industries, an endeavour has been made to meet the hundred per cent requirements of the core industry. Therefore, priority in regard to the core industries has been the highest. But I am not sure whether any written instructions have been given."

2.23. The Annual Plans for 1970-71 and 1971-72 brought out by the Planning Commission indicate the actual production during the years 1968-69 and 1969-70 and that estimated for 1970-71 for the industries in the Core Sector as follows:

*Actual production for 1968-69 and 1969-70 and that estimated for 1970-71 for 'core' industries*

Sl. No.	Name of the Industry	Unit	1968-69 (actuals)	1969-70 (actuals)	1970-71 (estd.)
<b>I. Iron and Steel:</b>					
(i)	steel ingots	mill. tonnes	6.4	6.43	6.14
(ii)	finished steel	mill. tonnes	4.7	4.94	4.7
(iii)	pig iron for sale	mill. tonnes	1.3	1.54	1.27
(iv)	alloy and special steel	'000 tonnes	43.0	140.4	200.0

Sl. No.	Name of the Industry	Unit	1968-69 (actuals)	1969-70 (actuals)	1970-71 (estd.)
<b>2. Non-Ferrous Metals :</b>					
(i)	aluminium	'000 tonnes	125.3	135.1	161.06
(ii)	Copper	'000 tonnes	9.4	9.8	9.33
(iii)	zinc	'000 tonnes	26.3	23.7	23.40
<b>3. Industrial Machinery :</b>					
(i)	chemical machinery	Rs. mill.	113.0	133.0	170.0
(ii)	printing machinery	Rs. mill.	1.0	2.4	3.0
(iii)	rubber machinery	Rs. mill.	1.7	2.2	11.5
(iv)	paper & pulp machinery	Rs. mill.	27.0	33.0	49.4
(v)	metallurgical and other heavy equipment	'000 tonnes	25.0	18	20.0
(vi)	machine tools (organised sector only)	Rs. mill.	247.0	300.0	426.0
<b>4. Heavy Electrical Equipment :</b>					
(i)	turbines-hydro	mill, kw.	0.1	..	0.21
(ii)	turbines thermal	mill, kw.	0.4	0.32	0.63
(iii)	power boilers	mill, kw.	0.4	0.60	0.45
5.	Ship-building and dredgers	No. of ships	2	3	3
<b>6. Fertilizers :</b>					
(i)	nitrogenous (in terms of N)	'000 tonnes	541.0	716.0	830.0
(ii)	phosphatic (in terms of P <sub>2</sub> O <sub>5</sub> )	'000 tonnes	210.0	222.0	229.0
7.	Pesticides (basic chemical only)	'000 tonnes	19.0	19.0	24.0
8.	Rock phosphate	mill, tonnes		0.097	0.175
<b>9. Agricultural machinery :</b>					
(i)	agricultural tractors	'000 nos.	15.4	17.1	20.7
(ii)	power tillers	'000 nos.	0.5	0.28	0.3
10.	Newsprint	'000 tonnes	31.0	38.92	37.3

Source : Annual Plans for 1970-71 and 1971-72 brought out by the Planning Commission.

**2.24. The Committee note the statement of the Government that essential inputs are being provided to industrial undertakings in the Core Sector on a priority basis. They would however like to point**

out that the real test of the effectiveness of measures taken for development of Core Industries is in the rate of growth of production in the Core Industries which, the Committee find, has been none too impressive. The Committee recommend that a contemporaneous watch should be kept on the development of Core Industries so as to assess as to how far the measures already taken by Government have actually succeeded and to take such remedial action as may be necessary in the light of experience.

**2.25. The Committee also recommend that the policy of providing essential inputs to industries in the Core Sector should be made widely known by issue of suitable administrative instructions in this behalf to all the economic Ministries and other authorities concerned.**

**(b) HEAVY INVESTMENT SECTOR**

2.26. The new licensing policy announced in February, 1970 also envisaged what it called the 'Heavy Investment Sector' which does not comprise of any group of industries but is based on the extent of investment proposition. It is stated that "all new investment propositions of over Rs. 5 crores shall be deemed to be in the Heavy Investment Sector". Besides the Core Sector, the Larger Industrial Houses and foreign companies are expected to participate in the development of industries in the Heavy Investment Sector also.

**(c) INDUSTRIES SUBJECT TO SPECIAL RESTRICTIONS**

2.27. According to the Licensing Policy announced by Government in February, 1970, the following industries, listed in Schedules I to the Notifications of 19th and 28th February and 18th July, 1970, are entirely subject to licensing provisions of the Industries (Development and Regulation) Act and the various exemptions from the requirement of licensing announced by Government are not applicable to them:

- (1) Coal falling under (1) Coal, lignite, coke and their derivatives' under the heading "2 Fuels";
- (2) Textiles, falling under the heading '23 Textiles (including those dyed, printed or otherwise processed) manufactured, produced or processed on powerlooms';
- \* (3) Milk Foods falling under '(2) Milk Foods'; Malted foods falling under '(3) Malted foods' and Roller flour milling

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\*As amended by Govt. of India, Miny. of Ind. Dev. Notifns. No. 1572/IDRA/29B 71/7, No. 1573/IDRA/29B 71/8 and No. 1574/IDRA/29B 71/9, dated the 13th April, 1971.

falling under '(4) Flour' under the heading "27 Food Processing Industries";

- (4)(a) Oil seed crushing, falling under '(1) Vegetable oils, including solvent extracted oils' and (b) Vanaspathi falling under '(2) Vanaspathi' under the heading '28. Vegetable Oils and Vanaspathi';
- (5) Leather falling under the heading '31. Leather, Leather Goods and Pickers'; and
- (6) Matches falling under '(3) Matches' under the heading '36. Timber Products'.

It is observed from the preliminary material furnished to the Committee that the exceptions in the case of these industries, to the exemptions announced by Government from time to time from licensing provisions of the Industries Act are containing since 13th January, 1964.

2.28. Government were asked to state, industry wise, the reasons for a special provision in the case of these industries whereby even small scale units in these industries are subject to licensing provisions of the Industries Act. The following reasons have been stated:

"The coal industry has often witnessed more labour troubles as compared to other industries and the nature of work involved is also more hazardous and therefore it was considered necessary to control it through licensing. The development of milk foods etc. needs to be regulated and controlled to enable the dairy units particularly those in the public sector to obtain adequate supplies of liquid milk which would otherwise be used up in the production of milk foods. These and similar other reasons prompted the authorities in keeping these industries away from the scope of all exemptions. On the recommendation of the Planning Commission which felt that industries like leather, matches, oilseed crushing and textile (power looms) should be kept within the purview of governmental regulation and control with a view to mainly safeguarding the interests of the cottage and village industries, these industries were also made subject to licensing."

2.29. During evidence, the representative of the Ministry of Industrial Development gave an additional reason for excepting coal from the scheme of exemptions i.e. "because of its special technological problems". In the case of milk and malted foods, the exception, according to him, was "because of health and sanitary considerations". In regard to the roller flour milling, he stated:

“in the past the difficulty was that it was mainly based on imported wheat. Of course there is a proposal now, because of the availability of wheat, that it should be taken out of this list and it is being examined in all its implications. I do not know what the decision will be, but the matter is before us at the moment.”

2.30. In view of the fact that special provisions in respect of these industries were continuing since as far back as 1964, the representative of the Ministry was asked to state whether any periodical review was being carried out to see whether the special restrictions in respect of these industries or any one of them, could be removed. He replied: “As yet no regular system of review has been established. We will take note of it.”

**2.31. The Committee note that some industries like milk food, malted food, roller flour milling, oil seed crushing, vanaspati etc., listed in Schedule I of Notifications of 19th and 28th February and 18th July, 1970 laying down the new industrial licensing policy of Government, are subject to special restrictions in the matter of licensing and that these restrictions are continuing since 1964. They also note that at present there is no system of periodical review to see whether the special restrictions in respect of these industries are still required. The Committee recommend that Government should annually review the state of these industries to see whether the special restrictions in respect of any of these industries could be dispensed with in view of a change in the circumstances or conditions in the industry.**

#### (d) SMALL SCALE INDUSTRIES

##### *Definition of Small Scale Industry*

2.32. Exemptions under Section 29B of the Industries Act from registration and licensing provisions of that Act have been made subject to certain limit in terms of the value of fixed assets. In the case of small scale units the fixed assets are taken as ‘plant and machinery’, while in other cases it is taken as ‘land, buildings, plant and machinery’. Asked the reasons for this difference, the Secretary, Ministry of Industrial Development stated during evidence that in response to the demand for raising the upper limit for a small scale unit and while raising the upper limit from Rs. 5 lakhs to Rs. 7.5 lakhs, Government had extended another concession to the small scale industries, namely that the value of land and buildings would not be included while computing the value of fixed assets of a unit for determining whether it was a small scale industry or not. A

possible supplementary sector, according to him, was the fact that while every medium and large scale industry would need land and buildings, small scale industry could be carried out even by hiring a small premises.

2.33. The Secretary, Ministry of Industrial Development was asked during evidence whether, in view of the sharp rise in prices, it was not the time to revise the limit for a small scale unit from Rs. 7.5 lakhs to at least Rs. 10 lakhs and also to keep the limit under constant review. In reply he stated that the enhancement of limit would bring in "people with larger resources and the real man with small resources will probably be at the discount as also the people who are already in the small industries." According to him, at a recent meeting in Srinagar of the All India Small Industries Board, there was a sharp difference of opinion on this score among the representatives of the small industries themselves; some people suggested that the limit should be raised while some others were not in favour of raising this limit. He held that "those persons who have a little more of financial means and who can invest a little more would be in favour of increasing the limit to Rs. 10 lakhs or Rs. 12.5 lakhs or Rs. 15 lakhs but those who have lesser means fear that they will be then smothered by people with larger financial resources". Adding that "we do not mind if the limit is raised... (but) we do not want the small man to be out done by persons with larger resources" he assured the Committee: "We are prepared to consider it. But we shall have to take into account the fact that many representatives of small scale industries themselves are very strongly opposed to raising this limit."

#### *Government policy in regard to Small Scale Industries*

2.34. The Industrial Policy Resolution of 1956, stressing the role of cottage and village and small scale industries in the development of the national economy, stated: "In relation to some of the problems that need urgent solution, they offer some distinct advantages. They provide immediate large scale employment; they offer a method of ensuring a more equitable distribution of the national income and they facilitate an effective mobilisation of resources of capital and skill which might otherwise remain unutilised. Some of the problems that unplanned urbanisation tends to create will be avoided by the establishment of small centres of industrial production all over the country. The aim of the State policy, according to the Resolution, will be 'to ensure that the decentralised sector acquires sufficient vitality to be self-supporting' and to that end 'the State will...concentrate on measure to improve the competitive strength of the small scale producer.'"

2.35. One of the important policies that stemmed out of this objective was the policy of reservation of certain industries for ex-

ensive development in the small scale sector. During the Second Five Year Plan period, no specific programme was undertaken in its regard except what was called 'a common production programme' in certain items like textiles. In the Third Five Year Plan, about 47 items were reserved for exclusive development in the small scale sector. This reservation was operated by Government by means of the 'banned lists' of industries maintained by Government.

2.36. The Industrial Licensing Policy Inquiry Committee (Dut Committee—1969) had the following observation to make in regard to small scale industries:

"Reservations should be mainly utilised, as to some extent they are already being utilised, for the purpose of protecting certain areas of production for the development of small scale industry. Leaving aside the comparatively small area of traditional and village industries, the most important and crucial development in this field is that of modern small scale industries. From the time of the Karve Committee's Report, it has been envisaged that after a certain period of protection, with proper technical guidance and the development of financial and marketing facilities, units in this sector should be able to withstand competition from large scale units. Therefore, the reservations would be temporary. The D. C. S. I. continues to work out lists of area where such reservations are recommended by it; and these are examined by Government and decision on reservations and bans are taken. In our view, this policy of reserving certain area of production for appropriate periods of time for small and medium industries is the right one and should be continued."

2.37. The industries licensing policy announced by Government in February, 1970, continued this policy of reservation of certain industries for exclusive development in the small scale sector. The list was also expanded to contain 55 items. In February, 1971, 73 more items were added to this list, making a total of 128 items. An up-to-date list of industries reserved for exclusive development in the small scale sector is given in Schedule II appended to the Ministry of Industrial Development Notifications of 19th and 28th February and 18th July, 1970 (Appendices I to III).

*General Preference to Small Scale Industries in the matter of licensing*

2.38. Government have issued some guidelines for dealing with applications for industrial licences. According to one of the guidelines: "in respect of items which may not have been specifically

reserved for the small scale sector but where encouragement of further development in that sector is considered necessary or in which the cooperative sector is interested, the licensing authorities should examine the feasibility of manufacture of such items in those sectors. Similarly, if there are any items in the production programme of entrepreneurs which can be usefully manufactured as ancillaries in the small scale sector, such items may not be recommended for inclusion in the manufacturing programme of the applicant firms and they may be set apart for manufacture in the small scale sector. Similarly, in regard to the components to be used in the manufacturing programme, the licensing authorities should specifically examine whether such components are to be brought out from the small scale ancillary units or the applicant firm would itself produce them. In the latter case, the considerations which justify the production of such components by the applicant firm itself instead of these being bought out by it from the small scale ancillary units should be carefully examined."

2.39. Government were asked to state whether, at the time of considering applications for licence for industries for items not reserved for small scale sector, the Technical Adviser/Recommending authorities and the Licensing Committee took into consideration the feasibility of the manufacture of the item or any of its ancillaries or components in the small scale sector, or specifically examined the justification of the production of a component by the applicant firm itself instead of buying the same from the small scale ancillary units. They were also requested to state whether it would not be more appropriate if, instead of leaving the position indefinite as at present, the reserved list for small scale sector was added to, from time to time, on the basis of the technical competence and capacity acquired by small scale sector. It has been stated in reply that guidelines have been issued to the Licensing Committee that expansion of existing capacity or creation of new capacity, whether in the public or in the private sectors, should be scrutinised with a view to seeing how far parts and components could be off-loaded to the small scale sector. To achieve this purpose, a procedure has been devised by which a copy of application for issue of an Industrial Licence is sent to the Development Commissioner, Small Scale Industries who will then scrutinise the application to see how far the product-mix can be modified and to eliminate any items which could well be made in the small scale sector. If such items are already in the reserved list, the problem is a fairly simple one but even if an item is not specifically in the reserved list, it is examined whether ancillary units can be set up to manufacture parts and components required in any specific project. This is an exercise that is made in the case of all industries irrespective of whether



they are included in the reserved list or not. In many cases, it is stated, it may not be possible to categorically reserve an item for the small scale sector and yet the possibility of its manufacture in the small scale sector in any specific instance need not be excluded. Government reviews the list of items reserved for the small scale sector from time to time and makes additions whenever necessary.

2.40. Regarding reservation of ancillaries and components of large scale industries for production in the small scale sector, the Secretary, Ministry of Industrial Development stated during evidence: "It is being done already. In the case of licences for automobiles, cars, scooters and tractors, certain specific items are excluded and they are reserved to the ancillary industries.... In the chemical industry also we ask the larger firms to make only the basic material. We also lay down a condition that at least 30 to 40 per cent. of the basic material should be sold to the small scale sector so that they can make formulations. Wherever possible, we try to see that the interests of the small scale and ancillary industries are safeguarded."

2.41. **The Committee note that as per present procedure a copy of every application for industrial licence is sent to the Development Commissioner, Small Scale Industries, who examines it to see whether it is feasible to undertake the manufacture of the item in the small scale sector. The Committee understand that some applications for issue of industrial licences for industries other than those reserved for the Small Scale Sector have been turned down merely on the plea that it is feasible to undertake the manufacture of the item in the small scale sector. The Committee would like Government to examine the matter in depth before turning down an application on this ground only. Where an application is so turned down, Government should make sure that there is a concrete time bound scheme for developing manufacture of that item in requisite numbers and quality to meet the demand in full. In fact the Committee would suggest that the progress made in this behalf should be reviewed once in six months and in case it is found that the scheme is not materialising in the small scale sector there should be no objection to its manufacture in the large scale sector in public interest.**

#### *Basis for Selection of Items for Reservation*

2.42. It is stated that the items which have been reserved for production in the small scale sector are broadly those for which this sector has also demonstrated its capacity to produce goods at reasonable prices and of adequately good quality. In most cases, it is stated, the bulk of the production of these items is already in the small scale sector. The investments required for setting up a viable

unit for production of these items are stated to be within the range of the small scale industry i.e., investment in plant and machinery within Rs. 7.5 lakhs and in many cases, the items are ancillary to the large scale industry. Government consider that the cost of production of these items would be significantly lower in the small scale sector than in the large sector.

#### *Examination of proposals for reservation*

2.43. The Committee are informed that the exercise of selecting items for reservation begins with suggestions made by various representative associations such as Federation of Associations of Small Industries of India, the All India Manufacturers Organisation and others. The Development Commissioner, Small Scale Industries reviews such suggestions as also makes surveys of items which, in his opinion, conform broadly to the guidelines mentioned above. This survey includes the existing state of the particular industry, the number of small scale and other units, their production, a forecast of the likely demand over the next five years, the optimum size of economically viable units for producing these items and a rough estimate of the number of such new units which should be set up to meet the demand. Based on this survey, the Development Commissioner, Small Scale Industries makes proposals to the Ministry of Industrial Development which are then examined in the Ministry in consultation with the Directorate General of Technical Development, other administrative Ministries and the Planning Commission. The comments received from these various organisations are then considered at an Inter-Ministerial meeting presided over by the Secretary to the Ministry. The list is then revised on the basis of the discussions at this meeting and a formal proposal made to the Cabinet through the Planning Commission. After such approval has been accorded, a public announcement is made regarding the reservation.

#### *Compatibility with large industries*

2.44. It had been represented to the Committee that the setting up of a large scale unit should normally lead to production economies, 'R' and 'D' enterprises and exports, and that this would not lead to the elimination of small scale industry for, in practice, the larger units gave rise to, and depended very largely upon, numerous ancillary industries made up of small scale units. Commenting upon this representation during evidence, the representative of the Ministry stated:

"The basis for reservation has really been that any particular industry which is technically feasible in the small scale

sector and which needs a plant and machinery below Rs. 7-1/2 lakhs may be included; also the economic viability has to be taken into account. The scale of operations is another important criterion in determining whether an industry ought to be reserved or not. Many industries can profitably be run on a much lower scale than on a large scale.

Lastly, it has been said that small scale sector would have to demonstrate the capacity to produce a product at reasonable price and of good quality. It is only when these criteria are satisfied that reservation has been attempted.

Regarding R & D, it is not quite true that, technologically speaking, the small scale sector would be weak. Earlier, we had discussed about electronics. This is a typical instance of an industry which is technologically very much in the forefront and yet the scale of operation would lend itself to a much smaller scale. Investigations conducted in US and UK have shown that the bulk of inventions are made not in the large scale industry but in two sectors; one the individual inventor and the other the small scale industry. It is our intention that in India also the small scale sector's image should not be that of a technologically weak sector but that it should be aggressive, particularly in fields such as plastics and electronics.

Where research and development is required on a very large scale, such items cannot be reserved. But in India today 80 per cent of R & D is done in public sector institutions like the national laboratories, and large industry has not really been able to do much of R & D. Whatever items are reserved for small scale industry are really those over which R & D does not figure much, and for which the processes and techniques are widely known already."

#### *Positive measures for development*

2.45. It had been represented to the Committee that, for the development of the small scale units, Government should have laid more emphasis on positive measures e.g. intensification of promotional effort, proper technical guidance, development of financial and marketing facilities etc., rather than on the negative measures of shutting out competition from large units. In this regard, the representative of the Ministry during evidence stated:

"That would be true if Government had merely reserved certain items and not done anything else. The incentives and

the promotional activity which Government have been adopting in the last few years for the small scale industry are so many that the scope of this sector has very considerably increased. Formerly we had about 30,000 small scale units registered with the State Directors of Industries; today we have 200,000, and their production constitutes 40 per cent of the total industrial production of the country."

The promotional work, according to him, included the Industrial Estate Programme for which land and building were given to small scale entrepreneurs, the facility of hire-purchase of machinery and the credit facility which had increased from Rs. 138 crores in June, 1969 to nearly Rs. 400 crores. Among the promotional programme envisaged are marketing facilities for products, regional testing laboratories for affording testing facilities at cheap rates and setting up of commercial estates in many growth centres.

*Quality of produce and prices*

2.46. Dutt Committee had, in para 8.19 of their report, observed:

"Licensing may prevent the development of large scale units where it is contemplated that small scale units can be economically efficient and socially desirable; but it cannot by itself ensure the growth of the small scale units."

Accordingly, during evidence, a point was raised that, in view of the fact that it was not possible for Government to assure the growth of small scale units in the zone reserved for them and the quality and prices of their products were not subject to any regulation, how would they tackle the problem of shortage of goods, particularly of such consumer goods of common use as were reserved for production in this sector only, or of the low quality or high prices of their goods.

2.47. In regard to balancing of production and demand, the representative of the Ministry stated:

"For each of those sensitive consumer articles, rough forecast of the likely demand in the next five years has been made.

Knowing the likely demand in the next few years, we estimate what are the number of units that should be coming up to meet this demand. We have asked the State Directors of Industries that depending upon the local situation they should take all steps to see that these items which are reserved for the small scale sector should get a certain

priority in the matter of registration, in the matter of accommodation, raw material, etc. (and) the consumer must get these articles at a proper price. This is the exercise we have done. For cycle tyres and cycle tubes we have said that each State should at least put up 15 or 10 more units. We have intimated to the States so that they have a picture as to the types of 'preferred' industries they must encourage so as to be able to meet the consumers demand in the next few years."

As for quality and pricing, he stated:

"Many of these reserved items are substantially in the small scale sector. We are regularising a position that already exists. The question of price depends on the market conditions. I cannot say that we are today setting up any special institutional structure to oversee this matter because the policy of reservation has really been in force for the last two years. Sensitive consumer items like cycle-tyres, tubes and tooth paste have been included in it. At present we are watching the situation. We get information from the State Directors of Industries about the new units coming up, when they will go into production, etc. We have not set up any mechanism at present, but that is under consideration."

2.48. Subsequently, in a written reply to the Committee, Government have stated:

"It is . . . . recognised that the consumer must be able to get the end-product at a reasonable price and in good quality. It is also considered desirable to persuade the small scale manufacturers that wherever ISI specifications exist, production in the small scale sector should conform to such specifications."

It is further stated: "The Development Commissioner, Small Scale Industries is . . . . required to keep a close watch on the progress of reservation to see how far new units, as estimated, are coming up in any particular product and whether consumer demand is being satisfied for that item. He will also hold consultations with the State Governments to give encouragement to the setting up of new units in the reserved items, taking into account the availability of new materials, local demand and the need to stimulate local entrepreneurship. It is also his responsibility to draw up a production programme for the items reserved in the small scale sector and ensure that this is done as far as possible. He will also keep a close watch on the quality of production and the reasonable prices."

2.49. The Industrial Licensing Policy in force has reserved a large number of items exclusively for the Small Scale Sector. It is therefore the responsibility of Government to ensure that the Small Scale Sector actually delivers the goods in the field exclusively reserved for it, that the consumers' interest is safe-guarded in the matter of quality and price of goods produced in that sector and that there are no shortages. The Committee note that the responsibility in this regard is cast on the Development Commissioner, Small Scale Industries who, it is said, would draw up production programmes, keep a close watch and hold consultations with State Governments. The Committee feel that this is not enough and suggest that a suitable mechanism should be devised for methodically assessing the demand in respect of each of the reserved items during the next five years, drawing up an annual production programme, seeing that it is actually implemented and for taking remedial action in case of shortfalls in production to obviate possible shortage. The Committee would also like Government to provide adequate facilities for quality testing of goods produced in the small scale sector at cheap rates and introduce quality control of finished goods, where feasible and necessary.

*Duration of reservation*

2.50. Dutt Committee had, in para 8.22 of their report, observed that the reservations of certain industries in favour of small scale units would have to be temporary (vide extracts in para 2.36) Government was asked to state whether these reservations were, in principle, temporary that is, so long as the small scale units in these industries were not able to withstand competition from larger units. They have stated that no specific time limit has been laid down as to the period of reservation, but the Development Commissioner, Small Scale Industries was required "to keep a close watch on the progress of reservation to see how far new units, as estimated, are coming up in any particular product".

2.51. The Committee consider that the reservation of certain industries for development exclusively by the Small Scale Sector should be accompanied by positive measures to see that, with proper technical guidance and the development of financial and marketing facilities, units in this sector are able to stand on their own. They also consider it necessary that an independent review is undertaken in regard to each of the reserved industries periodically, say after an interval of 3 years, to assess the progress made in this direction and for taking such action as may be considered necessary in the interest of the consumer.

*Units not in Production*

5.52. During evidence a point was raised that it was common knowledge that quite a sizeable percentage of small scale units registered with the State Directors of Industries were existing only on paper and were not actually in production. Such units got themselves registered only for the purpose of availing of preferential quotas and licences for scarce raw materials-imported as well as indigenous-and other benefits available to small scale industries. Admitting this, the representative of the Ministry stated:

“That question has been bothering us also and we have tried various ways. Speaking of small-scale industries, they are really within the purview of State Directors of Industries and it is they who have to give us this information. They have been pleading that they did not have adequate staff about the estimate of the number of units which must be in production, our information is that more than 1.4 lakh small scale units have been getting credit from nationalised banks, which normally take into consideration their production and production plans... The difficulty... pointed out is very genuine. Frankly, I would not be able to give an answer off hand. The banks assure us that they send inspectors to check on the performance of units assisted by them, but even the inspectors can be fooled by having a small number of items on display and giving a figure of production which is much higher. Even if we try and devise some additional machinery, we cannot really assure ourselves that the return we would get would be any better. We have been in touch with the Department of Banking suggesting that the control be exercised more through the Department of Banking. As far as industrial estates are concerned, the information can be got more readily. But there are a number of small scale units outside the industrial estates. The problem... mentioned is very genuine and we have been trying various solutions. We have laid down that all small scale units, which require import of raw materials in excess of Rs. 1 lakh, should produce certificates from a Chartered Accountant about the consumption of imported raw materials and production. We do not wish to apply this condition to very small people whose requirements are small. We are conscious of the problem you have mentioned and we would be open to suggestions whereby we can improve the control system without hurting the small man.”

**2.53. The Committee note with concern that quite a few parties may be taking advantage of inadequate resources of the State Directors of Industries for keeping an effective watch over the production, or even the existence, of Small Scale Units registered with them. The Committee suggest that Government should devise a scheme of periodical survey to find out the correct position in respect of the State Directors of Industries for keeping an effective watch over the production,**

*Difficulty in procurement of raw materials*

2.54. During evidence a point was raised that the small scale units in the country were having considerable difficulty in the matter of procurement of raw materials, particularly steel, due to which they were working at much below their capacity. The representative of the Ministry stated during evidence that in regard to allocation of steel, the small scale units were at a disadvantage as their requirement being small, they had to buy it from the stockyards or dealers at a higher price while big orders from large units were met by the producers directly at comparatively cheaper price. He informed the Committee that an arrangement had been worked out whereby, excepting West Bengal and Assam, the distribution would be done through the State Small Industries Corporations. These Corporations would get a certain amount of discount on the steel made available to them. The discount would take care of their overheads and they would be able to supply steel to the small scale units at the price at which it was available to large scale units. The extent of this discount was under consideration. As far as the allocation of steel was concerned, he stated that the small scale units could go to the Steel Priority Committee through the State Directors of Industries. He further stated that Government was trying to evolve a system of percentage distribution, State-wise, of steel, based on the number of engineering units in each State and hoped that an equitable distribution system would be arrived at by canalising it through the State Small Industries Corporation.

2.55. In regard to allocation of other scarce raw materials, he stated that a three man team was visiting each State for assessing the requirements of small scale units in the State for non-ferrous items. Their assessment (the first round of which had been completed) would form the basis of the recommendations of the Ministry to the Chief Controller of Imports and Exports for making allotment for import of raw material. He informed the Committee that "a certain amount of liberalisation is done in the case of raw material for small scale units." According to him, the allocation of imported raw material to the small scale units had increased sizeably and in 1971-72 it was likely to reach Rs. 100 crores.



2.56. Another measure taken by Government to facilitate the allocation of adequate quantity of raw materials to small scale units was explained by the representative of the Ministry as follows: "Formerly, the small scale industries were discriminated against by having raw materials based on the value of the machinery, which was considered irrational and arbitrary. In the 1971-72 Import Control Policy the priority industries in the small scale sector get it on the basis of their requirements and we hope that in 1972-73 policy a further liberalisation will be done."

**2.57. The Committee consider that just as Government have taken the responsibility for provision of essential inputs for industries in the core sector on a priority basis, similarly for industries which are reserved exclusively for small scale sector Government may provide requisite inputs such as finance, scarce raw materials, foreign exchange, etc. on a priority basis in the interest of assuring that production is sustained and that products of reasonably good quality become available to the consumer at most competitive prices.**

#### *Small Scale Units in Japan*

2.58. Government were asked to state whether they had made any study of the organisation of small scale ancillary industries in Japan and the various statutory protections available to them and if so, what had been the findings and conclusions thereof. In answer they have stated that the pattern of organisation of ancillary industries in Japan has been the subject of several studies by Government officials and associations. An officials delegation which visited Japan in September 1969 under the leadership of the Deputy Minister for Industrial Development, made a specific study of this problem and has made some relevant recommendations. Many officials of the Government have also been deputed for undertaking the study of ancillary industry which is a prominent feature of the Small Enterprises Programme in Japan.

2.59. It has been estimated that out of about 4 lakh units in Japan in the small scale sector, nearly 50 per cent of them are sub-contractors to the large scale units. The latter provide various types scale units. The latter provide various types of assistance to the ancillary units in the shape of raw materials, technical assistance and even finance. There is a close linkage between the small scale ancillary unit and the large undertaking which has contributed significantly to the rapid growth of the small scale industry in that country.

2.60. There have been, however, some disadvantages in this system, particularly in times of recession, when the large undertaking tries to exert pressure on the small scale unit in obtaining low price

for its products. It was for this reason that a specific law has been enacted in that country, called "The Law for the Prevention of Delayed Payments to Sub-Contractors". According to this law, any large unit which delays payment for products supplied by the small scale unit beyond 60 days, is liable for punishment by the Fair Trade Commission set up by the Government. That Commission is also entitled to receive complaints regarding unfair rejection of parts and any other difficulties experienced by the small scale units.

2.61. In India, it is stated, Government have been considering for some time as to how best to stimulate to ancillary sector in this country. For this purpose, number of important steps have been taken in recent years particularly in regard to the public sector undertakings. A time-bound schedule has been laid down for these undertakings and a senior Manager in each undertaking has been designated to identify parts and components that could be formed out to the small scale sector. An Advisory Committee is to be set up in each unit, consisting of the State Directors of Industries, the Development Commissioner (Small Scale Industries) and a senior Manager of the company. It will be the duty of this Committee to locate entrepreneurs for the supply of parts and components to the main undertaking. The Licensing Committee has also been advised that in regard to applications for expansion of existing units (whether in the public or in the private sector) or for setting up a new unit, the DGSSI should scrutinise the "product-mix" carefully and omit these which could be manufactured in the small scale sector. A suitable pricing formula based on the experience gained at the Hindustan Machine Tools Plants has been recommended to the various public sector undertakings. It is expected that as a result of these measures, there will be a further stimulus to the development of the ancillaries to the large units in the country.

2.62. Government have also been considering whether a suitable legislation should be enacted on the lines obtaining in Japan. One of the difficulties which have been experienced by the small scale units in India is the undue delays that have occurred in payment for supplies made by the small units. In effect, this has operated as an extension of the credit facility to the large scale unit at the expense of the small entrepreneur. The Reserve Bank of India have under consideration a proposal for making payments for such supplies through banks on a procedure similar to the Letter of Credit System that operates in the case of exports. Government have also set up a committee to consider whether legislation should be enacted for this purpose and for some other aspects of the Small Industry Development Programme such as reservation, price preference in Government purchases etc. The Committee is headed by Shri A. R. Bhat,

Founder President of the Federation of Associations of Small Industries of India, and includes representatives of the industry and of the Ministries of Industrial Development, Company Law, Banking and the Reserve Bank of India. On the basis of the recommendations made by this committee, Government will decide as to the type of legislation that should be enacted for affording protection to the ancillary units in the small scale sector.

**2.63. The Committee note the steps proposed to be taken by Government to encourage the small scale sector and to strengthen their hands vis-a-vis their principal customers i.e. the large industries. They hope that Government would soon bring forward before Parliament a considered legislation on this subject.**

### B. Special Entrepreneurial Groups

#### (a) LARGER INDUSTRIAL HOUSES AND FOREIGN COMPANIES

##### *Definition of Foreign Companies*

2.64. Companies of which over 50 per cent paid-up capital is held by non-resident is deemed to be a "Foreign Company" for the purpose of Industrial Licensing.

##### *Definition of a Larger Industrial House*

2.65. The Larger Industrial Houses' referred to in the new licensing policy announced by Government in February, 1970 have been defined as Houses which have been classified as such by the Industrial Licensing Policy Inquiry Committee (Dutt Committee) in the list at Appendix II-A(1) of its report (July, 1969) with such amendments to this list as may be made by Government from time to time. The following 20 Industrial Houses are listed as Larger Industrial Houses in the report of the Dutt Committee:

#### LARGER INDUSTRIAL HOUSES

Sl. No.	Industrial House	No. of concerns comprised in the	
		House	Second Tier
1	A. C. C.	5	1
2	Andrew Yule	43	..
3	Bangur	93	
4	Bird-Heilgers	76	..
5	Birla	203	73

1	2	3	4
7	I.C.I.	6	..
8	J. K. (SINGHANIA)	47	4
9	Kilachand	24	..
10	Killick	17	
11	Mafatlal	34	..
12	Martin Burn	24	..
13	Sahu Jain	29	
14	Sarabhai	29	
15	Scindia	8	..
16	Shri Ram	36	18
17	Sooraj Mull Nagar Mull	104	6
18	Tata	70	14
19	Thapar	59	4
20	Walchand	29	..

The concerns comprised in each of the above Houses during the period 1956—66 along with their Second tier concerns have also been listed in the Appendix to the Dutt Committee Report. Earlier, the Monopolies Inquiry Commission had in their report (1965) also drawn up a list of 75 'Large Industrial Houses'. These Houses (Larger Industrial Houses in the Report of the Dutt Committee) were the 20 top houses in the list drawn up by the Monopolies Inquiry Commission. According to the data compiled by the Commission, each of these had total assets exceeding Rs. 35 crores in 1964.

2.66. In para 2.16 of their Report, Dutt Committee have laid down the following criteria, on the basis of which they have determined the composition of an Industrial House:

- I. Concerns admitted by the House through the replies received by the Committee from the apex companies.
- II. (a) Concerns mentioned as forming part of the House in the Souvenirs or other publications of the House.
- (b) Concerns functioning as Managing Agents|Secretaries and Treasurers which are wholly or substantially owned by the controlling authority in the House along with relatives.

- (c) Companies managed by (I) and (II) (a) and (b), above, in their capacity as Managing Agents|Secretaries and Treasurers.
  - (d) Companies deemed to be under the 'same management' under Section 370 of the Companies Act, 1956 as the companies at (I) and (II) (a) to (c) above.
  - (e) Subsidiaries (other than those incorporated outside India) of Companies at (I) and (II) (a) to (d) above.
- III. Companies wherein not less than one-third 'effective equity' can be clearly identified as House-interest.
- IV. Concerns found to have special characteristics which would warrant their inclusion under a House. The special characteristics may be such as majority on the Board of Directors being comprised of persons closely affiliated with the House, substantial equity share-holding being owned by the employees of the House, sole selling agency arrangements and services like office premises and telephone facilities.

2.67. The representative of the Ministry was asked during evidence whether, before accepting Dutt Committee's classification of Larger Industrial Houses and their composition, Government had examined the criteria adopted by that Committee for treating a concern as forming part of a House, and that for treating a concern as being in 'Second Tier' of association with an Industrial House to see whether they were sound and unambiguous. He replied: "Committee's recommendation was considered by the Government and it was accepted by Government. The criteria have also been accepted. The second tier is no longer in existence. With abolition of managing agency, we are now not considering anybody as tier."

2.68. It is observed that the classification of 'Larger Industrial Houses' was made by the Dutt Committee on the basis of concerns comprised in a House during the period 1955-66 and the total assets of the Industrial House exceeding Rs. 35 crores. During evidence, the Secretary, Ministry of Industrial Development was asked to state whether Government had made any amendments to this classification on the basis of any subsequent changes that might have taken place in the assets, holdings and interests of the Industrial Houses, specially after the abolition of managing agency system in April, 1970. He replied that Government had not made any change in the list of Larger Industrial Houses, but any House at present included in the list of larger Industrial Houses which felt that it no longer belonged to that category or if an undertaking had some material on the basis of which it could justify that it was not a part of the group

which owned assets of more than Rs. 35 crores on account of separation in the family or some other reason, then the House or the undertaking could apply to the Ministry of Industrial Development for taking it out of the list of Larger Industrial Houses. He assured the Committee that the case of such a House or undertaking would be considered by the Ministry of Industrial Development on its merits. He further stated that, on the other hand, the Ministry of Industrial Development had under consideration the question whether some more parties should now be brought under the list of Larger Industrial Houses on account of having crossed the limit of Rs. 35 crores in assets.

2.69. As regards the suggestion for a periodical review of the list of 'Larger Industrial Houses' with a view to keep it up-to-date, he said: "this work has to be undertaken by the Ministry of Industrial Development. A periodic review very frequently may not be necessary but from time to time after 2 or 3 years such a review would be undertaken."

2.70. The Committee would like to point out that the classification of an Industrial House as 'Larger Industrial House' made on the basis of the sum total of the value of its assets together with that of its inter-connected undertakings exceeding Rs. 35 crores at a given time, could not be a static classification. In course of time, there are bound to be changes in the composition of an Industrial House and in the value of its total assets resulting in some Houses crossing the limit of Rs. 35 crores while some others, though classified earlier as 'Larger Houses', going out of the group. The existing classification of Larger Industrial Houses was made by the Industrial Licensing Policy Inquiry Committee (Dutt Committee) on the basis of data compiled more than 5 years ago and it will be out of date in several cases. The Committee note that the Ministry of Industrial Development have initiated an inquiry with a view to see which other Industrial Houses could be brought under the classification of Larger Industrial Houses. However, an Industrial House at present classified as Larger Industrial House but which may now be having total assets of less than Rs. 35 crores or an industrial undertaking which may no longer be connected with a Larger Industrial House, is required to apply for removal from the list of Larger Industrial Houses and the onus of proof of the changed situation is laid on the party itself.

The Committee consider that it should not be difficult for the Government to keep the list of Larger Industrial Houses under constant review on the basis of data available under Company Law. They, therefore, recommend that, for examining applications from

**Larger Industrial Houses on a realistic basis, Government should take urgent steps to bring the list of Larger Industrial Houses up-to-date by adding to it Houses which now qualify for designation as such and deleting such of the Houses as have ceased to so qualify, and to keep the list under constant review, on the basis of data available with them, without waiting for an initiative in this regard from the Industrial Houses themselves.**

*Licensing Policy in regard to Larger Houses & Foreign Companies*

2.71. The new Licensing Policy of Government does not extend the benefit of exemption from the licensing provisions of the Industries Act to an industrial undertaking if it belongs to or is controlled by what are described as 'Larger Industrial Houses' or if it is a foreign company or a branch or subsidiary of a foreign company. As a consequence, these classes of entrepreneurs have to obtain a licence from Government for setting up a new undertaking, for substantial expansion of production of an existing undertaking or for production or manufacture of a new article in an existing undertaking, irrespective of the value or size of the proposed new undertaking or expansion or diversification.

2.72. In regard to the issue of industrial licences to Larger Industrial Houses and Foreign Companies, the new licensing policy has assigned a definite role to them. It is stated that Larger Industrial Houses and foreign concerns, together with other applicants, would be expected to participate in, and contribute to, the establishment of industries in the 'Core' and 'Heavy Investment' Sectors, leaving the opportunities in the remaining sectors (namely Middle Sector and Small Scale) primarily to the other classes of entrepreneurs. It is clear that 'Core' and 'Heavy Investment' Sectors are not exclusively reserved for the Larger Industrial Houses and foreign concerns. Applications from other classes of entrepreneurs for setting up industries in these Sectors could always be considered and, in fact, given a preferential consideration "in terms of over-all social objectives" over the applications from the Larger Houses and Foreign Companies. Amplifying this policy further, the Secretary, Ministry of Industrial Development stated during evidence: "there is a certain sphere of industries . . . . . in which the larger houses and foreign majority companies can be considered. Even in that sector, if there are other parties who are willing and able to take up those industries, . . . . . we shall keep the larger social objective before us, i.e., if even in those sectors, other smaller people can go ahead, then we should encourage them rather than the larger houses."

2.73. Replying to a point of view raised in the course of evidence that the restricted role assigned by the new licensing policy to the Larger Houses and Foreign Companies would hamper the industrial growth of the country which was necessary for more production, more progress and more employment opportunities, the Secretary, Ministry of Industrial Development stated: "It is a question of policy." He, however, added that there was no absolute prohibition to the issue of industrial licences to the Larger Houses and if the Government came to the conclusion that in the two sectors, in which they were expected to concentrate, 'in the national interest' or 'on merits' a licence should be given to a Larger House or a Foreign Company, it can be given. As to what constituted merit, he said: "What items go into merits is something which it is very difficult for me to say at this moment."

*Circumstances in which Larger Houses & Foreign Companies can be licensed in middle or small scale sectors*

2.74. It is stated that, though the Larger Industrial Houses and foreign concerns are ordinarily expected to participate in the 'Core' and 'Heavy Investment' Sectors, applications for expansion from them in the middle sector would be considered favourably if such expansions are in the interest of cost-efficiency or if the units are to be established in industrially under-developed areas. The Larger Industrial Houses and foreign companies would also be licensed in the middle sector if a substantial export commitment of 60 per cent or more of the new or additional production is undertaken. The export obligation will have to be achieved within a period of 3 years. A similar safeguard of a high export obligation (a minimum of 75 per cent) has been provided in the case of industries reserved for the small scale sector. The role of Larger Industrial Houses and Foreign Companies in the development of backward areas has been discussed separately in the section on "Development of Backward Areas" in this Report.

*Concession on export commitment*

2.75. Government were asked to state as to how many parties belonging to 'Larger Houses' or 'foreign companies' had applied for licences for setting up new or additional capacities in the middle or small scale sector on the basis of the export commitment required, since the declaration of this policy; what had been the final decision on their applications and whether the parties licensed under this provision had fulfilled the conditions. Government have, in reply, stated that of the total licence applications received from larger Industrial Houses and Foreign Companies from 1-1-1971 to 31-10-1971,



“only four applications have specifically indicated the 60/75 per cent export commitment.” In all other cases, according to them, either no export commitment was indicated or, if indicated, it was less than 50/75 per cent. It is further stated that the licences that might have been issued in consequence of the policy announced late in July, 1970 might not have materialised thus far and therefore it would be premature to try to find out whether anyone so licensed had or had not fulfilled the export obligation.

2.76. It had been represented to the Committee that the export commitment required of the larger Houses or Foreign Companies if they wish to set up industries in the middle or small scale sector was too high and, given the domestic cost structure, an impossible task. It was suggested that export commitment in such cases should not be more than 40 per cent of the new or marginal increase in production. Asked to state their reactions to the representation, Government have stated: “The Licensing Committee and the CCEC have been viewing the question of imposition of export commitments on the Larger Houses foreign owned companies in a pragmatic fashion. Any change in policy is not considered desirable at this stage.”

**2.77. The Committee agree that it is too early to assess as to how the concession allowed to Larger Houses and foreign companies to enter into middle or small scale sector on certain export commitments, is actually being taken advantage of. They, however, note the statement of the Government that they have a pragmatic approach in the matter and hope that the policy in this regard will be reviewed after 3 years in the light of experience.**

*Concession in the interest of cost-efficiency, etc.*

2.78. It was stated in the Preliminary Material furnished to the Committee that in the middle sector, while preference would be given to the smaller and newer entrepreneurs, the application of companies and undertakings comprising the Larger Industrial Groups and those of branches and subsidiaries of foreign companies could also be supported in the interest of greater cost efficiency and the growth of the firms to minimum economic size. It was represented to the Committee by a non-official organisation that the terms ‘greater cost efficiency’ and ‘minimum economic size’ had not been defined and, therefore, this provision was extremely vague. It was suggested to the Committee that Government should clarify these terms in view of the fact that ‘minimum economic size’ was a changing phenomenon because of changing cost structure as well as technology. Since this policy vested in the Government a very wide discretion, Government was asked to state whether any guidelines had been laid down in this behalf. They have, in reply stated: “As the

decision itself is clear that the cases of larger industrial houses can be supported in the interest of greater cost efficiency and growth of firms to minimum economic size, no further detailed guidelines have been issued in this regard. These cases would generally be of substantial expansion type. As to what would be the minimum economic size of a unit and how much cost efficiency can be achieved in it, it would depend on the nature of each industry. Each case would necessarily have to be considered on its own merits."

2.79. Government were asked to indicate the number of applications received from the Larger Houses and Foreign Companies seeking advantage of this offer since the announcement of the Policy. It seems that the information is not readily available with the Government as they have informed the Committee that they are making efforts to collect the information.

**2.80. The Committee recommend that a study should be initiated in association with the technical advisory authorities such as D.G.T.D., Textile Commissioner, etc., to broadly determine the minimum and optimum economic size for industrial units in particular industries on the basis of the prevailing cost-structure and technology. The study could serve as a guideline for examining applications from Larger Industrial Houses or foreign companies for licensing capacities in the middle sector "in the interest of cost efficiency and growth of the firm to minimum economic size."**

(b) *Dominant Undertakings*

*Definition of Dominant Undertakings*

2.81. The 'Dominant Undertakings' referred to in the new licensing policy announced by Government in February, 1970 are industrial undertakings falling under the category of 'Dominant Undertakings' as defined in clause (d) of Section 2 of the Monopolies and Restrictive Trade Practices Act, 1969. The relevant provision of the Act defines a 'dominant undertakings' as follows:

- "(d) 'dominant undertaking' means an undertakings which either by itself or along with inter-connected undertakings
- (i) produces, supplies, distributes or otherwise controls not less than *one-third* of the total goods of any description that are produced, supplied or distributed in India or any substantial part thereof, or
  - (ii) provides or otherwise controls not less than *one-third* of any services that are rendered in India or any substantial part thereof:

Provided that for the purposes of this clause, the goods produced by an undertaking which does not employ—

- (a) more than fifty workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or
- (b) more than one hundred workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on,

shall not be taken into account.

*Explanation I.*—Where not less than one-third of the production, supply, distribution or control of any goods or the provision or control of any service is shared by inter-connected undertakings each such undertaking shall be deemed for the purposes of this Act, to be a dominant undertaking.

*Explanation II.*—Where any goods of any description are the subject of different forms of production, supply, distribution or control, every reference in this Act to such goods shall be construed as reference to any of those forms of production, supply, distribution or control, whether taken separately or together or in such groups as may be prescribed.

*Explanation III.*—Any undertaking which, either by itself or along with inter-connected undertakings, produces, supplies, distributes or controls one-third of any goods or provides or controls one-third of any services according to any of the following criteria, namely, value, cost, price, quantity, or capacity, of the goods or services or the number of workers employed for the production, supply, distribution or control of such goods or for the rendering of such services, shall be deemed to be a dominant undertaking.

*Explanation IV.*—In determining the question as to whether an undertaking is or is not a dominant undertaking, regard shall be had to—

- (i) the lowest production made, or services rendered, by the undertaking concerned during the relevant year, and
- (ii) the figures published by the Central Government with regard to the total production made or services rendered

in India or any substantial part thereof during the relevant year.

*Explanation V.*—For the purposes of Explanation IV, production includes supply, distribution or control of goods.

*Explanation VI.*—For the purposes of this clause “relevant year” means any one year out of the three calendar years immediately preceding the preceding calendar year in which the question whether an undertaking is or is not a dominant undertaking is determined.”

2.82. It was represented to the Committee that under the terms of the Monopolies Act, a Company classified as a dominant undertaking for one particular product was similarly classified for all its production which was unreasonable, for a company might have many lines of production and dominance might exist only in respect of a comparatively small segment of its output. In this regard, Government have stated that the anomaly pointed out in the representation is not genuine. According to them, the position under law is that an undertaking which is registered as a dominant undertaking is dominant only in respect of those goods where it produces, supplies or distributes one-third of the total of those goods in the country and the regulatory provisions of Section 21 of the M.R.T.P. Act, apply to this undertaking only in respect of substantial expansion in these goods.

*Licensing Policy in regard to dominant undertakings*

2.83. According to the new licensing policy, an industrial licence has to be obtained by all ‘dominant undertakings’ if they intend to set up a new unit or substantially expand their production. If the total value of assets of a dominant undertaking, together with that of its inter-connected undertakings, is Rs. one crore or more, it has, in addition, to get clearance under the provisions of the MRTP Act from the Government (Department of Company Affairs) before a licence can be issued to it for substantial expansion of its activities or for establishing any new undertaking which, when established, would become an inter-connected undertaking. (The Procedure for obtaining clearance under the M.R.T.P. Act has been discussed separately later in this report). The dominant undertakings are, however, allowed to diversify their production in the field of manufacturing new articles, because such undertakings, though dominant in existing lines of production, will not be dominant in the new articles of manufacture.

2.84. One of the guidelines laid down by the Government for dealing with applications for industrial licence is:

“A greater element of competition in the production of various goods where monopolistic conditions have developed or are tending to develop should be brought about through licensing. At the same time, normal expansion of existing units should continue to be encouraged, in order that these units become more economic and their products effectively compete in international markets.”

Government were asked to elucidate the application of this guideline in view of the fact that M.R.T.P. Act specifically provided for a machinery and procedure for dealing with monopolies and to state whether it was intended that, besides the Department of Company Affairs, the administrative Ministries, Technical Advisers, Licensing Committee etc. should also exercise independent judgement and check monopolies/monopolistic tendencies at the stage of recommending applications for the grant of licence. Government have in reply stated: “The M.R.T.P. Act has undoubtedly laid down specific procedure and machinery for dealing with monopolies. The Industrial Licensing Policy has, nevertheless, a significant complementary role to play in ensuring that, as far as possible, monopolies are not created. When applications from dominant undertakings are received by the Licensing Committee for expansion in the same line, an endeavour is made to ensure that new parties are also licensed so as to see that dominance of the existing undertaking does not increase any further. In this respect, the licensing policy acts as a complementary instrument of Government’s policy to prevent concentration of economic power and is not competitive or contradictory to the procedure and policy enunciated in the M.R.T.P. Act.”

## CHAPTER III

### ACHIEVEMENT OF POLICY OBJECTIVES

#### A. Impact of Licensing Policy on rate of Industrial Growth

##### *Rate of Industrial Growth*

3.1. According to the figures given in para 1.12 of the Fourth Five Year Plan, production of organised industry increased by 8 to 10 per cent during the first four years of the Third Plan. In 1965-66—the last year of the Third Plan—the growth of industrial production slowed down to 5.3 per cent, reducing the overall growth rate during the Third Plan to 8.2 per cent compared to the target of 11 per cent. The index of industrial production (base 1960=100) increased by only 0.2 per cent in 1966-67 and by 0.5 per cent in 1967-68. This declaration in the rate of growth of industrial production after 1964-65 is attributed to many factors: dislocations caused by hostilities in 1965; decline in purchasing power because of the setback on the agricultural front due to two successive droughts; stagnation in investment; shortage of foreign exchange due to pause in external aid and the need for abnormally high imports of foodgrains and raw materials and for completion of a number of projects started earlier. It is stated that, with the improvement in agricultural production in 1967-68 and 1968-69 and as a result of certain remedial measures taken by Government (such as import liberalisation following devaluation; decontrol of certain commodities like steel, coal, paper, fertilisers and commercial vehicles; delicensing of a number of industries; some increase in the public sector's demand for domestic manufacture) and a rise in the exports of engineering goods, industrial recovery began in January, 1968 and this resulted in an increase of 6.2 per cent in industrial production in 1968-69.

3.2. It is stated in the Fourth Five Year Plan (1969—74) that “an overall rate of expansion of around 9 per cent in the net output of mining and manufacturing industries and construction would appear to be consistent with the projected growth in aggregate income and agriculture production”. More precisely, the Fourth Plan envisaged large scale manufacturing to grow at an average rate of 9.3 per cent. The actual increase, in terms of net value added however, is stated to have been 5.9 per cent in 1969-70 and 3.6 per cent in 1970-71. The annual average for the first two years of the Fourth Plan taken together works out to 4.7 per cent. Calendar year-wise, the general index of industrial production registered a growth of 7.1 per cent

in 1969 and of 4.8 per cent in 1970. During the first 8 months (January-August) of 1971 for which figures are available, the industrial production was higher by only 2 per cent compared to the level attained in the corresponding period of 1970.

3.3. According to the Economic Survey for 1971-72 prepared by the Ministry of Finance "data on the production of some major industries are available upto October, 1971; estimates based on their performance suggest that the rate of growth is currently running at between 3 and 3½ per cent. If the present trends persist, the rate of growth for the financial year 1971-72 would be between 3.5 and 4 per cent. Even if necessary adjustments are made to take care of the well known deficiencies in the weighting pattern of the Official Index, no material change in the rate of industrial growth is likely to emerge."

#### *Reasons for fall in the Rate of Industrial Growth*

3.4. The Fourth Plan Mid-Term Appraisal brought out by the Planning Commission in December, 1971 had the following reasons to offer for the low rate of growth of industrial production during the first two years of the Plan:

"Industrial production has been held back basically by two sets of factors: (1) those that have inhibited utilisation of capacity and (2) those that have inhibited growth of capacity. A substantial segment of the industrial sector has been suffering from under-utilisation of capacity. The main casual factors operating with varying intensity, in different industries have been (i) insufficient demand, (ii) shortage and irregular supplies of raw materials, components, stores and spares, (iii) shortage of irregular supplies of power, (iv) transport bottlenecks, (v) disturbed industrial relations and (vi) other management problems. In a growing number of industries production has been coming up against a capacity constraint. Larger production has not been possible as the existing capacity was more or less fully utilised and no new additional capacity was coming up. Capacity constraint has been the result of a variety of factors operating with varying intensity in the affected industries. In some cases, the problem is a consequence of the lack of entrepreneurial interest, during the two years of wide-spread industrial recession (1966-67 and 1967-68), in initiating new industrial investment that would have fructified into additional capacity in the

early years of the Fourth Plan. In many cases, the root cause is inadequate or delayed licensing or the fact that the licences, for various reasons, found implementation financially unattractive or beyond their capacity. Unbalanced licensing as between established and new entrepreneurs, substantial and small entrepreneurs, expansion and new unit applicants, public and private agencies, developed and backward area locations, etc. resulted in a high proportion of infructuous licences. There was, perhaps insufficient awareness that promotion of new entrepreneurs required many other encouragement measures besides preference in grant of industrial licences. Problems and delays connected with capital goods licensing and financial difficulties stemming from the sluggish capital market and the cost escalations have also hampered creation of new capacity. Other contributory factors have been (i) the delays in civil works on account of shortage of steel, structural fabrication facilities, experienced design and construction firms and labour troubles, (ii) the delays in procurement of domestic and foreign plant and equipment, and (iii) the delays in full commissioning attributable to lack of experienced managerial and technical personnel, and, sometimes, wrong choice of locations and technological processes."

3.5. Government have also, in the material furnished to the Committee, explained the reasons for the decline in the rate of growth of industrial growth during 1970 as compared to previous two years, thus:

"(a) During 1970, the output of finished steel declined by as much as 5 per cent. The decline in steel production has not only affected the index of industrial production directly, but the shortage of steel in the economy has also affected the output of many steel-based industries. For instance, the output of steel pipes and tubes has declined by as much as 27 per cent. In a number of other steel-based industries, even though there may not have been a decline in output, the increase in output was inhibited by the overall steel shortage.

(b) Apart from steel, the output of cotton textiles was stagnant during 1970 as compared to 1969. Cotton textiles



have a weight of 21 per cent in the overall index, and the stagnation in the output of cotton, textiles, which was due to the extreme shortage of raw cotton, has therefore had the result of pulling down the growth rate recorded by other industries.

- (c) Apart from the above reasons, the observed decline in the output of leather manufactures has been a purely statistical one and not real. The increase of industrial production is based on figures of output of units—as far as this industry is concerned—which are registered with the DGTD. With a change in the definition of small scale industries to cover units with fixed capital investment upto Rs. 7.5 lakhs, a number of units previously registered with the DGTD have since been transferred from the books of the DGTD to the DC (SSI), with the result of their production returns are no longer incorporated in the figures of production used for preparation of the index of industrial production. The decline in this industry, therefore, is statistical rather than real.
- (d) Certain special factors have affected a few industries like railway wagons, for which production has been stagnant because the Railway Board has curtailed orders for wagons on the industry; decline in the demand for stationary diesel engines for which the demand is coming down owing to rural electrification programmes, and, again, lack of demand which has affected some industries like road rollers.
- (e) Industrial disputes have affected the output of a number of industries like sewing machines, where there has been a big decline in production owing to a prolonged strike in one of the major units; electric fans, electric lamps and radio receivers, where, similarly, there has been stagnation in output arising from industrial disputes.”

### *Under-Utilisation of Capacity*

3.6. It has been represented to the Committee by a large number of non-official organisations and individuals that there is, at present, a considerable extent of under-utilisation of industrial capacity in the country. Under-utilisation of industrial capacity could be with reference to either the licensed capacity or the installed capacity. According to a survey conducted by the Federation of Indian Chambers of Commerce and Industry covering 200 industrial products, the number

of industries utilising 50 per cent or less of their capacity rose from 79 in 1969 to 78 in 1970. According to a leading industrialist, as a result of idle capacity the development process which was a closely knit one, slowed down because of the spread effect. Idle capacity also involved less than optimum utilisation of scarce investment resources and entrepreneurial, managerial, and technical skills. He said that if the impediments to optimum utilisation of capacity could be removed, by proper measures, it was possible to exceed the growth target of 8-10 per cent for the industry in the Fourth Plan. In fact, according to him, the growth of 12-15 per cent was not beyond the competence of the industry.\*

3.7. A leading non-official organisation has, in a memorandum submitted to the Committee, indicated that the extent of under-utilisation of "installed" capacity for 1970 in certain sectors of the engineering industry has been as follows:

Industry	Under utilisation of capacity (%)
Railway Wagons	72.7
Cast Iron and Spun Pipes	62.2
S. G. Castings	83
Agricultural Implements	58.4
Asbestos Cement Product Making Plant	80
Building & Construction Machinery	74.5
Cranes (Mobile)	77.1
Cranes (other than mobile)	83.8
Petrol/Kerosene Engines	66.4

The principal reasons, according to the memorandum, were lack of domestic demand (the recession in the mid-sixties); shortage of raw materials such as steel, non-ferrous metals, graphite, calcium carbide, argon gas, etc.; low productivity; industrial unrest; shortage of power; shortage of finance; non-availability of spare parts and components; etc.

3.8. Government were asked to indicate their own assessment of the extent of under-utilisation of licensed/existing capacity in industry and the reasons therefor. They have stated:

\*Fortnightly Review, FICCI, Vol. XV, No. 18, 16-9-71, p. 3.

“It is very difficult to assess the total extent of under-utilisation of licensed or actually created capacity, in different industries in the country at any point of time. This may be due to several reasons. Firstly, the nature of certain industries may be such that it is difficult to work on the basis of 100 per cent utilisation of existing capacities. Secondly, the nature of industrial activity is such that under-utilisation can exist during certain periods of time because of shortages of raw materials or transport facilities or decline in demand and may not exist for any length of time. Finally, the industrial capacity of this nature is an object which is difficult to measure in a qualitative fashion.”

Government, however, admit that “there still exist certain sectors indicating much un-utilised capacities. These industries include wood work machines, cement mill machinery, vehicular type diesel engines, road rollers, structurals, cranes, railway wagons, transmission towers, water meters, lead and lead sheets, brass sheets, steel castings and CI pipes. According to the figure furnished by the Government, the industries—Non-Engineering as well as Engineering—where the percentage of utilisation of capacity was less than 50 per cent during 1970 are as follows:

Non-Engineering Industries	Percentage of utilisation
Zinc Oxide	32
L. T. Insulators	19
Vegetable tanning of hides . . . . .	45
Water Proof Fabrics . . . . .	47
Dipped Rubber Goods . . . . .	41
Alum . . . . .	9
Stabilised Axoics V . . . . .	33
Stabilised Vats . . . . .	34
Azo Dyes	40

Engineering Industries	Percentage of utilisation
Paper Insulated Power Cables	29
Bare Copper Conductors	
Diesel Engines (Veh. Type)	3
Diesel Engines (Stationary)	4
Road Rollers	2
Weighing Machinery	5
Mining Machinery (Maulages)	22
Sewing Machines	30
Typewriters	44
Steel Pipes and Tubes	46
Railway Wagons	32
Lead	31
Steel Castings	42

**3.9. The serious implications of under-utilisation of capacities have been spelled out by Government as follows:**

“The implication of under-utilisation of installed capacities are serious for the economic well being of the country. It naturally means that industrial production is less than what could have been if these capacities had been fully utilised. With a fall in industrial production, employment opportunities in the country automatically suffer. A fall in production also has serious implications for inflationary trends in prices. Another result of this phenomenon is that the import bill of the country goes up because some essential commodities which could have been produced by the fuller utilisation of installed capacities have now to be imported.”

#### *Remedial measures taken*

**3.10. It is stated that Government have taken the following steps to meet the serious situation of the existence of under-utilised installed industrial capacities:**

(a) Government had, in February, 1970, announced the libera-

lised Licensing Policy delicensing industries involving investment of less than Rs. one crore subject to certain conditions and also allowing industries having a total investment of Rs. 5 crores to effect a substantial expansion of Rs. one crore without applying for a fresh licence.

- (b) Government have also relaxed for the benefit of smaller entrepreneurs the Industrial Licensing Policy announced in February, 1970. It was originally provided that industrial undertakings with fixed assets in land, buildings, and machinery of Rs. 1 crore or less in value would be exempted from the requirement of an industrial licence under the Industries Act. This dispensation was, however, subject to certain conditions, one being that the undertakings would not require foreign exchange for import of machinery and equipment of Rs. 10 lakhs or more than 10 per cent of the value of the increase in fixed assets in land, buildings and machinery, whichever is less, nor would they ordinarily require foreign exchange for import of raw materials, components and the like. According to a notification issued in July, 1971, Government have raised the exemption limit in respect of import of capital goods so that undertakings requiring imported capital goods up to Rs. 5 lakhs or 10 per cent of the additional fixed assets, whichever is higher, will not be required to obtain a licence under the Industries (Development and Regulation) Act. Similarly, the condition regarding the import of components and raw materials for the purpose of exemption from the licensing provisions has been modified so that undertakings which do not require more than 10 per cent by way of imported components after three years or which do not require imported raw materials of a value of more than 5 per cent of the ex-factory value of annual production, subject to a maximum of Rs. 5 lakhs, will not be required to obtain an industrial licence.
- (c) On 1-1-72, Government announced a list of 54 specified industries permitting industrial undertakings engaged in them on single or double shift working to work on the basis of maximum utilisation of the licensed capacity and in other cases where the units have not yet been licensed on shift basis to increase their production upto 100 per cent of the licensed capacity subject to certain conditions.
- (d) In order to encourage industrial investment in areas where capacity constraints are beginning to appear, a num-

ber of Public Notices have been issued during the past year, inviting applications under the Industries Act for the creation of new capacity or for expansion in scooters and three wheelers, auto ancillary industries, cement, caustic soda, soda ash, calcium carbide, paper and pulp machinery, ceramic machinery, cutting tools (like drill bills), wheel sets for Railways etc.

- (e) In order to step up industrial production, and particularly in order to meet the shortage of steel, import, policy has been significantly liberalised so that industrial production at an accelerated rate can be achieved in the future.
- (f) In order to increase the output of small scale industries, positive encouragement is being given for their growth. Apart from the reservation of an increasing number of industries for development in the small scale sector, there has been a significant step up in the amount of financial assistance given by nationalised banks having increased from Rs. 251 crores as at the end of June 1969 to Rs. 379 crores as at the end of June 1970 and further to Rs. 400 crores by the end of March, 1971.
- (g) Finally, in order to increase industrial capacity, there has been a step up in the approvals given for the import of capital goods.

3.11. It is further stated that Government has been keen in discharging its responsibility for providing sufficient raw materials to sustain the existing capacities and to meet new ones. Out of the total import requirements of minimum estimated Rs. 9,730 crores for the Fourth Five Year Plan period, Rs. 7840 crores would be for maintaining import or imports of raw materials, components and spare parts need for sustaining and accelerating growth of industrial production. The import policy recognises the need for imported raw materials particularly for priority industries, export-oriented industries and the small scale sector. Liberal imports of steel have also been allowed to meet steel shortages.

3.12. The Secretary, Ministry of Industrial Development also explained before the Committee the reasons for the fall in the rate of growth of industrial production during the last two years. He said that the objectives enunciated in the Industrial Policy Resolution of 1956 or the Industrial Licensing system as such were not a hindrance to the industrial development of the country as under this very system, a rate of growth upto 10 per cent had been achieved

some time earlier. The Fourth Five Year Plan had, according to him, envisaged that during the early period of Plan, a large part of the increase in production would come as a result of increased utilisation of the existing idle capacity. However, the utilisation of this idle capacity, he maintained, did not come about to the extent it was hoped for due to certain reasons such as shortage of steel, raw materials etc. Therefore he held:

“During the first half of the Plan period an important factor which has accounted for the low productive growth is not ...licensing the capacity could be used to the fullest possible extent. So far as new investments are concerned, a very large part of the new investment was put in the public sector in a number of core industries. This has not proceeded at the pace envisaged. This was due to financial constraint. In fact the expenditure was much below the outlay envisaged in the Plan. It was because of management problems, construction difficulties, shortage of steel, shortage of construction materials and to some extent lack of coordination between different agencies. So far as the private sector is concerned the position is that, in fact, the number of letters of intent, and licences issued have shown an increase in the recent past. The capital issues have shown an increase. But this has happened in the last year or two and it will be too early to say when this new capacity will come. It will come probably in the later part of the Plan period. In the private sector the slow growth in the early part of the Plan period is also a reflection of the earlier period when the industry during the period of recession was not moving ahead.”

3.13. A point was made during evidence that the recent low rate of growth of industrial production may be attributed to the Government's new Licensing Policy which *inter alia* laid constraints on the role of Larger Industrial Houses in the industrial development of the country and that if the decline in the industrial production was to be arrested and the rate of growth increased, the Licensing Policy needed suitable modification, especially in so far as Larger Industrial Houses were concerned. Replying to the point, the Secretary, Ministry of Industrial Development stated:

“...the usual period between the grant of a licence and the licence fructifying would be about three years. So, the decline in the growth rate for the one and a half years from February 1970 to the middle of last year has nothing

to do with that particular policy which was announced in 1970. The result of that policy would be seen three years after the announcement of that policy, and not earlier. Just as the result of any accelerated grant of licences etc. which is taking place now would also not be visible immediately. The result of this would be visible about 3 or 4 years afterwards because the parties to whom the licences are given would not be able to set up their ventures in less than 2 or 3 years; in fact they may even take 4 years in some of the bigger cases. I would say that the decline in the growth rate in 1970-71 would perhaps not have very much to do with the new policy announced by the Government in February, 1970. It is too early for that policy to show its effect in the 18 months or so immediately following."

**Justifying the provisions of the new licensing policy in regard to the Larger Industrial Houses and Foreign Companies, he maintained:**

"It can be said that any restriction on any body wanting to get up industry in the country would retard the rate of industrial growth. But I would submit we have to take Industrial Policy Resolution as a whole. It does lay emphasis on economic development and all that. It also prescribes certain other objectives which Government have (in view)... it is the question of how much weightage you give to various objectives that you have in the Industrial Policy Resolution."

**As regards the view that the constraints on Larger Industrial Houses could result in a further decline in industrial production, he stated:**

"I would submit that there is bound to be a period in which while you are trying to develop entrepreneurial skills in a large number of smaller people... the rate of growth may not be so fast as one would wish it to be... It may take two years, three years or four years. Gradually, that kind of expertise is bound to spread out into a wider section of people and that would be good for the country."

**Earlier on 15th July, 1971, the Minister of Industrial Development also, while speaking on the Demands for Grants relating to his**



Ministry had, referring to the low rate of growth during 1970, touched upon this subject thus:

“In this connection I would like to remind Hon. Members that in a period of transition when we are consciously attempting to reduce the concentration of economic power and to encourage new entrepreneurs in the industrial field, there would be a temporary period when the rate of growth of output is somewhat less than what might have been achieved if we were to permit unrestricted expansion of industry by those who were already in an overwhelmingly dominant position in different industries. This is an area where we must endeavour to maximise industrial output consistent with the other socio-economic objectives of policy in the interests of reduction of concentration of production and of economic power in a few hands.”

3.14. Another point raised during evidence was that the delays in industrial licensing have also resulted in slowing down of industrial production. In this respect, the representative of the Ministry stated:

“So far as the procedural delays in the issue of industrial licences are concerned, the Minister and everybody else are deeply concerned. There are periodic meetings to find out which application is held up and for what reasons.... (In cases attracting the M.R.T.P. Act), earlier, after the Licensing Committee took a decision on any particular case, the case used to be put to the Advisory Committee under the MRTP Act. Now, the procedure is that all the applications are considered independently and concurrently under the Industries (Development and Regulation) Act and the M.R.T.P. Act.”

3.15. It would be apt to quote here the Economic Survey for 1971-72, which, after analysing the various causes of the fall in industrial production during the year and taking note of the various measures taken to arrest it, had the following conclusions to draw:

“All things considered, the performance of the industrial sector is likely to continue to cause concern for some time to come. No doubt the investment climate is on the whole, healthy, and applications for industrial licences are on the increase. Nevertheless, several factors have combined to create difficulties in the way of a rapid and accelerated rate of industrial growth. A number of cases of expansion have been held up because of possible tie-ups

with the larger industrial houses. Newer entrepreneurs have still to find their feet, and in any case, the period of gestation of new investments is likely to be greater than for expansion of capacity. Short-term stress and strains are now likely to raise their head with the growing uncertainties on external accounts, and add to the problems of expanding as well as making optimum use of industrial capacity."

**3.16. The Committee note the contention of the Government that the fall in the rate of growth of industrial production in the organised sector from 7.1 per cent in 1969 to 2 per cent during the first eight months of 1971 cannot be attributed to the new industrial licensing policy announced by Government in February, 1970 as it is too early for the policy to show any impact on the industrial scene, and that this has been more due to other factors: one being that the new investments, a very large part of which was in the Public Sector covering a number of Core Industries, could not fructify for various reasons; the second being under-utilisation of the industrial capacity already licensed or installed mainly on account of shortage of raw material particularly steel and cotton; decline in orders specially in respect of railway wagons, stationary diesel engines etc.; and industrial disputes. They also note the various steps taken by Government for augmenting production in the private sector, e.g., inviting applications for setting up new capacities in areas where capacity constraints have shown up; liberalisation of import policy for capital goods and to meet the shortage of steel; rationalisation of exemptions from industrial licensing on the basis of import requirements; and the more recent liberalisation announced in January this year for fuller utilisation of installed capacity in respect of 54 important industries.**

**3.17. The Committee regret that, despite the recognition in the Fourth Five Year Plan document itself that there was considerable idle industrial capacity which had to be harnessed during the early period of the Plan, Government had to wait for taking corrective action until the rate of growth of industrial production actually came down to a distressingly low level. Government's policy of capacity restraints based on unrealistic targets, which was given up only in March, 1970, might also have been, in the opinion of the Committee, another contributory factor in this regard. They consider that if corrective steps were taken by Government in good time, the country might have been saved of the recent decline in the rate of growth of production in the organised sector and also shortages developing in certain categories of goods.**

3.18. As regards the constraints in the new Licensing Policy in regard to Larger Industrial Houses and Foreign Companies, the Committee appreciate that in attempting to broad-base entrepreneurship and reducing concentration of economic power, there could be an interregnum when the growth of industrial production may not be as much as it could be otherwise. The Committee expect Government to keep a continuous watch on the impact of the Industrial Licensing Policy on industrial growth and production in the interest of assuring adequate supplies of goods to meet the rising demands of the people and above all to generate employment opportunities to absorb gainfully the ever growing working force.

3.19. The Committee feel that there is a tremendous upsurge of optimism, self-reliance and buoyancy in the country and if this propitious combination of factors is put to productive use, our country can achieve a dramatic break-through in industrialisation. The Committee see no reason why it should not be possible to achieve the planned rate of 9 per cent in industrial growth in such an optimistic climate and in fact, to improve upon it appreciably.

#### *Rate of Growth in Small Scale Sector*

3.20. The Minister of Industrial Development had, while referring to the low rate of growth of industrial production (4.8 per cent) recorded in 1970 during the Debate on Demands for Grants for his Ministry in Lok Sabha on the 15th July, 1971, emphasised that the index of industrial production reflected only the growth of the large scale sector. In this context, he quoted the statement of the Deputy Minister in his Ministry made in Lok Sabha on the previous day that the rate of growth of industrial production achieved by the small scale industry during 1970 was 11 per cent. Subsequently, while answering a Question in Lok Sabha on the 24th November, 1971, the Minister of Industrial Development stated: "The rate of growth in the small scale sector for 1970-71 has not been computed; the rate of growth for 1969 over the previous year is estimated at about 11 per cent."

3.21. During evidence before the Committee, the official representative of the Ministry of Industrial Development admitted that Government did not have an "authentic figure" in regard to the rate of growth in the small scale sector. He said that in regard to that sector "We have some estimate made out and there is the study of the Reserve Bank and that study shows that the rate of growth in the small scale sector in 1970 was 11 per cent." Stating that he would, however, "take this as an indicative figure and not a figure

by which one would certainly stand", he pointed out that it was difficult to accurately estimate the production in the small scale sector as the small scale units were not required to furnish their productive data to any authority on the basis of which the rate of growth could be assessed. The registered or licenced large scale units, on the other hand, were required to furnish production returns periodically, on the basis of which the rate of growth of industrial production in that sector was evaluated by the Central Statistical Organisation.

3.22. As to why the small scale units were not required to furnish any data in regard to their production, he stated:

"We do not want to impose such a liability that every unit should report production because already small scale units are saying that so much of procedural formalities have to be fulfilled. They find it burdensome. In fact at a meeting, in Srinagar, of the Small Scale Industries Board one of the complaints of the small scale industries was that they have so much of governmental formalities, rules and regulations, that they find it irksome and lot of time is wasted in it. If we prescribe that every small scale unit will have to send returns of how much they produce, perhaps, they will think that it is an additional burden on them and that they will have to keep some staff for working out figures and reporting them periodically to the Directorates of Industries in the State. Actually, because of the size involved, many small scale units may be so small that the same man is a mechanic and the owner-proprietor. Therefore we have not been able to impose condition for reporting production, submission of returns, etc., on the small scale units as we have done in the case of larger units."

3.23. In reply to a question as to how, in the absence of production data in respect of individual units in the small scale sector, had the rate of growth in that sector been arrived at, he stated:

"The position is that.....small scale industries.....take advances from the Banks. Particularly, in the towns, they take money from the Banks for covering their production just as the larger industries take theirs. We tried to obtain the figures about the advances taken and on that basis worked out their production. Normally we find that the advance a party takes from a bank covers about three

months' raw material requirements of the party and on that basis we try to find out the production, but we have to project this in regard to other industries which do not have any account with the banks. So, for those industries that have their accounts with the banks, the rate of growth and probably the same rate applies to others also. But a considerable margin of error is allowed in this because we do not know whether the other industries have advance arrangements with the banks and whether at the same rate or not. It is all just a lot of paper work and I do not know whether we can really give a correct assessment of how much the production of the small scale industries has been. But I will certainly turn it over in my mind and I will also discuss it with the Development Commissioner of Small Scale Industries and other officers and try to evolve something which would be more accurate."

3.24. Another point raised during evidence was that, in view of the fact that the small scale sector was receiving encouragement from Government and its contribution to the overall industrial production being, as stated by the Secretary, Ministry of Industrial Development, "about 20 to 25 per cent", an assessment of the rate of growth of industrial production on a basis which excludes production in that sector would be rather unrealistic. In this regard, the Secretary, Ministry of Industrial Development stated: "I would say that the overall rate of industrial development taking together the small, medium and large scale into account would certainly have an element of error. We do not have better system than this. We have no fool proof system that we can adopt at the moment."

3.25. The Planning Commission have, in their Mid-term Appraisal of the Fourth Five Year Plan (December, 1971), given their own estimate of the actual growth rate of small scale manufacturing as 3.4 per cent in 1969-70 and 3.6 per cent in 1970-71, as against the average annual rate of growth in that sector of 5.2 per cent envisaged in the Fourth Plan. The Appraisal adds: "This is, however, a sector where adequate and accurate information is not yet available. It is, therefore, quite possible, as is often claimed, that the national income data very substantially under-state growth of output in the small scale sector. The actual rate of growth in this sector might well have been much higher than given in the CSO estimates." Explaining the reasons for accepting CSO estimates, the Appraisal stated: "The CSO estimates...relates to "unregistered manufacturing" and not to 'small scale manufacture' as such. But since the two do not

have widely different coverage these have been taken to represent more or less the same segment of the economy."

3.26. The Economic Survey for 1971-72 brought out by the Ministry of Finance, has also referred to the further decline in the rate of growth of industrial production during 1971-72 and has, in this context stated that it cannot "be averred that the small scale industrial units have performed so much better during the year than the organised ones that it would make for a substantial difference in the overall growth of the industrial sector."

3.27. In a press comment that has come to the notice of the Committee, doubts have been expressed as to the accuracy of the estimate by the Reserve Bank of the rate of growth of 11 per cent in the industrial production in the small scale sector during 1969 thus:

"Although the bank admits that it has given currency to the figure of 11.2 per cent, it asserts that it has estimated the growth rate at 8.2 per cent in 1968-69 and 11.2 per cent in 1969-70 on the basis of data provided by the Development Commissioner for Small Scale Industries.

The use of data supplied by the Development Commissioner for estimates the growth rate of the small scale industry is invalid for the following reasons:

It related to the value of gross output at current prices. In other words, to the extent that the increase in prices in 1970-71 was higher than that in 1969-70, the rate of growth is inflated. The index of industrial production which gives the growth of output in the large scale industry, by contrast, relates to value added at constant prices. The rate of growth of the small scale industry calculated from the Development Commissioner's data, cannot, therefore, be considered with the growth rate of large scale industry sector computed from the index of industrial production.

The gross value of output for 1968-69 and 1969-70 supplied by the Development Commissioner related to the units registered with him. It is certain that a number of small scale industries which were in production earlier got themselves registered only in 1969-70. To that extent, a part of 11.2 per cent growth is attributable to the increase in the number of units registered with the Development Commissioner—that is, to the expansion in the coverage of data.

And finally, even in respect of units registered with him, the Development Commissioner's data are partly based on returns submitted by small scale units and are, therefore, estimates and guess works.

Considering the long delay in the submission of returns by small scale units, only a small part of the figure of value added by small scale industries in 1969-70 supplied by the Development Commissioner to the Reserve Bank is likely to have been based on actual returns filed by small scale units.

Indirect evidence to suggest that the rate of growth of small scale industries has not been outstanding in any way is provided by statistics of bank advances to small scale industry. Thus, whereas bank advances to small scale units rose by Rs. 119 crores between July 1969 and June 1970, the increase was Rs. 17 crores in between July 1970, and June 1971."

**3.28. The Small Scale Sector is now contributing substantially to industrial production in the country and that its contribution is likely to increase with the encouragement it is receiving at all levels from Government and Government owned organisations. It is therefore imperative that a suitable methodology should be evolved for so working out the rate of growth of industrial production that it reflects the composite growth, both in the large as well-as small scale sectors. The Committee note that the Reserve Bank of India and the Development Commissioner of Small Scale Industries are bringing out some kind of estimates about the value of production in the small scale sector but these do not find acceptance in knowledgeable quarters. The Committee also note the difficulties expressed before them by the Ministry of Industrial Development of assessing the industrial production in the small scale sector in the absence of a reliable data as also the anxiety expressed by them of not burdening the small scale industry with returns. The Committee would, however, like to point out that a substantial number of small scale units have to, and do infact, seek the assistance of the various State and Central authorities and public financial institutions for allotting them scarce raw materials, financial accommodation and other facilities.**

**3.29. The Committee would suggest that Government should constitute an expert study team to work out a detailed methodology for compiling reliable statistics about the volume of production in the**

small scale industries sector. This study them should be required to give recommendations within three months or so and Government should arrange for implementation of their decision thereon without delay so that reliable statistics become available at least from this year onwards.

## B. Development of Backward Areas

### *Policy and Plan provisions*

3.30. The First Five Year Plan published in 1952 had emphasised the development of those States and Regions: "which have so far remained backward." The Plan, however, explained the difficulties involved in the dispersal of industries:

"The extent to which the pattern of industrial location in the country can be changed within a short period is undoubtedly limited. For any industrial undertaking to operate profitably, it must have easy access to raw materials, to labour, to power and to markets. The tendency for industries to concentrate around certain areas where industrial development has already taken place is explained by the availability in those areas of a large number of 'external' economies on account of the prior development of ancillary services and facilities like banking, transport and communications. It is difficult, therefore, in the initial stages to induce private industry to choose a new location where such facilities are inadequate."

3.31. The Industrial Policy Resolution of 1959 precisely laid down the State Policy of reducing disparities in levels of development between different regions in the country in the following words:

"In order that industrialisation may benefit the economy of the country as a whole, it is important that disparities in levels of development between different regions should be progressively reduced. The lack of industries in different parts of the country is very often determined by factors such as the availability of the necessary raw materials or other natural resources. A concentration of industries in certain areas has also been due to the ready availability of power, water supply and transport facilities which have been developed there. It is one of the aims of national planning to ensure that these facilities are steadily made available to areas which are at present lagging behind industrially or where there is greater need for providing



opportunities for employment, provided the location is otherwise suitable. Only by securing a balanced and co-ordinated development of the industrial and the agricultural economy in each region, can the entire country attain higher standards of living."

3.32. The Second and Third Five Year Plans also underlined the need for a balanced economic development of the country. The Second Plan stated that the problem had been kept in view and, through stress on research, mineral survey and decentralisation of production particularly in regard to agricultural processing industries, the correct trends of development were being set in motion.

3.33. The Third Five Year Plan, while reviewing the progress made in setting up industries in the backward regions of the country during the Second Plan acknowledged: "As regards the diffusion of industrial activity, so far as the larger industries are concerned, economic and technical considerations are always important and in practice only marginal deviations are feasible." According to the Plan: "in the location of the public sector projects the claim of the relatively backward areas have been kept in view wherever this could be done without giving up essential technical and economic criteria". In regard to licensing of industrial projects in the private sector, the Third Plan stated: "The claims of underdeveloped regions are kept in view and locations in such areas are suggested to prospective industrialists. The progress, programmes and production targets of a number of industries in the private sector are examined from time to time with a view to secure the location of new capacity on a zonal basis. It is recognised that in future there should be even greater stress in these directions." The Plan, however, pointed out: "Excessive emphasis on the problems of particular regions and attempts to plan for their development without relating their needs to the requirements of the national economy have to be guarded against, for, in the final analysis, it is as integral parts of the country that different regions can best hope to release their full potential for growth. Balanced regional growth emerges eventually from a whole series of connected developments, many of which are of a long-term character."

3.34. The Fourth Plan also, in para 14.25 dealt with the problem of development of backward areas. It stated:

"Measures are proposed to be taken for the development of industries in the backward areas. The normal economic forces governing the location of industries are at present

so overwhelmingly in favour of the developed areas that the problem of dispersal of industries to backward region would require coordinated action at the Central, State and local levels. The problems is so wide-spread that during the Fourth Plan it would be possible to make only a beginning. It is through a continuing programme of economic development supported by measures to attract industries to backward regions that the present imbalance can be rectified over a period of time."

The Plan, however, emphasised that State Governments have a special role to play in providing infrastructure facilities to enable the establishment of industries in the backward regions.

**3.35.** Thus, apart from the location of Central Projects in backward States and the promotional efforts of organisations concerned with the development of small scale industries, no concerted action appears to have been taken for development of backward areas in the country during the first three Plan periods.

#### *Identification of Backward Areas*

**3.36.** Following the recommendation of the Working Groups on Identification of Backward Areas and on Fiscal and Financial Incentives for starting industries in backward areas, Government took the first positive step in this direction with the identification of backward areas. The Planning Commission asked the States to identify their backward areas on a rational basis and prepare integrated development plans for such areas.

**3.37.** During evidence, this step taken by Government was mentioned by the representative of the Planning Commission thus:

"...for the first time in the Fourth Plan document, an attempt was made to see that the regional imbalances are also corrected to the extent that is possible. Certain special scheme was formulated. This was discussed in the National Development Council as a result of which certain backward areas have been identified and certain concessions announced. The idea was that there should be some scope for the development of these identified backward areas in the different regions."

### *Allocation of Central Assistance*

3.38. In order to give effect to the policy of correcting inter-regional imbalances, the criterion for allocation of Central assistance to States has been modified by the National Development Council in favour of the relatively backward States. According to the new formula, 10 per cent of the Central assistance has been set apart for States whose per capita income was lower than the national average. This has benefited Bihar, Kerala, Madhya Pradesh, Orissa, Rajasthan and Uttar Pradesh. Under a special pattern for Hill Areas, 90 per cent of the Plan outlay in Hill Areas in Assam, Jammu & Kashmir and Nagaland has been agreed to be given as grant and 10 per cent by way of loan. Similarly, a special pattern of assistance, 50 per cent grant and 50 per cent loan in the proportional assistance for the Hill Areas of Uttar Pradesh, West Bengal and Tamil Nadu has been introduced. Under the revised formula, the assistance is no longer tied to projects and the States have flexibility in using the assistance for programmes that would benefit the backward areas.

3.39. In regard to the allocation of Central assistance during the Fourth Plan to the backward States, the Fourth Plan Mid-Term Appraisal brought out by the Planning Commission stated:

“An analysis of the allocation of Central assistance during the Fourth Plan shows that even under the revised formula, per capita Central assistance to Bihar and Uttar Pradesh, which are the two most backward States, remains below the average Central assistance to all States. The absence of a method by which Central assistance can be linked with the levels of development and sectoral requirements is a problem that needs fuller examination.”

3.40. On being asked to indicate their view in this regard, Government have stated:

“It is correct that the per capita Central assistance to Bihar and Uttar Pradesh under the revised formula of determination of Central assistance as approved by the National Development Council for the Fourth Five Year Plan is below the average Central assistance to States in spite of the following:

- (i) 60 per cent of the Central assistance was distributed on the basis of population and, therefore, densely populated States like Bihar and Uttar Pradesh gained under this criterion.

- (ii) 10 per cent of the divisible pool of Central assistance was allocated among those backward States whose per capita income was below the national average. The States of Uttar Pradesh and Bihar were included in the list of such States.
- (iii) These States also were allowed substantial amounts under the criterion of big and continuing irrigation and power projects.

As the formula was unanimously approved by the Chief Minister of States, it is not possible to make any adjustments in the allocation of Central assistance with a view to improving the per capita Central assistance of these two States. The entire question could only be reviewed in the context of the Fifth Five Year Plan."

#### *Location of Central Projects*

3.41. The policy of location of Central Projects in the backward areas, subject to their techno-economic feasibility and viability, has been continued in the Fourth Plan. In the Fourth Plan, 77 per cent of the total outlays on investment in Central Industrial Projects has been provided for the backward States.

3.42. As to the impact of the policy of location of Central projects in the backward States, the Working Group on Fiscal and Financial Incentives for starting Industries in Backward Areas (1969) had the following observations to make:

"Even the establishment of a number of large scale projects in such backward States as Bihar, Madhya Pradesh and Orissa, which account for a significant portion of the Central Government investment during the three Plans period has not helped in substantially developing the economy of these States. The per capita income in these States, in spite of the large investment that has gone into the gigantic industrial projects set up there, is still substantially lower than the national average. All these developments are a clear pointer to the need of giving more direct incentives to encourage entrepreneurs to divert their attention to backward areas. This has to be done in addition to making available basic economic and social overheads in the under-developed and un-developed areas...."

### *Financial Incentives*

3.43. The Central Government have announced in July-August, 1971 two schemes of financial incentives towards attracting private capital to the backward areas and for off-setting the locational disadvantages suffered by such areas.

*Subsidy Scheme:* Under this scheme, which was announced by Government on the 26th August, 1971, an outright grant of subsidy would be given by the Centre, amounting to one-tenth of the fixed capital investment of new units having a fixed investment of not more than Rs. 50 lakhs each in two selected districts in each of the States identified as industrially backward, viz., Andhra Pradesh, Nagaland, Orissa, Rajasthan and U.P., and one district in each of the other States and Union Territories. Schemes and Projects for new units involving fixed capital investment of more than Rs. 50 lakhs may be considered on merit. Districts eligible for this subsidy have been identified.

*Transport Subsidy:* A scheme of transport subsidy was announced by Government on the 5th July, 1971 under which the new industrial units or the existing industrial units which effect substantial expansion in the States of Assam, Meghalaya, Jammu and Kashmir, Orissa, Manipur, Tripura and the Union Territory of Arunachal, would be granted subsidy by the Central Government up to 50 per cent of the transportation cost from (or to) the nearest rail-head to (or from) the site of factory. The subsidy is available for bringing in raw materials from outside the State and taking out finished products to other States. It is, however, not available for internal movement of raw materials or finished goods.

3.44. Since these schemes have been announced recently (July-August, 1971), Government have stated that they have no information available with them as to the quantum of assistance so far rendered under the schemes. It is, therefore, difficult to ascertain as to what extent these schemes have been taken advantage of by the industrialists in the backward areas.

### *Concessional Finance*

3.45. In pursuance of a decision of the National Development Council, 209 industrially backward areas or districts have been selected by the States in consultation with the Planning Commission specifically for concessional finance. Concessional finance in the form of lower rates of interest and a longer amortisation period for the repaying of loans is available for starting small and medium

industrial enterprises in these industrially backward areas. The Department of Banking, in consultation with the Planning Commission and other concerned Ministries/Departments have formulated a scheme under which the public sector financial institutions, viz., Industrial Development Bank of India, Industrial Finance Corporation of India and Industrial Credit and Investment Corporation of India, would grant loan on concessional terms to the industrialists in the selected backward areas. This scheme started functioning by the middle of 1970. The financial institutions have already announced their concessional terms and conditions.

3.46. It was stated in the Mid-Term Appraisal of the Fourth Plan:

“There are indications that only a few entrepreneurs have approached the financial institutions for concessional finance, notwithstanding wide publicity given to the scheme. However, it is too early to judge the effectiveness of these two schemes in attracting industry into backward areas.”

Government were asked to indicate the reasons for this lack of interest by the private entrepreneurs and the remedial measures proposed to be taken in this regard. They have stated:

“Besides provision of essential infra-structure facilities, suitable steps need also to be taken for ensuring coordination of the activities of the different developmental agencies concerned including the financial and credit institutions at the State and district levels so as to provide facilities for technical advice including preparation of feasibility reports etc. The question of formulating proposals for organisational arrangements at the Centre and at the State and district levels for promotion of industries in selected districts is under consideration in the Planning Commission.”

#### *Rural Electrification Corporation*

3.47. Government have set up a Rural Electrification Corporation for advancing loans for financing electrification projects on favourable terms. These include lower scales of minimum returns and rates of interest and easier terms of repayment. The Corporation has, according to “Fourth Plan—A Mid-Term Appraisal”, approved of 132 schemes, 52 in the backward areas.

*Outlays of funds etc. by States*

3.48. The proposed Fourth Plan outlays for States which have specifically allocated funds for the development of backward and special areas are indicated as below:

State	Fourth Plan outlay (Rs. in lakhs)
Assam (Hill Areas)	3,200
Gujarat	1,255
Jammu & Kashmir :	
(a) Ladakh	600
(b) Border Blocks and Backward Areas	200
Meghalaya	50
Tamil Nadu	300
Uttar Pradesh :	
(a) Eastern Districts	21,955
(b) Bundelkhand	5,402
(c) Uttarakhand	200
(d) Other hill districts	4,500

It is stated that the emphasis is on programmes of communications, horticulture, electrification, water supply, health and education.

*Bodies set up for developing backward regions*

3.49. To enable speedier and integrated development of backward areas, special bodies have been set up in some States with varying responsibilities and functions. They are:

Andhra Pradesh	1. Rayalaseema Development Board. 2. Telengana Development Committee.
Bihar	Development Authority for Chhota Nagpur and Santhal Parganas.
Maharashtra	1. Marathwada Development Corporation. 2. Development Corporation of Vidarbha

- |               |   |
|---------------|---|
|               | 3. Development Corporation of Konkon.                   |
|               | 4. Western Maharashtra Development Corporation.         |
| Punjab        | Rural Development Board and Special Advisory Committee. |
| Uttar Pradesh | U.P. Hill Development Board.                            |

*Incentives to be given by the States and Union Territories*

3.50. It is stated that the main incentives which fall within the purview of the State Governments/Union Administrations include carrying out detailed feasibility studies, conducting promotional activities like intensive development campaigns by the States, provision of developed sites and plots and factory accommodation on more easy and concessional terms, supply of machines by the States Small Industries Corporations on more liberal terms, exemption from sales tax, assistance in supply of scarce raw materials by the States Small Industries Corporations, etc. Many State Governments like West Bengal, Maharashtra, Gujarat, etc., have already announced their incentive schemes in this regard and the others are working in this direction. The concessions and facilities vary from State to State.

*Intra-State imbalances*

3.51. Government were asked as to how was coordination maintained between the Centre and the States in the matter of setting up of infra-structure in the backward areas in the States so as to reduce intra-State disparities in the levels of development. They have stated that, in connection with the formulation of the Fourth Five Year Plan, the Planning Commission has taken a view that the removal of inter-disparities within the States is essentially the responsibility of the States. When the State Plans were being formulated, the Planning Commission requested the States to evolve their plans in a manner that would result in the reduction of disparities in the matter of development between different areas and communities. The entire Central assistance available for allocation to the States has been distributed on the basis of certain objective criteria evolved by the Committee of Chief Ministers set up by the National Development Council. One of the criteria adopted by the Committee of the Chief Ministers related to the special problems faced by States on account of the occurrence of drought affected areas, desert areas, flood affected areas, tribal areas and metropolitan areas, etc. In view of the decision to distribute Central assistance in the form of block loans and block grants, no amounts have been



a whole. An Area Planning Unit has been set up to collect relevant information for formulating strategies of development as well as to assist States in the preparation of district plans, especially for backward areas. Steps are proposed to be taken to encourage States to initiate similar exercise at their own level and also to build up the machinery for multilevel planning.”

3.56. The point regarding preparation of District Plans and the assistance being provided by the Planning Commission to the States in this regard was raised during evidence also. The representative of the Planning Commission stated that, to begin with, all the States had been advised to set up independent expert bodies, other than the Planning Departments, exclusively devoted to Planning for the States. At present, according to him, only a few States had these bodies. Apart from this, he said:

“we have also realised that even after these planning boards or planning commissions are set up at the State level, they would need a certain amount of training. The officers and others would have to be trained in the methodology of planning. This is a matter on which the Planning Commission has written to the State Governments suggesting that their officers should come and sit in the Planning Commission and work for a few months, and we are prepared also to educate them and train them and provide them with the necessary expertise. Some of our officers have already gone and spent time in some of the States and worked with their officers.”

As for the assistance that was proposed to be provided to the States in the preparation of District Plans, he stated:

“After the new Planning Commission has taken office, we have also decided to create a separate cell in the Planning Commission (at least to start on an experimental basis) to provide assistance to the States in terms of taking up a few districts and teach them how precisely the district planning should be done. This has already been set up in the Planning Commission and is being strengthened. They have initiated some work in regard to detailed district planning. . . One Member of the Planning Commission is in charge of this cell. . . Detailed work will now start in terms of particular sectors; agriculture, forestry, animal hus-

bandry etc. Special task forces have been set up to go and study these problems and make specific recommendations."

**3.57. The Committee are impressed by the Government's concern for ensuring that the backward areas get their due share of development. The recognition of the problem in fact finds specific mention in each of the Plan documents. The problem is, however, far from simple, for industries have a natural tendency to get concentrated in areas where there is ready availability of power, water supply, transport, skilled labour and ready market for finished products. The Committee regret that, during the first three 5 Year Plan periods, except for locating a few public sector projects in certain backward States, no concerted steps were taken to progressively remove disparities in the levels of development between different regions in the country. Only very recently during the Fourth Plan period, a start has been made in this direction by impressive allocation of Plan funds specifically for backward areas in certain States ranging from Rs. 50 lakhs in the case of Meghalaya to Rs. 320.57 crores for Uttar Pradesh, liberal allocation of Central assistance to backward States, identification of backward areas and announcement of direct financial incentives of the Central subsidy, transport subsidy and concessional finance to encourage entrepreneurs to set up industries in backward areas. The Government are also encouraging and assisting the States in setting up an expert planning organisation to prepare State and District Plans with a view to reduce intra-regional disparities within the State. It is too early to assess the response to, and success of, these measures. The Committee nevertheless welcome the positive start made in this direction.**

**3.58. The potentiality of industrialisation as a means of speedy development of backward areas needs no stress. To attract industries, it is necessary that infra-structure is provided in those areas, the most important of which is the provision of roads and power, development of water resources and above all trained man-power who are willing to give of their best to the industry. The provision of infra-structure and the choice of priorities as between different regions and areas taken up for development within the State is, however, primarily the responsibility of the State. It is, therefore, only with the positive cooperation of the States that any substantial progress can be made in the development of backward areas, which the Committee hope, will be forthcoming in a greater measure.**

**3.59. The Committee feel that as the problem of these backward regions is a formidable one, it is but appropriate that the Planning**

separately allocated for any specific programmes to be included in the plans of the States. Government, however, expect that the States would, while distributing the Plan resources between different programmes, take into view the requirements and potential of different areas and give special consideration to the needs of these areas which have lagged behind the others in the matter of economic development.

3.52. The question of reducing disparities in the level of development of different regions and Districts within a State and the provision of infra-structure in the backward areas of States was also raised during evidence. On this question, the representative of the Planning Commission stated:

“A good part of the provision for infra-structure has to come from within the State Plan. For example, development of roads, electricity and so on, are really within the State Plans. The Railways are, of course, the Central responsibility. What we are trying to do is that, in respect of the backward regions, during our Plan discussions, we give preference in the matter of financial allocations for intra-structure facilities and other facilities which are required for the backward regions. There is a constraint in regard to the extent to which this could be done.

It was further stated by the representative of the Planning Commission:

“... except in some very specific cases, where earmarked funds are provided, it is not possible for the Planning Commission, or it might be somewhat embarrassing for the Planning Commission, to say that so much money should be spent in such and such a district. We have not gone to the district level yet. But there are some specific areas or certain regions which have been identified and we have said that regional plans should be prepared and .... that so much money should go into those regions for such and such specific purposes, within the total State Plan. This has been done up to the regional level for some specific identified regions which need accelerated development, but we have not yet gone to the district level.”

3.53. The Secretary, Ministry of Industrial Development also agreed with the representative of the Planning Commission and stated:

“by and large I would still think that much would depend on the State Governments and their willingness to allocate the resources given in the overall State Plan for the development of these districts, because it might be embarrassing for the Central Government to say that they should depend so much on this district or that district. The Central Government and the Planning Commission can say in a broad way that so much of Central assistance would be given, the total size of the State Plan being so much, and such and such would be the priorities: for agriculture so much, for electricity so much, for irrigation so much and so on.”

He, however, assured the Committee that in future, Government shall “certainly see that something special is done in these (backward) districts.”

#### *Formulation of District Plans*

3.54. It is stated that since the beginning of the Fourth Five Year Plan, the Planning Commission have been advocating the preparation of integrated district plans, particularly for the backward districts, on scientific lines. The formulation of these plans is considered necessary for the balanced development of different areas and communities, the proper conservation and exploitation of local resources and potentials and the optimal utilisation of development resources. Most of the States, it is stated, have now selected districts where the preparation of district plans have been taken up. The statements of progress made in the preparation of District Plans in respect of the backward districts of States furnished by Government, however, indicate that, except for Rayalaseema consisting of four Districts of Andhra Pradesh in respect of which a regional plan has been prepared and submitted to the Rayalaseema Development Board, the preparation of District Plans is at a very nebulous stage.

#### *Role of Planning Commission in District Planning*

3.55. In regard to the assistance being provided to the States by the Planning Commission in the matter of preparation of District Plans, it is stated:

“The Commission has initiated some action for the collection and analysis of information regarding the level, trends and potentials of development of various districts with the objective of evolving a spatial strategy for the country as

Commission and the Central Government should lend a helping hand to the States in formulating concrete and detailed proposals for development of these areas. Noting that the Planning Commission have already set up an Area Planning Unit to provide guidance to States in this behalf and that the State Governments are being urged to evolve their own district plans for development, the Committee stress that plans for integrated and phased development of infra-structure facilities in backward areas should be finalised within the next 12 to 18 months so that these could be implemented in real earnestness at least in the next plan period. The Committee have no doubt that Government would make available adequate financial and other resources to enable these backward areas to catch up on development.

3.60. The Committee feel that the best method of industrialising the backward areas would be to locate suitable public undertakings there. The Committee are glad to note that Government have taken some positive action in this behalf and that as much as 77 per cent of the total investment in the public sector is being made in industries located in backward areas. While this is a welcome step, the Committee would like to stress that these public undertakings should act as catalytic agents and make determined efforts to develop ancillary and small scale industries in the neighbouring area so that the purpose of having an industrial complex and infra-structure for future growth, are assured.

#### *Development of backward areas through licensing*

3.61. The Industrial Licensing Policy of Government as an instrument for regulating industrial development of the country has an important role in the development of backward areas. The guidelines issued by Government to the sponsoring authorities as well as the Licensing Committee for dealing with applications for industrial licences spells out various considerations that have to be borne in mind, one being "reduction of regional imbalances and special consideration to licence applications relating to industrially underdeveloped regions."

3.62. In order to find out, to what extent this consideration was being actually applied in the issue of industrial licences, Government were asked to indicate, State-wise, the number of licences issued during the three years, 1969, 1970 and 1971, for new or additional capacities to be set up in the backward areas. The information furnished by them is as follows:

Statement showing number of Industrial Licences issued during 1969, 1970 & 1971 for Backward Areas

	Andhra Pradesh	Assam	Bihar	Gujarat	Haryana	Himachal Pradesh	Jammu & Kashmir	Kerala
<b>New Undertakings</b>								
1969	1	..	..	..	..	..	..	..
1970	..	1	4	2	2	..	..	..
1971	2	4	4	1	1	..	1	..
<b>Substantial Expansion</b>								
1969		1	..	1	..	..	..	..
1970		..	2	..	..	..	..	..
1971		..	..	..	..	..	..	..
<b>New Article</b>								
1969				..	..	..	..	..
1970				1	..	..	..	..
1971				..	..	..	..	..
<b>Substantial Expansion and New Article</b>								
1969	1	..	..	..	..	..	..	..
1970	..	..	..	..	..	..	..	..
1971	..	..	..	..	..	..	..	..
<b>TOTAL</b>	<b>4</b>	<b>6</b>	<b>10</b>	<b>5</b>	<b>3</b>	<b>..</b>	<b>1</b>	<b>..</b>

	Madhya Pradesh	Maha-rashtra	Meghalaya	Mysore	Nagaland	Orissa	Punjab	Rajasthan	Tamil Nadu
<i>New Undertakings</i>									
1969		1				1			1
1970		7		2				1	..
1971	4	2		2		1		4	1
<i>Substantial Expansion</i>									
1969							..		1
1970				2			1		2
1971	2		..						3
<i>New Article</i>									
1969							..	..	..
1970		1			..		..	..	..
1971		..			..		..	..	3
<i>Substantial Expansion and New Article</i>									
1969	..	..	..	1	..	..	..	..	..
1970	..	..	..	..	..	1	..	..	..
1971	..	..	..	..	..	..	..	..	..
TOTAL	6	13		7		3	1	5	10

	U.P.	West Bengal	Goa	Andaman & Nicobar Islands	Dadra & Nagar Haveli	Laccadive, Amindivi & Minicoy Islands.	Manipur	NEFA	Pondicherry	Tripura
<i>New Undertakings</i>										
1969		4	1		..				..	..
1970	..	3			..				..	..
1971	2	..			..				..	..
<i>Substantial Expansion</i>										
1969	..	..					..		..	..
1970	1	1					..		..	..
1971	1	2					..		..	..
<i>New Article</i>										
1969			1							..
1970			1							..
1971										..
<i>Substantial Expansion and New Article</i>										
1969				..						..
1970				..						..
1971				..						..
<b>TOTAL</b>										
	4	12	1							..



3.63. It is noticed from the information furnished to the Committee that the number of licences issued for setting up new or additional capacities in backward areas over the three years, 1969—71, as against the total number of licences issued, has been as follows:

	1969	1970	1971	Total
Total number of industrial licences issued (excluding C.O.B. and for shifting)	197	240	315	752
No. of industrial licences issued for backward areas (excluding C.O.B. and for shifting)	17	35	39	91

3.64. State-wise, the number of licences issued during the three years 1969-71 for setting up new and additional capacities in backward areas of the States were 13 in Maharashtra; 12 in West Bengal; 10 each in Bihar and Tamil Nadu; 7 in Mysore; 6 each in Assam and Madhya Pradesh; 5 each in Gujarat and Rajasthan; 4 each in Andhra Pradesh and Uttar Pradesh; 3 each in Haryana and Orissa and one each in Jammu & Kashmir, Punjab and Goa, making a total of 91. No licence was issued for setting up new or additional capacities in the States of Himachal Pradesh, Kerala, Manipur, Meghalaya, Nagaland and the Union Territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli, NEFA and Pondicherry.

3.65. Government were asked to state as to how many out of these 91 licences issued for backward areas during the 1969, 1970 and 1971 had actually fructified. They have in reply stated that information about new or additional capacities actually set up in those areas is "not Centrally maintained readily."

3.66. The Committee note that, although reduction of regional imbalances is one of the objectives of industrial licensing and special consideration is given to applications for setting up industries in the industrially backward regions, as against a total of 752 licences for new or additional industrial capacities issued during the three years 1969, 1970 and 1971, only 91 were issued for setting up capacities in backward areas. Government have not been able to furnish readily to the Committee the information as to how many of these 91 licences have actually fructified. The Committee would like to emphasise here again that the issue of industrial licences, by itself, means little and that what is important is new or additional capacities actually set up in backward areas. The Committee therefore stress that the licences issued should be systematically and closely followed up to assess realistically the impact of Government's policies and decisions on the trend of industrialisation and take measures as necessary to

ensure that development of industries in the backward areas receives special impetus and encouragement.

3.67. The Committee are greatly disappointed to note that in spite of the professed concern for encouraging establishment of industries in the backward areas, only four licences (two for new undertakings and two for substantial expansion) could be granted in the last three years for a populous and most backward State like that of U.P. The Committee find that States which are relatively more advanced in industry continue to attract more licences even for establishment of industry in their backward areas. It is, therefore, obvious that the present measures and policy have not succeeded in making any great impact on the scene. The Committee feel that Government should analyse closely the reasons why there is such a dearth of entrepreneurs for setting up industries in backward areas so that redoubled and intensified efforts could be made to make good the shortcomings, and provide positive incentives to attract at least some industries to these backward areas and provide some relief to the crushing problem of unemployment and poverty in these areas.

*Concession to Larger Houses in the interest of development of backward areas*

3.68. In the preliminary material furnished by Government to the Committee, it is stated that applications for expansion from Larger Industrial Houses and foreign concerns "would be considered favourably" if such expansions are in the interest of cost efficiency or "if the units are to be established in industrially under-developed areas". At another place in the preliminary material it is stated that their applications for setting up new undertakings in the middle sector "could be entertained" if they are to be established in backward areas where other entrepreneurs are reluctant to invest.

3.69. The Minister of Industrial Development also, while speaking in the debate in Lok Sabha on the Demands for Grants in respect of his Ministry on the 15th July, 1970, had stated that the applications from Larger Industrial Houses and foreign companies "would also deserve consideration in the middle sector if they are willing to establish units in the industrially backward areas where other entrepreneurs are reluctant to go."

3.70. During evidence, in the course of answering questions regarding the steps taken by Government for the development of backward areas in the country, the Secretary, Ministry of Industrial Development, however, said: "our own ideas on this point are not very clear at the moment. The Minister did make a certain statement of that

nature but we are not clear whether it enunciates Government policy or not; we are trying to get this question clarified." On another occasion during evidence, an official representative of the Ministry explained the statement of the Minister thus:

"All that he intends to do is that if there is an industrialist belonging to a larger house coming forward with a project and if it is in the interests of a backward area, we will certainly take it up with the M.R.T.P. authorities and if necessary with the Cabinet Committee in order to secure the clearance and approval for such a project."

In a subsequent written reply it is reiterated that Government are "examining the desirability of allowing larger industrial houses and foreign companies to set up new undertakings or to expand their existing units in backward areas where other entrepreneurs are reluctant to invest, even if it involves their entry into areas reserved for other sectors."

3.71. A point was made during evidence that the M.R.T.P. Act should not come in the way of development of backward areas through the initiative of the Large Industrial Houses or Monopoly Houses if small and medium class entrepreneurs were not coming forward to set up industries in those areas. The Secretary, Ministry of Industrial Development clarified that the M.R.T.P. Act did not prohibit any party from setting up an undertaking even though it might be a monopoly or large house, and that if the Department of Company Affairs or the Monopolies Commission, on the basis of the facts presented before them came to the conclusion that it would be in the "public interest" or "larger national interest" to allow the House to set up the industry, clearance could be given to it under the M.R.T.P. Act. In this regard, the representative of the Department of Company Affairs stated that if the industry was to be set up in a backward area "then, it is one of the important favourable points to be taken into consideration in granting sanction (under the M.R.T.P. Act)". Replying to another question, the representative of the Department of Company Affairs *inter alia* stated:

"Whenever a case is referred to Monopoly Commission they duly take care of the need for development of all regions of the country including the backward areas. This is one of the considerations indicated in Section 28 of the Act which lays down the considerations to be borne in mind by the Central Government or the Commission while dealing with

applications under Chapter III of the Act. There are also executive instructions which the Company Affairs Ministry has issued to the various administrative ministries/departments."

Reacting to the suggestion that if the Large or Monopoly Houses desired to set up industries in backward areas where others were afraid to take the risk, the M.R.T.P. Act should be interpreted liberally in such cases, the representative of the Department of Company Affairs assured the Committee that "this will be taken into consideration."

3.72. Asked whether in the case of applications from larger houses for setting up new undertakings, or for expansion of capacity of existing undertakings, in backward areas, an exception could be made from the requirements under the M.R.T.P. Act, the representative of the Ministry of Industrial Development stated:

"This subject had been dealt with by the present Minister and his two predecessors: whether any exception cannot be made in regard to the entry of larger houses in the industrial development of backward areas. As the law stands at present, there is no exemption in favour of larger houses."

3.73. Another point raised during evidence was that, even though the declared policy of Government was not to issue further industrial licences to the big Monopoly Houses in the interest of curbing monopolistic concentration of economic power leading to stagnation in industrial development, Government were still continuing to issue industrial licences to these Houses. The Secretary, Ministry of Industrial Development explained that majority of the licences issued to those Houses were COB licences which, as a matter of legal necessity, could not be denied to any party if, during the period when the industry was de-licenced, "effective steps" were taken for setting up the industry.

3.74. The Prime Minister, while replying to the debate on the Motion of Thanks on President's Address on the 4th April, 1972, *inter alia* touched upon this point, She said:

"There is much said about the grant of industrial licences to the large houses. Our policy is quite clear on this. We are not going back on any such policy. What has been done is that when there is no suitable medium or new entrepreneur and when they do not come forward in what

are called the core or heavy investment sectors or export-oriented industries, in such cases, we have granted industrial licences to the large houses, after satisfying ourselves that they can set up the capacity for the production quickly. It is especially in regard to backward areas, because otherwise it would mean that we would not be able to set up any industry in those areas and this would not only not help the backward districts to forge ahead but it would also entail loss of production and involve larger imports to meet rising domestic needs."

**3.75. The Committee are driven to the conclusion that in the existing situation of scarce resources, expertise, engineering and managerial skills, it is either public undertakings or well established and efficient industrial organisations of proved integrity and service which can play a constructive role in the setting up of industries in backward areas. The Committee need hardly underscore the prime need of the country at the present juncture for more production and employment opportunities for its teeming millions. The Committee have no doubt that Government would study the situation most objectively and adopt a pragmatic policy which would make for establishment of industrial units in the backward areas without further loss of time.**

### **C. Other Objectives**

#### *Role of Public Sector in Industrial Development*

3.76. The Industrial Policy Resolution of 1956 had declared that the socialist pattern of society would be the objective of social and economic policy of the country. Among the various measures to be taken for realising this objective enunciated in the Resolution, one was "to expand the public sector" so that the "State will progressively assume a predominant and direct responsibility for setting up new industrial undertakings and for developing transport facilities." The Resolution, however, recognised that although the State had to "assume direct responsibility for the future development of industries over a wider area", there were "limiting factors which make it necessary at this stage for the State to define the field in which it will undertake sole responsibility for further development and to make a selection of industries in the development of which it will play a dominant role." The Resolution, accordingly, classified the industries into three categories:

*Schedule A Industries:* All new units in these industries-

save where their establishment in the private sector has already been approved, will be set up only by the State. This does not preclude the expansion of the existing privately owned units, or the possibility of the State securing the cooperation of private enterprise in the establishment of new units when the national interests so require.

*Schedule B Industries:* With a view to accelerating their future development, the State will increasingly establish new undertakings in these industries. At the same time private enterprise will also have the opportunity to develop in this field, either on its own or with State participation.

All the remaining industries fell in the third category. In regard to this category the Resolution stated: "It is expected that their development will be undertaken ordinarily through the initiative and enterprise of the private sector, though it will be open to the State to start any industry even in this category. It will be the policy of the State to facilitate and encourage the development of these industries in the private sector, in accordance with the programmes formulated in successive Five Year Plans, by ensuring the development of transport, power and other services, and by appropriate fiscal and other measures." The resolution, however, stated that the classification of industries "does not imply that they are being placed in water-tight compartments" and that "inevitably, there will not only be an area of overlapping but also a great deal of dovetailing between industries in the private and public sectors." The Resolution further stated:

"Industrial undertakings in the private sector have necessarily to fit into the framework of the social and economic policy of the State and will be subject to control and regulation in terms of the Industries (Development and Regulation) Act and other relevant legislation. The Government of India, however, recognise that it would, in general, be desirable to allow such undertakings to develop with as much freedom as possible, consistent with the targets and objectives of the national plan. When there exists in the same industry both privately and publicly owned units, it would continue to be the policy of the State to give fair and non-discriminatory treatment to both of them."

*Industrial Licensing and interests of Public Sector*

3.77. Government Undertakings owned by the Central Government are not required to take out a licence under the Industries (Development and Regulation) Act. The issue of industrial licences to private entrepreneurs is, however, subject to an expanded role assigned to the public sector. The guidelines issued to the sponsoring authorities and the Licensing Committee for dealing with applications for industrial licences *inter alia* state:

“The expanded role envisaged for the public sector in future, as part of Government’s socialistic economic policy, is also to be borne in mind in examining licence applications.”

3.78. It was observed from the Minutes of the Licensing Committee (Sub-Committee) furnished to the Committee that consideration of some applications was deferred by the Licensing Committee with instructions for the examination of the following aspects:

- (i) Whether the interests of the Public Sector Project would be affected by granting the licence to the party and whether it would, in any way, affect the progress of the public sector undertaking.
- (ii) Whether the manufacturing of the item can be taken up by a public sector undertaking.
- (iii) Whether existing public undertaking can increase its capacity for the production of the item for which licence has been applied for to meet the entire demand.

It was also observed that applications had been rejected or kept pending for a long time on the ground that the scheme for the production of the item or for setting up industry in the public sector was under the consideration of the Government.

3.79. During evidence, the Secretary, Ministry of Industrial Development was asked to explain these decisions of the Licensing Committee with reference to their policy in this regard. He replied:

“Where public sector is already in the line and making something, then it is generally considered desirable that public sector should have an opportunity to expand and meet the total demand. Where public sector unit does not exist for making that particular item, I am inclined to think that unless a definite decision has been taken by Government

to go in for that item in the public sector, it may not be desirable to prevent the private parties from going in, because the Government may or may not decide to go into that line. For that reason, I do not think that it would be quite proper to deny a licence to a private party."

3.80 In this context, the Secretary, Ministry of Industrial Development was also asked to state, whether, in his opinion, it would not be better for Government to take a decision valid for a determined period, say 5 or 10 years, as to which industries or items Government would like to have in the public sector and to publicise it so that the entrepreneurs were aware of the State policy and did not spend their time and energy in planning the setting up of industries in those fields? He replied:

"It will be desirable that for a five year plan period, at the beginning of the plan Government should indicate that these are the new items in which the public sector will go in; thereby the people will know that these are the lines in which they need not waste their time and money; they can (then) think of setting up another industry."

3.81. According to a guideline issued by the Government for considering the applications for industrial licence, where public sector may not be able to take up any of the core industries during the Fourth Plan period, applications giving the broad requirements of capacity in each case should be invited. Government, were asked to state whether a list of such core industries which the public sector might not be able to take up during the Fourth Plan period had been compiled and publicised, inviting applications from private parties for setting up capacities. It is noted from the replies furnished to the Committee that no such list has been drawn up. Press Notes have, however, been issued inviting applications for issue of industrial licences in the case of a few industries such as Printing Machinery, Pulp and Paper Mill Machinery, Rubber Machinery and Chemical Machinery. In this regard, the Secretary, Ministry of Industrial Development, during evidence, stated:

"A specific list in that manner has not been compiled. But the list of public sector enterprises which will be undertaken during the Fourth Plan is given in the Plan document. Industries included in the core sector are well-known and have been publicised. Anything outside that is open to any private party to apply for."



3.82. The Committee welcome the expanded role assigned to the public sector in industrial development of the country. They would, however, suggest that at the beginning of the Five Year Plan period, Government should spell out in some detail the role assigned to the public sector during the Plan period and announce the industries or new lines of production proposed to be set up in the public sector during this period. This would enable the private entrepreneurs to concentrate their time and resources only on the areas available to them. In this residual area, where at the beginning of the Plan the public sector does not show any inclination to enter the field, applications by private parties for industrial licences may be invited, examined on merits and licences given expeditiously in the interest of increasing production and making goods available at the most competitive rates to the general public.

#### *Promotion of Labour-Intensive Industries*

3.33. Among the several 'vital aims and considerations' stated in the guidelines that are to be "fully taken into account" by the sponsoring authorities and the Licensing Committee while dealing with applications for industrial licences is "the rapid increase in employment opportunities, through greater emphasis on labour-intensive industries." Government were asked to state precisely how this aim was actually given effect to while considering applications for industrial licences. They have in reply stated that the application form for an industrial licence includes a column against which the party is required to furnish information regarding the category-wise employment potential of the proposed manufacturing activity. The Licensing Committee, it is stated, is taking into account this important factor, along with other considerations, while taking a view of the merits of the proposal.

3.84. In this context, it would be relevant to quote from the speech of the Prime Minister in Lok Sabha on the 4th April, 1972 in reply to the debate on the Motion for Thanks to the President for his Address. In the context of a suggestion for a moratorium on strikes, she emphasised the need for uninterrupted production and said:

"Workers, particularly those in the organised sector, should recognise that by keeping the wheels of industry going without interruption, they can make a very significant contribution to economic growth and thus to the creation of greater employment. If we have called for a moratorium on strikes and lock-outs, it is not for the benefit

of those who control industrial units; it is for the benefit of the nation and specially for those who are the least privileged sections."

**3.85. The problem of unemployment in the country and the potentiality of industry in minimising it needs no emphasis. The extent of employment potential of new ventures that may be licensed by Government therefore gains urgent importance. The Committee recommend that while licensing new or additional capacities, greater emphasis should be placed on the labour-intensive nature of the schemes and their capacity to generate employment opportunities.**

#### *Pre-emption of Capacity*

3.86. Non-utilisation or under-utilisation of capacity could be either due to genuine economic reasons or it could be the result of deliberate attempt to pre-empt capacity without the intention of actually setting up the capacity licensed and with the intention of preventing others from setting up new or additional capacity and thereby to create an artificial shortage to the advantage of the licensee.

3.87. Before March, 1970, with a view to prevent what were regarded as "underservably high investments" with reference to Government's own assessment of demand over a time span and "to relieve pressure on scarce raw materials", Government were applying capacity constraints in issuing industrial licences by means of "banned lists" of industries. Under the system it was possible for an Industrial House to pre-empt capacity and, by not actually installing the same, take advantage of the resulting shortages. The problem of pre-emption of capacity by a few leading Industrial Houses was highlighted by Prof. Hazari in his report (1966) and subsequently by the Industrial Licensing Policy Inquiry Committee (Dut Committee) in their report (1969). On a consideration of the findings of these reports and also appreciating that, instead of Government themselves hazarding a guess as to the future demand and restricting licences on that basis, it would be far better to "leave it to the entrepreneur himself to decide whether there is room for further manufacture in the particular line", Government suspended the 'banned lists' in March, 1970 and finally abolished them in May, 1971. The policy of the Government now is that capacity considerations are no longer "rigidly" applied in the matter of industrial licensing and the consideration of total capacity already licensed in the country "is not allowed to act as a factor of constraint in the grant of industrial licences." Government

therefore consider it unlikely that any capacity could be pre-empted by the larger houses to the detriment of the economy or the public interest under the present liberalised licensing policy.

**3.88. The Committee note the contention of the Government that they are now not applying rigidly capacity considerations in issuing industrial licences and therefore it is unlikely that any capacity could be pre-empted by any industrial house to the detriment of the economy or the public interest.**

#### D. CENTRAL ADVISORY COUNCIL

##### *Central Advisory Council*

3.89. Section 5 of the Industries (Development and Regulation) Act, 1951 provides for the establishment by the Central Government of a Central Advisory Council for the purpose of advising it on matters concerning the development and regulation of industries enumerated in the First Schedule to the Act. The Central Government is required to consult the Advisory Council in regard to any amendment to the Rules relating to the internal working of the Council, the original Rules being framed by the Central Government itself. Besides, Government may consult the Advisory Council in regard to any other matter connected with the administration of this Act in respect of which the Central Government may consider it necessary to obtain the advice of the Advisory Council.

3.90. The Act provides that the Advisory Council shall consist of a Chairman and other members "not exceeding 30 in number". The Central Government is to appoint such members who are "capable of representing":

- (a) owners of industrial undertakings in scheduled industries;
- (b) persons employed in industrial undertakings in scheduled industries;
- (c) consumers of goods manufactured or produced by scheduled industries;
- (d) such other class of persons including primary producers, as in the opinion of the Central Government, ought to be represented on the Advisory Council.

3.91. In pursuance of the provision of the Act, Government have appointed the Central Advisory Council. The present Council, with the Minister of Industrial Development as its Chairman, was

constituted on the 5th March, 1970 and would continue till 4th March, 1972 when its term will expire. During the last 10 years (1961-71) for which information has been furnished by Government the Council has been meeting only once a year. Information regarding attendance at individual meetings is not readily available with the Government but it is stated that "about 22 members usually attend these meetings every year, on an average."

3.92. Spelling out the role at present assigned to the Central Advisory Council in regard to the development and regulation of industries, Government have stated that the Council is supposed to advise the Central Government on matters concerning the development and regulation of scheduled industries. According to them, one of the subjects, which is generally taken up for a discussion in the meetings of the Council, is the review of the general economic situation of the country and the state of industrial development. There is a general exchange of views on various matters of importance connected with the subjects on the Agenda. All the important suggestions made at the meeting are considered by the Government in greater depth and suitable action is taken wherever called for.

3.93. Replying to the question whether Government invariably consult the Council before taking major policy decisions in regard to development and regulation of industries, the Ministry have stated:

"It is not considered necessary to consult the Council before taking a policy decision in the matter of development and regulation of industries. The suggestions made at meetings of the Council are, however, kept in mind by the Government. The members are always free to voice their feelings against a decision of Government at the subsequent meeting of the Council."

Asked specifically whether the views of the Council and the advice tendered by them are duly considered by Government before taking policy decisions, Government have stated: "A consensus of the opinion expressed at a meeting in regard to any specific matter is, no doubt, taken into consideration while deciding major issues of policy concerning an industry."

3.94. The Central Advisory Council, besides being a useful forum for a purposeful dialogue between Government and private industry aimed at understanding the problems of industry and explaining Government's policies and view points, has an advisory role to play under the Industries (Development and Regulation) Act. The

Committee would like to emphasise the advisory role of the Council in the matter of regulation of industries under the Industries Act and suggest that meetings of the Central Advisory Council should be called at least twice a year, if not oftener. The object of the meetings should not be merely to have a "general exchange of views" or a discussion on the "review of the general economic situation of the country", as seems to be the case at present. Instead, members should feel free to bring up specific problems concerning various regulatory measures taken by Government under the Industries (Development and Regulation) Act and offer concrete suggestions for resolving them in the interest of increased production.

#### *Reviewing Sub-Committee*

3.95. Rule 18 of the Registration and Licensing of Industrial Undertakings Rules, 1952 provides for the setting up of a Sub-Committee of the Central Advisory Council to "review all licences issued, refused, varied, amended or revoked from time to time, and advise Government on the general principles to be followed in the issue of licences for establishing new undertakings or substantial expansion of the existing undertakings". The results of the review are required to be reported to the Central Advisory Council. The Sub-Committee is appointed by the Council under Rule 17 of the Central Advisory Council (Procedural) Rules, 1952 which empowers the Central Advisory Council to appoint committees, consisting of members of the Council or even outsiders, and assign functions or refer questions to them.

3.96. It is stated that the Reviewing Sub-Committee consists entirely of non-officials drawn from amongst the representatives of the Federation of Indian Chambers of Commerce and Industry, the Associated Chambers of Commerce and Industry of India, All India Manufacturers' Organisation and of the principal Labour Organisations represented on the Central Advisory Council of Industries. Last reconstituted on the 24th July, 1970, the composition of the Reviewing Sub-Committee is as follows:

1. Shri A. E. Faizullahoy—Chairman.

#### MEMBERS

2. Shri S. S. Kanoria
3. Shri Bhaskar Mitter
4. Shri K. N. Modi
5. Shri A. Sivasailam
6. Shri G. B. Newalkar

7. Dr. S. M. Patil
8. Shri Pravinchandra V. Gandhi.
9. Shri M. N. Dastur
10. Shri Basheer Ahmed Sayeed
11. Shri G. Ramanujam
12. Dr. Mrs. Maitreyee Bose
13. Shri Kanti Mehta
14. Shri Mahesh Desai
15. Shri S. S. Mirajkar
16. Shri S. N. Hada.

It is stated that the approval of the Central Advisory Council as to the composition of the Reviewing Sub-Committee was obtained by circulation of the proposal. It is also stated that if any vacancy is caused in the Reviewing Sub-Committee on account of a member having ceased to represent an All India Organisation on the basis of which he was appointed a member of the Council, it is filled by appointment of the person who succeeds him in that Organisation and the orders in this regard are issued by Government in the name of the Council on a formal request having been received from the concerned Organisation. The term of office of the Reviewing Sub-Committee is co-terminous with the term of office of the Central Advisory Council which in the case of the present Council was 4th March, 1972.

#### *Frequency of Meetings*

3.97. Government have informed the Committee that "on an average two meetings of the Sub-Committee are held in a year". The details in regard to meetings held during the last four years (1968—71), are, however, as follows:

Year	No. of meetings held	Dates	Period for which the licence applications dealt with by the Licensing were reviewed at the meeting
1968	1	13-3-68	1-1-67 to 31-01-67
1969	2	22-2-69	1-11-67 to 31-10-68
		14-7-69	1-11-68 to 31-3-69
1970	Nil.		..
1971	2	22-6-71	1-4-69 to 31-3-70
		29-12-71	1-4-70 to 31-3-71

It is stated that no meeting of the Reviewing Sub-Committee was held in 1970, as the term of the Sub-Committee constituted in 1967 had expired in 1969 and the reconstitution of the Sub-Committee was done only on 24-7-70. Even after reconstitution of the Sub-Committee in July, 1970, it is stated, it had not been possible to hold its meeting before 22-6-71 "due to certain unavoidable circumstances." It is noted that the infrequency of meeting of this Committee has also been a subject of discussion at the meeting of the Reviewing Sub-Committee.

3.98. During evidence, the infrequency of the meetings of the Reviewing Sub-Committee was pointed out and the Secretary, Ministry of Industrial Development was asked to state whether there were any inherent limitations in the organisation of the Central Advisory Council or its Reviewing Sub-Committee which were coming in the way of closer and more frequent consultation by Government. He said:

"There are no such difficulties. I think we ourselves have been a little remiss in this matter. Last year (1971) we have held two meetings.... but there is no doubt that before that, for one reason or the other, the meetings could not be held regularly. Now it is our effort again to hold regular meetings at least twice a year. I do not think any difficulty in that matter will arise. . . I can only say that it is unfortunate that in the past meetings were not held regularly. . . . The Advisory Council itself suggested two meetings (in a year) and we intend to hold these."

#### *Procedure for Review*

3.99. Government were asked to state the procedure followed by the Reviewing Sub-Committee for reviewing all licences issued, refused, varied, amended or revoked from time to time. They have in reply stated that copies of the agenda papers and minutes of the meetings of the Licensing Committee are forwarded to the members of the Sub-Committee regularly during the course of the year. To facilitate discussions at the meeting, various Appendices containing statistical data regarding the licence applications received and disposed of during the period, in respect of which a review is proposed to be undertaken, are forwarded to the members in advance of the date of the meeting. At the meeting the members are allowed to raise points relating to the cases disposed of during the period under review. The Secretary, Ministry of Industrial Development,

Chairman of the Licensing Committee who represents the Government side in the meeting, gives the necessary clarifications on points of doubt, the member concerned is advised to forward all the relevant details to the Ministry of Industrial Development. The case is then examined in the Ministry in consultation with the concerned authorities and a reply is sent to the member explaining the actual position.

3.100. During evidence, the Secretary, Ministry of Industrial Development was asked to state whether the Reviewing Sub-Committee could take up individual cases also for review. He replied: "Reviewing Sub-Committee can take up individual cases also."

3.101. Asked to give details of cases in the past where Government's decision on an individual case was reviewed by the Reviewing Sub-Committee and indicate the final action taken by Government in such cases, Government have, in a subsequent written reply, stated that to facilitate discussions at the meeting the members, when invited to the meeting, are specifically requested well before the date of the meeting, to furnish details of the cases which they would particularly like to be discussed at the meeting. Information regarding each case, so referred to the Ministry, is then collected from the concerned Sections|Ministries|Departments. The Secretary, Ministry of Industrial Development who is also the Chairman of the Licensing Committee and who represents the Government side at the meeting, clarifies the position in all cases of doubt on the part of members. If, however, any of the cases referred to the Ministry by the members could not be discussed at the meeting, a comprehensive note explaining the position in regard to each case is sent to the member after the meeting. In the recent past, the Government have, however, not come across any case in which the Government decision may have been recommended for reversal by the Reviewing Sub-Committee.

3.102. The Committee note that hitherto the meetings of the Reviewing Sub-Committee of the Central Advisory Committee have been few and far between. They also note that it is the intention of the Government to hold meetings of the Sub-Committee bi-annually in future. Considering that the Reviewing Sub-Committee is the only non-Government forum at which individual or collective grievances relating to industrial licensing can be represented for redressal, and in view of the fact that the number of applications, on which decisions are taken by the Government now run into several thousands during a year, the Committee recommend that



the meetings of the Reviewing Sub-Committee should be held at least once in every two months, so that the Sub-Committee can effectively apply itself to the task of reviewing the licences issued, revised, varied, amended or revoked during the period under review.

3.103. The Committee also recommend that the role and functions of the Reviewing Sub-Committee of the Central Advisory Council as also the fact that they can take up individual cases for review should be widely publicised so that the existence of a non-Government organisation to which an aggrieved party could make representation becomes better known and the real purpose underlying its constitution is served.

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**PART II**  
**INDUSTRIAL LICENSING PROCEDURE**

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## CHAPTER IV

### PROCEDURE UPTO THE STAGE OF ISSUE OF LETTER C. INTENT

#### A. General

##### *Types of Industrial Licences*

4.1. Industrial Licences are of the following types:

- (1) New Undertaking
- (2) Substantial Expansion
- (3) New Article
- (4) Shifting-Change in the location of the whole or part of an industrial undertaking requires a licence.
- (5) Carrying on Business—This licence is required in the case of an industrial undertaking which should have applied for a Registration Certificate but did not do so, or to which the provisions of the Act did not originally apply but became applicable subsequently.

##### *Statutory time limit for disposal of licence applications*

4.2. Rule 15 of the Registration and Licensing of Industrial Undertaking Rules, 1952 lays down a time-limit of “not later than 3 months from the date of receipt of the application, or the date on which additional information under Rule 9 is furnished, whichever is later” within which—

- (i) Where Government decides that the licence or permission should be granted, it “shall” inform the party accordingly; and
- (ii) Where Government considers that certain conditions should be attached to the licence or permission or that the licence or permission should be refused, it “shall” give an opportunity to the applicant to state his cases, before reaching a decision. Where a licence or permission has been refused the rule provides that the applicant shall be informed of the reasons for such refusal.

4.3. The Secretary, Ministry of Industrial Development was asked, during evidence, to state whether, in the context of the revised procedure whereby applications normally come to the Licensing Committee at the stage of issue of letter of intent only, the provisions of this Rule were applicable to the stage of issue of letter of intent. In reply he said, "Actually, the letter intent is not defined in the Act or the rules. Strictly speaking, the law covers only the licence and not the letter of intent. . . . By and large, we are applying the provision to Rule 15 to the issue of letter of intent instead of to an issue of licence."

4.4. In a subsequent reply in regard to this point, the Ministry have stated: "All applications made by the parties are for the grant of industrial licences. The procedure laid down regarding the refusal of a licence in Rule 15 is followed in all cases where a party is refused a licence. The question of amending Rule 15 to make it applicable to letter of intent does not arise."

4.5. The Committee recommend that the Registration and Licensing of Industrial Undertakings Rules, 1952 should be amended to provide for the new procedure in force since 1964 whereby an applicant for an industrial licence under the Industries (Development & Regulation) Act is in the first instance issued a letter of intent subject to certain conditions upon the fulfilment on which it is converted into an industrial licence.

4.6. The Committee note the assurance given to them that, with the introduction of the procedure for the issue of letter of intent, the time limits laid down in Rule 15 of the Registration and Licensing of Industrial Undertakings Rules, 1952 for the disposal of licence applications are, by the large, being applied to the stage of issue of letter of intent. They, however, recommend that while amending the Registration and Licensing of Industrial Undertakings Rules, the existing procedure may be given a formal statutory basis.

#### *Procedure for issue of Letter of Intent*

4.7. The Industrial Development Procedures Committee (Swaminathan Committee) (1964) had, in view of the delays in licensing, recommended a procedure for the "speedy issue", in the first instance, of a letter of intent to the applicant "after a broad and not too meticulous examination of the essential features of the proposal." Emphasizing the need for a speedy issue of a letter of intent, the Swaminathan Committee had stated:

"In the Committee's view, it is a matter of utmost importance that the applicants should know as early as possible

whether Government would be prepared to consider favourably the proposal put forward by them. It will be difficult for the entrepreneurs to negotiate with foreign collaborators or suppliers of machinery without such an indication from the Government. The Committee, therefore, favours a speedy procedure under which a "letter of intent" can be issued within a month or so of the date of receipt of the application."

It is stated that subsequent on the recommendations of the Industries Development Procedure Committee (Swaminathan Committee) made in 1963, a system of issuing Letters of Intent to the applicants for licences under the Industries (Development and Regulation) Act was introduced in 1964. The purpose of issuing letters of intent is stated to be, to enable the entrepreneurs to negotiate with the foreign collaborators or suppliers of machinery on the basis of the indication given by the Government that an industrial licence would be issued to them on their fulfilling the conditions mentioned in the letter of intent. The conditions which are normally included in the letter of intent depend mainly on the features of the individual schemes. However, generally, the following conditions are stipulated in such letters:

- (i) The arrangements for the import of plant and machinery (wherever such imports are involved) would be made to the satisfaction of Government.
- (ii) The terms of foreign collaboration (wherever a tie-up with a foreign company is proposed) would be settled to the satisfaction of Government.
- (iii) The undertaking would undertake to export a given percentage of its production every year (if such a condition is considered necessary in a particular case).
- (iv) The industrial undertaking would avail of the services of the Indian consultancy firms wherever such services are available.
- (v) The letter of intent will automatically lapse if, within a period of six months, applications|proposals relating to the conditions stipulated are not submitted or if, within a period of one year, an industrial licence is not issued to the party unless the period of validity of the letter of intent is, in the meanwhile, extended by Government on an application to be made by the party before the expiry of the said period of one year. (This condition is invariably stipulated in all letters of intents).

4.8. The letter of intent requests the party to confirm acceptance of the conditions and send (i) within a period of six months from the date of issue of the letter, proposals regarding foreign collaboration and (ii) application for import of capital goods and application for consent for the issue of capital (wherever necessary within six months from the date of issue of the letter|from the date of approval of the terms of foreign collaboration. In cases involving foreign collaboration, attention of the party is also invited to certain standard general guidelines which are annexed to the letter of intent which the party has to fully bear in mind. It is only on fulfilment of the conditions of Letter of Intent within the prescribed time limit, that it is converted into an industrial licence incorporating the conditions regarding capacity, location, import of capital equipment|raw materials, export obligations (if any) and such other conditions as may be stipulated.

4.9. It is noted that Government themselves have laid down a time-limit of 4 to 6 weeks for bringing an application before the Licensing Committee and in actual practice it takes much longer—even more than a year—for the Government to issue the letter of intent. The long delays taking place in the issue of a letter of intent have been pointed out in all the non-official Memoranda submitted to the Committee as well as during evidence of non-official witnesses. In this connection one of the Memoranda states:

“In fact, the letter of intent procedure instead of speeding up matters results in postponement of decisions, and increases considerably the total amount of paper work and executive time, both in the entrepreneur’s organisation and in the Government Departments concerned.”

Another non-official organisation has, in its Memorandum, stated:

“After a letter of intent is issued there are other clearances capital issues, collaboration, imports etc.—which are step by step processes, one following the other. An industrial licence is not a package clearance. The need for multiple clearances envisaging similar types of scrutinies by different authorities has made (this procedure of) licensing a superfluous and time-consuming exercise by itself.”

The delays occurring at various stages in the disposal of licence applications has been dealt with in subsequent paragraphs.

4.10. With reference to these delays, the Secretary, Ministry of

Industrial Development was, during evidence, asked whether this intermediate stage should be continued when it is actually taking so much time, thus defeating the very object for which it was introduced. He replied:

“About three or four years ago, the Government had set up a Committee to examine the possibility of reducing delays and speeding up the disposal of applications. That Committee was presided over by Shri Swaminathan....The Committee considered this very question of how to speed up the process and so on, and it was as a result of the recommendations of the Committee that the system of issuing a letter of intent was devised. Actually, the fact of the matter is that unless a party has some appear in his hand and knows that the Government are willing to allow him to proceed with the project for the manufacture of such and such a thing, the party cannot take further steps. If he has to talk with somebody for foreign collaboration, possibly the collaborator will say: “I do not know whether your Government is going to give you a licence or not; I do not want to waste my time talking to you.” We are now quite freely giving these letters of intent except,.... where a party which suffers from a disability is concerned, ..... there is some delay in some cases because some other processing is needed...but in most cases we give the letters of intent quickly so that the party is able to take other steps e.g. collaboration arrangements with the various parties concerned, making a detailed project report, finding out what capital goods are available within the country and outside and so on.”

He added that now that the letter of intent “is issued in three months time” and “fairly quickly”, he thought that “this system should be continued.”

**4.11. The Committee would like to point out that the very purpose for the issue in the first instance of a letter of intent to an applicant for an industrial licence, namely to enable him to negotiate with foreign parties and to take preliminary steps, would be lost if this stage alone takes as much time as one year or more, as has frequently been the case hitherto. Noting the assurance given to them by the Ministry that the letters of intent are now being issued fairly quickly, the Committee stress that normally it should not take Government more than two to three months to issue the letter of intent.**



*Licence Applications Received*

4.12. The aggregate number of applications for licences|letters of intent received during each quarter of 1968, 1969, 1970 and 1971 (upto 15th November) has been indicated as under:

Year	January- March	April- June	July- Sept.	Oct.- Dec.	Total
1968	181	231	231	262	905
1969	288	439	336	357	1,420
1970	558	888	781	806	3,033
1971	729	726	753	367 (as on 15-II-71)	2,575 (as on 15-II-71)

The applications received during 1970 and 1971 include applications for the issue of 'Carrying-on-Business' Licences which became necessary in respect of all undertakings in certain industries which were brought under licence consequent on the announcement of new Industrial Licensing Policy in February, 1970. Government have stated that no separate figures for applications for issue of Letters of Intent and Industrial Licences is available.

*Industrial Licences|Letters of intent issued*

4.13. The number of industrial licences and letters of intent issued during the period 1961-71 has been as follows:—

Year	Industrial Licences	Letters of Intent
1961	1,349	—
1962	1,092	—
1963	960	—
1964	772	357
1965	526	559
1966	417	271
1967	293	250
1968	221	154
1969	221	334
1970	363	438
1971	626	1,015
<b>TOTAL</b>	<b>6,840</b>	<b>3,378</b>

4.14. Type-wise break-up of industrial licences and letters of intent issued during the period 1968, 1969, 1970 and 1971 is given below:

Type of Letter of Intent or Licence	Industrial Licences issued				Letter of Intents issued			
	1968	1969	1970	1971	1968	1969	1970	1971
New Undertakings . . . .	36	34	64	108	42	122	231	584
New Article . . . . .	81	63	70	97	70	121	109	221
Substantial Expansion. . . .	76	95	103	104	41	87	95	192
New Article/Substantial Expansion	1	5	3	6	1	3	3	16
<b>TOTAL . . . . .</b>	<b>194</b>	<b>197</b>	<b>240</b>	<b>315</b>	<b>154</b>	<b>333</b>	<b>438</b>	<b>1013</b>
Shifting . . . . .	3	6		2		1		
Carrying-on-Business . . . . .	24	18	123	309	..	..	..	2
<b>GRAND TOTAL</b>	<b>221</b>	<b>221</b>	<b>363</b>	<b>626</b>	<b>154</b>	<b>334</b>	<b>438</b>	<b>1015</b>

4.15. Information in respect of value of industrial licences issued in terms of investment on fixed assets has not been maintained by Government. This information has, however, been made available to the Committee in respect of letters of intent issued from 1st April, 1970 onwards. The investment on fixed assets, namely, Land, Buildings and Machinery, involved in 1202 letters of intent issued during the period 1-4-1970 to 15-11-1971 was of the order of Rs. 996.75 crores.

4.16. The Committee note the spurt in the receipt of licence applications during 1970 and 1971, though they understand that quite a large part of them may have been for the issue of Carrying-on-Business licences.

The Committee also note the sizeable increase in the number of industrial licences and letters of intent issued during the same period for new or additional industrial capacities. The Committee welcome this trend and hope that the high rate of disposal of applications reached in 1971 would not only be kept up but improved upon in future to clear the backlog of pending applications at the earliest possible time and to meet the current rush of licence applications.

## B. Receipt and Processing of Applications

### *Receipt and Distribution of Copies*

4.17. According to the industrial licensing procedure in force, where a party is required under the Industries (Development and Regulation) Act to take out an industrial licence before he can set up a new or additional industrial capacity, he is required to submit an application to the Ministry of Industrial Development on a form prescribed for the purpose, with 10 spare copies (11 spare copies in case more than one product is involved).

4.18. A special Section called the Coordination and Licensing Progress Section (CLP Section) has been set up in the Ministry of Industrial Development for receipt of all such applications. The functions of this Section are:

(1) to register the applications, acknowledge them and distribute the copies to the following authorities:

1. The Industries Section|Office|Ministry concerned with the item(s) proposed to be manufactured.
2. The Director of Industries of the State Government where it is proposed to locate the industrial undertaking.
3. The Planning Commission (Industries Division).
4. The Ministry of Finance (Department of Economic Affairs).
5. Department of Company Affairs|I.C.C.(I) Section.
6. Council of Scientific and Industrial Research.
7. Development Commissioner (S.S.I).
8. Ministry of Foreign Trade (TEAP).
9. & 10. Technical Authorities concerned with the items proposed to be manufacture.

The Technical Authorities referred to at 9 & 10 may be one or two of the following authorities:—

- (i) Directorate General, Technical Development, New Delhi.
- (ii) Ministry of Agriculture (Department of Food).
- (iii) Ministry of Agriculture (Department of Agriculture).
- (iv) Directorate of Plant Protection, Coordination and Storage, Faridabad.

- (v) Textile Commissioner, Bombay.
- (vi) Director Textile Machinery, Office of the Textile Commissioner, Bombay.
- (vii) Jute Commissioner, Calcutta.
- (viii) Technical Wing of the Department of Steel.
- (ix) Coal Controller of India.

(2) to keep track of individual applications, and

(3) to maintain upto date record of investment trends-sectoral as well as geographic.

4.19. The Industries Development Procedures Committee (Swaminathan Committee) had, in their Interim Report submitted in September, 1963, observed: "As, during the course of case studies it has been noticed that undue delays have often taken place in the process of mere physical distribution of applications, the Committee would suggest that it should be ensured that copies of the applications are sent out within three days of their receipt in the special section." In the preliminary material furnished to the Committee, it is stated that copies of applications are distributed "within three days of receipt (of the application)".

4.20. A study made on the basis of detailed information called for in respect of 12 cases selected at random, however, shows that the CLP Section took 7 to 14 days to register and distribute the copies in 11 cases. In one case, although the time limit of 3 days is stated to have been observed by the CLP Section but the application finally reached the Industry Section concerned 8 days after its receipt in the C.L.P. Section. The delays taking place in the C.L.P. Section in the registration and despatch of copies of applications have been corroborated by the Report on Industrial Licensing Procedures submitted to the Ministry of Industrial Development in October, 1971. The Report states:

"Even in the matter of immediate diarising and forwarding the application to different agencies within 3 days, the Section's performance needs substantial improvement. It is seen from the case studies that even the clerical process of diarising and forwarding often takes unduly long time. In about 30 per cent of the cases, it took more than a week for these applications to reach the administrative section concerned. In an equal number of cases, this process took over a fortnight. The main cause for this shortcoming is

inadequate staff and this is a situation necessitating immediate rectification. It is essential that the CLP Section must be able to forward the applications received to the concerned agencies within a maximum of 3 days and whatever staff is necessary for ensuring this must be made available.”

4.21. During evidence, the delays taking place in the registration and despatch of applications to authorities concerned were pointed out and specific cases were also cited. The Secretary, Ministry of Industrial Development promised to look into it.

4.22. As regards the other two functions of the CLP Section, namely, to keep a watch on the progress of licence applications and maintain up-to-date data on investment trends, the Report on Industrial Licensing Procedures finds that the Section is “extremely ill-equipped at present” and *inter alia* suggests the introduction of “a simple card-index system which could be computerised in due course” to serve the purpose.

4.23. **The Committee note the long time—as much as over a fortnight in some cases—being taken in the initial examination of licence applications and distribution of copies of applications supplied by applicants to concerned authorities. What surprises the Committee is that even though this was pointed out by the Industries Development Procedures Committee as early as 1964, the bottleneck should have been allowed to remain for so long. The Committee recommend that Government should take suitable measures urgently to ensure that this stage does not take more than three days in any case.**

4.24. **The Committee suggest the introduction of a suitable card-index system for compilation of up-to-date data in respect of licence applications. This data could be used not only for finding out investment trends but also for progressing the licence applications through various stages involved until the licence issued actually fructifies.**

#### *Processing of applications*

4.25. Copies of applications are simultaneously supplied to all the authorities concerned with the issue of industrial licence, so that processing of the applications from various angles takes place concurrently. All the authorities to whom copies have been supplied are required to send their comments “within three weeks” directly to the

administrative Ministry|Section concerned. On receipt of the comments of these authorities, particularly those of the technical authorities, a case-summary for the Licensing Committee is prepared in the prescribed form by the administrative Ministry|Section concerned and sent directly to the Licensing Committee Section of the Ministry of Industrial Development which acts as the Secretariat of the Licensing Committee. It is stated that detailed instructions have been issued prescribing the time schedules according to which all applications should be put up to the Licensing Committee within a period of four to six weeks from the date of receipt. According to an Office Memorandum issued by the erstwhile Ministry of Industry on the 11th February, 1964, the Industries Section concerned "is responsible for the preparation, within one month, of the summary relating to each application to be considered by the Sub-Committee of the Licensing Committee." The Office Memorandum states that the preparation of the summary "should not be held up if the comments of the various authorities other than the Technical Advisers are not received in time." The Office Memorandum further states that the "primary responsibility for processing of all applications expeditiously and for arranging their being placed before the Sub-Committee within the specified period would be that of the Industries Section concerned."

#### *Delays in Processing*

4.26. Although instructions are stated to have been issued that applications should be put up to the Licensing Committee within a period of 4—6 weeks from the date of their receipt and Rule 15 of the Registration and Licensing of Industrial Undertakings Rules, 1952 lays down a maximum period of 3 months for the final disposal of a licence application from the date of its receipt, a study of the information called for by the Committee in respect of 54 industrial licences and letters of intent issued during the week ending 15th May, 1971 reveals that of the 50 applications which went through the Licensing Committee (including 10 relating to 'Carrying-on-Business' licences), only one was brought before the Licensing Committee within the stipulated time limit of 4—6 weeks. The time taken in bringing the applications before the Licensing Committee was: Over 18 months-2; 12—18 months-2; 6—12 months-19; 3—6 months-24; less than 3 months-3. Thus, as many as 46 per cent of the applications could not be brought up before the Licensing Committee even within six months of the receipt of application while 94 per cent took more than three months to come up before the Licensing Committee. The Report on Industrial Licensing Procedures (October, 1971) also corroborates the fact of considerable delay at this stage. According to

the Report, the average period taken to place proposals before the Licensing Committee was 6 months in the cases which were specifically studied.

### *Applications pending*

4.27. It has been stated that of the 3104 applications undergoing processing in different Ministries|Departments as on 15th November, 1971, 11 pertained to the year 1967; 18 were received in 1968; 114 were pending since 1969; 989 pertained to 1970 while 1972 applications were received during 1971.

A break-up of these applications according to the period of their pendency is as under:—

Less than 2 months . . . . .	454
More than 2 months but less than 4 months . . . . .	433
More than 4 months but less than 6 months . . . . .	412
More than 6 months but less than 1 year . . . . .	872
More than 1 year but less than 2 years . . . . .	822
More than 2 years but less than 3 years . . . . .	83
More than 3 years . . . . .	28
TOTAL . . . . .	3104

4.28. The Ministry-wise break-up of the 933 licence applications pending for more than one year (as on 15th November, 1971) has been furnished to the Committee as follows:—

Name of Ministry	Pending for more than 3 years	Pending for more than 2 years but less than 3 years.	Pending for more than 1 year but less than 2 years.	Total	
1	2	3	4	5	6
1. Ministry of Foreign Trade . . . . .		18	17	137	172
2. Ministry of Petroleum and Chemicals					
(i) Deptt. of Chemicals . . . . .			5	231	236
(ii) Deptt. of Petroleum . . . . .			..	4	4

1	2	3	4	5	6
<b>3. Ministry of Steel &amp; Mines.</b>					
(i) Deptt. of Steel .			3	27	30
(ii) Deptt. of Mines.					
(a) Mines . . . . .		4 (coal cases)	14 (coal cases)	19	37
(b) Metals . . . . .				3	3
<b>4. Ministry of Agriculture (Directorate of Sugar and Vanaspati) . . . . .</b>					
				38	38
<b>5. Department of Electronics.</b>					
			26	128	154
<b>6. Ministry of Industrial Development. . . . .</b>					
		6	18	235	259
<b>TOTAL . . . . .</b>		<b>28</b>	<b>83</b>	<b>822</b>	<b>933</b>

### *Time taken by Technical Advisers*

4.29. One of the several reasons for delay in bringing an application before the Licensing Committee, is the delay in receipt of advice of the Technical Advisers. Apart from Directorate General of Technical Development which is the principle technical adviser to Government in respect of most of the industries, there are others also having exclusive perview over specific industries, e.g. Textile Commissioner, Jute Commissioner, Coal Controller, Director of Textile Machinery, Technical Wing of the Department of Steel etc. Since a technical appraisal of the licence application is necessary for a decision by the Licensing Committee on the merits of the application, the administrative authorities concerned with the application keep on waiting until the opinion of the Technical Advisers is received. The summary of the case is only thereafter transmitted to the Licensing Committee Section of the Ministry of Industrial Development for being placed before the Licensing Committee.

4.30. Although the Technical Authorities are required to send their comments on the licence application within 3 weeks to the administrative Ministry/Industries Section concerned, it is noticed that the time taken at this stage is considerably longer. It has been as much as over 2 months in 6 out of 11 cases studied.

4.31. Explaining the reasons for the delay in transmission of technical opinion, the Secretary, Ministry of Industrial Development stated during evidence that sometimes all the details were



not furnished by the applicants initially and the technical officers had to get clarifications from them. Apart from this, he said, there was no delay at present. Asked whether a period of 3 weeks was sufficient for tendering of technical opinion on a licence application, he said that barring "complicated cases" requiring detailed examination and cases where information had to be called for from the parties, this time limit "should be quite ample."

4.32. It is noticed from the material furnished by Government that the question of putting up a licence application before the Licensing Committee within two months of its receipt whether the views of the technical authorities and others concerned are received or not, was considered by Government but the Production Ministries were informed in January, 1971 that at an inter-departmental meeting the consensus of opinion was that "a degree of examination of the application was essential and that the existing procedure should be continued." A circular issued by the Ministry of Industrial Development in November, 1971, enjoins upon the D.G.T.D. that its comments on applications for industrial licences "should invariably be sent within three weeks" and to facilitate it, lays down a streamlined procedure.

4.33. The Report on Industrial Licensing Procedures (October, 1971) also points out the various merits of a procedure whereby licence applications are invariably placed before the Licensing Committee within 2 months whether the comments of technical and other agencies are received or not and states that under such a procedure, it would be only in cases of delay that, instead of written views by various agencies, these opinions would be expressed by the representatives of these agencies in the Licensing Committee meeting itself. The Report suggests that this change in procedure should be introduced, in the first instance, in the Ministry of Industrial Development and if it is found to work effectively, other Production Ministries/Departments could be persuaded to fall in line with the modified procedure.

4.34. During evidence, the Secretary, Ministry of Industrial Development informed the Committee of the new procedure introduced in his Ministry. He said:

"Now, in the coordinating Ministry, that is... Ministry of Industrial Development, we have started working\* on a system by which if the comments are not received, we will place the case before the Licensing Committee and

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\*At the time of factual verification the Ministry of Industrial Development have stated that the introduction of such procedure is still under their consideration.

then it is intended that the concerned Ministry will place its comments before the Licensing Committee orally which will of course be taken into account by the Licensing Committee. This is just a beginning we are making of this system because so far as we have been waiting for the comments of all the parties concerned."

4.35. The Mid-Term Appraisal of the Fourth Five Year Plan brought out by the Planning Commission in December, 1971, pointed out that 'delayed licensing' was one of the causes for capacity constraints leading to slowing down of the rate of growth of industrial production during the first two years of the Plan. When this was brought to the notice of the Secretary, Ministry of Industrial Development during evidence, he said that with the process of licensing having been speeded up very much, this cause would not be operative any longer. In support, he pointed out the large number of letters of intent issued during 1971 and said: "whereas we took about two or three years to begin (by issue of a letter of intent) before, we take about four months on an average, now". He, however agreed that if the licensing procedure takes a long time, "it is definitely going to retard the industrial growth in the country", but added:

"Any system of licensing that is laid down involves some delay. Of course, our effort has to be, all the time, to reduce the delays and to reduce the harassment: but, again, I would submit that human beings being what they are, there are various levels through which a paper has to be passed and some people may not be able to work as fast as the other. But it has been our effort—and I would again assure the Committee that it will continue to be our effort—to reduce the delays to the utmost possible extent."

4.36. In reply to the point that speeding up of the processing and disposal of licence applications did not entirely depend upon his Ministry alone as different Ministries were concerned with different industries and with different stages in the processing of applications, the Secretary, Ministry of Industrial Development stated:

"There is no doubt that there are a lot of difficulties coming in the way. I should still say that my Ministry and I have a special responsibility in the matter and I would be the last person to deny that responsibility. As the nodal Ministry in charge of industrial development, we have a special responsibility in the matter and even if

other Ministries, such as Steel or Petroleum and Chemicals, are involved it is part of our business to keep a watch on the delays and press the other Ministries to send their views. I shall squarely accept the responsibility in a large measure for the delay which takes place in this process. I am only submitting that we are trying very hard to get over these delays. To a certain extent, we have succeeded as indicated by the figures of licensing. Now in the Licensing Committee, a large number of cases come up within three months."

### *Remedy for Delay*

4.37. Following up his statement that the Ministry of Industrial Development were the nodal Ministry in respect of the issue of Industrial Licence and they were responsible for it at different stages, the Secretary, Ministry of Industrial Development was, during evidence, asked to state the reasons for so many applications for licences pending with different Ministries, particularly Ministry of Petroleum and Chemicals and Department of Electronics. He said:

"I have myself been writing to the various Ministries giving a list of the pending cases and the dates from which they are pending. My Minister has also been writing to the Ministers concerned suggesting that the pending cases should be cleared quickly. In regard to electronics it took some time for the Commission to be constituted. Then the Commission took some time in get going. In the mean while, lots of cases were pending. Now they are trying to dispose of them as quickly as possible. In regard to Petroleum and Chemicals, certain policy decisions were not taken for 18 or 24 months as a result of which some cases were pending for a long time ..... We go on writing to them and reminding them. But, we have no administrative authority over those matters. We can only request or press them..... The administrative responsibility lies with us in the sense that we are answerable to Parliament and to the Committees of Parliament. (But) if a policy decision has to be taken in another Ministry at the ministerial level and... that is not taken, neither I nor my Minister can really force them to do it quickly. We can only ask them, cajole them and press them. Beyond that, I really do not know what we can do."

4.38. Asked whether such a case would not be fit one for being brought before the Cabinet Committee on Economic Coordination, he replied: "Short of making a complaint by my Minister to the Prime Minister, I do not see how it can be done." He further stated:

"In cases which do not involve any policy decisions by the Ministries concerned, the response is much quicker and now we have come to a stage when we are able to put the case before the Licensing Committee in between 3 to 4 months. But, where...the administrative Ministries and the Economic Ministries concerned have to take a policy decision, there they naturally take long. Of course, this is not saying that there is no room for improvement. There is considerable room for speeding up the whole process. From the Ministry of Industrial Development, we also keep on reviewing the old cases pending with us as well as with the other economic Ministries and we keep on sort of asking the Ministries concerned as well as our own officers concerned to speed up the disposal of these cases. By and large, I think fairly satisfactory rate has now been attained in that. Between 3 to 4 months practically all cases not involving policy decisions are now placed before the Licensing Committee."

4.39. With reference to the large number of cases pending with the Ministry of Industrial Development itself, the Secretary, Ministry of Industrial Development was asked as to measures taken to ensure speedy processing and timely disposal of cases which were dealt with by the various Industries Sections of the Ministry of Industrial Development itself. He replied:

"I review the cases from time to time with my Joint Secretary etc. and also when these cases come up before the Licensing Committee, we always see the date on which the application was received and call into question those who put up the case with a delay of more than three months. Now, this thing, I am sure, is no longer prevalent that cases in our own Ministry get delayed."

Asked to state whether any change in the licence application form to make it more comprehensive could obviate the need for asking the party to furnish additional information which leads to delays, he said:

"I feel that the form which has been prescribed is comprehensive and I think at the moment no supplementary

information is needed and in most cases, I do not think supplementary information is now asked for. Our attitude in dealing with the applications has changed. We are now more inclined to agree to give a licence than not to and therefore we do not go into a very meticulous examination at this stage of granting a letter of intent. Of course, we do see that it is in keeping with the Industrial Policy Resolution. But apart from that, we do not carry out a meticulous examination at that stage because our whole idea is not to pick any holes in the application but to help the party to set up an industry. It is really not that the application form does not have certain columns for some information, but the party is not able, some times, to give the full information needed even in the existing form..... Since this suggestion has been made,.... I will invite suggestions from Company Law Department and DGTD whether they would like anything to be added to the present form. If some substantial suggestions are made then we can amend the form or supplement it."

**4.40. The Committee are distressed to note that as on 15th November, 1971, as many as 3104 licence applications were pending with different Ministries/Departments of Government, that 30 per cent of these were pending for more than one year and that the applications pending for over one year with the Ministry of Industrial Development alone were as many as 259. While the Committee enjoin upon all the production Ministries the need for early disposal of licence applications, they stress the need for a centralised close and regular watch being kept on the stage by stage progress in respect of all licence applications by the Ministry of Industrial Development upon whom rests the ultimate responsibility for early disposal of these cases.**

**4.41. The Committee appreciate that early disposal of licence applications pertaining to other Ministries/Departments of Government depends largely upon the cooperation of those Ministries/Departments. They are, however, unable to see why, as on 15th November, 1971, as many as 259 applications were pending with the Ministry of Industrial Development themselves for over one year. The Committee would like the Ministry of Industrial Development to make concerted efforts to clear the backlog of pending applications and so streamline the procedures within their own Ministry that licence applications are brought before the Licensing Committee, as required under the existing procedure, within four to six weeks.**

4.42. The Committee also note that one of several reasons usually pleaded by the Ministries/Departments for the delay in processing and bringing up a licence application before the Licensing Committee is the late receipt of the comments and opinion of technical authorities on the application. The Committee would like the controlling Ministries to keep a strict watch on the time taken by the various Central technical authorities in tendering comments and opinion on licence applications referred to them. They would in fact suggest prescribing of suitable returns to be submitted periodically by the technical authorities to the controlling Ministries indicating the licence applications outstanding with them together with reasons therefor. On receipt of these returns, the controlling authorities should satisfy themselves that the delay, if any, in sending the comments and opinion of the technical authorities to the Administrative Ministry/Section concerned is on account of genuine reasons beyond the control of the technical authority concerned.

4.43. The Committee would like Government to examine the feasibility of introducing a procedure whereby a licence application is brought before the Licensing Committee after a specified time even though by then the opinion and comments of technical and other authorities concerned thereon are not received by the Administrative Ministry/Section concerned, leaving it to the technical and other authority, whose comments were not received before hand, to express them through its representative orally at the meeting of the Licensing Committee and also put on record their views in writing at the meeting. The Committee are informed that some such system has already been initiated\* in the Ministry of Industrial Development. The Committee hope that if this procedure being tried in the Ministry of Industrial Development is found workable, it would be made applicable to all the production Ministries/Departments concerned with the processing of applications for industrial licences.

4.44. The Committee have been given the impression that one of the reasons coming in the way of expeditious decision-making is the wide-spread fear amongst the officers that even a bonafide decision may later on become the subject of endless enquiries and criticism. The Committee would like Government to exercise every care in putting officers of the highest integrity in such key positions and inspire in them a feeling of confidence so as to make for expeditious decision. making.

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\*At the time of factual verification the Ministry of Industrial Development have stated that the introduction of such a procedure is still under consideration.

*Pending cases in the Ministry of Petroleum and Chemicals*

4.45. Out of a total of 933 licence applications pending with the various Ministries|Departments of Government, for over one year as on 15.11.1971, 240 or about 25 per cent were pending with the Ministry of Petroleum and Chemicals, 236 being with Department of Chemicals alone. The representative of the Ministry of Petroleum and Chemicals was during evidence, asked to state the reasons for the accumulation of such a large number of applications for industrial licences in his Ministry, particularly in the Department of Chemicals, in the context of shortages of chemical raw materials like Soda Ash, Polyster and Nylon fibres etc. on account of inadequate production in the country, for which his Ministry was responsible. He explained that of the 236 applications pending with the Department of Chemicals for over one year, about 120 were Nylon cases. About them, he said: "There were certain aspects which the Government wanted to clarify; only after clearing the position, Government decision could be taken and communicated to all parties." He, however, added that his Ministry "will look into these (pending) cases."

4.46. As for shortage of Soda Ash the representative of the Ministry of Petroleum and Chemicals said that the shortage was experienced "for the first time only last year (1971)" and it was on account of the inability of licensees to make adequate progress in setting up capacities. By way of remedial action, he added: "we have now taken care of the fact that some of the parties are bound to take more than two or three years. We have given additional licences a few months ago.....If more of the parties do not come forward and make adequate progress, we shall cancel that (licences)". He also clarified that the Ministry of Petroleum and Chemicals were looking after only "non-cellulosic synthetic fibres" as these were "closely related with petro-chemical and petroleum raw materials available from refineries" and "an integrated programme" was necessary for the development of industry based on these raw materials. It was also clarified by the representative of the Ministry that the technical wing of the Ministry of Petroleum and Chemicals was concerned only with the planning and implementation of public sector projects and the technical scrutiny of proposals for setting up projects in the private sector was the responsibility of D.G.T.D. etc.

4.47. Subsequently, in a written reply, the Ministry of Petroleum and Chemicals have explained to the Committee the delays in the disposal of licence applications in that Ministry as follows:—

"It would not be entirely correct to say that there has been

inordinate delay in licensing private sector units in the petrochemical industry. Unlike, in traditional and conventional fields of industrial activity, licensing in the petrochemical sector, which is of a very recent origin, is a particularly difficult exercise because of certain special aspects/features which have to be adequately taken care of before petrochemical projects are approved. These relate to:—

- (a) assured and timely availability of feedstocks naphtha, vinyl chloride, captolactum, DMT etc. (An integrated and coordinated approach is necessary to ensure the simultaneous coming up of several units producing basic and intermediate raw materials and end products);
- (b) correct evaluation of technology, the manner of its procurement, centralised or otherwise (this is to ensure that the best of the several alternative routes for manufacture of particular end-product are adopted and obtained most economically at the least possible foreign exchange expenditure.)
- (c) consideration of proposed financing arrangements—rupee financing without unduly straining the resources of financial institutions and foreign exchange component which is usually quite considerable in the case of petrochemical units which are capital intensive.

Mainly because of the capital intensive nature of the projects, large houses and foreign holding companies usually enter the petrochemical field. Their applications have, therefore, also to be processed by various Ministries under the M.R.T.P. Act and in accordance with the Government's policy to insist on reduction of foreign equity holding.

The examination of the above is necessarily time-consuming and quite often it becomes further more so because the applicants fail to submit well-thought out schemes even after several attempts.

It is submitted that by and large there has been no avoidable delay on the part of Government in licensing of private sector units in the petrochemical industry.



There has been some delay in the completion of schemes in the Gujarat Petrochemical Complex. These are Aromatics Project and Olefin Project. The implementation of other projects by Indian Petrochemicals Ltd. is proceeding satisfactorily and these are expected to be commissioned according to schedule."

4.48. The Committee are unhappy to note that of the 933 licence applications pending with Government on 15th November, 1971 for over one year, as many as 236 or nearly 25 per cent were pending with the Department of Chemicals. The plea advanced by the Ministry of Petroleum and Chemicals that licensing in the field of petro-chemicals is a difficult exercise because of certain special aspects and features (e.g. availability of raw materials, evaluation of technology etc.) which have to be adequately taken care of, seems untenable to the Committee as every industry or product has its own special features and aspects. The importance of petro-chemical industry at this stage of economic development of the country cannot be over emphasised as industry in this field not only produces a variety of consumer goods but also certain raw materials for use by other industries. It is therefore imperative in the interest of industrial development that applications for industrial licences in the field of petro-chemicals are processed most expeditiously. The Committee would therefore like the Ministry of Petroleum & Chemicals to make special efforts to accelerate the process of examination of licence applications pending with the Department of Chemicals so as to clear the backlog within the next three months. The Committee would also like the Ministry to evolve a suitable procedure within the Ministry under which licence applications are processed and brought before the Licensing Committee within four to six weeks of their receipt.

4.49. The Committee recommend that the Ministry of Petroleum & Chemicals should give wide publicity to the availability of basic raw materials which are available, or are expected to become available for processing during the next three to five years, so as to attract most competitive applications for issue of industrial licences therefor. The Committee stress the need for most expeditious examination of these applications for issue of licences so that the raw materials can be put to industrial use without avoidable delay.

*Pending cases in the Department of Electronics*

4.50. 154 of the 933 licence applications pending for over one year as on 15th November, 1971 were with the Department of Electronics. During evidence, it was pointed out that the electronics industry was a labour-intensive industry which, having an expanding field, could

offer considerable scope for an increase in production to meet the local needs as well as exports. It was therefore necessary that its development should receive earnest consideration at all levels and there should be no delay in licensing units in this field. In this context, the representative of the Department of Electronics was asked to state the reasons for long delays in the processing of licence applications by his Department. While admitting that there had been delay in the disposal of applications in the past, he stated that it was due to the following factors:

- (i) changes in the administrative set up. In the later half of 1967, this subject was taken out of the Ministry of Industry and made a part of the Department of Defence Supplies. In 1970, it was separated from the Department of Defence Supplies and put under the Cabinet Secretariat. In early 1971, it was made an independent Department and the Electronics Commission was set up.
- (ii) electronics is a technologically-intensive industry and the applications have to be examined from certain aspects which this industry does not share with others, namely, that the investment is based on such technologies as do not become obsolescent and that there was going to be a good market for the products.
- (iii) growth of indigenous technology.

4.51. He further stated that more than 50 per cent of the pending applications were for T.V. Industry which had since been disposed of. Expert Panels had been appointed, he said, in different fields of electronics and after their report was received, the applications relating to those fields would be disposed of. He assured the Committee that "of the pending applications, nearly 60—65 per cent of the applications have already been dealt with and the remaining will be dealt with in the next two months."

#### *Licensing of units in Electronics Industry*

4.52. The representative of Department also stated that one of the considerations in processing of applications in this industry was that entrepreneurs should not be permitted to invest money unless it was ensured that there would be market here or else where for the type of goods made. Asked why the profitability of an industry or the marketability of the goods produced should be the concern of the Government, he replied that what concerned Government was the possibility of a substantial amount of foreign exchange involved in the import content of the plants and machinery becoming infructuous an account of excess capacity or obsolescence.

4.53. During evidence, it was pointed out that electronics was a totally unpredictable field where one did not know when there would be a break-through which might make the existing technology completely obsolete. It was, therefore, dangerous to pronounce the viability or otherwise of an industry in this field and rejection of applications would stifle the development of electronics in the country. Unless a large number of electronic units were permitted to come up as a base for further research in that field, it would be difficult to make a technological break-through in that field. The representative of the Department of Electronics agreed that electronics industry had to be broad based and said that the Electronics Commission was working on those very lines. He also agreed that no body could visualise with certainty what was likely to be the future of electronics industry. But in certain areas such as Silicon, which was the most sophisticated area in electronics, he said, the Electronics Commission had to examine the technological developments taking the future trends into account as well as the capacity that should be set up. Spelling out further, the role of the Electronics Commission, he said:

“The Commission’s approach is to broad base it and to give every encouragement to all the entrepreneurs.....the Commission is not only going to (grant licence) ..... but involve itself in promotional activity. In this country electronics is one of the broadbased developing industry. From the production of about Rs. 60 crores in 1966-67 it is about Rs. 200 crores now . . . There are some areas where there has not been sufficient development in electronics in our country. The Commission is taking action to identify these areas so that development takes place in all the fields where there are gaps . . . a high degree of self-reliance is needed along with economic production and technological development. The R. & D. organisation is engaged in helping us to be self-reliant. There has been intense activity in many research institutions. It is to be seen that no area is left untouched which could be tapped. This is one of the tasks in which the Commission is engaging itself; that we should become self-reliant is one of the targets in the R&D field also.”

4.54. Regarding T.V. industry, the representative of the Department said that it was decided to create a capacity of 2 lakh T.V. sets per year and public notice inviting applications for setting up the capacity both in the organised sector as well as the Small Scale Sector was issued. According to him, 7 or 8 units had been licensed in the organised sector while 42 applicants have been authorised to set up units in the Small Scale Sector, each with a capacity of

manufacturing 2500 TV sets. Normally, for setting up industries in the Small Scale Sector, an entrepreneur need not approach the Government for permission, but in the case of TV industry, he said, this arrangement was made as each unit needed about Rs. 2 lakhs worth of imported instruments; besides TV Picture Tubes and some other components had to be imported.

4.55. Asked to state whether any detailed plan had been prepared for the development of the electronics industry, the representative of the Department stated that "very detailed plan for every item" was under preparation and it was likely to be ready in "about 6 months or so." The representative of the Department also informed the Committee that there was no cause for alarm in the matter of development of electronics industry in the country, seeing the late start and the extent of progress made so far. The production in this industry, which was Rs. 30, crores in 1964-65, had currently reached Rs. 200 crores annually and by 1975, he said, "we will go much beyond the total production envisaged in the Bhabha Committee Report." According to him, know-how had already been developed or would soon be developed in the country for such sophisticated items as TV Camera, Transisterised TV sets. Desk Calculators and Computers.

4.56. The Committee find that electronics is another field where licence applications are considerably delayed. As on 15th November, 1971, there were as many as 154 applications pending with the Department of Electronics for more than one year. The Committee consider that electronics industry, being labour intensive, has considerable employment potential as also a developing domestic and export market. It is a nascent industry in our country and at this stage undue restrictions and inordinate licensing delays in this field may frustrate, if not arrest, its development. The Committee would, therefore, recommend that the Department of Electronics should dispose of all pending licence applications within next 3 months and so streamline the procedure within the Department as to make possible licence applications being brought before the Licensing Committee within the prescribed time limit of 4 to 6 weeks from the date of receipt of the application.

*Rejection of applications without prior reference to Licensing Committee*

4.57. An application for industrial licence can be rejected by the Administrative Ministry/Section concerned without prior reference to the Licensing Committee, if they agree with the Technical Advisers in regard to such rejection. Whenever, an application is

rejected under the above circumstances, the concerned Administrative Ministry/Section has to report the matter to the Licensing Committee by forwarding a self-contained note for the Licensing Committee indicating the circumstances in which the application was rejected. The Licensing Committee can reopen such cases if it feels that the application has not been fairly dealt with.

4.58. The following categories of applications for industrial licences are generally disposed of without reference to the Licensing Committee:

- (a) Change of locations within the State supported by the State Government concerned and the Technical Adviser.
- (b) Change of location from one State to another supported by the State Governments concerned and the Technical Adviser.
- (c) Permission for 'Carrying on Business' except that in respect of Larger Industrial Houses, foreign majority concerns and dominant undertakings provided the request is supported by the State Government and the Technical Adviser.

It is stated that the power to reject has been delegated "to reduce the workload on the Licensing Committee."

#### *Clubbing of applications*

4.59. It has been observed from the Minutes of the Licensing Committee that on many occasions several applications for same or related items have been placed before the Licensing Committee together irrespective of their receipt in point of time. This leads to inordinate delays in respect of applications received earlier. The Ministry of Industrial Development were asked to state whether any set policy or procedure was laid down in this regard. They have stated that this was sometimes done to ensure uniformity of approach from the point of view of policy. As a general rule, however, the Sections or the Ministries concerned were expected to transmit cases for Licensing Committee's consideration as and when they become ripe for being sent to the Licensing Committee. No instructions have been issued to them to consolidate cases relating to the same or similar items.

**4.60. Since clubbing of licence applications and their omnibus examination irrespective of their receipt in point of time not only causes delay in bringing applications before the Licensing Committee but generally affects the time schedule for the disposal of appli-**

cations, the Committee recommend that the Ministry of Industrial Development may carefully examine the matter and issue necessary instructions to the Administrative Ministries|Sections concerned in this regard.

### C. Consideration by Licensing Committee

#### *Licensing Committee*

4.61. Rule 10 of the Registration and Licensing of Industrial Undertakings Rules, 1952 provides for the appointment of a Licensing Committee consisting of the representatives of the Ministries of Commerce and Industry, Railways, Finance, Iron and Steel, Production and of the Planning Commission, with the representative of the Ministry of Commerce and Industry as the Chairman. The Licensing Committee can, whenever necessary, co-opt representations of other Ministries or of the State Governments concerned. All applications for industrial licences are, under the Rule, required to be referred to the Licensing Committee under Rule 11 of these Rules and the Licensing Committee is required, after such investigation as may be necessary to submit a report to the Ministry of Commerce and Industry (Now Ministry of Industrial Development).

4.62. The Licensing Committee was formally set up for the first time on the 5th September, 1952. The present composition of the Committee as indicated is as follows:—

#### **Chairman**

1. Secretary, Ministry of Industrial Development.

#### **Members**

2. Secretary, Ministry of Industrial Development (Heavy Industries) or his nominee.
3. Secretary, Ministry of Steel & Mines (Department of Steel) or his nominee.
4. Secretary, Ministry of Steel & Mines (Department of Mines) or his nominee.
5. Secretary, Ministry of Petroleum and Chemicals, or his nominee.
6. Secretary, Ministry of Finance, (Department of Economic Affairs), or his nominee.
7. Secretary, Ministry of Foreign Trade or his nominee.
8. Secretary, Ministry of Defence (Department of Defence Supplies), or his nominee.

9. Secretary, Department of Company Affairs, or his nominee.
10. Secretary, Ministry of Railways, or his nominee.
10. Secretary, Ministry of Education, C.S.I.R., or his nominee.
12. Secretary, Planning Commission, or his nominee.

The representatives of the other administrative Ministries concerned and State Governments are co-opted as Members of the Committee.

4.63. The functions of the Licensing Committee are to consider applications for the grant of licences under the Industries (Development and Regulation) Act, 1951. Besides, the Committee considers the question of revocation of licences already issued and also requests for extension of time allowed for taking effective steps for the establishment of undertaking. The Committee also makes general recommendations pertaining to industrial licensing when ever considered appropriate.

4.64. It is noticed from the material furnished to the Committee that, in actual practice, it is a Sub-Committee of the Licensing Committee which considers all the applications relating to industrial licences. The meetings of the main Licensing Committee are few and far between. Only 3 meetings of the full Committee were held during each of the years 1968, 1969 and 1970. Asked how and why the functions assigned by the Registration and Licensing of Industrial Undertakings Rules to the Licensing Committee have come to be vested in a Sub-Committee of that body, the Ministry of Industrial Development have stated:

“Rule 10 of the RLIU rules provides that the Licensing Committee would consist of the representatives of the Ministries of Commerce and Industry, Railways, Finance, Iron and Steel, Labour and Production and of the Planning Commission. It would thus appear that what is today termed as the Sub-Committee of the Licensing Committee is the real Licensing Committee envisaged in law. This Committee has been given the choice to co-opt one or more representatives of other Ministries of the Government of India or of any State Government concerned, whenever necessary. The Licensing Committee (now called Sub-Committee of the Licensing Committee) has adopted the practice of inviting the representatives of all the State Governments about twice a year in exercise of the above choice. As the membership of the Committee naturally becomes more broad based due to the presence of State Government representatives, the Committee so constituted

has mistakenly to be called as the Full Licensing Committee. In the eyes of law, however the Committee remains only one.

When the State Government representatives are invited, the Committee considers mainly those cases which have earlier been considered by the Licensing Committee (the so called Sub-Committee of Licensing Committee) but in respect of which the recommendations made and the decisions taken are not acceptable to the State Government for one reason or the other."

#### *Meetings of Sub-Committee of Licensing Committee*

4.65. The Sub-Committee of the Licensing Committee at present meets once a fortnight. It is noted that the agenda for a meeting of the Sub-Committee of the Licensing is usually voluminous. On an average, the Sub-Committee considers about 45 cases and the agenda papers, which are circulated to members of the Licensing Committee only 4-5 days in advance of the meeting often run into as many as 200 pages.

4.66. During evidence the Secretary, Ministry of Industrial Development was asked to state whether an increase in the frequency of meetings of the Sub-Committee of the Licensing Committee would lead to quicker and more thorough examination of cases brought before the Committee. He said that the Licensing Committee Section had no backlog and that cases received by that Section were put up to the Sub-Committee of Licensing Committee at their next meeting within a fortnight. "It is not the fact that the Licensing Committee is not able to meet more frequently (and) that stands in the way, but it is the time taken in getting all the information, collecting the information, making a summary for the meetings of the Licensing Committee, that takes time", he added.

4.67. In reply to the point whether, considering the voluminous agenda before it, the Sub-Committee of the Licensing Committee could really do justice by an adequate and proper examination of the applications, he said:

"The Chairman of the Licensing Committee is supposed to go through all the cases. In fact when I have read the cases . . . . We are able to take very quick decisions on it."



In a subsequent written reply to a question on the subject, it has been stated:

“The Committee could certainly meet often than at present but is found that it does not have many cases pending for consideration at any time so as to warrant the meeting more than twice a month. Whenever an adequate number of cases are available the Committee meets oftener. It has at times met even twice a week.”

#### *Preparation of Minutes*

4.68. A sample study of the Minutes of 143rd to 152nd Meetings of the Licensing Committee held between 12th April, 1971 to 19th July, 1971 shows that it has taken from 4 to 6 weeks to prepare and circulate the minutes of the Licensing Committee (Sub-Committee) even after excluding cases requiring approval of the Cabinet Committee on Economic Co-ordination or clearance under M.R.T.P. Act. During evidence, the Secretary, Ministry of Industrial Development was asked whether the delay at this stage was merely administrative or it was on account of certain procedures which had to be followed. He said that the delay at this stage was “a thing of the past” except in cases which require clearance under the M.R.T.P. Act or approval of the Cabinet Committee on Economic Co-ordination. In a subsequent written reply, it is stated that it does not take 4—6 weeks “now” and that the formal minutes of the Licensing Committee “are generally issued within 7—10 days from the date of the final decision.”

#### *Minutes in respect of certain cases*

4.69. It is observed that in regard to some cases the Minutes of the Licensing Committee merely contain the remarks “Minutes will follow”. These are, it is stated, cases where minutes could not be finalised as these required clearance under M.R.T.P. Act or had to be taken to C.C.E.C. direct for their orders. According to the procedure in force, after the Licensing Committee has taken a decision on the cases, these are examined to see whether any of these would require the consideration of C.C.E.C. Cases requiring consideration by C.C.E.C. are forwarded directly by the Licensing Committee Section of the Ministry of Industrial Development itself to the Department of Cabinet Affairs for being placed before the Cabinet Committee. The formal minutes of the Licensing Committee are, it is stated, issued “within three days” of the receipt of the orders of the C.C.E.C.

4.70. Cases of parties registered under Section 26 of the M.R.T.P. Act are, however, after the decision of the Licensing Committee, forwarded by the Licensing Committee Section of the Ministry of Indus-

trial Development to the administrative Ministries|Sections concerned with the request that parties concerned be asked to apply to the Department of Company Affairs for clearance under M.R.T.P. Act. The Licensing Committee Section then awaits a note for C.C.E.C. from the Department of Company Affairs and, on the receipt of the note, refers the case to the C.C.E.C. through the Department of Cabinet Affairs. The formal minutes of the Licensing Committee in such cases, it is stated, issued "as far as possible within a period of 3 days from the date of receipt of the orders of C.C.E.C."

4.71. It is noted from the information furnished by the Government that when the circulation of minutes in respect of any case is held over for any reason, quite some time is taken by the Licensing Committee Section of the Ministry of Industrial Development in forwarding the cases to the administrative Ministry|Section concerned in case it is on account of clearance required under M.R.T.P. Act or in referring the case to the Department of Cabinet Affairs, if the consideration of Cabinet Committee on Economic Co-ordination is required. For example, the minutes of the meeting of the Sub-Committee of the Licensing Committee held on 19th July, 1971, which were circulated on 7th August, 1971, contained 8 items where the minutes were held over. Two of these cases required consideration by C.C.E.C. and for that purpose a reference was made to that body only on 7th October, 1971, i.e. more than 2½ months after the meeting of the Sub-Committee of the Licensing Committee. Five of the 8 cases required clearance under M.R.T.P. Act; 4 of these were forwarded to the administrative Ministry/Section concerned for further necessary action only on 10th August, 1971, i.e. about 3 weeks after the meeting, while one case was referred to the Department of Company Affairs direct on 8th September, 1971, i.e. more than 1½ months after the meeting. One case on which the Minister of Industrial Development had made certain observations was referred to the concerned administrative Section of the Ministry of Industrial Development on 20th August, 1971, i.e. about a month after the meeting.

**4.72. The Committee find that preparation, approval and circulation of minutes of the Licensing Committee has been, until recently, taking an unduly long time. They note the assurance given to them that the minutes are now being issued within 7 to 10 days of the meeting of the Licensing Committee and hope that this position would be maintained in future also.**

**4.73. The Committee also find that, in cases requiring approval of the Cabinet Committee on Economic Coordination or clearance under M.R.T.P. Act, the follow up action after the decision of the Licensing Committee is taking considerable time. The Committee would like the Ministry of Industrial Development to study the procedures being observed in this regard and take such steps as may be necessary to minimise the time taken at this stage.**

*Key and Non-Key Industries*

4.74. It is observed that the Minutes of the Licensing Committee still go by the concept of "Key" and "Non-Key" industries while the Licensing Policy in force classifies industries only into 'Core Sector' and 'Small Scale Sector' industries. Asked to state the reasons for still continuing with the old concept. Government have stated that the concept of key and non-key industries was presumably introduced for the first time by the Report of the Industries Development Procedure Committee (Swaminathan Committee). They agree that the concept "does not seem to have any particular relevance now" and have stated that this "might be given up by the Licensing Committee, subject to a decision being taken by it to this effect."

**4.75. The Committee suggest that, as the concept of Key and Non-Key industries has now become out-dated, a new scheme of priorities may be evolved in accordance with the new Industrial Licensing Policy announced in February, 1970 for use in taking decisions relating to licensing of industrial capacities.**

*Delays in communication to party of decision of the Licensing Committee*

4.76. It is stated in the preliminary material furnished to the Committee that, after the Minutes of the Licensing Committee are circulated, the administrative Ministries and Industries Sections concerned communicate the decisions on the applications to the applicant parties giving them an opportunity to show cause, in cases where the applications are proposed to be rejected. It is noticed from the material furnished to the Committee that there is a sizeable time lag between the date on which the Minutes of the Licensing Committee are circulated and the date on which the Letter of Intent/Licence is actually issued. In a case falling within the purview of the Department of Electronics which has come to the notice of the Committee, this has been as long as 9½ months. Detailed case studies made in respect of a random selection of cases has further confirmed that, after the circulation of Minutes of the Licensing Committee, it takes considerable time for the administrative Ministry/Section

concerned to issue the letter of intent or industrial licence or the letter of rejection to the party in accordance with the decision of the Licensing Committee. Out of 10 cases studied, in 7 cases this stage has taken more than one month, the maximum time taken in a case (which related to the Department of Chemicals) being 165 days. It is however interesting to note that in one of the cases, the letter of intent was issued on the day following the date of circulation of minutes of Licensing Committee.

4.77. When confronted with these facts during evidence, the Secretary, Ministry of Industrial Development said: "Once the Minutes are issued and all the processes completed, that is indefensible." Asked whether in view of delays taking place at this stage, could the job of issue of letter of intent/licence or the letter of rejection to the party in accordance with the decision of the Licensing Committee not be centralised, say in the Licensing Section of the Ministry of Industrial Development, he replied; "This work is generally of the Ministries concerned and they should continue to deal with this."

4.78. The Committee are surprised that although the issue of a letter of intent after the circulation of minutes of the Licensing Committee is a formal affair, even this stage has been taking a considerable time, often as much as several months in certain cases noticed by the Committee. The Committee consider that this stage should not take more than 2 weeks and suggest that, with a view to ensure that this time-limit is observed, a strict centralised watch should be kept by the Ministry of Industrial Development on the follow-up action taken by the Administrative Ministries/Sections concerned on the decisions of the Licensing Committee.

#### D. Special Category Cases

##### (i) CASES REQUIRING APPROVAL OF CABINET COMMITTEE ON ECONOMIC CO-ORDINATION

##### *Type of cases requiring approval of Cabinet Committee on Economic Coordination.*

4.79. After the receipt of the Report of the Industrial Licensing Policy Inquiry Committee in 1969 and with the enforcement of the Monopolies and Restrictive Trade Practices Act from 1st June, 1970, certain changes have been made in the procedure for consideration of applications for industrial licences. Under an Order No. 7/1/3/CF-70 issued by the Department of Cabinet Affairs on 4th August, 1970, the following categories of cases have to be submitted to the

Cabinet Committee for Economic Co-ordination, after the same have been considered by the Licensing Committee, for approval, so that the collective mind of the Government can be exercised on these applications:—

- (i) Cases involving an investment of Rs. 20 crores and more in the heavy investment sector;
- (ii) all applications in the 'Core' Sector;
- (iii) all cases which need clearance under the provisions of the M.R.T.P. Act; and
- (iv) even in cases of doubt as in (iii) above, all cases relating to Larger Industrial Houses and foreign majority companies.

4.80. Since such a procedure adds another stage in the licensing procedure and takes some more time than already being taken in the issue of letter of intent, the representative of the Department of Cabinet Affairs was, during evidence, asked to enlighten the Committee in regard to the genesis and implications of the procedure. He was also asked whether it was possible to minimise these references. He replied:

"In taking decisions on industrial licensing cases an overall view based upon a synthesis of the viewpoints of the various concerned Ministries had to be taken. It has also to be seen that the decisions are in accord with the socio-economic objectives of Government. It is but appropriate therefore that decisions in important cases of the kind mentioned in the question are taken at the highest level in accordance with the principle of joint responsibility. The Cabinet Committee on Economic Co-ordination meets as often as the requirements of work necessitate. Ordinarily therefore the requirement regarding submission of the specified category of cases to it should not entail a delay of three months, nor does it do so in point of fact. The original thinking was that all cases involving an investment of Rs. 5 crores or more should come before the Committee. The limit was later raised to Rs. 20 crores to cut down the number of reference to the Committee and avoid delay. In view of the strong opinion expressed in Parliament and outside in respect of the socio-economic objectives vis-a-vis the larger industrial houses, foreign ownership, import substitution etc., it is not considered feasible to make

further changes in this limit in the light of the concept and practice of joint responsibility...an overall view has to be taken in regard to cases involving important economic considerations. Since several ministries are involved it is only appropriate that the cases should go before a Committee of the Cabinet.”

*Time taken at the stage*

4.81. As regards the time taken at this stage resulting in a further delay in the issue of the letter of intent, he said:

“The Cabinet Committee also has been very anxious to reduce delay in industrial licensing; it has also given instructions regarding the streamlining of procedure. But.....certain cases which could have widespread political and economic implications have necessarily to be considered in the Cabinet Committee. In the types of cases mentioned, the considered view is that the Minister of Industrial Development should have the collective advice of his colleagues.”

He added that the Cabinet Secretariat as such did not consider the merits of a case and it was applying the procedural checks laid down in the instructions for submission of cases to the Cabinet and the Cabinet Committee. This check, he held, “does not take more than one day.”

4.82. It may be pointed out that a study of the Minutes of the Licensing Committee reveals that the reference of a case to C.C.E.C. has, in the past, in fact delayed the circulation of minutes of the Licensing Committee relating to that case by as much as two months causing corresponding delay in the issue of letter of intent. What part of this time was taken by the Ministry of Industrial Development in referring cases to Department of Cabinet Affairs and for how long these remained in the latter Department is, however, not known to the Committee. However, the Ministry of Industrial Development have, while furnishing information in respect of certain cases decided by the Licensing Committee on 19th July, 1971, indicated that two of the cases were referred to C.C.E.C. on 7th October, 1971 and the decisions of the C.C.E.C. thereon were received on 4th November, 1971, i.e. after nearly a month, and the Minutes relating to those case were issued on 6th November, 1971.

**4.83. The Committee find that after decision of the Licensing Committee in a case requiring approval of the Cabinet Committee on Economic Coordination, various processes upto the stage of circula-**

tion of minutes are, at present, taking a long time. The Committee recommend that the Ministry of Industrial Development should, in consultation with the Department of Cabinet Affairs, so streamline the procedure in respect of such cases that the minutes of the Licensing Committee in respect of such cases are finally approved and circulated within three weeks of the date of the meeting of the Licensing Committee.

(ii) CASES REQUIRING CLEARANCE UNDER M.R.T.P. ACT

*Provisions of M.R.T.P. Act.*

4.84. Part A of Chapter III of the Monopolies and Restrictive Trade Practices Act, 1969 (MR.T.P. Act) which deals with "Concentration of Economic Power" is the relevant portion of the Act for the purposes of Industrial Licensing. Section 20 of the Act provides that this Part will cover the following categories of Undertakings:

- (i) an Undertaking the total value of assets of which, together with that of its interconnected undertakings, is Rs. 20 crores or more.
- (ii) a dominant undertaking, the total value of assets of which, together with that of its interconnected undertakings, is Rs. one crore or more.

"Dominant Undertaking" has been defined in Section 2(d) of the MRTP Act as an undertaking which, either by itself or along with interconnected undertakings, produces, supplies, distributes or otherwise controls one-third or more of the total goods of any description produced, supplied or distributed in India or any substantial part thereof. Section 26 of the Act, requires all undertakings to which Part A of Chapter III of the Act applies to register themselves with the Government. Upon registration, the undertaking is issued a certificate of registration. Sections 21 and 22 of the Act provide that such an undertaking will have to seek the permission of the Central Government under the Act for any substantial expansion of its activities or for establishing any new undertaking which, when established, would become an interconnected undertaking.

*Procedure observed by Ministry of Industrial Development in M.R.T.P. Act cases.*

4.85. According to the Industrial Licensing Policy notified in February, 1970, an Industrial Licence is necessary—

- (i) for all "Dominant Undertakings" as defined in Section 2 (d) of the MRTP Act, if they intend to set up a new unit or substantially expand their production or manufacture new articles over 25 per cent of the licensed capacity.
- (ii) for 'Larger Industrial Houses' as classified by the Dutt Committee in their Report if they intend to set up a new unit or diversify or substantially expand their production. (These are houses the total value of assets of which, together with that of their interconnected undertakings, exceeded Rs. 35 crores in 1964 and their total number is 20.)

Government have also stated that in cases clearly falling under the M.R.T.P. Act, that is where the party has registered itself under the Act, a letter of intent or licence is issued only after the case has been cleared under the M.R.T.P. Act. Thus not only registered 'dominant undertakings' but registered companies where the total value of assets is Rs. 20 crores or more also require clearance under the Act, including the "Larger Industrial Houses" as classified by the Dutt Committee in their Report on the basis of value of assets of a House exceeding Rs. 35 crores.

*Action by Department of Company Affairs on copy of licence application sent initially.*

4.86. As stated earlier, a copy of every application for the issue of a letter of intent|industrial licence is forwarded to the Department of Company Affairs for comments within two weeks. The representative of the Ministry of Industrial Development was, during evidence, asked to state the object of sending a copy of the licence application to the Department of Company Affairs when the parties were required to make a separate application to that Department for clearance under the M.R.T.P. Act if they were covered under the Act. He stated:

"When we send to the Department of Company Affairs a copy of the industrial licence application, it is for their comments as to whether M.R.T.P. Act applies. A decision on the application has to be taken by the Licensing Committee. If they do not send the comments, we will report to the Licensing Committee that no comments from the Department of Company Affairs have been received. We do not wait but just put up the case. The Department of Company Affairs is, however, concerned with giving



clearance under the Monopolies Act, for which the party must apply separately, if its case is covered by that Act.”

In a subsequent written reply to the Committee, the Department of Company Affairs have stated that they examine the applications primarily from the company law angle and also from the point of view of the applicability of the M.R.T.P. Act to the case (so far as could be made out from the application for industrial licence which does not contain all the detailed material required for an application under Section 21 or 22 of the M.R.T.P. Act) and furnish their comments to the Ministry of Industrial Development within two to three weeks.

*Procedure in cases clearly covered under M.R.T.P Act.*

4.87. In respect of parties who are registered, or have already applied for registration under Section 26 of the MRTP Act, a letter of intent or licence under the Industries (Development and Regulation) Act is issued only after the case has been cleared under the MRTP Act. In such cases, after the Licensing Committee has considered the application, the Licensing Committee Section of the Ministry of Industrial Development forwards the case to the Administrative Ministry Section concerned asking them to advise the party to obtain from the Department of Company Affairs either a statutory approval under Sections 21 and 22 of the Act (if the party has not already made such an application) or a clarification to the effect that the particular expansion proposal is exempt from such prior approval under the Act.

4.88. According to the prescribed procedure applications from parties, who have already applied or are registered under Section 26 of the Monopolies and Restrictive Trade Practices Act, are required to be processed simultaneously by the Licensing Committee in the Ministry of Industrial Development and Advisory Committee in the Department of Company Affairs and placed before the Cabinet Committee on Economic Coordination (C.C.E.C.) for orders. In a Press Note issued by the Department of Company Affairs on the 25th October, 1970, applicants for industrial licences, whose cases are also covered by the provisions of the M.R.T.P. Act, were advised simultaneously to apply to the Department of Company Affairs also under the relevant provisions of Section 21 or 22 of the M.R.T.P. Act. The idea is that the M.R.T.P. application will also be processed simultaneously with that for industrial licence and the two corresponding applications placed before the Advisory Committee and the Licensing Committee respectively thus enabling the Cabinet

Committee for Economic Coordination to whom both the parallel applications will be referred to take a final decision.

4.89. Asked whether the procedure of simultaneous consideration by the Licensing Committee in the Ministry of Industrial Development and the Advisory Committee in the Department of Company Affairs was actually being observed, the Department of Company Affairs have stated that as far as possible attempts were made to get such applications processed in both the bodies simultaneously but this is not always possible as, to a large extent, it depends upon whether the party applies simultaneously or on different dates for the two sets of clearance. It is held that the application for clearance under the M.R.T.P. Act is frequently made at a later date.

4.90. In a subsequent written reply the Department of Company Affairs have further stated:

“In actual practice it has been found not possible to ensure simultaneous consideration by the Advisory Committee and the Licensing Committee in all cases. In view of the provisions of Section 30 of the Act, it is necessary to take a view early whether the application is to be referred to the M.R.T.P. Commission for enquiry or not. Hence, applications are brought up before the Advisory Committee within about 4 weeks of their receipt. However in such cases both the applications are finally decided by the Cabinet Committee for Economic Coordination. The Cabinet Committee for Economic Coordination has the recommendations of the Licensing Committee in respect of the industrial licence application and of the Advisory Committee (or the M.R.T.P. Commission in cases referred to the latter) on the application under the M.R.T.P. Act, before it takes decision. In order to avoid notes on the two applications coming up separately from two separate Departments before the Cabinet Committee for Economic Coordination, it has recently been decided to send the Department of Company Affairs' note for the Cabinet Committee in respect of an M.R.T.P. application to the Ministry of Industrial Development which Ministry will place both that note and its own note on the industrial licence application before the Cabinet Committee for Economic Coordination at the same time. This procedure is now being followed.”

*Cases not clearly covered under M.R.T.P. Act.*

4.91. In cases where there is a doubt on the part of the Department of Company Affairs or any other Department of Government regarding the applicability of the M.R.T.P. Act, but where the parties have not registered themselves under Section 26 of the Act, clearance is not required under the M.R.T.P. Act. These cases are submitted to the Cabinet Committee for Economic Coordination for orders, after consideration by the Licensing Committee. The issue of Letters of Intent|industrial licences in such cases is subject to the stipulation that it will not constitute a clearance under the M.R.T.P. Act. However, where it is *prima facie* clear that the provisions of the M.R.T.P. Act do not apply to an application for a letter of intent|licence, the letter of intent|licence is issued without any such stipulation.

4.92. The basis of the procedure observed in cases of doubt as to the applicability of M.R.T.P. Act was explained by the representative of the Department of Company Affairs during evidence thus:—

“the intention is that the entrepreneur should be in a position to go ahead with the establishment of the industry in a case of doubt if he is prepared to run the risk of facing prosecution under the MRTP Act on being ultimately proved wrong. The intention is to give fillip to the establishment of new ventures where there is a doubt about the necessity for registration under the M.R.T.P. Act. Since the Government could be in doubt, but the firm may not be the intention is that if the firm is prepared to take the risk, it may do so.”

*Procedure observed by the Department of Company Affairs.*

4.93. According to the procedure observed by the Department of Company Affairs, on the receipt of application, concerned Ministries Departments namely, the Administrative Ministry|Department concerned, Department of Economic Affairs, Department of Banking and Planning Commission are requested to send their comments within ten days. If the application is lacking in any material particulars, these are called for from the Company concerned. The case is then placed before the Advisory Committee or decision whether the matter should be referred to the MRTP Commission or not. Section 30(1) of the Act prescribes a time-limit of 60 days from the date of receipt of the application (where further particulars are called for by Government from the date on which these are furnished to the Government) within which such a decision should be taken. If it is decided not to refer the case to the MRTP Commission for further enquiry, interested parties are given statutory hear-

ing by Government in terms of Section 29 of the Act. The case is then submitted to the Cabinet Committee for Economic Coordination for approval through the Ministry of Industrial Development whereafter the final order is passed. Under Section 30(4) of the Act, cases which are not referred to the Commission are required to be disposed of by the Central Government within 90 days from the date of receipt of the application, except where the Central Government, for special reasons recorded by it in writing, is of the opinion that the case cannot be disposed of within 90 days.

4.94. In a case referred by Government to the MRTP Commission for inquiry, the Commission can, under Section 30(2) of the Act, take 90 days from the date of such reference, for submission of its Report to the Government. The Commission observes its own procedure for making inquiries which includes personal hearing of interested parties, if considered necessary. The time-limit of 90 days for the Commission can be exceeded if the Commission for special reasons recorded by it in writing, is of the opinion that the report cannot be made within 90 days. On receipt of the Report of the Commission, the Act allows Government 60 days time to examine it and pass orders. Before passing final orders in such cases, the Department gives a statutory hearing to the interested parties under Section 29 of the Act and submits the case for the approval of the Cabinet Committee for Economic Coordination through the Ministry of Industrial Development.

4.95. Asked to indicate the level at which processing of cases is done, and decisions taken, the Department of Company Affairs have stated: 'Processing is done by the Department and decisions on applications under the MRTP are taken by the Cabinet Committee for Economic Coordination; where, however, it is a question whether the provisions of the Act are applicable or not to any particular case or whether the case is entitled to statutory exemption under the Act, the decision is taken by the Minister of Company Affairs.'

*Guidelines for disposal of cases*

4.96. The broad guidelines or criteria for clearance under the MRTP Act are laid down in Section 28 of the Act. It is stated that apart from these, no departmental guidelines as such have been issued, but certain points have been drawn up and circulated, on which administrative Ministries are expected to offer their comments and these points are borne in mind by the Advisory Committee while making its recommendations as to whether the proposal is expedient in public interest. These are:

- (1) All India Production figure in commodity;

- (2) The applicant's share in it (*i.e.* whether it is 'dominant' undertaking);
- (3) Whether attempts have been made to locate newer entrepreneurs for producing the particular commodity and with what success;
- (4) How many 'letters of intent' have been issued for the same commodity and the names of parties; and what would be the applicant's market share when all these letters of intent are implemented;
- (5) Where the applicants belong to a larger house as defined by the Dutt Committee, whether the product is in the core or heavy investment sector. If it is in the middle sector, any special justification for allowing larger houses to come in.
- (6) The Plan target, if any, for the commodity proposed to be manufactured;
- (7) How much of this commodity is now imported;
- (8) The export potential;
- (9) Whether the proposed expansion or setting up of a new undertaking is in a backward area;
- (10) The estimated volume of employment to be generated by the project;
- (11) The quality of the goods already produced by the applicant; their general reputation in this respect;
- (12) The price structure and the margin of profit in the products manufactured by the Company;
- (13) Where expansion is justified on the ground of economy of scale, whether this economy will be reflected in the resultant price of the commodity and whether this will be passed on to the consumer for price reduction;
- (14) The views of the Licensing Committee on the corresponding application under the Industries (Development and Regulation) Act where that application has already been considered by that Committee.

The Department of Economic Affairs are required to give their specific comments in respect of the following points:—

- (1) If it is a foreign majority company, whether there should be a reduction of foreign holding to a suitable level and if so, what level;

- (2) If the applicant company is closely held by a family group, whether as a condition of approval of the proposed expansion, there should be a dilution of capital held by them.

*Procedure observed by the MRTP Commission.*

4.97. Section 18 of the Monopolies & Restrictive Trade Practices Act empowers the Commission to regulate the procedure and conduct of its business. It is stated that, as different enquiries pose different problems, the procedure to be followed can vary from enquiry to enquiry depending upon the nature of information required to be collected. However, generally the procedure followed is somewhat as under:—

- (i) As soon as the references are received in the Commission from the Department of Company Affairs under Sections 21|22, the first thing that the Commission does is to publish a Notification in the important newspapers in the country. In this Notification salient features of the Scheme for which approval has been sought from the Government are mentioned. Interested parties are requested to give their comments regarding the proposed scheme, or any other information which they may like to give to the Commission for its consideration by a specified date.
- (ii) After the Notification has been issued, the Commission meets and the Scheme proposed is analysed. Letters are issued to various Government Departments like Planning Commission, Department of Industrial Development, Directorate General of Technical Development, etc. soliciting information on various points *viz.* existing capacities, current production, names of the parties who propose to enter into the field, etc. Letters are sometimes also issued to financial institutions like Life Insurance Corporation of India, Unit Trust of India, I.C.I.C.I., etc., soliciting their comments regarding scheme of finance and other allied matters. If necessary, preliminary discussions are also held with the Government and financial institution's representatives etc.
- (iii) Letters are also issued to the applicant company asking it to furnish information on various factual points that are considered relevant to the enquiry as also to give comments on various other issues considered relevant by the Commission.

- (iv) The letters received in response to the Commission's Notification are analysed and if more information is considered necessary on the basis of these letters, that is collected. Views of the parties who are already in the field proposed are also solicited. Sometime hearings to the interested parties are also given by the Commission.
- (v) If on some matters the Commission considers it necessary to make some investigations, etc. those aspects are entrusted to the Director of Investigation of the Commission for necessary enquiries and report.
- (vi) The Commission as a whole, or some individual Members also visit the establishment of the applicant company or some competitive establishments, if that is considered necessary for the purpose of enquiry. During these visits, various processes of manufacture involved are looked into and discussions are held with the representatives of the establishments visited.
- (vii) After information from various resources has been collected, a public hearing is arranged. Intimation regarding these hearings is given to the applicant company, Government Departments as also to all others who have shown interest in the conduct of the enquiry by the Commission. Information is also given through newspapers regarding these hearing. Those who are interested attend and participate in the hearings at the discussions of the Commission. These hearings are open to the Press and the Public.
- (viii) After the public hearing, the Commission drafts its report and sends it to the Government.

*Delays in the disposal of applications for clearance under MRTP Act*

4.98. MRTP Act itself provides an elaborate procedure for disposal of applications from parties coming within the purview of the Act. Time limits for disposal of applications are laid down in the Act itself (90 days for cases not referred to the Commission). These can, however, be exceeded, though only for 'special reasons' to be recorded in writing. In actual practice, the time limits are seldom adhered to and it takes the applicant much longer time to get clearance under the Act. This is borne out by an analysis of the data furnished by the Department of Company Affairs. It indicates that upto 15th November 1971 a total of 189 applications were received

by the Department for clearance under the MRTP Act. Out of these 189, 116 were disposed of and 73 were pending as on 15-11-1971—61 with the Department of Company Affairs and 2 with the MRTP Commission. Of the 116 cases disposed of as on 15-11-71, 110 cases were disposed of without reference to the MRTP Commission. The statutory time limit of 90 days was observed only in 18 out of these 110 cases while roughly 50 per cent of the cases took more than six months for disposal. Five out of six cases disposed of after reference to the Commission took between 8 to 10 months for final disposal by the Department of Company Affairs.

4.99. Of the 61 cases pending with Government on 15-11-1971 all but four cases were pending for varying periods exceeding the statutory time limit of 60 days laid down for disposal at this stage. Cases pending with them for more than six months numbered 23, including four cases which were pending for more than one year. Of the 12 cases pending with the MRTP Commission as on 16-11-1971, the pendency in all cases had exceeded the statutory limit to 90 days laid down for disposal by the Commission. Half of the pending cases were with the Commission for more than six months. This analysis shows that the time limit for disposal of applications laid down in the MRTP Act is generally not being observed by the Department of Company Affairs or the MRTP Commission and that in most cases 'special reasons' have to be pleaded for exceeding the statutory time limits.

#### *Reasons for Delay*

4.100. It has been generally complained to the Committee by all the leading non-official organisations representing commerce and industry that it takes a long time for the Department of Company Affairs to clear applications in respect of Parties registered under the MRTP Act resulting in inordinate delay in the issue of letters of intent/licences. In this context, the Department of Company Affairs, was asked to state the reasons for delay at the Government level and by the Commission in the disposal of such cases. They have in reply submitted:

"The complaint is not correct. Where such applications are not made by the parties at all or made belatedly or where clearance is not sought in respect of the non-applicability of the Act or in regard to any exemption under it, the question of giving any clearance by the Department *suo motu* does not arise....

In the great majority of these cases, it has not been possible to pass final orders within the statutory time limits. As



the other concerned Ministries do not usually communicate their comments on the MRTP applications in time and in many of the cases the applicant parties also take a long time to furnish further information which they may be asked to give by the Department. It becomes very difficult to pass the final order within the required time-limit. Under section 29 of the Act, Central Government is required to give interested persons an opportunity of being heard, and this involves the prior publication of newspaper advertisements in a national newspaper and a commercial journal by the applicant parties calling for objections or representations from interested persons to be sent to the Department of Company Affairs. This process also takes considerable time as each of the interested persons is required to be given sufficient notice for such hearing. Finally, all applications under Sections 21 and 22 of the MRTP Act are required to be decided upon by the Cabinet Committee for Economic Coordination. Cases are submitted to the Cabinet Committee only after the views of the Licensing Committee on the corresponding Industrial licence are known and the process of reference to the Cabinet Committee for Economic Coordination, obtaining its minutes of decision and the issue of the final order which has to set forth the reasons for the decision (since these orders are appealable to the Supreme Court) necessarily involve time.....

“As for the delay in submission of the reports by the Commission, it has always been the Commission’s endeavour to give the reports within the period of 90 days as stipulated under the Act. However, in the past it has not been possible to keep up this limit in some cases because of paucity of staff with the Commission. Some delay has also resulted because the Government Departments, the applicant company and the various parties to whom letters of enquiry were issued by the Commission took time to send their replies on the various points on which information was considered necessary by the Commission. However, the position in this regard is likely to improve very much, since the Commission has now been able to recruit some staff on its Research and Technical side.”

4.101. Asked to state whether the Department or the Commission had laid down any time limits for the disposal of cases at various stages, apart from the time limit prescribed in the MRTP Act itself, the Department of Company Affairs stated: "The Department, according to internal administrative instructions, is required to place every application before the Advisory Committee within about four weeks of its receipt. There are no other internal time limits."

4.102. In the context of delays occurring in the disposal of cases attracting the provisions of MRTP Act, during evidence, a point was made whether it could be possible to evolve a procedure whereby prior clearance under MRTP Act was not insisted upon and a letter of intent was issued subject *inter alia* to the condition that the applicant would have to obtain clearance under MRTP Act before the letter of intent could be converted into an industrial licence. This would cut out delay in such cases to a considerable extent. The representative of the Department of Company Affairs in regard to this point said:

"If (this) observation is made in the letter of intent, it would be of no help to the party concerned unless clearance is obtained. If no approval is granted, this letter of intent will be useless and he will be misled by it. Simultaneous clearance under Industries Act and Monopolies Act is necessary."

The Secretary, Ministry of Industrial Development added:

"Letter of intent really is meant to indicate that Government are prepared to give him licence. If the letter of intent is given where the Government may later on say: No, we do not give you the licence, then the value of letter of intent will be greatly distracted. It will be embarrassing to issue letter of intent knowing that the party is registered one."

4.103. The Secretary, Ministry of Industrial Development as well as the representative of the Department of Company Affairs submitted before the Committee that a certain procedure was laid down by the MRTP Act for clearance of cases and this could neither be avoided nor exercised by any authority other than the Department of Company Affairs who under the 'Allocation of Business Rules' at present in force were designated to implement the MRTP Act. In regard to the question whether the work of grant of clearance under MRTP Act could not be entrusted to the Ministry of Industrial Development, the representative of the Department of Company Affairs stated: "This suggestion is valuable one, because if the work is unified, it will save considerable time. But, even as it is this division of work does not hold up any thing."

4.104. The representative of the Department of Company Affairs explained to the Committee the delays in the disposal of application for clearance under MRTP Act. He said: "in the beginning there was some delay because licences or letters of intent were pending when the Act came into force. Then the question arose in many cases whether the Act was applicable or not and that particular aspect had to be cleared and that took some time. Now that the backlog has been cleared, things move rather quicker." Adding that since the "last two or three months", the clearance under MRTP Act is given "within four or five weeks and in almost all cases, before the Industries Ministry is ready with the proposal for the licence", he assured the Committee: "Now, we have formulated clear views and no case is held up for more than 4 to 5 weeks. Presently, there are hardly any cases where the Licensing Committee's proceedings were held up because of want of recommendation from our side. More or less, it is synchronised and it is very simple now."

#### *Changes in composition of Industrial Houses and in pattern of their production*

4.105. It was pointed out during evidence that changes were taking place in the composition of industrial houses, in the value of their fixed assets and the production pattern of the undertakings. Therefore, a Company which attracted the provisions of the MRTP Act at a given time might subsequently cease to come within the purview of that Act and *vice versa*. Replying to the point the Secretary, Ministry of Industrial Development stated that if a Company registered under Sec. 26 of the MRTP felt that it was no longer inter-connected with any group coming within the purview of the MRTP Act, it could apply to the Department of Company Affairs for not treating it as such and where the Department of Company Affairs had found that the contention was substantiated, it had deleted the name of such Company from the list of Companies registered under Sec. 26 of the Act.

#### *Impact of Industrial Development*

4.106. The representative of the Ministry of Industrial Development stated during evidence that the MRTP Act did not prohibit any section of entrepreneurs from establishing new or additional industrial capacities and that Section 28 of the Act laid down the principles and criteria for granting clearance under the Act. He, however, agreed that a certain time was lost in processing such cases.

4.107. One of the non-official organisation have, in their Memorandum to the Committee suggested:

“...Especially where the investments are in desirable activities—backward areas, defence and export production— then the expansion should be granted in the public interest with a liberal use of Section 28(a) of the Monopolies Act. For this, a set of guidelines be evolved in consultation with Monopolies Commission under which entrepreneurs can go ahead with implementation without awaiting for a clearance.....”

Government were asked to offer their comments on the suggestion. They have stated that the Act does not vest the Government with any power to grant such outright exemption or relaxation from the requirements of the Act. However, the criteria to which regard shall be had by Government in disposing applications and determining whether they are expedient in the public interest are indicated in Section 28 of the Act. These include the considerations mentioned in the memorandum referred to in the question. These matters are always borne in mind by the Advisory Committee, MRTP Commission and by the Government while dealing with applications under Sections 21 and 22. So far, four such applications have been rejected.

4.108. In regard to another point raised during evidence that established industrial houses were finding it difficult to obtain clearance under the MRTP Act for setting up new or additional capacities even in the core sector where their participation was permitted under the new licensing policy announced by Government in February 1970, the representative of the Department of Company Affairs said:

“Out of the 90 applications which have been cleared up till now, only four have been refused on the ground that particular project can be taken up only by a new entrepreneur. Otherwise, most of them have been cleared, particularly having regard to the fact that they are going to the backward areas.”

4.109. The Committee note that so far Government have been unable to give clearance under the MRTP Act in respect of only applicants. They are, however, distressed to find credence in the complaints made to them of considerable delays taking place in the disposal of applications for clearance under the Act. In 110 cases disposed off by the Department of Company Affairs by 15th November, 1971 without reference to the MRTP Commission, only 18 cases were disposed off within the statutory time-limit of 90 days, while roughly 50 per cent of the cases took more than 6 months for disposal. 5 out of 6 cases disposed off after reference to the Commission took between 8 to 10 months for final disposal by the

**Department of Company Affairs.** The Committee also note that of the 61 cases pending with the Department of Company Affairs on 15th November 1971, 23 were pending for more than 6 months. Similarly, MRTP Commission has also exceeded the statutory time limit of 90 days in respect of all the 12 cases pending with them on 15th November, 1971. Thus the statutory time limits for disposal of applications for clearance under the MRTP Act are generally not being adhered to either by the Department of Company Affairs or by the MRTP Commission. The Committee are unable to appreciate the reason adduced by the Department of Company Affairs that the various process to be undergone under the provisions of the MRTP Act take time, as they believe that these factors must have been taken into account while laying down the statutory time limits. The Committee would like the Department of Company Affairs as well as the MRTP Commission to seriously try to compress their inquiries, investigations and processes within the statutory time-limits and see that cases which are not disposed of within those time-limits are an exception and not the rule as happens to be case at present.

4.110. The Committee would also like the Ministry of Industrial Development to identify and cut out pockets of avoidable delays in the existing procedures and processes in that Ministry in regard to licensing applications requiring clearance under the MRTP Act, especially the procedure whereby, after the decision of the Licensing Committee, the Licence Committee Section of that Ministry forwards the cases to the Administrative Ministry|Section concerned requesting them to ask the parties to obtain either a clearance under the MRTP Act, or a certificate of non-applicability of that Act in regard to the case, from the Department of Company Affairs, which necessarily takes time.

## CHAPTER V

### PROCEDURE AFTER THE ISSUE OF LETTER OF INTENT

#### A. Fulfilment of Conditions

##### (i) Approval of Foreign Collaboration Agreements

###### *Foreign Investment Board*

5.1. As stated earlier, where a proposal made by an applicant involves collaboration with foreign parties, the letter of intent is issued subject to condition that the terms of foreign collaboration will be settled subject to the satisfaction of Government and the party is directed to send, within a period of six months from the date of issue of the letter of intent, an application setting forth the proposals regarding foreign collaboration. With a view of minimising procedural delays in the disposal of applications relating to foreign investment and collaboration, Government have, in January 1969, laid down a procedure for disposal of such applications. A Foreign Investment Board (FIB) has been set up and charged with the responsibility "for expeditious disposal" of such cases. The composition of the F.I.B. is as under:

Secretary, Ministry of Finance—*Chairman*

###### *Members*

1. Secretary, Department of Industrial Development
2. Secretary, Ministry of Petroleum and Chemicals
3. Secretary, Department of Company Affairs
4. Secretary, Department of Commerce
5. Secretary, Planning Commission
6. Secretary of the Administrative Ministry concerned.
7. Director General, Council of Scientific and Industrial Research
8. Director General, Technical Development
9. Member-Secretary to be provided by the Department of Industrial Development.

The FIB has been assigned the following jurisdiction:

“All cases of foreign investment and collaboration will fall within the jurisdiction of the Board. Even where the primary responsibility rests with the administrative Ministry concerned under powers delegated to the Ministry, the Board will have supervisory functions in respect of the disposal of all applications and may call for and deal with any individual applications in the Board itself.”

There is a Sub-Committee of the FIB composed of representatives (at the Joint Secretary level) of the following Departments:

Department of Industrial Development—*Chairman*.

*Members*

1. Department of Economic Affairs
2. Department of Company Affairs
3. Ministry of Commerce
4. Ministry of Petroleum and Chemicals
5. Department or Administrative Ministry concerned.
6. A representative of the Planning Commission
7. A representative of the Directorate General of Technical Development.
8. A representative of the Council of Scientific and Industrial Research.
9. Secretary to be provided by the Department of Industrial Development.

*Procedure in foreign collaboration cases*

5.2. The proposals for foreign collaboration have to be applied for in the prescribed form and 10 copies of the applications are required to be submitted to the Secretariat of the F.I.B., that is, the Ministry of Industrial Development. After registration and an initial and preliminary examination, copies are transmitted to the administrative Ministry Department, CSIR, DGTD or other technical authority concerned and the Development Commissioner, Small Scale Industries.

5.3. Government have delegated authority to the administrative Ministries|Departments and they are supposed to be “primarily responsible for the prompt disposal of applications falling within their particular fields in accordance with guidelines laid down. In cases

where the matter is within the delegated powers of the administrative Ministries, they it is stated, dispose of the application finally within a period of two months of the date of application and inform the Secretariat of the Board. All cases of foreign technical collaboration involving a payment in cash of royalties not exceeding the prescribed ceiling and all cases of technical know-how fees payable in cash not exceeding 10 per cent of the issued equity capital, provided the aggregate gross payment does not exceed Rs. 5 lakhs per annum in any one case, can be disposed of by the administrative Ministry concerned without reference to the Foreign Investment Board or its Sub-Committee. Even where the primary responsibility rests with the administrative Ministry concerned under powers delegated above, the Foreign Investment Board has supervisory functions in respect of disposal of all applications and may call for and deal with any individual application in the Board itself. It is stated that the Secretariat of the Board maintains close liaison with the various Ministries.

5.4. Where the case is within the jurisdiction of the FIB or its Sub-Committee, after obtaining the comments of the authorities concerned, the administrative Ministries are required to forward a note to the Secretary of the Foreign Investment Board/Sub-Committee within 1½ months from the date of receipt of the application. If, in any particular instance, the note is not received within 1½ months, the Secretary of the Sub-Committee of Foreign Investment Board contacts the administrative Ministry to expedite submission of the Note. It is stated that, in any case, an application for foreign investment/collaboration must be brought up to the Foreign Investment Board/Sub-Committee at the expiry of the period of 2 months from the date of its receipt, irrespective of the stage of the processing of the case and even without waiting for the comments of the technical authorities. On receipt of the Note from the administrative Ministry, the Secretariat of the Foreign Investment Board ensures that it is included in the agenda of the next meeting of the Sub-Committee or the FIB, as the case may be. Where, under the delegated powers, the Sub-Committee is competent to deal with subject, it considers the proposal and informs the FIB of its decision. Where the subject is within the competence of the Board or of the Cabinet Committee, it is included in the agenda for the next meeting of the FIB. The FIB and its Sub-Committee meet normally once a fortnight. Where the subject falls within the jurisdiction of the Cabinet Committee, the Board considers the Note and records its recommendations on the proposals made by the Administrative Ministry.



5.5. The Secretary of the Foreign Investment Board/Sub-Committee drafts the minutes which are immediately sent to the Chairman of the Foreign Investment Board for approval. After approval by the Chairman, the minutes are put up to the Minister of Industrial Development in respect of cases relating to the Ministry of Industrial Development, where as the minutes in respect of cases relating to other Departments/Ministries are submitted to him for information. Thereafter, the minutes are circulated to the Members of the Board and the administrative Ministries for further necessary action. The administrative Ministries/Departments concerned are required to issue final orders in the matter between 4 to 7 days from the date of receipt of the minutes. It is stated that every effort is made to give final decision on a foreign collaboration application within a period of 90 days from its receipt in the Secretariat of the Foreign Investment Board.

#### *Delays in disposal of cases*

5.6. Complaints have been received by the Committee that considerable time is being taken by Government in consideration and final approval of proposals for foreign collaboration. In this regard, Government have stated that, by and large, with the establishment of the FIB it has been possible to substantially reduce the procedural delays in processing the foreign collaboration applications. They have also stated that though it is true that delay in the submission of summaries/notes by the Administrative Ministries/Sections does affect the time-schedule laid down for consideration by the FIB, but with periodical demi-official reminders sent by the FIB Secretariat to the Joint Secretaries of the concerned Ministries/Sections impressing upon them the necessity of expeditiously clearing the pending foreign collaboration applications, the delays are reduced to the minimum. It is held that, generally, the applications are brought up before the FIB/Sub-Committee by the Administrative Ministry within 2 to 3 months from the date of receipt of application. It is further stated that every effort is made that the Administrative Ministries/Departments concerned issue final orders in the matter between 4 to 7 days after the minutes are issued. The Secretariat of the FIB reviews the position of such pending cases almost every months and issues demi-official letters at Joint Secretary level to all concerned Ministries impressing upon them the necessity of clearing such cases which have been considered by the Board and where final orders are yet to issue.

5.7. Government have furnished to the Committee the following data relating to applications for foreign collaboration including notes

on policy disposed of during 1971 and those outstanding as on 1st January, 1972.

**A. Applications disposed of during 1971**

(1) No. of applications including Notes on Policy disposed of by the FIB. . . . .	353
(2) Break-up of cases decided by the Board, according to the time taken in final disposal (from the date of receipt of application to the date of circulation of minutes of the Board. . . . .	
3—4 months . . . . .	56
4—6 months . . . . .	87
6—9 months . . . . .	96
9—12 months . . . . .	54
Over 12 months . . . . .	60
	353
(3) No. of applications approved . . . . .	251
(i) on the recommendations of the FIB . . . . .	193
(ii) Under delegated powers . . . . .	58
(4) No. of applications rejected . . . . .	110
(M) On the recommendations of the FIB . . . . .	20
(ii) Under delegated powers . . . . .	90

**B. Applications pending as on 1-1-1972**

(1) Total No. of applications pending final decision . . . . .	766
(i) applications considered by FIB, but final orders are yet to issue	84
Pending for up to one month . . . . .	53
Pending for 1—2 months . . . . .	246
Pending for 2—3 months . . . . .	21
Pending for over 3 months . . . . .	24
(2) Applications which are deferred and are required to be re-submitted to FIB, . . . . .	13
	(Pending with Administrative Ministries).
Pending for up to one one month . . . . .	6
Pending for 1—2 months . . . . .	1
Pending for 2—3 months . . . . .	Nil.

Pending for over 3 months . . . . .	6
(3) Applications pending without being placed before the Board . . . . .	296 (Pending with Administrative Ministries.)
Pending for less than 3 months . . . . .	62
Pending for 3—5 months . . . . .	102
Pending for 6—9 months . . . . .	48
Pending for 9—12 months . . . . .	30
Pending for 12 months and over . . . . .	27

5.8. The above data indicates that, although it is maintained that every efforts is being made to give final decision on an application within 90 days of its receipt, during 1971 not a single application was disposed of within 90 days, nearly 60 per cent of the cases took more than 6 months while 17 per cent of the cases took more than one year for disposal. It also indicates that, although Ministries are required to bring up cases before the Board within 1½ months and according to prescribed every application must, in any case, be brought up to the Board at the expiry of 2 months from the date of receipt of application, all of the 269 applications pending with the Ministries as on 1st January, 1972 were pending for varying periods exceeding 3 months, roughly 40 per cent for more than 6 months. Even where the Board had considered the case, final orders not issued until 1st January, 1972 in 84 cases. In 31 out of 84 cases, the Board had considered the case on a date earlier than one month while in 24 cases, more than 3 months had already elapsed after the consideration of the Board. This is when, according the prescribed procedure, the Ministries are required to issue final orders between 6 to 7 days from the date of receipt of the minutes of the Board.

5.9. The Committee note that the Foreign Investment Board was set up precisely for the purpose of minimising procedural delays and expeditious disposal of foreign collaboration cases, that time limits have been laid down for different stages in the disposal of applications, that there is a procedure whereby an application must be brought up before the F.I.B. or its Sub-Committee at the expiry of the period of two months from the date of its receipt, and that every effort is made to give final decision on an application within 90 days of its receipt. The Committee are, however, unhappy to find that despite all these measures, considerable delays continue to take place in the disposal of applications for foreign investment and collaboration. Of the applications disposed of during 1971, as many

as 60 per cent took more than 6 months for disposal while 40 per cent of the cases pending on 1st January, 1972 were more than six months old. The Committee would like Government to reappraise the system to find out why and where the delays are taking place in the disposal of these applications and take such remedial measures as may be necessary for the disposal of applications in three months time, including the introduction of an effective system of centralised watch being kept over the step by step progress of disposal of applications.

*Simultaneous consideration of applications for licence and foreign collaboration*

5.10. It is stated that in a number of cases, the intending investors apply for a Letter of Intent/Licence and for foreign collaboration in the same application. In such cases, normally the application is first considered by the Licensing Committee and a Letter of Intent is issued subject to the terms of foreign collaboration being arranged to the satisfaction of Government. Thereafter, the foreign collaboration terms are separately considered. This arrangement, the Government agree, involves considerable time and it is not likely that the application can be disposed of within three months. Government, therefore, consider it desirable that in such cases the application for the licence and the application for foreign collaboration may be processed simultaneously, though separately.

5.11. Asked to state the effective steps taken to enforce the new procedure for simultaneous (and not consecutive) processing of applications for licence and foreign collaboration, Government have, in a subsequent note furnished to the Committee, stated that applications are received by the Licensing Committee and FIB Sections simultaneously only in some cases and not in all cases. As soon as an application is received by the FIB Secretariat, it is sent to the administrative Ministry/Section concerned for further processing and being put up to the FIB with their comments. A similar procedure is followed by the Secretariat of the Licensing Committee. To this extent it would be correct to say that foreign collaboration and licensing applications are processed simultaneously. An approval for entering into foreign collaboration is not issued to the party till it has obtained a letter of intent. This procedure is followed for very practical reasons because unless the party has a letter of intent in a case where an industrial licence is required to be obtained under law, the giving of permission to enter into a foreign collaboration agreement cannot serve any useful purpose. In fact, the issue of a letter of intent enables the party to negotiate confidently with prospective foreign collaborators, who generally insist

on some such proof of Government permission before entering into serious negotiations.

**5.12. The Committee welcome the idea of simultaneous consideration of licence application by the Licensing Committee and the application for foreign collaboration by the Foreign Investment Board in cases where the party is ready with both the applications and submits them together. The Committee would like Government to publicise this procedure for general information so that parties wishing to take advantage of this procedure may submit both the applications together and avoid the delay involved in the consecutive processing and consideration of these applications.**

*Guidelines for consideration of proposals for foreign collaboration*

5.13. Guidelines have been issued under the erstwhile Ministry of Industrial Development and Company Affairs O.M. No. IP & FC-5(26)/68 dated the 25th January, 1969 to all the administrative Ministries/Departments and other authorities concerned for the consideration by them of the applications for foreign collaboration. Asked to state whether these have been reviewed in the light of subsequent decisions taken in individual cases, Government have stated that these guidelines are kept under constant review in the light of fresh experience gained in examining foreign collaboration proposals received from various applicants. It has, however, not been found necessary to make any substantial changes in the existing guidelines except in regard to the overall duration of collaboration agreements. In this case it has been decided that royalty payment shall normally be restricted to a period of five years from the date of commencement of production provided that the production is not delayed beyond three years.

5.14. It has been represented to the Committee by non-official organisation that the guidelines for foreign collaboration issued in 1969 "are far from clear and precise", and consequently "endless negotiations take place." In this regard, Government have stated that the guidelines issued in January 1969 for official use on foreign collaboration are fairly clear and precise in respect of all but one point. The guidelines are silent about the extent of foreign investment that may be permitted in various types of proposals. However, information in this regard is known to the authorities concerned from the decisions that have been taken by the Foreign Investment Board in various cases.

5.15. It is further stated that in the field of manufacturing the Government's thinking, especially from 1969 onwards, has increasingly veered to the position that what the country needs is foreign technology rather than foreign capital and foreign capital need be

admitted only if without it the technology may not be forthcoming. This hardening of the attitude towards foreign capital is reflected in the working principle that normally not more than 40 per cent foreign investment is allowed. Cases in which foreign investment over 40 per cent but less than 49 per cent is allowed are few and far between. Foreign majority approvals are agreed to in rare cases. All proposals of investments over 40 per cent are required to be approved by the Cabinet Committee. This policy is also followed in regard to the proposals of existing units coming up for expansion or diversification. Dilution of foreign capital is normally sought to be brought about without disinvestment. The Cabinet Committee has recently announced certain guidelines for expansion of the equity capital base of foreign majority Companies through issue of capital confined to Indians only. These guidelines now set at rest the uncertainty regarding the reduction of non-resident shareholding in foreign majority companies for which very often protracted discussion need to take place between the foreign companies and the Government when the companies approached the latter for expansion/consent for capitalisation of reserves etc.

5.16. A suggestion was made to the Committee by a non-official organisation that for each industry the acceptable terms of collaboration should be prescribed and made widely known and a system of automatic approval without reference to FIB introduced under which wherever the terms of agreement accord with the guidelines, the administrative Ministry may give the clearance; only cases of departures going before the Board. Dealing with the feasibility of this suggestion, Government have stated that the guidelines include lists of industries where foreign collaboration with or without foreign investment will be permitted. The permitted ceilings of rates of royalties have also been indicated. Within these ceilings the administrative Ministries can approve the proposals without reference to the Foreign Investment Board. In addition, all cases of technical know-how fees payable in cash not exceeding 10 per cent of the issued capital, provided the aggregate gross payment does not exceed Rs. 5 lakhs per annum in any one cases, may be similarly disposed of without reference to Foreign Investment Board.

5.17. The Committee note that guidelines have been issued in 1969 to the Administrative Ministries/Departments for the consideration of applications for foreign collaboration. They recommend that suitable public notices may also be issued for general information so that prospective entrepreneurs know before hand what type of proposals for foreign collaboration would be acceptable to Government.

(ii) *Clearance regarding Import of Capital Goods:**Procedure for CG Clearance*

5.18. Where a letter on intent is issued to a party subject to the condition that the arrangements for import of plant and machinery would be made to the satisfaction of the Government, the party is requested to submit within a period of six months from the issue of the letter of intent an application for import of capital goods. The applications are made to Chief Controller of Imports and Exports through the Directorate General of Technical Development. For applications involving import of capital goods valued more than Rs. 7.5 lakhs, the applicants are to follow the "advertisement procedure." The following guidelines have been laid down in the processing of import applications:—

- (i) A maximum time limit of 15 days is allowed to Directorate General of Technical Development for acknowledging and for preliminary scrutiny of import applications. If any queries are to be raised, the same should be done within this time of 15 days.
- (ii) All queries pertaining to the import applications of capital goods should be made in one instalment, and there should be no need for periodic preference back and forth.
- (iii) The time allowed for clearance of the applications by the DGTD would be a maximum of 45 days. DGTD would thereafter send the import applications with their comments/recommendations to the concerned Administrative Section in the Ministry.
- (iv) The concerned administrative Section would prepare a summary for the Capital Goods Committee within 15 days.
- (v) The validity of the Industrial Licence and the conditions imposed by the Licensing Committee should be checked by the Administrative Section concerned, and not left to the Chief Controller of Import and Exports (CCI&E) to check.
- (vi) Summaries received are placed before the Capital Goods Committee which meets every fortnight.
- (vii) After minutes of the Capital Goods Committee meeting are finalised, the decision is communicated to the applicant; simultaneously the party's import applications and other connected papers are forwarded to the CCI&E for further processing towards issuance of the licences.

After the Minutes of the Capital Goods Committee are finalised, clearances to the applicants used to be given until recently by the administrative Ministry|Section concerned, to whom the Minutes used to be communicated by the Capital Goods Committee Section of the Ministry of Industrial Development. It was found, in practice, that this procedure led to avoidable delay. As a result, this secretarial function has recently been taken over by the Capital Goods Committee Section in the Ministry of Industrial Development, who inform the party as well as the concerned Section and the CCI&E of the clearance given by the Capital Goods Committee as soon as the Minutes are approved.

- (viii) Where import is cleared against free foreign exchange the licence is issued by the CCI&E. Where clearance is against any particular credit the licence is issued by the CCI&E in accordance with the terms and conditions governing such credits. For instance, in respect of certain cases, licences can be issued by the CCI&E only after approval of the foreign Government is received (e.g. clearance of Rs. 18 lakhs and above against UK Credit requires approval of British Authorities). Where licence is against a foreign exchange loan from Indian Credit and Investment Corporation of India Limited (ICICI) or Industrial Finance Corporation of India Limited (IFC), the import licence is issued after party obtains a letter sanctioning loan by ICICI|IFC.

The procedure outlined above is applicable where the application is for import of capital goods exceeding Rs. 5 lakhs from General Currency Area or Rs. 20 lakhs from Rupee Payment Area. Applications upto Rs. 5 lakhs from General Currency Area or Rs. 20 lakhs from Rupee Payment Area are considered by the Capital Goods Ad hoc Committee in CCI&E's office which meets every week. CCI&E is the Chairman of this Committee. In these small value cases the recommendation of the DGTD|Director of Industries|SSI Committee are sent directly to the Office of the CCI&E. In the case of applications from Export Oriented Industries, applications are processed by Ministry of Foreign Trade and put up to the Capital Goods (Export Oriented Industries) Committee which also meets every fortnight along with Capital Goods (Main) Committee.



*Composition of CG Committee*

5.19. The Capital Goods Committee consists of:

**CHAIRMAN**

1. Secretary, Ministry of Industrial Development.

**MEMBERS**

2. Joint Secretary, Ministry of Finance, (Department of Economic Affairs).
3. Joint Secretary, Department of Company Affairs
4. Adviser (Industry) Planning Commission.
5. Director General, Technical Development.
6. Chief Controller of Imports & Exports.
7. Joint Secretary, Ministry of Industrial Development incharge of foreign collaboration.

**MEMBER-SECRETARY**

8. Economic Adviser, Ministry of Industrial Development.

The representatives of the Ministry of Foreign Trade, Ministry of Petroleum & Chemicals, Ministry of Agriculture, Ministry of Tourism & Civil Aviation, Department of Electronics, Ministry of Steel and Mines etc. are associated with the Committee when Capital Goods applications pertaining to the industries with which they are concerned are considered. The Secretariat for the Committee is provided by the Ministry of Industrial Development.

*Applications disposed of and pending*

5.20. During 1971, a total of 506 applications were cleared by the Capital Goods Committee and the Capital Goods (Export Oriented Industries) Committee. The applications for import of capital goods and heavy electrical plants disposed of by the CCIE direct were 1057 during 1969-70 and 1740 during 1970-71. The break-up of the 506 applications disposed of by the two Capital Goods Committees according to the time taken in their disposal is as follows:

Less than 2 months	.	.	.	4
2—4 months	.	.	.	45
4—6 months	.	.	.	126
6—9 months	.	.	.	94
9—12 months	.	.	.	94
Over 12 months				113
				<hr/> 506

5.21. As on 1st January, 1972, a total of 234 applications for Capital Good clearance received by D.G.T.D. were pending final disposal.

The break-up of this figure according to the report of their pendency is given below:

Pending for less than 2 months	157
Pending for 2—4 months	52
Pending for 4—6 months	19
Pending for 6—9 months	6
	234

### *CG Clearance at the stage of issue of letter of intent*

5.22. It has been suggested to the Committee that examination as to the indigenous availability and supply schedules in respect of capital goods and raw materials desired to be imported could be done at the stage of issue of letter of intent, if complete and exhaustive data is really available with the Technical Advisers. Asked how far the suggestion was feasible, Government have, in a note furnished to the Committee stated:

“This suggestion has been considered several times, but it has not been found feasible to implement it for several practical reasons. When a party applies for an industrial licence, he does not generally have a complete Project Report ready, on the basis of which decisions as to requirements of Capital Goods can be taken at the time of industrial licensing. The possibility of such decisions being taken simultaneously would open up only if all applications for industrial licences were submitted after detailed Project Reports have been got ready, on the basis of which the applicants might be in a position to indicate their import requirements clearly, so that a judgement as to their precise import requirements may be taken by Government. But the preparation of such detailed Project Reports would involve considerable outlay, and parties desiring to obtain industrial licences are generally reluctant to invest such funds until they are sure of the grant of facilities for manufacture by way either of a letter of intent or of an industrial licence. Hence, if it is insisted that all applications for industrial licences should be made only after the detailed capital goods imports requirements are known, many applications, particularly new entrepreneurs, would fall by the wayside, and there may be a slackening of investment interest particularly among the newer class of entrepreneurs. Indeed, it is

only the very well organised Groups, particularly Larger Houses, who may be in a position to invest considerable sums of money for preparation of such techno-economic feasibility projects or detailed project reports as may be necessary, when applying for a manufacturing licence under the Industries (Development and Regulation) Act. Since it is the policy of Government to encourage newer entrepreneurs as far as possible, it is felt that the two issues of grant of Industrial Licences and grant of Capital Goods import licences need not be combined into one process. Much the same effect can be obtained by speeding up the consideration of application for grant of industrial licences and capital goods import licences and through the streamling of procedures."

#### *Advertisement Procedure*

5.23. For applications involving import of capital goods valued at more than Rs. 7.5 lakhs, the applicant have to follow the "Advertisement Procedure". In this regard one of the non-official organisations have, in a memorandum to the Committee, submitted as follows:—

"In the sphere of imports... it is necessary for the applicants to advertise their requirements in the Indian Trade Journal giving 45 days time to indigenous manufacturers or their selling agents to respond to the advertisement if they are in a position to meet their requirements. The association would submit that as a main technical body in the country—and with the present system of licensing and registration—the DGTD should know the range of items being manufactured in the country. It should therefore be possible for them to clear applications straight-way and thus save time—without any call for resort to public advertisements."

Dealing with this question, during evidence, the Secretary, Ministry of Industrial Development stated that the present procedure was followed since the last three years. Under the old procedure, he said:

"DGTD (used to) tell the party that this equipment is available with parties in Calcutta, Bombay, Madras etc., asking him to contact them. Then the party will start contacting these parties at these various places like Madras, Bombay and Calcutta.....It is a well-known fact that

sometimes these letters (that they cannot manufacture) were issued at a certain price. Also...there used to be a lot of delay because some parties take a long time in replying and if they do not reply, the party could not come forward with this application for import licence. So, actually, in that system of working, we found a lot of difficulties. Of course, no system would be fool-proof. So, after trying that system for a number of years, we adopted the present system of publication of notice in the paper."

Spelling out another advantage of the present system to the party proposing to set up industrial capacity he said:

"In the present system, if a party says that he is able to make the machinery, even then the party setting up the industry may say that he does not want to accept it for such and such technical flaws in the offer that he has made or that the offer does not measure upto some specifications and so on."

Besides, according to him: "we have got to indigenise the machine-building more and more and we have got to take some risks."

5.24. In a subsequent note furnished to the Committee on this point, Government have stated:

"This suggestion is under consideration, but there are several problems and dangers in this regard. In many areas today, indigenous capability for manufacture of equipment has developed and yet such capability for fabrication of equipment is not sufficient to meet the full requirements of the economy. This is particularly true in regard to machine tools which are required by almost all manufacturing units, the indigenous capability to manufacture and supply machine tools today being in aggregative terms, roughly half of the total requirement in the economy. As a result, if the procedure of advertisement is dispensed with, all applicants who may desire to obtain certain types of equipment for which production capability exists in the country would necessarily have to be advised by the DGTD to obtain their equipment indigenously. The advertisement procedure ensures that when the domestic manufacture is unable to quote because his order books are full, or when he gives delivery dates which are inordinately prolonged, import facilities are granted depending

on the urgency or importance of the project, its contribution to import saving or export promotion, or to the growth of the economy etc.

There is another reason why dispensing with the advertisement requirement is unlikely to help in practice. The number of import applications for capital goods being received is so large today that if the advertisement requirements were to be dispensed with and if all parties were to be required to send their detailed import lists to the DGTD (for examination of whether or not import facilities are to be granted), there would be inordinate delay in the disposal of cases rather than expedition in the disposal of cases. As it turns out, the present procedure is that the DGTD get copies of offers made by indigenous manufacturers to the importers who submit import applications on the basis of offers received, and the DGTD thereafter examine in detail only such requirements which are in dispute, that is, where there may be an offer from indigenous suppliers which may not be acceptable to the importer (because of the urgency of his requirement or of quality, or specifications, etc.). In short, the DGTD's scrutiny is now much more limited than it would have to be if the advertisement requirements were to be dispensed with. Since the DGTD cannot keep track of the order books position of each manufacturer from time to time, it would be impracticable to expect that the DGTD would give clearance for import without referring each case to the indigenous fabricators to ascertain as to whether or not they could supply the equipment indigenously, in time.

It is, therefore, felt that the advertisement requirement is a simplification rather than a complication, and that the delay of 45 days involved in waiting for indigenous offers is something which should be continued. This is also necessary for maximum import substitution in regard to which there is yet another angle. Not all requirements of capital goods are clearly identifiable as complete equipment. There are many miscellaneous items which can be produced on a 'jobbing' basis, which can be done by a number of manufacturers having fabrication capacity, including small scale units. The DGTD, in any case, are unaware of such facilities for 'jobbing' work as well as

fabrication capacity in the small scale sector. If the advertisement requirement is to be done away with, all import lists would have to be screened both by the DGTD and the DC (SSI). Furthermore, the DC (SSI) is not equipped with the technical staff that the DGTD has, and, therefore, the system would not work. In the interest of maximum utilisation of indigenous fabrication capacity, the advertisement requirement therefore is an extremely desirable feature of the present system."

*Delays in the disposal of applications*

5.25. Although, according to the information submitted to the Committee, time limits have been laid down for the disposal of applications at various stages, the data in respect of cases disposed of during 1971 and those pending on 1-1-1972 given in an earlier paragraphs shows that in no less than 90 per cent of cases, the Capital Goods Clearance took more than 6 months. Of the applications for CG Clearances received by DGTD and pending final disposal nearly one-third were pending for periods ranging from 2 to 9 months.

5.26. The question of delays in disposal of applications for CG clearances was raised during evidence. In this regard, the Secretary, Ministry of Industrial Development stated that he was "too painfully conscious" of the fact that "things get held up at various levels for various reasons". Replying to another point that the type of examination made by the DGTD in such cases was a frustrating experience, he said:

"It is true that the DGTD have to exercise a fairly close scrutiny on the necessity for the import. They scrutinise the application for import of capital goods from two angles, namely the essentiality angle, and the indigenous angle... I would not say that there are not delays either in the DGTD or in the Ministry proper. At the same time, I would like you to bear with me when I say that in the vast majority of cases there is an attempt on the part of anybody who wants to set up an industry to get as much imported equipment as possible... I would submit that somebody in Government has to exercise his judgment on it... (and) it has to be a technical wing of Government which has to exercise that judgment. If you say that our people are not fully equipped to exercise it that may be a case for making them fully qualified."

5.27. In regard to disposal of CG applications in the cases falling within his competence, the CCI&E during evidence before the Committee submitted:

“We have set a time limit for the disposal of CG applications. This scheme operates as a part of our overall scheme of control of issue of licences from our office. In the case of CG application the time-limit which we have set is two months from the date of the receipt of the complete application. I must point out here that much time is lost in getting the application completed. In certain cases, the application does not contain such rudimentary details as the treasury challan receipt No. and so on. This results in long correspondence which takes time... In certain cases the parties refer to certain sources of foreign exchange for obtaining capital equipment and they have to negotiate with the foreign parties and see if they can purchase from those sources. Another reason for delay is that very often they are unable to get a favourable response from the financing institutions like IFC or ICICI.... We review these applications once a week in my office. I sit with my various officers who directly licence these items and once a week we review these cases. Where we find that they are held up in the Ministries, may be in certain cases, we see whether we can expedite the cases by discussion. Inter-Ministerial discussions are also held to resolve these difficulties... This is the simplified method. We sit across the table and the clearance is given. I get my financial clearance and I get my DGTD clearance. All the basic clearances which are required are given.”

*Preparation of case summary*

5.28. In the context of delays occurring in the disposal of applications for CG Clearances, Government were asked whether it would help in the early disposal of cases if the case summary for the CG Committee which is at present being prepared by different administrative Ministries was prepared by the DGTD and the Secretariat functions in respect of CG Committee were also exercised by that body. In this connection, Government have furnished the following note to the Committee:

“The suggestion regarding preparation of the summary for the CG Committee by the DGTD rather than by the Administrative Ministry|Section concerned would have to be considered in the light of the following:

- (i) The DGTD give their comments only on the technical aspects of a case and not on any administrative aspects of a case. For example, the Licensing Committee may have imposed certain conditions on a party at the time of grant of a Letter of Intent or an Industrial Licence. These facts are known to the Administrative Ministry| Section but if it is desired that the DGTD should undertake examination of these aspects of a case also, all the files and papers in this regard would have to be obtained by DGTD from the concerned Administrative Ministry| Section before processing the case.
- (ii) The DGTD are required today to give only comments on the technical aspects of the application, but if they are to process applications and submit them for consideration of the CG Committee they will need substantial augmentation of Staff.

It may be added that the suggestion can be implemented provided that certain large scale changes are introduced in the staffing pattern of the DGTD, and they are also given assistance not only to consider the purely technical aspects of every application, but also several of the administrative aspects with which they are today not directly concerned. The suggested procedure would, of course, help to cut down on the delays involved in repetitive consideration of part of the issues at different stages, but this is a point which will require examination with reference to the additional staffing needs of the DGTD.

In regard to providing secretarial assistance to the CG Committee, this administrative task can be undertaken by *anybody*, whether it is a section in the Ministry or in the DGTD. There are certain advantages in centralising the secretarial functions related to the work of the CG Committee, but these advantages would remain wherever the secretarial functions are centralised. The only point that may be mentioned in this connection is that so far it is the Ministry of Industrial Development which has been providing the secretarial assistance to the CG Committee, which meets once a fortnight. In terms of the work output, specifically in relation to the processing of cases through the CG Committee, there have been no delays in the disposal of cases at this point."



5.29. Long delays have been observed by the Committee in the disposal of applications for clearance relating to import of capital goods also. The Committee have found that, in spite of definite time limits fixed for various stages involved in disposal of these applications, in no less than 90 per cent of the cases disposed of during 1971, the clearance for import of capital goods took more than 6 months. The Committee have, in paras 2.39 and 2.40 of their Seventeenth Report (Fourth Lok Sabha) on D.G.T.D., also pointed out the delays in the disposal of applications for Capital Goods Clearance and have made certain suggestions. The Committee would here again point out that Capital Goods Clearance being one of the conditions precedent for the conversion of the letter of intent into an industrial licence, any delay in Capital Goods Clearance ultimately affects the time taken in the issue of an industrial licence and the actual setting up of the industrial capacity. The Committee would, therefore, like Government to review the procedures at present being observed for different stages involved in the consideration and disposal of these cases so as to ensure that this clearance is given to the party within two months. The committee would, in particular, commend for adoption a procedure whereby the application must be brought before the Capital Goods Committee at the expiry of a certain period whether the comments of the administrative or other authorities concerned have been received or not, and the introduction of an effective system of centralised watch being kept over the step by step progress of disposal of applications.

5.30. The Committee consider that the procedure for simultaneous consideration of licence application and the application for clearance relating to import of capital goods would avoid delay inherent in their consecutive processing and consideration. It should, however, not be compulsory for all the applicants for the issue of an industrial licence to submit simultaneously an application for the clearance relating to import of capital goods also. The procedure could be observed only in cases where the party is ready with both the applications and submits them together. The Committee would, therefore, recommend that the procedure for simultaneous consideration of licence application and the application for clearance relating to import of capital goods at the option of the party may be introduced and publicized for general information so that the parties wishing to take advantage of the option available under this procedure, may submit both the applications together.

## (iii) OTHER CLEARANCES REQUIRED

*Clearance for Issue of Capital*

5.31. A party who is issued a letter of intent is also required to obtain a clearance for the issue of capital from the Controller of Capital Issues, before the letter of intent can be converted into an industrial licence. Approval of the Controller of Capital Issues is necessary for issue of securities exceeding Rs. 25 lakhs in a year by public limited companies. Approval is also necessary for issue of securities by all companies registered under the M.R.T.P. Act and for issue of bonus shares by all companies. The approval is given either by way of a 'consent' under the Capital Issues Control Act or by way of an 'acknowledgement' under the Capital Issues Exemption Order, 1969.

5.32. In the case of companies which have to obtain a consent from the Controller, an application in the specified form has to be submitted to him with the necessary fee prescribed for each application. For obtaining an acknowledgement from the Controller, the companies have to submit a statement of their proposals for issue of securities to the Controller, but no fee is charged for this filing. The stage of clearance under the Capital Issues (Control) Act comes only after the scheme of finance is finalised. In those cases which attract the provisions of the Monopolies & Restrictive Trade Practices Act, this stage arrives after the M.R.T.P. clearance and the foreign collaboration clearance, if any, have been obtained by the companies. In other cases, the foreign collaboration clearance, if any, becomes the basis of finalisation of the scheme of finance in consultation with the public financial institutions after which only the clearance is given by the Controller of Capital Issues. It is stated that no time limit has been fixed for the issue of either the consent or the acknowledgement from the Controller of Capital Issues.

*Time-taken in Capital Issues Clearance*

5.33. During 1971, 92 clearances (for initial and further issue of capital and for raising loans) were issued under the Capital Issues (Control) Act by the Controller of Capital Issues. Time taken in disposal of these applications has been as follows:

Less than 1 month	15
1-2 months	23
2-4 months	21
4-6 months	12
Over 6 months	21
	TOTAL
	92

5.34. The main reasons for taking a longer time for giving clearance under the Capital Issues (Control) Act, are indicated below:

- (a) In many a case companies have not furnished all the relevant information.
- (b) Companies have to be asked to give further clarification to certain information already furnished.
- (c) Companies have to comply with certain formalities such as securing approval of general body of the shareholders.
- (d) Companies have put in applications without High Court's approval in amalgamation cases.
- (e) Administrative Ministries and Public Financial Institutions have to be consulted in some cases in regard to reasonableness of the amount proposed to be issued for the new expansion projects, scheme of financing etc.
- (f) Companies generally ask for higher premium than is warranted by facts and in such cases further correspondence and discussion with them are required so as to determine the reasonableness of the quantum of premium.
- (g) Consultation with the Stock Exchange Division and Stock Exchanges are some times required in regard to the satisfaction of the listing requirements.

5.35. During evidence before the Committee, the representative of the Department of Economic Affairs stated that the procedure for examination of applications for Capital Issues was "already rationalised and streamlined so as to dispose of the case without any undue delay." He also said that guidelines in this regard have been framed and also publicised. There was also a pamphlet on the subject which was being revised. It was also proposed to print the guidelines as an appendix to the application form. In regard to the delays in the disposal of applications pointed out to him, he said:

"We have now rationalised our procedure. We have consultations with the financial institutions and dispose of the applications after they have been considered by the MRTP Advisory Committee. When they apply, they make an application for industrial licensing, they make an application under MRTP and they also make an application to the Controller. The Controller can give his approval only after they have been approved at the licensing and MRTP stages, because we have to safeguard the interest of the investing public at large."

5.36. The Committee note that delays are taking place in the issue of clearance for the issue of capital under the Capital Issues (Control) Act. The Committee have been informed that Government propose to print guidelines as an Appendix to the application form so that the applicant may furnish complete information in the first instance. They have also been informed that the procedure has been recently rationalised. The Committee hope that as a result of these measures clearance would be forthcoming in lesser time.

*Clearance for issue of foreign exchange*

5.37. It is stated that issue of import licence also implies release of foreign exchange, the licencees can approach their Bankers for opening letters of credit. In respect of licences issued against foreign exchange loans from Indian Credit & Investment Corporation of India Ltd. and Industrial Finance Corporation of India Ltd., they have to approach the concerned institution for opening letters of credit. Where licences are issued against "credits", the licencees are to approach the Ministry of Finance (Department of Economic Affairs) for letter of authority. For this they have to provide the Bank Guarantee. On receipt of letters of authority from the Department of Economic Affairs the parties can approach their Bankers for opening letters of credit.

5.38. During evidence before the Committee, the representative of the Department of Economic Affairs stated that if the application for release of foreign exchange was accompanied by a bank guarantee or where a contract requires the approval of the foreign Government concerned, by the letter approving the contract, they are cleared within one week's time.

**B. Conversion of letter of intent into an Industrial Licence.**

*Procedure for conversion of letters of intent into industrial licence*

5.39. As already stated, a letter of intent is issued to a party for setting up industrial capacity subject to certain terms and conditions and it is only upon the fulfilment of those within due time that it is converted into regular industrial licence. It is stated that, generally, while converting the letter of intent into an industrial licence, approval of the Licensing Committee is not obtained for the reason that... the Licensing Committee has considered the case at the time of issue of letter of intent and the conversion of letter of intent into industrial licence is done only when the conditions

prescribed therein are fulfilled. However, where it is proposed to modify any of the conditions under which the Licensing Committee approved the proposal, the matter is submitted to the Licensing Committee.

5.40. As soon as the terms and conditions of the letter of intent are satisfied, and a letter to this effect is received from the party by the Industries Sections concerned, they are required to initiate action for issuing the industrial licence which involves preparing the draft of Industrial licence for approval, after verification of the fact of fulfilment of the conditions prescribed in the letter of intent. In so far as Ministries other than the Ministry of Industrial Development are concerned, the licences are issued under the signature of an Officer of Ministry of Industrial Development, because under Rule 15 of the Registration and Licensing of Industrial Undertakings Rule, 1952, the then Ministry of Industry and Supply has been vested with the power of issuing the licences. Copies of the Industrial Licences are endorsed to Coordination and Licensing Progress Section (CLP Section) and Industrial Licensing Data Unit of the Ministry of Industrial Development and thus the Ministry of Industrial Development is kept informed of the cases of conversion of letters of intent into licences.

*Time taken in converting a letter of intent into licence*

5.41. It is noted that no time-limit has been laid down for the disposal of applications for conversion of a letter of intent into an industrial licence. Since such an application is made after the party has fulfilled all the conditions laid down in the letter of intent, the Secretary, Ministry of Industrial Development was asked to suggest the time within which such an application should be disposed of by the Ministries|Sections concerned. He stated that after the party had complied with the conditions laid down in the letter of intent "it should not take us more than two to three weeks to issue a licence." Regarding the delays occurring at this stage, he said:

"I would concede that it is a failure on our part or we are not able to verify that the conditions have been complied with . . . I would look to it in my Ministry and then I will write to my colleagues in other Ministries and ask them to take steps so that no delay occurs."

5.42. The Committee recommend that instructions should be issued to all concerned that when an application for conversion of

a letter of intent into an industrial licence is received after complying with the conditions prescribed, the party should be issued the licence, or informed of the reasons why it cannot be issued, within a period of not more than three weeks of the receipt of the application. The Committee also recommend that all applications for conversion of a letter of intent into an industrial licence should be routed centrally through the Ministry of Industrial Development who should be responsible for progressing of such applications and for strict observance by the administrative Ministries|Sections of the time limit laid down.

### C. Revocation of Licence

#### *Revocation or surrender of Letters of Intent*

5.43. It is stated that a letter of intent automatically lapses if, within a period of six months, applications|proposals relating to the conditions mentioned therein are not submitted or if, within a period of one year from the date of issue of the letter of intent, an industrial licence is not issued to the applicant unless the period of validity of the letter of intent is, in the meanwhile, extended by Government on an application to be made by the applicant before the expiry of the said period of one year. It has been intimated by the Ministry that the information about Letters of Intent revoked or surrendered is not being maintained by Government.

#### *Revalidation of Letters of Intent*

5.44. It has been represented to the Committee that "revalidation of letter of intent is a prolonged process and the delay in this behalf affects the clearance of import licences." In this regard, Government have stated that the revalidation of letters of intent is done by the Ministry concerned in consultation with the DGTD or other technical authority in case of non-key industries. In respect of key-industries such cases are sent up to the Licensing Committee for consideration. In cases of non-key industries also, the requests for extension after one extension has been granted already are also put up to the Licensing Committee. At the early stages, extension is quite liberally granted for letters of intent. No time limit appears to have been fixed but it is stated that such cases "usually do not take long". No centralised record is maintained exclusively for watching the disposal of such applications.

5.45. According to the existing procedure, if the Ministry|Section concerned decides to reject an application for extension of the validity period of a letter of intent, the case need not be brought

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before the Licensing Committee. In regard to the remedy available to a party in such cases, the Secretary, Ministry of Industrial Development, during evidence, stated:

“Where we reject an application for extending the validity of a letter of intent, the cases do not have to be brought before the Licensing Committee. In such cases, he has to make a representation to Government pressing the reasons why he could not implement the letter of intent within time and say on these grounds he deserves extension. Show-cause notice is generally not issued in these cases.”

\*In a subsequent written reply on this point, Government have stated:

“The party can certainly represent against an order of rejection; a show-cause notice is expected to be issued and the reasons of rejection are expected to be communicated to the parties.”

5.46. The Committee recommend that all applications for the revalidation of letters of intent should be routed centrally through the Ministry of Industrial Development. Copies of communications by administrative Ministries etc. to parties informing them of the final decision of Government on such applications and indicating the reasons in case of rejection, should also be endorsed to the Ministry of Industrial Development. The Committee also recommend that the Ministry of Industrial Development should issue instructions to all concerned as regards the time limits to be observed for the disposal of such applications both where the Ministries are empowered to finally take a decision on the application as also for the disposal of cases which are required to be brought before the Licensing Committee, and keep a strict watch on its observance.

#### *Revocation of Licence*

5.47. An industrial licence is issued subject to certain additional conditions. One of the conditions specified in the industrial licence is that “Effective Steps” as defined in the Rule 2(ii) of the Registration and Licensing of Industrial Undertakings (RLIU) Rules, 1952 shall be taken for the establishment of the new capacity licensed

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\*At the time of factual verification the Ministry of Industrial Development have stated that the reply of Government that the parties are issued show-cause notices and are informed of the reasons of rejection is with reference to applications for industrial licences and not for extension of period of validity of letters of intent.

“within a period of six months from the date of issue of the licence”. The “Effective Steps” have been defined in the RLIU Rules, 1952 as “one or more of the following:—

- (a) that 60 per cent or more of the capital issued for an industrial undertaking which is a public company within the meaning of the Indian Companies Act, 1913 (VII of 1913) has been paid up;
- (b) that a substantial part of the factory building has been constructed;
- (c) that a firm order has been placed for a substantial part of the plant and machinery required for the undertaking.”

Another condition laid down in the licence is that the new capacity licensed shall be established “within a period of twelve months from the date of issue of the licence”. Industrial Licences are revoked by the Government if the licensees, without reasonable cause, fail to take effective steps for the implementation of the licences within the time specified therefor.

5.48. Rule 19 of the RLIU Rules, 1952 provides for the submission of a return in the prescribed Form “G” on the expiry of the period allowed for taking “Effective Steps” showing the progress made in taking such steps. After “Effective Steps” have been taken, the “G” Return is required to be submitted by the party biannually “till such time as the industrial undertaking commences production”. It is stated that these returns are received in the administrative Section| Ministry concerned and are also sent to the DGTD or other technical authority concerned. The progress reported in this form it is stated, enables the administrative Section/Ministry concerned to judge in consultation with the DGTD whether the party has taken the steps indicated within the time provided and if not, what action may be taken in the matter. It is further stated that if the implementation of the licence is for some valid reason not possible within the prescribed time limit, the entrepreneur is required to obtain extension of its validity period. While first extension can be granted without reference to the Licensing Committee in respect of non-key industries, subsequent extensions are allowed after obtaining the approval of that Committee.

#### *Opportunity of being heard before revocation*

5.49. Section 12(1) of the Industries (Development and Regulation) Act read with Rule 17 of the RLIU Rules provides for revocation of licences and for an opportunity being given to the licensee



to state his case before such an action can be taken. The procedure observed at present for revocation of licences is that the Administrative Section/Ministry concerned finds out in consultation with the DGTD, from the information contained in the returns in form 'G' furnished by the licensee and such other information as might become available, whether the party has taken the steps indicated in the licence within the stipulated period of time and if this has not been done the reasons for it. If it is found that the licensee has failed to take the required steps in time for no valid reasons whatsoever, a notice is issued to him for showing cause why his licence may not be revoked for non-fulfilment of conditions in due time without any valid reasons. The reply received from the licensee is given due consideration and the Ministry's recommendation in the matter is thereafter placed before the Licensing Committee. The recommendations of the Licensing Committee are subject to the approval of the Minister of Industrial Development. It is stated that there is no system of appeals against the orders of the Minister of Industrial Development.

#### *Watch on implementation of licences*

5.50. During the period 1968 to 1971, excluding those for Carrying-on-Business and Shifting, a total number of 1938 letters of intent were issued. Government were asked to indicate how many of these were actually converted into an industrial licence. But, the information that Government have been able to furnish to the Committee is the number of industrial licences issued during this period and these, excluding Carrying-on-Business licences and those for Shifting, totalled 946. Government also do not have a centrally maintained data as to the number of licences issued but not implemented within a period of twelve months from the date of issue of licence.

5.51. Government have stated that at present the setting up of industries is being looked after by administrative Ministries/Sections concerned and "on the basis of the progress reports and production returns that are received by them" they are expected to keep track of cases concerning them, through the technical authorities concerned. "For the future", it is stated, "Government are considering the desirability of setting up a central record agency which will watch the progress of licence application upto the implementation stage."

#### *Licences Revoked or Surrendered*

5.52. The aggregate number of industrial licences revoked or

surrendered during the period 1961—1971 has been indicated to the Committee as follows:—

	Revoked	Surrendered	Total
*1961 .	..	..	325
*1962 .		..	232
*1963 .			131
*1964 .	..	..	121
*1965 .	..	..	43
*1966 . . . . .	..	..	17
1967 .	..	..	199
1968 . . . . .	129	80	209
1969 . . . . .	124	29	153
1970 . . . . .	39	21	60
1971 (upto 15-11-71)	26	5	31

5.53. The Committee note that at present no centralised record is being maintained on the implementation of the industrial licences issued and it is left to the administrative Ministries etc. to see that the party takes 'effective steps' for setting up the licensed capacity in six months time and actually sets up the capacity within 12 months of the issue of the licence. The first extension, limit of which is not clearly specified, can also be granted in certain cases by the administrative Ministries etc. without reference to the Licensing Committee. In the absence of a centralised record, Government have not been able to furnish data on the implementation of licences issued. The Committee are, therefore, unable to assess the progress made in the implementation of the licences or to see as to what extent the non-implementation is on account of reasons that are genuine. Since what is of substance is the actual setting up of the industrial capacity and not the issue of an industrial licence, the Committee recommend that Government should expedite the setting up of central agency, already under their consideration, which should not only maintain a record, but also keep a strict watch and actively progress the licence applications from the time of their receipt to the stage of actual setting up of the capacities licensed for.

\*Information from 1961 to 1966 not available with Government. These figures have been taken from the records of the Industrial Licensing Policy Inquiry Committee (Dutt Committee) (1969).

5.54. The Committee also recommend that all applications for revalidation of industrial licences should be routed centrally through the Ministry of industrial Development and copies of communications to parties indicating the final decision on those applications should also be endorsed to that Ministry. The Ministry of Industrial Development should also issue instructions to all concerned as regards the time limits to be observed for disposal of such applications and keep a strict watch on its observance.

5.55. The Committee would suggest that the instructions to the administrative Ministries in regard to the procedures and time limits to be observed by them in regard to disposal of applications at various stages in the industrial licensing process should be issued after approval of the Cabinet Committee on Economic Coordination and there should be a system of periodically reporting to the Cabinet Committee on Economic Coordination cases of delay in disposal beyond a certain period.

#### D. Appeal and Review

##### *Procedure of appeal*

5.56. The Secretary, Ministry of Industrial Development was during evidence asked to state whether there was any scope for appeal by the aggrieved party in case an application for issue of a letter of intent/licence was rejected or if a letter of intent was not revalidated or if a licence was revoked or against any other decision relating to licence application. In reply, he stated that in the case of revocation of a licence, a show cause notice was issued to the party and the party's reply thereto was considered before a final decision was taken in the case. Thus, an opportunity to represent against the proposal for revocation was given. In a subsequent written reply it is stated that the party is given a chance to represent his case also before the application for issue of letter of intent is finally rejected. The reasons for rejection are conveyed to the party and the representation, if any, received is duly considered in consultation with the technical authority and the Ministry or Section concerned and a final view taken in the matter. During evidence, the Secretary, Ministry of Industrial Development, however, also pointed out: "Apart from that, although no procedure for appeal is laid down, the \*Reviewing Sub-Committee looks into these cases. If a particular licence is to be

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\*Reviewing Sub-Committee of the Central Advisory Council has been dealt with in earlier paragraphs.

revoked or to be refused, the case has to be placed before the Reviewing Sub-Committee and if the Committee finds that it is wrong to revoke the licence, then we have to consider it."

5.57. In reply to the question whether a procedure could be devised whereby an appeal against the decisions relating to industrial licensing would lie with the Chairman of the Licensing Committee, the Secretary, Ministry of Industrial Development stated:

"the Chairman of the Licensing Committee presides over the meeting of the Licensing Committee in which the decision is taken. But apart from that the recommendations of the Licensing Committee are also submitted to the Minister of Industrial Development and the orders of the Minister are taken. The Licensing Committee is only a recommending body; its recommendations are certainly given due consideration by the Minister when he is passing final orders. But ultimately the Licensing Committee is only a recommending body. May be there is a case on which the Licensing Committee recommended but the Minister did not agree to it and the Minister might have said that the licence should not be given for some reason or other. After that, if it has to go to an appellate authority—when the Minister has already approved the minutes of the Licensing Committee—then I feel it may not be proper."

Asked whether it could be possible for the Minister to hear the appeal and whether a provision could be made to that effect, he said:

"when the party submits a representation, it is usually submitted to the Minister because final decision on the Licensing Committee's recommendation is taken at the Minister's level.

Asked where could, in the case, the appeal properly lie, he said:

"I personally doubt very much... (the need for) a proper appeal procedure... when there is a Reviewing body which is presided over by a non-official; that Reviewing body can take up the case and if that body thinks that there are no reasons why the licence should not be granted to the party, it can make a recommendation and it has to be considered by us."

He further stated:

“the issue of licence is, as far as I can see, a sort of something like an exercise of the executive authority of the Government and in this, the procedure of appeal as such will be very difficult to implement, because several decisions are taken at different levels. For example, most decisions not relating to larger houses and foreign majority companies are taken at the Minister's level. Decisions involving M.R.T.P. Act or foreign majority companies or larger houses are taken at the level of the Cabinet Committee. . . . To have an appellate jurisdiction in all cases where licences have been refused, would mean that you are creating a machinery for reviewing the cases which may have been considered at the Cabinet level. In my view, licensing is a sort of an executive authority of the Government.”

5.58. The Committee note that at present if it is proposed to reject an application for issue of letter of intent|industrial licence or to revoke a licence already issued, the party is afforded an opportunity to represent his case before final decision is taken. They also note that no system of appeal has been provided for as the decisions in the matter of industrial licensing are in the nature of executive decisions taken at the highest level and there is a Reviewing Sub-Committee consisting of non-officials which has the power to review all licences issued, refused, varied, amended or revoked from time to time. The Committee have earlier in this report already recommended giving adequate publicity to the existence and role of this not so widely known non-official body. At this stage they would only recommend that if it is proposed to take an adverse decision at any stage of industrial licensing process, in order to reassure the party that the decision is fair and impartial, a show cause notice should invariably be issued to the party and a final view in the matter taken after due consideration of the representation received, if any, at the highest level.

## CHAPTER VI

### MISCELLANEOUS

#### A. "Carrying-on-Business" Licences

##### *Genesis*

6.1. Between 1966 and 1968, Government had exempted certain industries from the purview of the licensing provisions of the Industries (Development and Regulation) Act. Accordingly an entrepreneur did not require an industrial licence for getting up a new undertaking, or for expansion or diversification of production in an existing undertaking, etc., if it fell within the delicensed zone. Under this relaxation, a number of new and additional industrial capacities were set up. With the announcement of the new Licensing Policy in February, 1970 which envisaged a different scheme of exemptions from the licensing provisions of the Industries (Development and Regulation) Act, Government simultaneously withdrew the earlier exemptions and directed the industrial undertakings carrying on business without a licence under the earlier exemptions, to obtain an industrial licence by a certain date. These industrial licences have come to be known as "Carrying-on-Business" Licences (COB Licences).

##### *Procedure for issue of COB licences*

6.2. It is stated that, normally, applications for the issue of COB licences do not have to go to the Licensing Committee and that these are considered and decided by the administrative Ministry/Section concerned in consultation with the technical adviser, "as far as possible within a period of 60 days." However, if the application for such a licence is from a Larger Industrial House or a foreign majority company or from a dominant undertaking, it has to be brought up to the Licensing Committee and in their case the procedure followed is similar to the procedure for other applications, that is, for New Undertaking, New Article or Substantial expansion. Another condition laid down in cases of these categories of entrepreneurs is that the application should be supported by the State Government and the Technical Adviser. Asked to state whether a more simplified procedure for the issue of COB licences could be evolved in

view of the fact that in such cases it is expected that the entrepreneur had already invested resources and that undertaking was already a going concern, Government have stated: "There is no particular need to evolve a different method for this purpose especially since such applications do require deeper consideration."

6.3. Amplifying the procedure observed in considering the applications for COB licences, the Secretary, Ministry of Industrial Development during evidence before the Committee stated that in such cases it had to be verified whether 'Effective Steps', as defined in Rule 2(ii) of the Registration and Licensing of Industrial Undertakings Rules, 1952, for setting up the capacity licenced for "had been taken by the prescribed date, 18th February, 1970". Anybody who had taken the effective steps to set up the capacity, could be granted a C.O.B. licence even if the applicant was a larger house, he said.

#### *Delays in issue of licences*

6.4. The position in regard to the issue of COB licences is indicated as below:

(a) Licences Issued		
1970	. . . . .	123
1971	. . . . .	309
	TOTAL	432
(b) Applications rejected upto 31-12-1971		317
(c) Applications pending as on 1-1-1972		417
Break-up according to period of pendency for—		
	for over 18 months . . . . .	66
	for 12—18 months . . . . .	153
	for 9—12 months . . . . .	47

6.5. Government have stated that COB licence applications are decided, as far as possible, within 60 days of their receipt. The above data, however, shows that, of the applications for issue of COB licences pending as on 1st January, 1972, more than 50 per cent were pending for over one year.

6.6. The fact that delays in the disposal of applications for Carrying-on-Business licences are common, not only in the case of Larger Houses and foreign companies which have to be brought before the Licensing Committee but also in ordinary cases, is borne out by a

study of two such cases randomly selected. The data furnished in respect of these cases *inter alia* indicates:

	Case I	Case II
Date of receipt of application in CLP Section of Ministry of Industrial Development.	16-5-1970	6-6-1970
Date of receipt of case in the concerned Section of the Ministry of Industrial Development.	25-5-1970	19-6-1970
Date on which considered by Licensing Committee	23-11-1970	Not placed before Licensing Committee.
Date of circulation of Minutes of Licensing Committee	7-1-1971	..
Date of issue of COB licence	23-2-1971 (part only 23-4-1971	12-5-1971
Total Time taken in issue of licence	11 months 8 days.	11 months 7 days.

6.7. The question of delays occurring in the issue of C.O.B. licences was raised during evidence. The Secretary, Ministry of Industrial Development said that he "frankly admitted" the delays, "particularly because of some complications in regard to larger houses." He added:

"The main difficulty is this. Most people have applied for this licence and claim they have set up more capacity than was actually set up for which they have taken effective steps. This is natural when a person has an opportunity to get a licence saying that this was delicensed (and) he knows, particularly in the case of the larger houses, that later on he will not get licence for this commodity because of the disability imposed on larger houses and foreign majority companies. . . . The verification of the exact capacity in many cases has taken considerable time. I think that we should be able to dispose of most of the remaining cases in six months or so because much of the process of verification has already taken place. Where a new application is submitted it is a little easier for us to take a decision."

In a subsequent written reply to a question in regard to delays in disposal of these applications, Government have emphasised the "need for careful scrutiny of each application" which, according to



them, "involves, *inter alia* examination of the contracts (if any) entered into, and order (if any placed, by the applicants on suppliers of plant and machinery, along with relevant documentary evidence, including bank vouchers, adduced by them in support of their claim, and in several cases, an on-the-spot verification of the plant and machinery for assessing the correct capacity to be licensed."

6.8. It was pointed out to the Secretary, Ministry of Industrial Development during evidence, that a period of six months during which he proposed to clear all the pending C.O.B. licence applications was too long, particularly in view of the fact that without such licence, the parties would not be able to get allocations for scarce raw materials imported as well as indigenous. He thereupon said: "we shall try to speed them up further and finish them in about four months."

6.9. The Committee observe that long delays are taking place in the disposal of applications for issue of **Carrying-on-Business Licences in respect of industrial undertakings which have been brought under licence under the new industrial licensing policy announced in February, 1970 and that more than half of the 417 applications pending on 1-1-1972 were pending for over one year.** Since without a COB licence the existing undertakings cannot get allocations and quotas of scarce raw materials as also import licences, it is necessary that applications for such licences are disposed of quickly, at least within the time-limit of 60 days prescribed therefor. The Committee note the assurance given to them that Government would try to speed up the clearance of these applications and try to dispose of all the pending applications in about four months time i.e. by about the end of April this year, and hope that the industry will no long have any cause for complaint in this regard.

## B. Registration of Industrial Undertakings

### *Procedure for Registration*

6.10. Ministry of Industrial Development have, in a Press Note issued on the 20th May, 1970, notified that the Industrial Units not required to obtain an industrial licence under the new licensing policy announced by Government in February, 1970 are required to register themselves with the D.G.T.D. or any other technical authority concerned. The Small Scale Units not required to take out an industrial licence are, however, to register themselves with the appropriate State Directors of Industries and with the Development

Commissioner, Small Scale Industries. For this purpose the applicant unit has to submit an application on a prescribed proforma to the concerned Central Government technical authority. The application for registration is required to be made at the time when the applicant firm places orders for machinery etc., or otherwise takes preliminary steps for setting up the industrial unit. The D.G.T.D. etc. are required to take it on record expeditiously and communicate the registration number to the party. If the party requires a licence, he would be told so. After the unit actually commences production, it is required to send further intimation to the Central Government technical authority concerned on another form prescribed for the purpose. After commencement of production, monthly production returns have to be submitted to the technical authority concerned. The Registration Number assigned to the unit has to be quoted on all applications for import of capital goods or raw materials/components or foreign collaboration. The registration does not involve payment of any fee.

#### *Aim of Registration*

6.11. Spelling out the aim of Registration of these units the Press Note states:

“In future, the registration of industrial units with the central technical authorities will, as a rule, be automatic and is intended mainly for statistical purposes. The purpose of these procedures is to organise the flow of adequate statistical information, necessary for Government as well as for entrepreneurs themselves, for taking decisions relevant to investment and industrial growth.”

It is also made clear that registration with the D.G.T.D. etc. will not imply any commitment on the part of Government for release of foreign exchange either for import of capital goods or for raw materials and components or for providing any other facility to the applicant firm. Nor will registration necessarily imply the acceptance or recognition by Government of any of the facts stated in the application.

#### *Decentralisation and simplification*

6.12. During on-the-spot study tours of the Committee a suggestion was made by the Director of Industries of one of the States that in view of the fact that registration of units not required to take out a licence was automatic and intended for statistical purposes only

and in order to simplify matters further, this function might be entrusted to the State Directors of Industries who could be required to furnish the requisite data to Central technical authorities periodically or as and when desired. Pointing out the difficulty in this regard, Government have stated:

“We do not stop at mere registration. In practice, the registered party frequently approaches for the allotment of raw material or for the import of capital goods and raw material and for foreign collaboration. Since a consideration of these matters is made at the level of the Government of India it would be better if the registration is also done at the level of the Government of India.”

6.13. Government were also asked to state whether it was not possible to call for ‘Production Returns’ six-monthly or at best quarterly, instead of every month. They have stated that submission of returns on a monthly basis is required not only for maintaining grasp over the activities of the party but also for ensuring better and up-to-date statistics which is the main purpose of registration. Government, however, agree that this suggestion can be examined.

6.14. The declared aim of registration of units not required to take out an industrial licence under the Industrial Licensing Policy in force is only to organise the flow of adequate statistical information necessary for Government as well as for entrepreneurs in taking decisions relevant to investment and industrial growth. The Committee, therefore, recommend that Government should see that in the case of such industrial units, the returns required to be submitted are kept to the minimum necessary for statistical purposes. The Committee would, in particular, like Government to examine whether it would serve the purpose if the registered units already in production are required to furnish to the central technical authorities concerned ‘production returns’ on a six-monthly or quarterly basis, instead of every month.

### C. Public Relations

#### *Organisation for answering inquiries*

6.15. It has been represented to the Committee that the existing arrangements for explaining and giving clarifications on licensing policy and procedures and for giving information in regard to the pending applications to the Parties are not adequate. In this regard it is stated that a well-knit organisation has already been established under a full time officer to look after public relations and

grievances. This organisation has been in existence since July, 1966 and the officer-in-charge of this unit has been assigned the function of rendering advice and clarifications to members of the public on all general matters and policy and procedures relating to:—

- (i) Industries (Development and Regulation) Act, 1951.
- (ii) Registration and Licensing of Industrial Undertakings Rules, 1952.
- (iii) Foreign Collaboration and all other connected and allied matters.

In addition, the same officer receives public complaints regarding delays, wrong decisions etc. in the Ministry of Industrial Development.

6.16. Under the charge of this officer a special unit has been set up at Gate No. 13 in Udyog Bhavan, to provide facilities to the public who wish to meet the officers of the Ministry of Industrial Development or who wish to know about procedures and regulations concerning industrial licensing. All the visitors are advised to contact the Public Relations and Complaints Officer in the first place. The visitors who daily call on the PR & CO fall under the following categories:—

- (i) People seeking advice on matters like how to make applications in respect of new projects/substantial expansion/new articles/carrying-on-business licences/shifting, in the light of the existing industrial licensing policy.
- (ii) Visitors seeking clarifications on the various Press Notes issued after February, 1970 when the major industrial licensing policy changes were announced.
- (iii) Visitors purely asking for copies of various Press Notes and Notifications concerning the industrial licensing policy/foreign collaboration.
- (iv) Visitors seeking the help of the PR & CO to find out the position of their pending applications/cases in this Ministry.
- (v) Visitors with written complaints about undue delay of their cases in the Ministry.

The P.R. & C.O. explains to them the implications of the existing procedures and industrial licences and furnishes them with copies of the Press Notes in support of the advice tendered by him. In

respect of procedures for making applications, the visitors are not only advised and guided properly but they are also being supplied with specimen copies of the concerned forms as also the various annexures which call for additional information etc. from the applicants in the light of the revised licensing policy. There are a number of visitors who approach the P.R. & C.O. with prepared applications and seek his guidance and advice before they submit their applications as well as various representations to the Ministry in regard to their cases. The P.R. & C.O. after scrutiny helps them in finalising their applications/representations in the light of the latest instructions and orders on the particular subject.

6.17. Facilities are provided in the P.R. & C.O. unit for finding out the position regarding pending cases/applications for industrial licences, foreign collaboration, and other connected matters. The detailed procedures for dealing with the enquiries that are made by the applicants and other persons has been laid down. The prescribed procedure and the instructions to all the Sections in the Ministry take care of all the enquiries from the Public entrepreneurs about the position and progress of their cases. Suitable remedial measures are also taken to the extent possible by the P.R. & C.O. to eliminate avoidable delays on the one hand and to clarify the position to the parties where certain unavoidable delays had occurred on the other. This set up has, it is stated, proved its usefulness in reducing considerably the burden, which, otherwise, would have fallen on the various senior officers of the Ministry in meeting the stream of visitors and public demanding enlightenment of various policy announcements and notifications frequently published since February, 1970.

6.18. The Committee emphasise that the Public Relations and Complaints Cell of the Ministry of Industrial Development should be manned by experienced and knowledgeable persons well versed in the industrial licensing system and Government's latest policy on various aspects of it, so that the Cell could really be of help to parties who choose to seek its advice in these matters. The Committee also suggest that this Cell should be integrated with the Central Record Agency recommended by them earlier in the report so that information in regard to the progress of a licence application is readily available, through it, to the applicants.

## CHAPTER VII

### CONCLUSION

7.1. Industrial Licensing under the Industries Development and Regulation Act, 1952 is the instrument by which Government, at the initial stage of setting up of industrial capacities, control the development and regulation of a number of important industries in pursuit of certain economic and social objectives enunciated in the Industrial Policy Resolution of 1956 which itself derives its inspiration from the Directive Principles of State Policy enshrined in the Constitution. The main objective of course is the accelerated rate of economic growth and speeding up of industrialisation of the country but it has to be harmonised with certain complementary objectives such as prevention of undue concentration of wealth in a few hands, reduction of disparities in the level of development in different regions, and protection and encouragement to cottage and village industries small scale industries and industrial cooperatives, etc.

7.2. The Industrial Licensing Policy of the Government has in the past been changing rather frequently. This has an unsettling effect on industry. The Industrial Licensing Policy and Procedures should generally hold good for a reasonably long time, say a minimum of 5 years coinciding with the Five Year Plan, so that the industry can have a span of assured development along predetermined lines for sustained growth of production. Government should, therefore, formulate and announce the Licensing Policy for the Fifth Plan period well before the commencement of the Plan so as to attract most competitive applications for issue of industrial licences on merit.

7.3. The problem of concentration of economic power in a few hands came to the fore with the submission of Reports of the Hazari Committee in 1966 and of the Dutt Committee in 1969 which had, on the basis of data collected by them, found that the Industrial Licensing Policy and Procedures were being taken advantage of mostly by the established industrial houses who had better resources, technical know-how and entrepreneurial skill. Government therefore announced a new Industrial Licensing Policy in February, 1970. This Policy aims at accelerating the pace of industrial development but, at the same time, seeks to avoid concentration of economic power.

7.4. The area of exemptions from the licensing provisions of the Industries Act has been expanded under the new policy, but no exemptions are available to what are described as Larger Industrial Houses, Foreign Companies and Monopoly Houses and they have to obtain a licence as required under the Industries Act in all cases. The exemptions are on the basis of monetary value of fixed assets of **undertakings**. As the monetary value of fixed assets is related to varying cost and price structure, there is need for a review of these **limits of exemptions** from time to time, say after an interval of three years. In order not to discourage entrepreneurs from putting up housing colonies for industrial workers, the suggestion for excluding the value of **Housing Colonies** for workers for the purpose of exemption from licensing, is commended for the consideration of Government.

7.5. With the new Licensing Policy, a list of Core Industries constituting the basic, strategic and critical sectors of economic development was announced and it was decided that in respect of these industries, detailed industry Plans would be prepared and essential inputs provided on a priority basis. It was intended that Industrial Licensing in the Core Industries would be used as a positive instrument for development and achievement of the detailed production Plans drawn up for each of these industries. The Planning Commission was entrusted with the responsibility of drawing up detailed industry Plans for each of these industries for the period of the Fourth Plan, but keeping in view the projections for the Fifth Plan. The Planning Commission are, however, still at the stage of setting up a suitable machinery for undertaking the task systematically and meanwhile industrial licensing in these industries continues to be based on indicative targets laid down in the plan document itself. The Planning Commission should apply themselves seriously to the task and try to complete this work well before March, 1973—the target fixed by the Planning Commission themselves—so that at least during the Fifth Plan the detailed industry plans could provide a basis for issue of industrial licences for the industries in the Core Sector.

7.6. Though it is stated that essential inputs are provided to industries in the Core Sector on a priority basis, the rate of growth of production of industries in this sector has been none too impressive. Government should keep a close watch on the development of industries at least in the Core Sector which represent the basic, strategic and critical sectors of the country's economy.

7.7. Under the new licensing policy, 128 industries have been reserved for exclusive development in the Small Scale Sector. This reservation should be accompanied by positive measures to see that with proper technical guidance and the development of financial and marketing facilities, the units in this sector are able to stand on their own. Industrial Units in this Sector should also be provided with requisite inputs such as finance, scarce raw materials, foreign exchange etc. on a priority basis, as is being done in the case of Core Industries. As regards regulating the business relations between small scale ancillary and feeder industry and the principal unit, legislative proposals are already under the consideration of Government.

7.8. Government should devise a scheme of periodical survey to find out the correct position as regards the existence and production of Small Scale Units registered with the State Directors of Industries. Reservation of certain industries exclusively for development by small entrepreneurs also involves the responsibility on Government of safeguarding the consumer's interest in the matter of quality and price of goods produced in this sector and ensuring production according to demand so that there are no shortages of goods produced in this sector. In industries not reserved for the Small Scale Sector, applications from other classes of entrepreneurs are often rejected on the ground that the production of the item can be taken up in the Small Scale Sector. When this is done, Government should ensure that there is a concrete time bound programme for developing manufacture of that item in requisite number of and quality to meet the demand in full and its progress should be watched so as to take remedial action in due time.

7.9. The liberal exemptions from the licensing provisions of the Industries Act announced in the new Licensing Policy are not applicable *inter alia* to what are described as Larger Industrial Houses. The new Licensing Policy has borrowed the concept of Larger Industrial Houses as also its composition from the Report of the Dutt Committee (1969). The Dutt Committee had classified Larger Industrial Houses on the basis of the sum total of the value of assets of an Industrial House together with that of its inter-connected undertakings exceeding Rs. 35 crores at a given time. This can not be a static classification, as in course of time there are bound to be changes in the composition of an Industrial House and in the value of its total assets. It is, therefore, necessary for examining applications from Larger Industrial Houses on a realistic basis that the list of Larger Industrial Houses should be under constant review. Such a review should not be difficult for Government on the basis of data available under Company Law.



7.10. Under the new Licensing Policy, Larger Industrial Houses and foreign companies are expected to concentrate on the development of industries in the Core Sector. They can, however, be licensed in the middle or small scale sectors also on giving certain export commitments—over 60 per cent in the case of middle sector and over 75 per cent in the case of small scale sector—and also in the middle sector in the interest of cost efficiency and the growth of the firm to minimum economic size. It is noted that Government have a pragmatic approach in regard to quantum of export commitments required for availing of this concession. Nevertheless the policy in this regard should be reviewed after three years in the light of experience. For licensing capacities in the interest of cost efficiency and growth of firm to minimum economic size, Government should initiate studies in association with technical advisory authorities to determine the minimum and optimum economic size for industrial units in various industries so as to serve as a guideline in the matter.

7.11. The rate of growth of industrial production has fallen from 7.1 per cent in 1969 to 2 per cent during the first eight months of 1971. Besides, serious shortages of certain items, some of them basic raw materials such as Caustic Soda and Soda-Ash, have appeared causing hardship to dependent industries and consumers. Government maintain that the fall has been only in the organised sector which is subject to industrial licensing. The growth in the small scale sector has according to them registered a sizeable increase. At present, there is no acceptable data to assess the extent of growth of production in the small scale sector. There is, however no doubt that the contribution of the small scale units in the overall industrial production is substantial and that it is fast increasing. Therefore, in order to present a more realistic picture, Government should evolve a methodology for accurately assessing the rate of growth of production in the Small Scale Sector and arriving at a composite rate of growth of production in both the sectors. It is now time that Government appoint an Expert Study Team to go into this question.

7.12. Government have stated that the slowing down of the rate of growth of industrial production and the shortage of certain items is not the result of the new Licensing Policy of Government as it has been in operation for barely over 2 years while it takes 2 to 3 years for a new capacity to be set up. Government, however, admit that under the new Policy, which places greater reliance on the small and medium entrepreneurs for industrial development of the country, there could be an interregnum when the rate of growth of Industrial production may not be as much as it could be otherwise. It is expected that Government would keep a continuous watch on the

**Impact of the Industrial Licensing Policy on industrial growth and production in the interest of assuring adequate supplies of goods to meet the rising demands of the people and above all to generate employment opportunities to absorb gainfully the ever growing working force.**

7.13. According to Government, the recent fall in the rate of growth of production in the organised sector was due to two reasons: One being that the new investments, a very large part of which was in the Public Sector covering a number of Core Industries, could not fructify for various reasons; the second being under-utilisation of the industrial capacity already licensed or installed mainly on account of shortages of raw materials including steel, lack of orders, industrial disputes etc. Various steps have now been taken by Government for augmenting industrial production in the private sector. The fact that considerable under-utilisation of industrial capacity existed at the beginning of the Fourth Five Year Plan was pointed out even in the Fourth Plan itself. It is regretted that Government should have waited for taking corrective action until the rate of growth of industrial production actually came down to a distressingly low level.

7.14. Government have admitted that some of those shortages could be attributed to Industrial Licensing Policy being pursued by them earlier. Thus, Government could have avoided the situation by licensing further capacities as soon as utilisation of licensed capacity had reached 75 per cent. Government have now assured the Committee that this procedure would invariably be observed hereafter, to obviate possible shortages. It is regretted that this step was not taken earlier.

7.15. Until March, 1970, the issue of industrial licences was subject to capacity restraints on the basis of indicative targets given in the Five Year Plan. The Planning Commission maintain that shortages were not due to indicative targets given in the Five Year Plan turning out to be wrong. Shortages, according to them, were due to new or additional capacities already licensed in private sector or those projected in the public sector not materialising in due time for various reasons. This underlines the need for a proper follow up action and a contemporaneous watch being kept on the implementation of licences. However, at least in some cases, the shortages might have been due to production targets being based on faulty assessment of the demand by the Planning Commission which were, until March, 1970, being relied upon by licensing authorities for applying capacity restraints. It is hoped that production targets for the Fifth Plan would not suffer from the shortcomings noticed in respect of the current Plan.

7.16. Since March, 1970, the issue of Industrial Licences is uninhibited by capacity restraints in accordance with the Plan targets. This may be justified as a short-term corrective action but in the long run, in the interest of planned economic development of the country, industrial licensing would have to be subjected to production targets based on more realistic projections of demand over a certain period.

7.17. Under a notification issued on the 1st January, this year, another measure has been taken by Government to step up the rate of growth of industrial production in the organised sector. Industrial units in 54 specified industries have been allowed to expand their production, without requiring an industrial licence, upto 100 per cent of their licenced or registered capacity. Government's permission is, however, necessary if any of the Larger Industrial Houses or foreign companies wishes to take advantage of this liberalisation. While this relaxation is welcome, there is need to evolve simple and streamlined procedures for speedy disposal of cases so that the new policy has its full impact on growth of production in as short a time as possible. Government should also take suitable measures and get ready from now on for making available increased quantity of raw materials which would be needed for the expansion of production on the scale envisaged.

7.18. Despite concerns for development of backward areas and regions expressed in successive Plan documents, except locating a few public projects in certain backward areas, no concerted steps seem to have been taken to progressively remove disparities in the levels of development between different regions in the country. Only very recently during the Fourth Plan period, a start has been made in this direction by impressive allocation Plan funds specifically for backward areas in certain States ranging from Rs. 50 lakhs in the case of Meghalaya to Rs. 320.57 crores for Uttar Pradesh, liberal allocation of Central assistance to backward States, identification of backward areas and announcement of direct financial incentives of a Central subsidy, transport subsidy and concessional finance to encourage entrepreneurs to set up industries in backward areas. The Government are also encouraging and assisting the States in setting up an expert planning organisation to prepare State and District Plans with a view to reduce intraregional disparities within the State. It is too early to assess the response to, and success of, these measures. The positive start made in this direction is nevertheless welcome.

7.19. The potentiality of industrialisation as a means of speedy

development of backward areas needs no stress. To attract industries, it is necessary that infra-structure is provided in those areas, the most important of which is the provision of roads and power, development of water resources and above all trained manpower who are willing to give of their best to the industry. The provision of infra-structure and the choice of priorities as between different regions and areas taken up for development within the State is, however, primarily the responsibility of the State. It is therefore only with the positive cooperation of the States that any substantial progress can be made in the development of backward areas, which, it is hoped, will be forthcoming in a greater measure.

7.20. As the problem of these backward regions is a formidable one, it is but appropriate that the Planning Commission and the Central Government should lend a helping hand to the States in formulating concrete and detailed proposals for development of these areas. Planning Commission have already set up an Area Planning Unit to provide guidance to States in this behalf and that the State Governments are being urged to evolve their own district plans for development. Plans for integrated and phased development of infra-structure facilities in backward areas should be finalised within the next 12 to 18 months so that these could be implemented in real earnestness at least in the next plan period. Government should make available adequate financial and other resources to enable these backward areas to catch up on development.

7.21. The best method of industrialising the backward areas would be to locate suitable public undertakings there. It is gratifying to note that Government have taken some positive action in this behalf and that as much as 77 per cent of the total investment in the public sector is being made in industries located in backward areas. This is a welcome step. These public undertakings should, however, act as catalytic agents and make determined efforts to develop ancillary and small scale industries in the neighbouring area so that the purpose of having an industrial complex and infra-structure for future growth, are assured.

7.22. The role of industrial licensing in the development of backward areas has also been disappointing. During the three years 1969, 1970 and 1971, only 91 licences were issued for setting up capacities in backward areas out of a total of 752 licences issued during the period. Of these only 4 were for a populous and most backward State like that of U.P. The States which are relatively more industrially advanced have attracted more licences even for their backward areas. Government should analyse closely the

reasons why there is such a dearth of entrepreneurs for setting up industries in backward areas so that redoubled and intensified efforts could be made to make good the shortcomings, and provide positive incentives to attract at least some industries to these backward areas and provide some relief to the crushing problem of unemployment and poverty in these areas.

7.23. Even in respect of these 91 licences issued, Government do not have ready data as to how many of them have actually fructified. This underlines the need for a systematic and close follow-up to assess realistically the impact of Government's policies and decisions on the trend of industrialisation and to take measures as necessary to ensure that development of industries in the backward areas receives special impetus and encouragement.

7.24. In the existing situation of scarce resources and managerial and technical expertise, it is either public undertakings or well established and efficient industrial organisations of proved merit which can play a constructive role in setting up industries in the backward areas. Government should, therefore in the interest of increasing employment potential in those areas as also augmenting industrial production, make an objective study of the situation and adopt a pragmatic policy which would make way for establishment of industrial units in backward areas without further loss of time.

7.25. The expanded role assigned to the public sector in industrial development of the country is welcome. However, Government should at the beginning of the Five Year Plan, spell out in some detail the role assigned to the public sector during the plan period and announce the industries or new lines of production proposed to be set up in the public sector during this period. In the residual areas, where at the beginning of the Plan public sector does not show any inclination to enter the field, applications by private parties for industrial licences may be invited, examined on merits and licences given expeditiously. This would enable the private entrepreneurs to concentrate their time and resources only on the areas available to them.

7.26. Employment potential of the industry is already a consideration for the issue of the industrial licence. This consideration deserves greater emphasis.

7.27. The Central Advisory Council has been, under the Industries (Development and Regulation) Act, assigned an advisory role in the matter of regulation of industries, which it should truly perform. The meetings of this Council should be called at least twice a year, if not oftener. The object of the meetings should not be merely to

have a "general exchange of views" or a discussion on the "review of the general economic situation of the country", as seems to be the case at present. Instead, members should feel free to bring up specific problems concerning various regulatory measures taken by Government under the Industries (Development and Regulation) Act and offer concrete suggestions for resolving them in the interest of increased production.

7.28. The Reviewing Sub-Committee of the Central Advisory Council is appointed, under the Registration and Licensing of Industrial Undertakings Rules, for reviewing all licences issued, refused, varied, amended or revoked from time to time. Since this is the only non-official forum at which individual or collective grievances relating to industrial licensing can be represented for redressal, and in view of the large number of decisions that it is called upon to review, its meetings should be called at least once in every two months. The existence of this body should also be widely publicised.

7.29. Following the recommendations of the Swaminathan Committee on industrial development procedures, Government had introduced in 1964 the procedure of issue of a letter of intent to the party in the first instance, subject to certain conditions upon the fulfilment of which it is converted into an industrial licence. The procedure should find a place in the Registration and Licensing of Industrial Undertaking Rules 1952 and the time-limits laid down in those Rules for the disposal of applications for issue of industrial licences should be made applicable to the stage of issue of letter of intent.

7.30. The intention of the Swaminathan Committee in suggesting this procedure was to provide to the party, without a too meticulous examination of the proposal and within one month or so of the receipt of the licence application, a document from the Government on the basis of which he could negotiate with foreign parties for collaboration and import of goods. In actual practice, however, this procedure has become another link in a long chain of processes through which a licensing application has to pass. The issue of a letter of intent itself takes considerable time, often as much as one year. If the procedure is to serve the purpose for which it was conceived, it should not take more than 2 to 3 months to issue the letter of intent.

7.31. The existing licensing procedure is also, to some extent, responsible for delays in the disposal of licence applications. Apart from the Ministry of Industrial Development, several Ministries and

Departments of Government are concerned with licensing of undertakings relating to industries falling within their purview. The parties are required to send 11 copies of their applications to the Ministry of Industrial Development. After a centralised registration, these are distributed to different authorities to examine the application from different angles and send their opinion to the Administrative Ministry concerned. The administrative Ministry consolidate these opinions and, after adding their own opinion, forward the case to the Ministry of Industrial Development for placing it before the Licensing Committee. Although the Licensing Committee has the statutory authority to make final recommendations to Government in regard to a licence application, it considers cases only as and when these are referred to it by the administrative Ministries. Although a period of 4 to 6 weeks is prescribed for bringing an application before the Licensing Committee, on the 15th November, 1971 as many as 933 licence applications were pending with different Ministries and Departments for over one year. Cases have accumulated mainly in the Ministry of Industrial Development, Department of Chemicals, Ministry of Foreign Trade and Department of Electronics.

7.32. The large accumulation of licence applications relating to Petro-Chemicals and Electronics industries is particularly alarming. Industries in the Petro-Chemical field not only produce a variety of consumer goods but also certain raw materials for use of other industries. Electronics industry, being labour intensive, has considerable employment potential besides a developing domestic and export market. The Departments of Chemicals and Electronics should therefore make vigorous efforts to dispose of all pending licence applications within the next 3 months and so streamline their internal procedures as to make possible licence applications being brought before the Licensing Committee within the prescribed time limit of 4 to 6 weeks. The Department of Chemicals should give wide publicity to the availability of basic raw materials during the next 3 to 5 years, so as to attract most competitive applications for the issue of industrial licences for their processing.

7.33. It is observed that the Ministry of Industrial Development themselves have a large number of applications pending for over one year. They should also make concerted efforts to clear the backlog of applications pending with them and so streamline the internal procedure for processing them, that licence applications are brought before the Licensing Committee, as required by the existing procedure, within 4 to 6 weeks.

7.34. In regard to applications concerning industries falling within the purview of other Ministries/Departments, basically, it is the

responsibility of the administrative Ministry/Department to bring the application before the Licensing Committee within 4 to 6 weeks. There is, however, need for a centralised close and regular watch, being kept on the stage by stage progress of licence applications by the Ministry of Industrial Development upon whom rests the ultimate responsibility for early disposal of those cases. It is appreciated that there is nothing much that the Ministry of Industrial Development can do, except issue periodical reminders at various levels and request, persuade, press and, as the Industries Secretary said, "cajole" the Ministries to expedite the cases and bring them before the Licensing Committee. Such a procedure obviously has its limitations. Nevertheless, if the figures of industrial licences and letters of intent issued during last year (1971) is regarded as indicative of any trend, it is heartening. The number of licences and letters of intent issued during 1971 was 626 and 1015 respectively as against the corresponding figure of 363 and 438 for 1969. But the number of pending applications as on 15th November, 1971 still remains distressingly as high as 3104. At the same time, the number of licence applications received has also sharply gone up from 1420 in 1969 to 2575 in 1971. It is hoped that the high rate of disposal reached in 1971 would not only be kept up, but improved upon, in future to clear the backlog quickly and meet the current rush of licence applications.

7.35. There is an impression that one of the reasons coming in the way of expeditious decision-making is the wide spread fear amongst the officers that even a bonafide decision may later on become the subject of endless enquiries and criticism. Government should exercise every care in putting officers of the highest integrity in such key positions and inspire in them a feeling of confidence so as to make for expeditious decision-making.

7.36. Late receipt of comments from different authorities, particularly the technical authorities concerned, is usually pleaded by the administrative Ministries/Departments for the delay in bringing cases before the Licensing Committee. The data placed before the Committee substantiates the fact of delays, much beyond the prescribed time limit of 3 weeks, in the receipt of comments of technical authorities by the administrative Ministries/Departments. The Ministries controlling the technical authorities should devise suitable control mechanisms to obviate avoidable delays in processing of applications by the technical authorities. Government should, at the same time, examine the feasibility of introducing a procedure whereby a licence application is brought before the Licensing Committee after a specified time even though by then the opinion of technical and other authorities are not received by the administrative Ministry concerned, leaving it to the technical and other authority, whose



comments were not received beforehand, to express them through its representative at the meeting of the Licensing Committee. Some such system has already been initiated in the Ministry of Industrial Development. It is a welcome step and, if found workable, it should be made applicable to other administrative Ministries/Departments concerned with processing of licence applications.

7.37. In some cases, approval of the Cabinet Committee on Economic Coordination is necessary before a letter of intent can be issued. The final decision in such cases is, under the existing procedure, taking long time. The Ministry of Industrial Development should, in consultation with the Department of Cabinet Affairs, so streamline the procedures as to make for finalisation of such cases expeditiously.

7.38. It is noted that only 4 out of 90 applications for clearance under MRTP Act disposed of so far, have been denied clearance. But it is distressing to find considerable delays taking place in the finalisation of such cases. Though, time limits for disposal applications for clearance under the MRTP Act by the Department of Company Affairs as also by the MRTP Commission have been laid down in the Act itself, these time limits have generally not been observed either by the Department of Company Affairs or by the MRTP Commission. The Department of Company Affairs and the MRTP Commission should seriously try to compress their enquiries, investigations and processes within the statutory time limits and see that the cases which are not disposed of within those time limits are an exception, and not the rule as happens to be the case at present. Ministry of Industrial Development should also identify and cut out pockets of avoidable delays in the existing procedures and processes being observed in that Ministry in regard to such cases. The recent innovation in the procedure for these cases whereby the party's application for clearance under the MRTP Act as well as his licence application are jointly (and not severally as was the procedure hitherto) brought up before the Cabinet Committee on Economic Coordination is welcome.

7.39. After the issue of letter of intent, the party has to apply for various clearances stipulated in the letter of intent, the most important of which are the approval of the terms of foreign collaboration involved, if any, and thereafter the clearance for import of capital goods. Applications for these clearances are entertained and considered consecutively one after the other. Each of these clearances take considerable time in spite of time limit of 90 days and 60 days laid down for the disposal of applications for foreign collaboration and import of capital goods respectively 60 per cent of applications

for foreign collaboration disposed of during 1971 had taken 6 months for disposal while 40 per cent of the cases pending on 1-1-72 were more than 6 months old. Similarly, 90 per cent of the applications for import of capital goods disposed of during 1971 took more than 6 months for disposal. This indicates that there is need to reappraise the procedures being observed at present for disposal of these applications to find out why and where the delays are taking place and to take remedial measures. There should be an effective system of centralised watch being kept over the step by step progress of disposal of these applications so as to see that the time limits laid down for the disposal of these applications are observed.

7.40. The procedure of applications being brought before the Capital Goods Committee at the expiry of a certain period whether the comments of administrative or other authorities concerned have been received or not should be introduced and strictly enforced. This procedure already exists in the case of applications for foreign collaboration and needs strict enforcement.

7.40. Government have admitted that simultaneous consideration of application for industrial licence by the Licensing Committee and that for approval of foreign collaboration agreement by the Foreign Investment Board would expedite matters. But this is not being done as parties themselves submit the application for approval of foreign collaboration agreement only later, usually after the letter of intent is issued. Simultaneous consideration of these applications would certainly reduce the time taken in their consecutive processing and approval and the introduction of this procedure would be welcome. Such a procedure could also be usefully introduced for consideration of applications for import of capital goods by the Capital Goods Committee. Parties should, however, be aware of such a system so as to take advantage of it. Government should therefore publicise the option available to a party to submit the applications for industrial licence, foreign collaboration and/or import of capital goods simultaneously in case it is ready with the type of detailed information necessary for these applications, so that these could be considered by the different bodies concerned simultaneously.

7.42. The acceptable terms of foreign collaboration should be given wide publicity so that prospective entrepreneurs may not fritter away their time and resources on collaboration proposals which would be clearly unacceptable to Government.

7.43. Delays have also been observed in the disposal of applications for conversion of letter of intent into an industrial licence upon fulfilment of prescribed conditions and for revalidation of letters:

of intent and industrial licences. At present there is no system of centralised watch being kept on the progress of these applications. In order to enable such a watch being kept by the Ministry of Industrial Development, all these applications should be centrally routed through the Ministry of Industrial Development and their final disposal also intimated to them. The Ministry of Industrial Development should lay down time limits for the disposal of these applications and see that these are generally observed.

7.44. The instructions to the administrative Ministries in regard to the procedures and time limits to be observed by them in regard to the disposal of applications at various stages in the industrial licensing process should be issued by the Ministry of Industrial Development with the concurrence of the Cabinet Committee on Economic Coordination and there should be a system of periodical reporting to the Cabinet Committee cases of delay in disposal beyond a certain period.

7.45. At present no centralised record is being maintained on the implementation of industrial licences issued and it is left to the administrative Ministries etc. to see that the party takes 'effective steps' for setting up the licensed capacity in six months time and actually sets up the capacity within 12 months of the issue of the licence. In the absence of such a record, it is difficult to have an overall picture in regard to the progress made in the implementation of licences, and more so to see as to what extent the non-implementation is on account of reasons that are genuine. Since what is of substance is the actual setting up of the industrial capacity and not the issue of an industrial licence, Government should set up a central agency which should not only maintain an upto date record, but also actively progress the licence applications from the time of their receipt to the stage of actual setting up of the capacity licensed for. This agency should have a suitable card-index system for compilation of upto date data in respect of all licence applications.

7.46. No system of appeal against any decision relating to industrial licensing has been provided for as it is held that these are in the nature of executive decisions taken at the highest level and that there is a Reviewing Sub-Committee consisting of non-officials which has the power to review all licences issued, refused, varied, amended or revoked from time to time. In the absence of a system of appeal, it is necessary that if it is proposed to take an adverse decision at any stage of the industrial licensing process, in order to reassure the party that the decision is fair and impartial, a show cause notice is invariably issued to the party and a final view in the matter taken

after due consideration of the representation received, if any, at the highest level.

7.47. Industrial Undertakings not required to take out a licence under the Industries (Development and Regulation) Act have to register themselves with the Central Government technical authority concerned. This registration is for statistical purposes only. In the case of such units, the returns required should therefore be kept to the minimum. Government should, in particular, see whether the purpose would be served if registered units in production furnish 'production returns' on a six-monthly or quarterly basis, instead of every month.

7.48. There is a tremendous upsurge of optimism self-reliance and buoyancy in the country and if this propitious combination of factors is put to productive use, our country can achieve a dramatic breakthrough in industrialisation. There is no reason why it should not be possible to achieve the planned rate of 9 per cent in industrial growth in such an optimistic climate and in fact, to improve upon it appreciably.

NEW DELHI;  
April 25, 1972.

Waisakha 5, 1894 (Saka).

KAMAL NATH TEWARI,  
*Chairman,*  
*Estimates Committee.*

## APPENDIX I

(See Para 1.21)

*Ministry of Industrial Development, Internal Trade and Company Affairs (Department of Industrial Development) Notification No. 713|IDRA|29B|70|I dated the 19th February, 1970 published in Gazette of India (Extra-ordinary) Part II, Section 3, sub-Section (ii) dated the 19th February, 1970.*

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S.O. 713|IDRA|29B|70|1: In exercise of the powers conferred by sub-section (1) of section 29B of the Industries (Development and Regulation) Act, 1951 (65 of 1951) and in supersession of the notification of the Government of India in the late Ministry of Industry, No. S.O. 187|IDRA|29B|2|64 dated the 13th January, 1964, the Central Government hereby exempts from the operation of sections 10, 11, 11A and 13 of the said Act and the rules made thereunder.

(1) All industrial undertakings which have or propose to have fixed assets in plant and machinery not exceeding Rs. 7.5 lakhs; provided that no such industrial undertaking shall be eligible for exemption,—

- (i) if it belongs to or is controlled by any Larger Industrial House as classified by the Industrial Licensing Policy Inquiry Committee in the list at Appendix II-A(1) of its report with such amendments to this list as may be made by Government from time to time; or
- (ii) if it is a foreign company or a branch or subsidiary of a foreign company; or
- (iii) if it falls under the category of 'dominant undertakings' as defined in section 2(d) of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969); or
- (iv) if it relates to any of the industries listed in Schedule I annexed hereto;

(2) All industrial undertakings, other than the industrial undertakings referred to in para (1) above, which have or propose to have fixed assets in land, buildings, plant and machinery not exceeding Rs. 1 crore, provided that no such industrial undertaking shall be eligible for exemption,—

- (i) if it belongs to or is controlled by any Larger Industrial House as classified by the Industrial Licensing Policy Inquiry Committee in the list at Appendix II-A (1) of its report with such amendments to this list as may be made by Government from time to time; or
- (ii) if it is a foreign company or a branch of subsidiary of a foreign company; or
- (iii) if it falls under the category of 'dominant undertakings' as defined in Section 2(d) of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969); or
- (iv) if it relates to any of the industries listed in Schedule I annexed hereto; or
- (v) if it requires foreign exchange more than the equivalent of—
  - (a) rupees five lakhs or ten percent of the additional fixed assets by way of land, buildings and machinery, whichever is higher, for the import of machinery and equipment; or
  - (b) ten per cent of the ex-factory value of the annual production of an article in any year, after three years of the commencement of production, for the import of components to be used in that article; or
  - (c) five per cent of the ex-factory value of the annual production of an article in any year or rupees five lakhs, whichever is less, for the import of raw materials (excluding steel and aluminium) to be used in that article; or.
- (vi) if it relates to any of the industries listed in Schedule II annexed hereto; or
- (vii) if it relates to certain basic, strategic and critical industries listed in Schedule III annexed hereto.

*SCHEDULE I*

- (1) Coal falling under '(1) Coal, lignite, coke and their derivatives' under the heading "2. Fuels";
- (2) Textiles, falling under the heading '23. Textiles (including those dyed, printed or otherwise processed)' manufactured, produced or processed on powerlooms;
- \* (3) Milk Foods' falling under '(2) Milk Foods'; Malted foods falling under '(3) Malted Foods' and Roller flour milling falling under '(4) Flour' under the heading '27 Food Processing Industries';
- (4) (a) Oil seed crushing, falling under '(i) Vegetable oils, including solvent extracted oils' and, (b) Vanaspathi falling under '(2) Vanaspathi' under the heading '28. Vegetable oils and Vanaspathi';
- (5) Leather falling under the heading '31. Leather, Leather Goods and Pickers'; and
- (6) Matches falling under '(3) Matches' under the heading '36. Timber Products.'

*SCHEDULE II*

1. Absorbent Cotton.
2. Automobile Radiators (except for expansion on merits).
3. Barbed Wire.
4. Beam Scale.
5. Bichromates (except for exports).
6. Bolts and Nuts, except High Tensile and other special type).
7. Conduit Pipes—Metallic.

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\*Substituted by Ministry of Industrial Development and Internal Trade (Department of Industrial Development) Notification No. 1572/IDRA/29B/71-7 dt. 13-4-1971, published in Gazette of India, Pt. II, Sec. 3, sub-section (ii), dt. 13-4-1971.

8. Domestic Electric Appliances and Accessories such as electric iron, roasters, heaters, washing machines etc. other than vacuum cleaners, industrial washing and dry-cleaning machines etc.

9. Dyes—(i) Azo Dyes (Directs and Acids) and (ii) Basic Dyes.

10. (a) Electrical Wiring Accessories;

(b) Electrical Light fittings (such as chockes, starters, reflectors etc).

11. Expanded Metal.

12. Fireworks.

13. Formulated Perfumary Compounds.

14. Full P.V.C. Footwear (Chappals, Sandals and Shoes), except for export by predominantly export—oriented units.

15. Glass Holloware by semi-automatic process.

16. Gun Metal Bushes.

17. Hand Numbering Machines.

18. Hand Stapling Machines.

19. Hurricane Lanterns.

20. Hypodermic Needles.

21. Insecticides Dusters and Sprayers (Manual).

22. Laundry Soap.

23. Leather Footwear (except for expansion of the existing units for exports and new unit for exports).

25. Machines Screws (except for Socket Head and Special Types).

25. Machine Shop Vices.

26. Metal Clad Switches upto 30 Amps.

27. Miniature Bulbs:

(a) Miniature Vacuum Bulbs;

(b) Torch Bulbs;

(c) Radio Panel Bulbs;



(d) Cycle Dynamo Bulbs; and

(e) Decoration Bulbs.

28. Paints and Varnishes—Dry Distempers, Red Lead, Red Oxide, Aluminium Paints, Bitument Paints to LS Specification, Wagon Blocks, Graphite Paints, all Paste Paints.

29. Palm Rose Oil.

30. Paper Conversion Products.

31. Pine Oil (Except for composite schemes)

32. Plster Boards.

33. Plastic Processed Products:—

(i) Bottle Caps, Buttons, Lamp-shade etc. produced by the compression moulding technique.

(ii) Plastic Articles manufactured from plastic sheets, Rods or Tubes by the fabrication technique excluding the technique of vacuum forming.

(iii) Polythelene Films (Films with a thickness of less than 0.10 mm) and products from the Film such as Bags etc. (excluding heavy duty Bags and Multi-coloured printed film and Bags).

(iv) Blow-moulded Containers and other similar products manufactured by the blow moulding technique (except for captive use, PVC Containers and change over by existing units manufacturing Metal Containers to Plastic Containers).

(v) Spectacle Frames from Sheets by fabrication technique or by injection moulding.

(vi) Manufacture of Polyester Sheets for Buttons and the processing of the Sheets so produced to manufacture Buttons.

34. Rivets of all types (including Bifurcated).

35. Rolling Shutters.

36. Roofing, Flooring and Glazed Tiles (except plastic and ceramic tiles of sizes 4" x 4" and above).

37. Safety Matches.

38. Steel Wool.

39. Student's Microscopes.
40. Surgical Gloves (except plastic).
41. Telescopic Aerials (for Radio Receivers).
42. Thermometers (upto 150°C).
43. Water Meters.
44. Welded Wire Mesh (except for expansion of existing units).
45. Wire Brushes and Fibre Brushes.
46. Wire Products—all Wire products such as Wire Nails.  
Hob Nails, Panel Pins, Horse Shoe Nails.
47. Wood Screws.
48. Deleted.
49. Cycle tyres and tubes.
50. Deleted.
51. Deleted.
52. Deleted.
53. Electric horns.
54. Hydraulic jacks below 30 tonnes capacity, and
55. Tooth paste.
- \*56. Pressure Die Castings (upto 4 K.G.)
57. Drums and Barrels (upto 50 litres capacity).
58. Tin Containers—unprinted (other than CTS Cans). upto 19  
litre capacity.
59. Flash Light Torch Cases (Plastic).
60. Truck Body Building (Wooden structure).
61. Battery Cell tester.
62. Pressure Gauges (upto 50 lbs. per sq. inch)
63. Low Tension Insulators.
64. A.A. & A. C. S. R. Conductors (upto and including 19 strands)

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\*Items 56 to 128 added by Ministry of Industrial Development and Internal Trade Department of Industrial Development) Notification No. S.O. IDRA/29 B/71 dt. 24-2-9,71 published in Gazette of India, Pt. II, Section 3, sub-section (ii) dt. 24-2-1971.

65. Electric Transmission Line Hardware (other than those manufactured in malleable castings).
66. Grease Nipples and Grease Guns.
67. Exhaust Mufflers.
68. Zince Oxide.
69. Auto Leaf Springs.
70. Chaff Cutter Blades.
71. PVC & VIR Wires of Domestic Type.
72. Metal Fittings for garments and leather goods.
73. Weights.
74. Sodium Silicate.

*Automobile Ancillaries:*

75. Fuel Tank Caps.
76. Fuel Lines.
77. Wiring Harrtess.
78. Tail Lamp Assembly.
79. Side Lamp Assembly.
80. Stop Lamp Assembly.
81. Spot Lamp Assembly.
82. Horn Buttons.
83. Bulb Horn.
84. Seats for bus and trucks.
85. Ornamental fittings.
86. Rear View Mirrors.
87. Sun Shades.
88. Sun Visor.
89. Luggage Carrier.
90. Tyre inflators (both hand and foot-operated)
91. Ash trays.
92. Hub Caps.
93. Wind Shield Wipers (Arms and Blades only).

94. Electrical fuses.
95. Electrical fuse boxes.
96. Battery cables and fittings.
97. Spokes and nipples.
98. Steering wheels.
- Garage equipments:*
99. Armature tester.
100. Battery Terminal Lifters.
101. Condensors and Resistance testers.
102. Fender spoon and hammers.
103. Feeler Gauges.
104. Flaring Tools.
105. Gear Flushers.
106. Puller of all types.
107. Ring expanders.
108. Ring Compressors.
109. Screw Extractors.
110. Spark Plug tester and cleaners.
111. Tee in Gauges.
112. Stud Removers (extractors).
113. Tyre valve pull out tools.
114. Tube cutters.
115. Flanging tools.
116. Valve Lifters.
117. Valve Replacing & Resetting tools.
118. Camber Testing Equipment.
119. Domestic Utensils (other than aluminium & stainless steel).
120. Steel Measuring Tapes.
121. Cashew Shell Oil.
122. Room Collers (Desert type).

- 123. Cotton Measuring Tapes.
- 124. Rubberised Cloth.
- 125. Household Knitting Machines.
- 126. Para-Dichloro Benzene Balls.
- 127. Potassium Silicate.
- 128. Calcium Silicate."

### *SCHEDULE III\**

1. Non-ferrous metals falling under 'B Non-ferrous: (IA) other non-ferrous metals and their alloys' under the heading "1. Metallurgical Industries."

2. Pig Iron & Steel falling under 'A-Ferrous:(1) Iron and Steel (metal)' under heading "1. Metallurgical Industries."

3. Alloy & Special Steels falling under 'A-Ferrous: (6) Special Steels' under the heading "1. Metallurgical Industries."

4. Coking Coal falling under '(1) Coal, lignite, coke and derivatives' under the heading "2. Fuels".

5. Oil Exploration and production falling under '(2) Mineral Oil (crude Oil), motor and aviation spirit, diesel oil, kerosene oil, fuel oil, diverse hydrocarbon oils and their blends including synthetic fuels, lubricating oils and the like and '(3) Fuel Gases-(coal gas, natural gas and the like)' under the heading "2 Fuels."

6. Electronics Testing and Control Equipment falling under '(8) Electronic equipment' under the heading "5. Electrical Equipment."

7. Resistance-fixed and variable, condensers or capacitors-fixed and variable, semi conductors including diodes, thick film, thin film and integrated circuits, Transmitting and Receiving Tubes including Cathode ray Tubes, Connectors, Switches and relays, Ferrites and Magnets, Thermistors and Varistors falling under '(8) Electronic equipment' under the heading "5. Electrical Equipment".

8. Sophisticated micro-wave components and antennas falling under '(3) Wireless communication apparatus' under the heading "6. Telecommunications."

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\*Substituted by Ministry of Industrial Development and Internal Trade (Department Industrial Development) Notification No. So./IDRA/219B/716 dt. 24-2-1971, published in the Gazette of India, Part II, Section 3, sub-section (ii) dt. 24-2-1971.

9. **Electronic (Wireless and microwave equipment) falling under '(3) Wireless communication apparatus' under the heading "6. Telecommunications".**

10. **Ship building and dredgers falling under '(2) Ship and other vessels drawn by power' under the heading "7. Transportation."**

11. **Chemical machinery falling under 'A. Major items of specialised equipment used in specific industries; (9) Chemical machinery' under the heading "8. Industrial Machinery."**

12. **Paper machinery falling under 'A. Major items of specialised equipment used in specific industries; (11) Paper Machinery' under the heading "8. Industrial Machinery."**

13. **Selected Types of Machine Tools, namely:—**

- (i) Automatics
- (ii) Turret and Capstans
- (iii) Lathes other than conventional type centre lathes.
- (iv) Boring machines.
- (v) Broaching machines.
- (vi) Drilling machines other than conventional bench, column, pillar and radial type.
- (vii) Threading machines, other than Die type Screwing machines.
- (viii) Milling machines other than conventional milling machines.
- (ix) Gear cutting, generating and finishing machines.
- (x) Grinding machines excepting double-ended grinders.
- (xi) Lapping, Honing and Polishing machines other than conventional polishing|Buffing spindles.
- (xii) Sawing, contour sawing, Filling & Cut-off machines other than Hack sawing machines.
- (xiii) Presses other than conventional mechanical and Hydraulic presses.
- (xiv) Forging machines including hammers.
- (xv) Wire & Metal Ribbon Forming machine other than conventional wire drawing and barbed wire making machines.

- (xvi) Specialised sheet metal working machinery.
- (xvii) Special purpose machine like unit head machines, spark erosion, ultrasonic machines, electro-chemical machines, Numerical control machines and others.
- (xviii) Plastic working machines.
- (xix) Glass working machines.
- (xx) Machine tools accessories including hydraulic and pneumatic equipments, and Jigs and fixtures.
- (xxi) Portable electric and Pneumatic tools.
- (xxii) Portable electric and Induction Heating Equipment.
- (xxiii) Gas cutting and welding equipment.
- (xxiv) Electric resistance welding, brazing and soldering equipment.
- (xxv) Metal testing machines.

falling under the heading "9. Machines Tools."

14. Tractors and power tillers falling under '(1) Tractors, harvestors and the like' under the heading "10. Agricultural Machinery".

15. Nitrogenous and Phosphatic Fertilizers falling under '(1) Inorganic fertilizers' under the heading "18. Fertilizers."

16. Pesticides (basic chemicals only) falling under '(11) Insecticides, fungicides, weedicides and the like under the heading "19. Chemicals (Other than Fertilizers)".

17. Integrated petro-chemicals complexes, D.M.T., Captolactum, Acrylonitrile falling under '(2) Organic heavy chemicals' under the heading "19. Chemicals (other than Fertilizers)".

18. Synthetic rubber falling under '(6) Synthetic rubbers' under the heading "19. Chemicals (other than Fertilizers)".

19. Newsprint falling under '(2) Newsprint' under the heading "24. Paper and pulp including paper products".

## APPENDIX II

(See Para 1.22)

*Press Note issued by Ministry of Industrial Development and Internal Trade (Deptt. of Industrial Development) on 18-7-1970, re: "Substantial Expansion".*

Consequent on the modifications in industrial licensing policy recently announced, Government have reviewed the existing policy of diversification of production which permits manufacture of new article or articles by industrial undertakings upto 25 per cent of their licensed or registered capacity (by value) without a licence under the Industries (Development and Regulation) Act, 1951, subject to certain conditions. The relaxation in licensing policy pertaining to diversification of production, in its present form, was announced for the first time through a Press Note issued on 27-10-66 and a Notification on 29-11-66 which were amended from time to time in the light of past experience and prevalent circumstances. The underlying approach of such relaxation has been that the regulatory mechanism of licensing should nevertheless allow and ensure fullest utilisation of installed plant and machinery through manufacture of new articles, subject to certain conditions. The present licensing policy seeks to assign certain definite roles and areas of operation to different categories of entrepreneurs and consistent with this policy, it has become necessary to redefine the policy of diversification.

2. The revised policy of diversification of production which is in supersession of all previous instructions on the subject has been embodied in this Ministry's Notification No. S.O./IDRA/29B/70/5 dated the 18th July, 1970 published in the Gazette of India Extraordinary of the same date. It has been decided that, in future, industrial undertakings which are registered or in respect of which a licence or permission has been granted under the Industries (Development and Regulation) Act, 1951, shall have the freedom to diversify their production by taking up the manufacture of a new article or articles upto 25 per cent of their licensed or registered capacity (by value) without an industrial licence, provided that the following conditions are fulfilled:—

- (i) the industrial undertaking does not belong to or is controlled by any of the Larger Industrial Houses as classi-



fied by the Industrial Licensing Policy Inquiry Committee in the list at Appendix II A(1) of its Report with such amendments to this list as may be made by the Government from time to time;

- (ii) the industrial undertaking is not a foreign company or a branch or a subsidiary of a foreign company;
- (iii) the total assets in land, buildings, plant and machinery of the Industrial undertaking do not exceed Rs. 5 crores;
- (iv) the new articles to be produced or manufactured by the industrial undertaking are not those listed in Schedules I, II, III and IV annexed hereto (not printed);
- (v) the article or articles for which the industrial undertaking is already licensed or registered are not one of those listed in Schedule III not printed annexed hereto;
- (vi) the new article or articles to be produced or manufactured are those which belong to allied lines of manufacture, namely, involving the same technological process as the article or articles for which the undertaking is registered or licensed;
- (vii) there is no expenditure of foreign exchange involved directly or indirectly for import of capital goods, raw materials or components;
- (viii) the manufacture or production of new article or articles does not involve installation of additional machinery (procured indigenously) of a value exceeding 10 per cent of the value of the total installed machinery or Rs. 10 lakhs which ever is less; and
- (ix) the production of the article or articles for which the industrial undertaking is registered or licensed is not less than 50 per cent of the productive capacity so licensed or registered.

3. It is clarified that such industrial undertakings as have already established production or manufacture of certain new articles or articles in accordance with the policy of diversification in force hitherto but are not covered by the revised policy of free diversification explained in para 2 above, will have to obtain a licence or permission, as the case may be, for carrying on the business of the undertaking

in respect of such new article or articles within three months of the date of this Press Note. The industrial undertakings should apply for a 'carrying on business' licence in form 'EE' prescribed under the Registration and Licensing of Industrial Undertakings Rules, 1952. While applying for a licence in form 'EE', the industrial undertaking should also furnish the additional information in the proforma at Schedule V (not printed).

4. In this Ministry's Notification No. S.O. 173|IDRA|29B|70|1 dated 19th February, 1970, relating to modifications in the industrial licensing policy, it was stated that industrial undertakings with fixed assets in land, buildings, plant and machinery upto Rs. one crore would be exempt from the licensing provisions of the Industries (Development and Regulation) Act, 1951 including those relating to manufacture of new article or articles subject to the conditions detailed therein. This exemption in respect of new articles will continue. It is clarified that the relaxation for the manufacture of new article or articles embodied in Notification No. S.O. 2443|IDRA|29B|70|5 dated the 18th July, 1970 will not be in derogation of the exemptions for the manufacture of new articles in the Notification dated the 19th February, 1970.

5. In the Press Note dated the 27th October, 1966 issued by this Ministry, it was mentioned that industrial undertakings might also increase the production of the articles for which they were licensed or registered, upto 25 per cent of the capacity so licensed or registered, without obtaining a substantial expansion licence provided that certain conditions were fulfilled, namely; (i) no additional plant and machinery is installed, except minor balancing equipment procured indigenously and (ii) no additional expenditure of foreign exchange is involved and the extra production does not occasion any additional demand for scarce raw materials. It is clarified that the facility for increase in production of the article or articles for which an industrial undertaking is licensed or registered, upto 25 per cent of the capacity so licensed or registered, will continue, subject to the same conditions mentioned above. Government hope that this facility will encourage entrepreneurs to increase the productivity in their industrial undertakings and utilise the plant and machinery to the maximum extent.

6. Industrial undertakings going in for the manufacture or production of new article or articles in pursuance of the revised policy of free diversification explained in para 2 or increase of production in pursuance of para 5 above will have to get themselves registered with the Directorate General of Technical Development or any other concerned technical authority in accordance with the new registra-

tion procedure by addressing a letter to that authority giving particulars of the licences held by them and the extent of diversification increase in production effected by them and such other particulars as may be relevant.

## APPENDIX III

(See Para 1.25)

*Press Note issued by Ministry of Industrial Development*

*(Audyogik Vikas Mantralaya) on 1st January, 1972.*

The need for a fuller utilisation of the installed capacity in various industries in the country was being felt in the Ministry of Industrial Development for the last few months. A fuller utilisation of the installed capacity appeared to be desirable from various considerations. One of these was the fact that capital, and in many cases foreign exchange, had already been invested on the installation of this capacity and it appeared reasonable that better use of this investment of capital and foreign exchange should be made. The present slow rate of growth in organised industry and the need to take urgent steps for pushing up industrial production was another factor which was taken into consideration. In this connection, it was felt that while industrial licensing has been liberalised, and the pace of licensing stepped up very considerably, the effect of these steps in the shape of increased industrial production would not start registering itself for another 2-3 years. Another consideration was the need to increase the availability of consumer goods in order to meet the growing requirements of the country.

2. Taking all the relevant factors into account, Government have now decided that in respect of 54 important industries, mentioned in Annexure-I, additional production would be allowed to the extent, and subject to the conditions, mentioned below:—

- (a) Wherever the licence issued to a party has mentioned a certain capacity specifically on the basis of one or two shift working, the party would be allowed an increase in its licensed capacity on the basis of maximum utilisation of plant and machinery.
- (b) In other cases, the present relaxation of upto 25 per cent of the licensed capacity has been enhanced to 100 per cent.

3. It is important to emphasise once again that the above two concessions are available only in respect of the 54 industries men-

tioned in Annexure-I; also they are subject to the following conditions:—

- (i) These relaxations will NOT be allowed in regard to the production of goods which have been reserved exclusively for the small scale sector.
- (ii) The relaxations will not apply automatically to the Larger Houses and the foreign majority companies. Such companies may, however, apply to the Ministry of Industrial Development for being allowed an increase in production. Such applications will be considered quickly by a Task Force which will dispose of the applications on considerations of public interest—keeping in view also the requirements of the MRTP Act.

4. Industries other than those belonging to Larger Houses and foreign majority companies may start utilising these relaxations mentioned above immediately in respect of the 54 industries listed in Annexure-I without waiting for any further Government approval, subject to the proviso that the relaxations will not be available in regard to any goods which have been reserved exclusively for the small scale sector. A list of 128 items at present reserved for the small scale sector is in Annexure-II. The allocation of additional scarce raw materials for the enhanced capacity will, however, be subject to the same conditions as apply to the allocation of these materials for the existing capacity. It goes without saying that industries which use indigenous raw materials will be in a more favourable position, particularly at a time like the present when the availability of foreign exchange may be limited.

### ANNEXURE I

1. Motor Cycles.
2. Bicycles.
3. Mopeds.
4. Agricultural Tractors.
5. Agricultural Machinery and Implements.
6. Pumps and compressors.
7. Fertilizers.
8. Pesticides.
9. Basic Metals—Iron and Steel, Copper, Aluminium, Zinc and Lead.

10. Industrial and Mining Machinery.
11. Iron and Steel Castings, forgings, Pipes and Structures.
12. Internal Combustion Engines.
13. Machine Tools and accessories.
14. Workshop, machinery and equipment other than machine tools.
15. Small tools including cutting tools, power tools and other workshop tools.
16. Coated and bonded abrasives and polishing wheels.
17. Industrial Furnaces.
18. Welding electrodes.
19. Ball and roller bearings.
20. Transformers, switchgears, motors, generators, power capacitors, rectifiers, relays and electric stampings:
21. Electrical Cables and Wires.
22. Storage batteries, dry batteries.
23. Electronic components.
24. Construction and earth moving equipment.
25. Cranes and hoist blocks.
26. Industrial fasteners.
27. Wire Ropes.
28. Scientific and Industrial instruments.
29. Cement.
30. Organic and Inorganic heavy chemicals.
31. Fine chemicals.
32. Pulp, paper and newsprint.
33. Synthetic rubber.
34. Tyres and tubes.
35. Industrial explosives.
36. Industrial gases.
37. Drugs.
38. Medical and Surgical equipment and appliances.
39. Electro-medical and X-ray equipment.
40. Refractories, fire bricks and insulators.
41. Commercial vehicles including Jeeps and three wheelers.
42. Automobile ancillaries.
43. Trawlers, dredgers and fishing boats.

44. Optical and laboratory glass and glass wool.
45. Jute textiles.
46. Canned and preserved fish.
47. Sanitary cans.
48. Paints and Warnishes and enamels.
49. Man-made fibres.
50. Telecommunications equipment.
51. Wagons.
52. Industrial refrigeration equipment.
53. Sugar.
54. Cotton textiles.

#### *ANNEXURE II*

*List of Industries Reserved Exclusively for Development in the  
Small Scale Sector.*

(Same as Schedule II of Appendix I of this Report).

## APPENDIX IV

(See Para 1.29)

*Ministry of Industrial Development, Internal Trade and Company Affairs (Department of Industrial Development) Notification No. 912|IDRA|29B|70|3 dated the 28th February, 1970 published in Gazette of India (Extraordinary) Part II, Section 3, Sub-Section (ii) dated the 7th March, 1970.*

S.O. 912|IDRA|29B|70|3.—In exercise of the powers conferred by sub-section (1) of section 29B of the Industries (Development and Regulation) Act, 1951 (65 of 1951) and in partial modification of the Notification of the Government of India in the Ministry of Industrial Development, Internal Trade and Company Affairs (Department of Industrial Development) No. S.O. 173|IDRA|28B|70|1 dated the 19th February, 1970, in so far as it relates to substantial expansion of industrial undertaking referred to therein, the Central Government hereby exempts from the operation of clause (d) of sub-section (1) of section 13 of the said Act and the rules made thereunder, all industrial undertakings registered under the said Act or in respect of which licences or permission have been issued under that Act, which have fixed assets in land, buildings, plant and machinery in value not exceeding Rs. 5 crores:

Provided that no such industrial undertaking shall be eligible for exemption—

- (i) if the value of the said fixed assets after substantial expansion exceeds, at any stage, Rs. 5 crores; or
- (ii) if it belongs to or is controlled by any "larger Industrial House" as classified by the Industrial Licensing Policy Inquiry Committee in the list at Appendix II-A(1) of its report as amended by Government from time to time; or
- (iii) if it is a foreign company or a branch or subsidiary of a foreign company; or
- (iv) if it falls under the category of 'dominant undertakings' as defined in clause (d) of section 2 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969); or



- (v) if it relates to any of the industries listed in Schedule I annexed hereto; or
- \* (vi) if it required foreign exchange more than the equivalent of—
- (a) rupees five lakhs or ten per cent. of the additional fixed assets by way of land, buildings, plant and machinery, whichever is higher, for the import of machinery and equipment; or
  - (b) ten per cent. of the ex-factory value of the annual production of an article in any year, after three years of the commencement of production, for the import of components to be used in that article; or
  - (c) five per cent of the ex-factory value of the annual production of an article in any year or rupees five lakhs, whichever is less, for the import of raw materials (excluding Steel and aluminium) to be used in that article; or”.
- (vii) if it relates to any of the industries listed in Schedule II annexed hereto; or
- (viii) if it relates to certain basic, strategic and critical industries listed in Schedule III annexed hereto:

### *SCHEDULES I, II AND III*

**(Same as Schedules I, II and III of Appendix I of this Report).**

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\*Substituted by Ministry of Industrial Development Notification No. S.O.—CIDRA 29B/71/10 dt. 21-7-1971, published in Gazette of India, Part II, Section 3, sub-Section (ii), dt. 21-7-1971.

## APPENDIX V

(See Para 1.30)

*Ministry of Industrial Development and Internal Trade (Department of Industrial Development) Notification No. 2443|IDRA|29B|70|5 dated the 18th July, 1970 published in Gazette of India (Extraordinary) Part II, Section 3, Sub-section (ii), dated the 18th July, 1970.*

S.O. 2443.—IDRA|29B|70|5.—In exercise of the powers conferred by sub-section (1) of section 29B of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and in supersession of the notification of the Government of India in the late Ministry of Industry No. S.O. 3720|29|B|IDRA|66, dated the 29th November, 1966, the Central Government hereby exempts from the operation of section 11A of the said Act and the rules made thereunder, all industrial undertakings registered or in respect of which a licence or permission has been issued under the said Act:

Provided that the above exemption shall not apply to any industrial undertaking—

- (i) if the new article or articles to be produced or manufactured by such undertaking exceed twenty-five per cent of the registered or licensed capacity (by value) of the undertaking; or
- (ii) if it belongs to or is controlled by any larger industrial house as classified by the Industrial Licensing Policy Inquiry Committee in the list at Appendix II-A(1) of its Report with such amendments to this list as may be made by Government from time to time; or
- (iii) if it is a foreign company or a branch or a subsidiary of a foreign company; or
- (iv) if its total assets in land, buildings, plant and machinery exceed rupees five crores; or
- (v) if the new article or articles to be produced or manufactured by such undertaking are any of those listed in Schedules I, II, III or IV annexed hereto; or

- (vi) if any article or articles for which the undertaking is licensed or registered are one of those listed in Schedule III annexed hereto; or
- (vii) if the new article or articles to be produced or manufactured are other than those which belong to allied lines of manufacture namely; involving the same technological process as the article or articles for which the undertaking is registered or licensed; or
- (viii) if there is any expenditure of foreign exchange involved directly or indirectly, for import of capital -goods, raw materials or components; or
- (ix) if manufacture or production of new article or articles involves installation of additional machinery (procured indigenously) of a value exceeding ten per cent of the value of the total installed machinery or rupees ten lakhs, whichever is less; or
- (x) if the production of the article or articles for which it is registered or licensed is less than fifty per cent of the productive capacity so registered or licensed.

2. The Central Government specifies a period of three months from the date of publication of this notification as the period after the expiry of which no owner of any industrial undertaking engaged in the manufacture or production of any new article or articles in accordance with the notification referred to in paragraph 1 above (No. S.O. 3720|29|B|IDRA|66, dated the 29th November, 1966) shall carry on the business of the undertaking in respect of such new article or articles, except under and in accordance with a licence issued in this behalf by the Central Government and in the case of a State Government, except under, and in accordance with, the previous permission of the Central Government unless the manufacture or production of such new article or articles is covered by the above exemption.

3. The provision of this notification shall be in addition to, and not in derogation of, the provisions contained in the Notification No. S.O. 173|IDRA|29B|70|1, dated 19th February, 1970.

#### *SCHEDULES I, II AND III*

(Same as Schedules I, II and III of Appendix I of this Report).

## SCHEDULE IV

1. Arms and ammunition and allied items of defence equipment.
2. Atomic Energy.
3. Iron and Steel.
4. Heavy castings and forgings of iron and steel.
5. Heavy plant and machinery required for iron and steel production for mining, for machine tool manufacture and for such other basic industries as may be specified by the Central Government.
6. Heavy electrical plant including large hydraulic and steam turbines.
7. Coal and lignite.
8. Mineral oils.
9. Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur, gold and diamond.
10. Mining and processing of copper, lead, zinc, tin, molybdenum and wolfram.
11. Minerals specified in the Schedule to the Atomic Energy (Control of Production and Use) Order, 1953.
12. Aircraft.
13. Air transport.
14. Railway transport.
15. Shipbuilding.
16. Telephones and telephone cables, telegraph and wireless apparatus excluding radio receiving sets).
17. Generation and distribution of electricity.

## APPENDIX VI

### Summary of Recommendations|Conclusions contained in the Report

Sr. No.	Reference to Para No. of Report	Summary of Recommendations/ Conclusions
1	2	3
1.	1.24.	The Committee reiterate the recommendation made in their Ninth and Seventy-Ninth Reports (Fourth Lok Sabha) that the term 'substantial expansion' referred to in the Industries (Development and Regulation) Act, may be clearly defined in terms of percentage so as to introduce a certain amount of definiteness in the application of the relevant provisions of the Act to individual cases.
2.	1.28.	The Committee welcome the relaxations announced by Government on the 1st January, 1972 for fuller utilisation of installed capacities by taking advantage of rationalisation of production and modernisation of equipment in 54 specified industries. They, however, feel that unless systematic follow-up action is taken in pursuance of Government's announcement to help established units to produce upto their installed capacity without undue restrictions the rate of growth of industrial development may not come up as rapidly as desired. The Committee therefore recommend that simple and streamlined procedures and modalities may be evolved to give effect to these relaxations and decisions in individual cases may be taken swiftly, so that production is maximised in as large a number of industrial units as possible and within a short time. Since it is only when there is a climate of easy availability of basic raw materials including ferrous and non-ferrous metals that industries can be expected to get into

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full swing of production, the Committee would like Government to make arrangements for promptly meeting the increased raw material demand of industrial units wishing to take advantage of the new policy. The Task Force appointed to process cases for expansion under the new policy should, in this context, give immediate attention to the applications of such industrial undertakings as are engaged in the production or manufacture of materials which, in turn, are required for the manufacturing operations of other industries, more particularly the small scale industrial units.

3. 1.34. The Committee agree that while unforeseen circumstances or sudden developments in the economic field may call for temporary modifications of the Industrial Licensing Policy, they are driven to the conclusion that for sustained industrial growth it is imperative that industrial licensing procedures and policy should generally hold good for a reasonably long period, say a minimum of 5 years coinciding with the Plan period. The Committee, therefore, suggest that the Central Government should formulate and announce the Industrial Licensing Policy for the next Plan period well before the commencement of the Plan so as to attract most competitive applications for issue of licences on merit. The Committee need hardly underline the fact that if procedures and policy are clearly and unambiguously announced it would make for keener competition on merits and help to dispel any suspicion of policy being strained to favour any individual firm or party.
4. 1.37. The Committee recommend that, as the value of fixed assets varies with the price level, Government should from time to time, say after an interval of 3 years, review the limits of exemption from licensing provisions of the Industries (Development and Regulation) Act laid down in terms of the monetary value of fixed assets of an industrial undertaking.
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5. 1.38. The Committee also recommend that, in social interest, Government may consider the suggestion of excluding the value of Housing Colonies for workers from the value of assets reckoned for the purpose of exemptions from the licensing provisions of the Industries Act, so as to encourage entrepreneurs who wish to provide housing for workers to do so.
6. 2.15. The Committee are unhappy to note that although Government took a decision in February, 1970 that the detailed industry plans should be prepared in respect of the industries included in the Core Sector for the Fourth Five Year Plan and entrusted this task to the Planning Commission, until January, 1972, i.e. after a lapse of two years, the Planning Commission were still at the stage of devising a suitable machinery for undertaking the task systematically. The Committee are also distressed to note the admission of the Planning Commission as well as of the Secretary, Ministry of Industrial Development that the detailed industry plans would not be available for use in licensing undertakings in the Core Sector during the Fourth Plan period and that, as hitherto, licensing decisions during this Plan period would continue to be based on the data, indicative targets and projections given in the Plan document. They also note with alarm the submission of the Planning Commission that the task of preparing the detailed industry plans, even in respect of what are deemed to be basic, strategic and critical industries constituting the Core Sector, is such a "gigantic task" that the Planning Commission would not be able to do it "by itself" and that "quite a part of this work will have to be done in the Ministries, the various public sector undertakings, consultancy firms etc". They further note that the Commission have laid down the target for the completion of this work as "before March, 1973."
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The Committee agree with the ILPIC (Dutt Committee) that the indicative targets and projections given in the Fourth Plan document cannot, by themselves, provide an adequate basis if the system of industrial licensing is to be effectively used as a positive instrument for coordinated and planned economic development. They, therefore, recommend that the detailed industry plans should be prepared expeditiously, at least for the Core industries, as recommended by the Dutt Committee which has been accepted by Government. Since the Fourth Five Year Plan period is likely to be over before the detailed industry plans could be ready for use in industrial licensing, the industry plans would necessarily have to be for the Fifth Five Year Plan period, but keeping in view the projections for the five years thereafter. The Committee urge that the Planning Commission and the Government should apply themselves seriously to the task and try to complete this work well before the target date of March 1973 fixed by the Planning Commission.

7. 2.19. Until March, 1970, Government were, in the matter of industrial licensing, following the policy of capacity restraints on the basis of indicative demand and production targets given in the Five Year Plan documents. Therefore, at least in some cases, the shortages could have been due to production targets being based on a faulty assessment of the demand by the Planning Commission. To meet the situation, Government have, since March, 1970, given up the policy of applying rigidly capacity considerations in the issue of industrial licences. The Committee are, however, of the view that the new policy of freeing industrial licensing from the limitations of assessed demand and indicative production targets given in the Plan, may be justified as a short term measure to tide over the current:
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shortages of goods but in the long run, this policy is fraught with danger inasmuch as it would generate undue pressure on scarce resources and may well lead to excess capacity. Besides, it would set at naught the whole concept of development through planning. They trust that assessment of demand and determination of production targets for various commodities for the Fifth Five Year Plan period would not suffer from the shortcomings noticed in respect of the current Plan.

8. 2.20. The Committee agree that in some cases, the current shortages may be due to licensed capacity having not fructified. This underlines the need for a proper follow-up action and a contemporaneous watch being kept on the implementation of the licences issued which the Committee have commented upon later in this Report.
9. 2.21. Government have admitted that if the steps taken by the Ministry of Industrial Development, namely to invite applications and licence additional capacity as soon as utilisation of existing licensed capacity had reached 75 per cent, had been taken earlier, the shortages would not have occurred. The Committee regret that this step was not taken by Government earlier. They recommend that, in future, this procedure should be observed invariably and suitable administrative instructions may be issued to all the Economic Ministries in this behalf.
10. 2.24. The Committee note the statement of the Government that essential inputs are being provided to industrial undertakings in the Core Sector on a priority basis. They would however like to point out that the real test of the effectiveness of measures taken for development of Core Industries is in the rate of growth of production
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in the Core Industries which, the Committee find has been none too impressive. The Committee recommend that a contemporaneous watch should be kept on the development of Core Industries so as to assess as to how far the measures already taken by Government have actually succeeded and to take such remedial action as may be necessary in the light of experience.

11. 2.25. The Committee also recommend that the policy of providing essential inputs to industries in the Core Sector should be made widely known by issue of suitable administrative instructions in this behalf to all the economic Ministries and other authorities concerned.
12. 2.31. The Committee note that some industries like milk food, malted food, roller flour milling, oil seed crushing, vanaspati etc., listed in Schedule I of Notifications of 19th and 28th February and 18th July, 1970 laying down the new industrial licensing policy of Government, are subject to special restrictions in the matter of licensing and that these restrictions are continuing since 1964. They also note that at present there is no system of periodical review to see whether the special restrictions in respect of these industries are still required. The Committee recommend that Government should annually review the state of these industries to see whether the special restrictions in respect of any of these industries could be dispensed with in view of a change in the circumstances or conditions in the industry.
13. 2.41. The Committee note that as per present procedure a copy of every application for industrial licence is sent to the Development Commissioner, Small Scale Industries, who examines it to see whether it is feasible to undertake the manufacture of the item in the small scale sector. The
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Committee understand that some applications for issue of industrial licences for industries other than those reserved for the Small Scale Sector have been turned down merely on the plea that it is feasible to undertake the manufacture of the item in the small scale sector. The Committee would like Government to examine the matter in depth before turning down an application on this ground only. Where an application is so turned down, Government should make sure that there is a concrete time bound scheme for developing manufacture of that item in requisite numbers and quality to meet the demand in full. In fact the Committee would suggest that the progress made in this behalf should be reviewed once in six months and in case it is found that the scheme is not materialising in the small scale sector there should be no objection to its manufacture in the large scale sector in public interest.

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2.49.

The Industrial Licensing Policy in force has reserved a large number of items exclusively for the Small Scale Sector. It is therefore the responsibility of Government to ensure that the Small Scale Sector actually delivers the goods in the field exclusively reserved for it, that the consumers' interest is safe-guarded in the matter of quality and price of goods produced in that sector and that there are no shortages. The Committee note that the responsibility in this regard is cast on the Development Commissioner, Small Scale Industries who, it is said, would draw up production programmes, keep a close watch and hold consultations with State Governments. The Committee feel that this is not enough and suggest that a suitable mechanism should be devised for methodically assessing the demand in respect of each of the reserved items during the next five years, drawing up an annual

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production programme, seeing that it is actually implemented and for taking remedial action in case of shortfalls in production to obviate possible shortages. The Committee would also like Government to provide adequate facilities for quality testing of goods produced in the small scale sector at cheap rates and introduce quality control of finished goods, where feasible and necessary.

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2.51

The Committee consider that the reservation of certain industries for development exclusively by the Small Scale Sector should be accompanied by positive measures to see that, with proper technical guidance and the development of financial and marketing facilities, units in this sector are able to stand on their own. They also consider it necessary that an independent review is undertaken in regard to each of the reserved industries periodically, say after an interval of 3 years, to assess the progress made in this direction and for taking such action as may be considered necessary in the interest of the consumer.

16.

2.53

The Committee note with concern that quite a few parties may be taking advantage of inadequate resources of the State Directors of Industries for keeping an effective watch over the production, or even the existence, of Small Scale Units registered with them. The Committee suggest that Government should devise a scheme of periodical survey to find out the correct position in respect of the Small Scale Units registered with the State Directors of Industries.

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2.57

The Committee consider that just as Government have taken the responsibility for provision of essential inputs for industries in the core sector on a priority basis, similarly for industries which are reserved exclusively for small scale sector. Government may provide requisite inputs

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		<p>such as finance, scarce raw materials, foreign exchange, etc. on a priority basis in the interest of assuring that production is sustained and that products of reasonably good quality become available to the consumer at most competitive prices.</p>
18.	2.63	<p>The Committee note the steps proposed to be taken by Government to encourage the small scale sector and to strengthen their hands <i>vis-a-vis</i> their principal customers i.e. the large industries. They hope that Government would soon bring forward before Parliament a considered legislation on this subject.</p>
19.	2.70	<p>The Committee would like to point out that classification of an Industrial House as 'Larger Industrial House' made on the basis of the sum total of the value of its assets together with that of its inter-connected undertakings exceeding Rs. 35 crores at a given time, could not be a static classification. In course of time, there are bound to be changes in the composition of an Industrial House and in the value of its total assets resulting in some Houses crossing the limit of Rs. 35 crores while some others, though classified earlier as 'Larger Houses', going out of the group. The existing classification of Larger Industrial Houses was made by the Industrial Licensing Policy Inquiry Committee (Dutt Committee) <u>on</u> the basis of data compiled more than 5 years ago and it will be out of date in several cases. The Committee note that the Ministry of Industrial Development have initiated an inquiry with a view to see which other Industrial Houses could be brought under the classification of Larger Industrial Houses. However, an Industrial House at present classified as Larger Industrial House but which may now be having total assets of less than Rs. 35 crores or an industrial undertaking which</p>

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may no longer be connected with a Larger Industrial House, is required to apply for removal from the list of Larger Industrial Houses and the onus of proof of the changed situation is laid on the party itself.

The Committee consider that it should not be difficult for the Government to keep the list of Larger Industrial Houses under constant review on the basis of data available under Company Law. They, therefore, recommend that, for examining applications from Larger Industrial Houses on a realistic basis, Government should take urgent steps to bring the list of Larger Industrial Houses up-to-date by adding to it Houses which now qualify for designation as such and deleting such of the Houses as have ceased to so qualify, and to keep the list under constant review, on the basis of data available with them, without waiting for an initiative in this regard from the Industrial Houses themselves.

20. 2.77 The Committee agree with it is too early to assess as to how the concession allowed to Larger Houses and foreign companies to enter into middle or small scale sector on certain export commitments, is actually being taken advantage of. They, however, note the statement of the Government that they have a pragmatic approach in the matter and hope that the policy in this regard will be reviewed after 3 years in the light of experience.
21. 2.80. The Committee recommend that a study should be initiated in association with the technical advisory authorities such as D.G.T.D., Textile Commissioner, etc., to broadly determine the minimum and optimum economic size for industrial units in particular industries on the basis of the prevailing cost-structure and technology. The study could serve as a guideline for examining
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applications from Larger Industrial Houses or foreign companies for licensing capacities in the middle sector "in the interest of cost efficiency and growth of the firm to minimum economic size."

22.

3.16

The Committee note the contention of the Government that the fall in the rate of growth of industrial production in the organised sector from 7.1 per cent in 1969 to 2 per cent during the first eight months of 1971 cannot be attributed to the new industrial licensing policy announced by Government in February, 1970 as it is too early for the policy to show any impact on the industrial scene, and that this has been more due to other factors: one being that the new investments, a very large part of which was in the Public Sector covering a number of Core Industries, could not fructify for various reasons; the second being under-utilisation of the industrial capacity already licensed or installed mainly on account of shortage of raw materials particularly steel and cotton; decline in orders specially in respect of railway wagons, stationary diesel engines etc.; and industrial disputes. They also note the various steps taken by Government for augmenting production in the private sector, e.g., inviting applications for setting up new capacities in areas where capacity constraints have shown up; liberalisation of import policy for capital goods and to meet the shortage of steel; rationalisation of exemptions from industrial licensing on the basis of import requirements; and the more recent liberalisation announced in January this year for fuller utilisation of installed capacity in respect of 54 import industries.

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3.17

The Committee regret that, despite the recognition in the Fourth Five Year Plan document itself that there was considerable idle industrial capacity which had to be harnessed during the

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early period of the Plan, Government had to wait for taking corrective action until the rate of growth of industrial production actually came down to a distressingly low level. Government's policy of capacity restraints based on unrealistic targets, which was given up only in March, 1970, might also have been, in the opinion of the Committee, another contributory factor in this regard. They consider that if corrective steps were taken by Government in good time, the country might have been saved of the recent decline in the rate of growth of production in the organised sector and also shortages developing in certain categories of goods.

3.18. As regards the constraints in the new Licensing Policy in regard to Larger Industrial Houses and Foreign Companies, the Committee appreciate that in attempting to broad-base entrepreneurship and reducing concentration of economic power, there could be an interregnum when the growth of industrial production may not be as much as it could be otherwise. The Committee expect Government to keep a continuous watch on the impact of the Industrial Licensing Policy on industrial growth and production in the interest of assuring adequate supplies of goods to meet the rising demands of the people and above all to generate employment opportunities to absorb gainfully the ever growing working force.

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The Committee feel that there is a tremendous upsurge of optimism, self-reliance and buoyancy in the country and if this propitious combination of factors is put to productive use, our country can achieve a dramatic break-through in industrialisation. The Committee see no reason why it should not be possible to achieve the planned rate of 9 per cent in industrial growth in such an optimistic climate and in fact, to improve upon it appreciably.



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26.	3.28	<p>The Small Scale Sector is now contributing substantially to industrial production in the country and that its contribution is likely to increase with the encouragement it is receiving at all levels from Government and Government owned organisations. It is therefore imperative that a suitable methodology should be evolved for so working out the rate of growth of industrial production that it reflects the composite growth, both in the large as well as small scale sectors. The Committee note that the Reserve Bank of India and the Development Commissioner of Small Scale Industries are bringing out some kind of estimates about the value of production in the small scale sector but these do not find acceptance in knowledgeable quarters. The Committee also note the difficulties expressed before them by the Ministry of Industrial Development of assessing the industrial production in the small scale sector in the absence of a reliable data as also the anxiety expressed by them of not burdening the small scale industry with returns. The Committee would, however, like to point out that a substantial number of small scale units have to, and do in fact, seek the assistance of the various State and Central authorities and public financial institutions for allotting them scarce raw materials, financial accommodation and other facilities.</p>
27.	3.29	<p>The Committee would suggest that Government should constitute an expert study team to work out a detailed methodology for compiling reliable statistics about the volume of production in the small scale industries sector. This study team should be required to give recommendations within three months or so and Government should arrange for implementation of their decision thereon without delay so that reliable statistics become available at least from this year onwards.</p>

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3.57

The Committee are impressed by the Government's concern for ensuring that the backward areas get their due share of development. The recognition of the problem in fact finds specific mention in each of the Plan documents. The problem is, however, far from simple, for industries have a natural tendency to get concentrated in areas where there is ready availability of power, water supply, transport, skilled labour and ready market for finished products. The Committee regret that, during the first three 5 year Plan periods, except for locating a few public sector projects in certain backward States, no concerted steps were taken to progressively remove disparities in the levels of development between different regions in the country. Only very recently during the Fourth Plan period, a start has been made in this direction by impressive allocation of Plan funds specifically for backward areas in certain States ranging from Rs. 50 lakhs in the case of Meghalaya to Rs. 320.57 crores for Uttar Pradesh, liberal allocation of Central assistance to backward States, identification of backward areas and announcement of direct financial incentives of a Central subsidy, transport subsidy and concessional finance to encourage entrepreneurs to set up industries in backward areas. The Government are also encouraging and assisting the States in setting up an expert planning organisation to prepare State and District Plans with a view to reduce intra-regional disparities within the State. It is too early to assess the response to, and success of, these measures. The Committee nevertheless welcome the positive start made in this direction.

3.58.

The potentiality of industrialisation as a means of speedy development of backward areas needs no stress. To attract industries, it is necessary that infra-structure is provided in those areas, the most important of which is the provi-

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sion of roads and power, development of water resources and above all to trained manpower who are willing to give of their best to the industry. The provision of infra-structure and the choice of priorities as between different regions and areas taken up for development within the State is, however, primarily the responsibility of the State. It is therefore only with the positive cooperation of the State that any substantial progress can be made in the development of backward areas, which the Committee hope, will be forthcoming in a greater measure.

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3.59

The Committee feel that as the problem of these backward regions is a formidable one, it is but appropriate that the Planning Commission and the Central Government should lend a helping hand to the States in formulating concrete and detailed proposals for development of these areas. Noting that the Planning Commission have already set up an Area Planning Unit to provide guidance to States in this behalf and that the State Governments are being urged to evolve their own district plans for development, the Committee stress that plans for integrated and phased development of infra-structure facilities in backward areas should be finalised within the next 12 to 18 months so that these could be implemented in real earnestness at least in the next plan period. The Committee have no doubt that Government would make available adequate financial and other resources to enable these backward areas to catch upon development.

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3.60

The Committee feel that the best method of industrialising the backward areas would be to locate suitable public undertakings there. The Committee are glad to note that Government have taken some positive action in this behalf and that as much as 77 per cent of the total investment in the public sector is being made in industries

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located in backward areas. While this is a welcome step, the Committee would like to stress that these public undertakings should act as catalytic agents and make determined efforts to develop ancillary and small scale industries in the neighbouring area so that the purpose of having an industrial complex and infra-structure for future growth, are assured.

32. 3.66

The Committee note that although reduction of regional imbalances is one of the objectives of industrial licensing and special consideration is given to applications for setting up industries in the industrially backward regions, as against a total of 752 licences for new or additional industrial capacities issued during the three years 1969, 1970, and 1971, only 91 were issued for setting up capacities in backward areas. Government have not been able to furnish readily to the Committee the information as to how many of these 91 licences have actually fructified. The Committee would like to emphasise here again that the issue of industrial licences, by itself, means little and that what is important is new or additional capacities actually set up in backward areas. The Committee therefore stress that the licences issued should be systematically and closely followed up to assess realistically the impact of Government's policies and decisions on the trend of industrialisation and take measures as necessary to ensure that developments of industries in the backward areas receives special impetus and encouragement.

33. 3.57

The Committee are greatly disappointed to note that in spite of the professed concern for encouraging establishment of industries in the backward areas, only four licences (two for new undertakings and two for substantial expansion) could be granted in the last three years for a populous and most backward State like that of

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U.P. The Committee find that States which are relatively more advanced in industry continue to attract more licences even for establishment of industry in their backward areas. It is, therefore, obvious that the present measures and policy have not succeeded in making any great impact on the scene. The Committee feel that Government should analyse closely the reasons why there is such a dearth of entrepreneurs for setting up industries in backward areas so that redoubled and intensified efforts could be made to make good the shortcomings, and provide positive incentives to attract at least some industries to these backward areas and provide some relief to the crushing problem of unemployment and poverty in these areas.

34. 3.75 The Committee are driven to the conclusion that in the existing situation of scarce resources, expertise, engineering and managerial skills, it is either public undertakings or well established and efficient industrial organisations of proved integrity and service which can play a constructive role in the setting up of industries in backward areas. The Committee need hardly underscore the prime need of the country at the present juncture for more production and employment opportunities for its teeming millions. The Committee have no doubt that Government would study the situation most objectively and adopt a pragmatic policy which would make for establishment of industrial units in the backward areas without further loss of time.

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3.82

The Committee welcome the expanded role assigned to the public sector in industrial development of the country. They would, however, suggest that at the beginning of the Five Year Plan period, Government should spell out in some detail the role assigned to the public sector

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during the Plan period and announce the industries or new lines of production proposed to be set up in the public sector during this period. This would enable the private entrepreneurs to concentrate their time and resources only on the areas available to them. In this residual area, where at the beginning of the Plan the public sector does not show any inclination to enter the field, applications by private parties for industrial licences may be invited, examined on merits and licences given expeditiously in the interest of increasing production and making goods available at the most competitive rates to the general public.

36. 3.85. The problem of unemployment in the country and the potentiality of industry in minimising it needs no emphasis. The extent of employment potential of new ventures that may be licensed by Government therefore gains urgent importance. The Committee recommend that while licensing new or additional capacities, greater emphasis should be placed on the labour-intensive nature of the schemes and their capacity to generate employment opportunities.
37. 3.86. The Committee note the contention of the Government that they are now not applying rigidly capacity considerations in issuing industrial licences and therefore it is unlikely that any capacity could be pre-empted by any industrial house to the detriment of the economy or the public interest.
38. 3.94. The Central Advisory Council, besides being a useful forum for a purposeful dialogue between Government and private industry aimed at understanding the problems of industry and explaining Government's policies and viewpoints, has an advisory role to play under the Industries (Development and Regulation) Act.

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The Committee would like to emphasise the advisory role of the Council in the matter of regulation of industries under the Industries Act and suggest that meetings of the Central Advisory Council should be called at least twice a year, if not oftener. The object of the meetings should not be merely to have a "general exchange of views" or a discussion on the "review of the general economic situation of the country", as seems to be the case at present. Instead, members should feel free to bring up specific problems concerning various regulatory measures taken by Government under the Industries (Development and Regulation) Act and offer concrete suggestions for resolving them in the interest of increased production.

30.

3.102

The Committee note that hitherto the meetings of the Reviewing Sub-Committee of the Central Advisory Committee have been few and far between. They also note that it is the intention of the Government to hold meetings of the Sub-Committee bi-annually in future. Considering that the Reviewing Sub-Committee is the only non-Government forum at which individual or collective grievances relating to industrial licensing can be represented for redressal, and in view of the fact that the number of applications on which decisions are taken by the Government now run into several thousands during a year, the Committee recommend that the meetings of the Reviewing Sub-Committee should be held atleast once in every two months so that the Sub-Committee can effectively apply itself to the task of reviewing the licences, revised, varied, amended or revoked during the period under review.

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| 40. | 3.103 | The Committee also recommend that the role and functions of the Reviewing Sub-Committee of the Central Advisory Council as also the fact that they can take up individual cases for review should be widely publicised so that the existence of a non-Government organisation to which an aggrieved party could make representation becomes better known and the real purpose underlying its constitution is served.  |
| 41. | 4.5   | The Committee recommend that the Registration and Licensing of Industrial Undertakings Rules, 1952 should be amended to provide for the new procedure in force since 1964 whereby an applicant for an industrial licence under the Industries (Development & Regulation) Act is in the first instance issued a letter of intent subject to certain conditions upon the fulfilment of which it is converted into an Industrial licence.  |
| 42. | 4.6   | The Committee note the assurance given to them that, with the introduction of the procedure for the issue of letter of intent, the time limits laid down in Rule 15 of the Registration and Licensing of Industrial Undertakings Rules, 1952 for the disposal of licence applications are, by and large, being applied to the stage of issue of letter of intent. They, however, recommend that while amending the Registration and Licensing of Industrial Undertakings Rules, the existing procedure may be given a formal statutory basis. |
| 43. | 4.11  | The Committee would like to point out that the very purpose for the issue in the first instance of a letter of intent to an applicant for an industrial licence, namely to enable him to negotiate with foreign parties and to take preliminary steps, would be lost if this stage alone takes as much time as one year or more, as has   |



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frequently been the case hitherto. Noting the assurance given to them by the Ministry that the letters of intent are now being issued fairly quickly, the Committee stress that normally it should not take Government more than two to three months to issue the letter of intent.

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4.16

The Committee note the spurt in the receipt of licence applications during 1970 and 1971, though they understand that quite a large part of them may have been for the issue of carrying-on-Business licences.

The Committee also note the sizeable increase in the number of industrial licences and letters of intent issued during the same period for new or additional industrial capacities. The Committee welcome this trend and hope that the high rate of disposal of applications reached in 1971 would not only be kept up but improved upon in future to clear the backlog of pending applications at the earliest possible time and to meet the current rush of licence applications.

The Committee note the long time—as much as over a fortnight in some cases—being taken in the initial examination of licence applications and distribution of copies of applications supplied by applicants to concerned authorities. What surprises the Committee is that even though this was pointed out by the Industries Development Procedures Committee as early as 1964, the bottleneck should have been allowed to remain for so long. The Committee recommend that Government should take suitable measures urgently to ensure that this stage does not take more than three days in any case.

46.

4.24.

The Committee suggest the introduction of a suitable card-index system for compilation of up to date data in respect of licence applications. This data could be used not only for finding out

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		investment trends but also for progressing the licence applications through various stages involved until the licence issued actually fructifies.
-47.	4.40	<p>The Committee are distressed to note that as on 15th November, 1971, as many as 3104 licence applications were pending with different Ministries Departments of Government, that 30 per cent of these were pending for more than one year and that the applications pending for over one year with the Ministry of Industrial Development alone were as many as 259. While the Committee enjoin upon all the production Ministries the need for early disposal of licence applications, they stress the need for a centralised close and regular watch being kept on the stage by stage progress in respect of all licence applications by the Ministry of Industrial Development upon whom rests the ultimate responsibility for early disposal of these cases.</p>
-48.	4.41	<p>The Committee appreciate that early disposal of licence applications pertaining to other Ministries Departments of Government depends largely upon the cooperation of those Ministries Departments. They are, however, unable to see why, as on 15.11.1971, as many as 259 applications were pending with the Ministry of Industrial Development themselves for over one year. The Committee would like the Ministry of Industrial Development to make concerted efforts to clear the backlog of pending applications and so streamline the procedures within their own Ministry that licence applications are brought before the Licensing Committee, as required under the existing procedure, within four to six weeks.</p>
-49.	4.42	<p>The Committee also note that one of several reasons usually pleaded by the Ministries Departments for the delay in processing and bringing up a licence application before the Licensing Committee is the late receipt of the comments</p>

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and opinion of technical authorities on the application. The Committee would like the controlling Ministries to keep a strict watch on the time taken by the various Central technical authorities in tendering comments and opinion on licence applications referred to them. They would in fact suggest prescribing of suitable returns to be submitted periodically by the technical authorities to the controlling Ministries indicating the licence applications outstanding with them together with reasons therefore. On receipt of these returns, the controlling authorities should satisfy themselves that the delay, if any, in sending the comments and opinion of the technical authorities to the Administrative Ministry|Section concerned is on account of genuine reasons beyond the control of the technical authority concerned.

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4.43

The Committee would like Government to examine the feasibility of introducing a procedure whereby a licence application is brought before the Licensing Committee after a specified time even though by then the opinion and comments of technical and other authorities concerned thereon are not received by the Administrative Ministry|Section concerned, leaving it to the technical and other authority, whose comments were not received before hand, to express them through its representative orally at the meeting of the Licensing Committee and also put on record their views in writing at the meeting. The Committee are informed that some such system has already been initiated in the Ministry of Industrial Development. The Committee hope that if this procedure being tried in the Ministry of Industrial Development is found workable, it

\*At the time of factual verification, the Ministry of Industrial Development have stated that the introduction of such a procedure is still under consideration

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would be made applicable to all the production Ministries/Departments concerned with the processing of applications for industrial licences.

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4.44

The Committee have been given the impression that one of the reasons coming in the way of expeditious decision-making is the wide-spread fear amongst the officers that even a bonafide decision may later on become the subject of endless enquiries and criticism. The Committee would like Government to exercise every care in putting officers of the highest integrity in such key positions and inspire in them a feeling of confidence so as to make for expeditious decision-making.

52.

4.48

The Committee are unhappy to note that of the 933 licence applications pending with Government on 15th November, 1971 for over one year, as many as 236 or nearly 25 per cent were pending with the Department of Chemicals. The plea advanced by the Ministry of Petroleum & Chemicals that licensing in the field of petro-chemicals is a difficult exercise because of certain special aspects and features (e.g. availability of raw materials, evaluation of technology etc.) which have to be adequately taken care of, seems untenable to the Committee as every industry or product has its own special features and aspects. The importance of petro-chemical industry at this stage of economic development of the country cannot be over emphasised as industry in this field not only produces a variety of consumer goods but also certain raw materials for use by other industries. It is therefore imperative in the interest of industrial development that applications for industrial licences in the field of petro-chemicals are processed most expeditiously. The Committee would therefore like the Ministry of Petroleum & Chemicals to make spe-

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cial efforts to accelerate the process of examination of licence applications pending with the Department of Chemicals so as to clear the backlog within the next three months. The Committee would also like the Ministry to evolve a suitable procedure within the Ministry under which licence applications are processed and brought before the Licensing Committee within four to six weeks of their receipt.

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4.49

The Committee recommend that the Ministry Petroleum & Chemicals should give wide publicity to the availability of basic raw materials which are available, or are expected to become available for processing during the next three to five years, so as to attract most competitive applications for issue of industrial licences therefor. The Committee stress the need for most expeditious examination of these applications for issue of licences so that the raw materials can be put to industrial use without avoidable delay.

54.

4.56

The Committee find that electronics is another field where licence applications are considerably delayed. As on 15th November, 1971, there were as many as 154 applications pending with the Department of Electronics for more than one year. The Committee consider that electronics industry, being labour intensive, has considerable employment potential as also a developing domestic and export market. It is a nascent industry in our country and at this stage undue restrictions and inordinate licensing delays in this field may frustrate if not arrest its development. The Committee would, therefore, recommend that the Department of Electronics should dispose of all pending licence applications within next 3 months and so streamline the procedure within the Department as to make possible licence applications being brought before the

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		Licensing Committee within the prescribed time limit of 4 to 6 weeks from the date of receipt of the application.
55.	4.60	Since clubbing of licence applications and their omnibus examination irrespective of their receipt in point of time not only causes delay in bringing applications before the Licensing Committee but generally affects the time schedule for <b>the disposal</b> of applications, the Committee recommend that the Ministry of Industrial Development may carefully examine the matter and issue necessary instructions to the Administrative Ministries Sections concerned in this regard.
56.	4.72	The Committee find that preparation, approval and circulation of minutes of the Licensing Committee has been, until recently, taking an unduly long time. They note the assurance given to them that the minutes are now being issued within 7 to 10 days of the meeting of the Licensing Committee and hope that this position would be maintained in future also.
57.	4.73.	The Committee also find that, in cases requiring approval of the Cabinet Committee on Economic Coordination or clearance under M.R.T.P. Act, the follow up action after the decision of the Licensing Committee is taking considerable time. The Committee would like the Ministry of Industrial Development to study the procedures being observed in this regard and take such steps as may be necessary to minimise the time taken at this stage.
58.	4.75.	The Committee suggest that, as the concept of Key and Non-Key industries has now become out-dated, a new scheme of priorities may be evolved in accordance with the new Industrial Licensing Policy announced in February, 1970 for use in taking decisions relating to licensing of industrial capacities.

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| 59. | 4.78.  | <p>The Committee are surprised that although the issue of a letter of intent after the circulation of minutes of the Licensing Committee is a formal affair, even this stage has been taking a considerable time, often as much as several months in certain cases noticed by the Committee. The Committee consider that this stage should not take more than 2 weeks and suggest that, with a view to ensure that this time-limit is observed, a strict centralised watch should be kept by the Ministry of Industrial Development on the follow-up action taken by the Administrative Ministries/Sections concerned on the decisions of the Licensing Committee.</p> |
| 60. | 4.83.  | <p>The Committee find that after decision of the Licensing Committee in a case requiring approval of the Cabinet Committee on Economic Co-ordination, various processes upto the stage of circulation of minutes are, at present, taking a long time. The Committee recommend that the Ministry of Industrial Development should, in consultation with the Department of Cabinet Affairs, so streamline the procedure in respect of such cases that the minutes of the Licensing Committee in respect of such cases are finally approved and circulated within three weeks of the date of the meeting of the Licensing Committee.</p>                                  |
| 61. | 4.109. | <p>The Committee note that so far Government have been unable to give clearance under the MRTP Act in respect of only 4 applicants. They are, however, distressed to find credence in the complaints made to them of considerable delays taking place in the disposal of applications for clearance under the Act. In 110 cases disposed off by the Department of Company Affairs by 15th November, 1971 without reference to the MRTP Commission, only 18 cases were disposed off within the statutory time-limit of 90 days, while roughly 50 per cent of the cases took more</p>  |

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than 6 months for disposal. 5 out of 6 cases disposed off after reference to the Commission took between 8 to 10 months for final disposal by the Department of Company Affairs. The Committee also note that of the 61 cases pending with the Department of Company Affairs on 15th November 1971, 23 were pending for more than 6 months. Similarly, MRTP Commission has also exceeded the statutory time limit of 90 days in respect of all the 12 cases pending with them on 15th November, 1971. Thus the statutory time limits for disposal of applications for clearance under the MRTP Act are generally not being adhered to either by the Department of Company Affairs or by the MRTP Commission. The Committee are unable to appreciate the reason adduced by the Department of Company Affairs that the various process to be undergone under the provisions of the MRTP Act take time, as they believe that these factors must have been taken into account while laying down the statutory time limits. The Committee would like the Department of Company Affairs as well as the MRTP Commission to seriously try to compress their inquiries, investigations and processes within the statutory time-limits and see that cases which are not disposed of within those time-limits are an exception and not the rule as happens to be case at present.

62.

4.110.

The Committee would also like the Ministry of Industrial Development to identify and cut out pockets of avoidable delays in the the existing procedures and processes in that Ministry in regard to licensing applications requiring clearance under the MRTP Act, especially the procedure whereby, after the decision of the Licensing Committee, the Licence Committee Section of that Ministry forwards the case to the Administrative Ministry/Section concerned requesting them to ask the parties to obtain either a clearance under



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the MRTP Act, or a certificate of non-applicability of that Act in regard to the case, from the Department of Company Affairs, which necessarily takes time.

63.

5.9.

The Committee note that the Foreign Investment Board was set up precisely for the purpose of minimising procedural delays and expeditious disposal of foreign collaboration cases, that time-limits have been laid down for different stages in the disposal of application, that there is a procedure whereby an application must be brought up before the F.I.B. or its Sub-Committee at the expiry of the period of two months from the date of its receipt, and that every effort is made to give final decision on an application within 90 days of its receipt. The Committee are, however, unhappy to find that despite all these measures, considerable delays continue to take place in the disposal of applications for foreign investment and collaboration. Of the applications disposed of during 1971, as many as 60 per cent took more than 6 months for disposal while 40 per cent of the cases pending on 1st January, 1972 were more than six months old. The Committee would like Government to reappraise the system to find out why and where the delays are taking place in the disposal of these applications and take such remedial measures as may be necessary for the disposal of applications in three months time, including the introduction of an effective system of centralised watch being kept over the step by step progress of disposal of applications.

64.

5.12.

The Committee welcome the idea of simultaneous consideration of licence application by the Licensing Committee and the application for foreign collaboration by the Foreign Investment Board in cases where the party is ready with both the applications and submits them together. The Committee would like Government to publicise

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this procedure for general information so that parties wishing to take advantage of this procedure may submit both the applications together and avoid the delay involved in the consecutive processing and consideration of these applications.

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5.17.

The Committee note that guidelines have been issued in 1969 to the Administrative Ministries/Departments for the consideration of applications for foreign collaboration. They recommend that suitable public notices may also be issued for general information so that prospective entrepreneurs know before hand what type of proposals for foreign collaboration would be acceptable to Government.

66.

5.25.

Long delays have been observed by the Committee in the disposal of applications for clearance relating to import of capital goods also. The Committee have found that, in spite of definite time limits fixed for various stages involved in disposal of these applications, in no less than 90 per cent of the cases disposed of during 1971, the clearance for import of capital goods took more than 6 months. The Committee have, in paras 2.39 and 2.40 of their Seventeenth Report (Fourth Lok Sabha) on D.G.T.D., also pointed out the delays in the disposal of applications for Capital Goods Clearance and have made certain suggestions. The Committee would here again point out that Capital Goods Clearance being one of the conditions precedent for the conversion of the letter of intent into an industrial licence, any delay in Capital Goods Clearance ultimately affects the time taken in the issue of an industrial licence and the actual setting up of the industrial capacity. The Committee would, therefore, like Government to review the procedures at present being observed for different stages involved in the consideration and disposal of these cases so as to

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ensure that this clearance is given to the party within two months. The Committee would, in particular, commend for adoption a procedure whereby the application must be brought before the Capital Goods Committee at the expiry of a certain period whether the comments of the administrative or other authorities concerned have been received or not, and the introduction of an effective system of centralised watch being kept over the step by step progress of disposal of applications.

67.

5.30.

The Committee consider that the procedure for simultaneous consideration of licence application and the application for clearance relating to import of capital goods would avoid delay inherent in their consecutive processing and consideration. It should, however, not be compulsory for all the applicants for the issue of an industrial licence to submit simultaneously an application for the clearance relating to import of capital goods also. The procedure could be observed only in cases where the party is ready with both the applications and submits them together. The Committee would, therefore, recommend that the procedure for simultaneous consideration of licence application and the application for clearance relating to import of capital goods at the option of the party may be introduced and publicized for general information so that the parties wishing to take advantage of the option available under this procedure, may submit both the applications together.

68.

5.36.

The Committee note that delays are taking place in the issue of clearance for the issue of capital under the Capital Issues (Control) Act. The Committee have been informed that Government propose to print guidelines as an Appendix to the application form so that the applicant may furnish complete information in the first instance. They have also been informed

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that the procedure has been recently rationalised. The Committee hope that as a result of these measures clearance would be forth-coming in lesser time.

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5.42

The Committee recommend that instructions should be issued to all concerned that when an application for conversion of a letter of intent into an industrial licence is received after complying with the conditions prescribed, the party should be issued the licence, or informed of the reasons why it cannot be issued, within a period of not more than three weeks of the receipt of the application. The Committee also recommend that all applications for conversion of a letter of intent into an industrial licence should be routed centrally through the Ministry of Industrial Development who should be responsible for progressing of such applications and for strict observance by the administrative Ministries/ Sections of the time limit laid down.

70.

5.46.

The Committee recommend that all applications for the revalidation of letters of intent should be routed centrally through the Ministry of Industrial Development. Copies of communications by administrative Ministries etc. to parties informing them of the final decision of Government on such applications and indicating the reasons in case of rejection, should also be endorsed to the Ministry of Industrial Development. The Committee also recommend that the Ministry of Industrial Development should issue instructions to all concerned as regards the time limits to be observed for the disposal of such applications both where the Ministries are empowered to finally take a decision on the application as also for the disposal of cases which are required to be brought before the Licensing Committee, and keep a strict watch on its observance.

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- 71.
- 5.53.
- The Committee note that at present no centralised record is being maintained on the implementation of the industrial licences issued and it is left to the administrative Ministries etc. to see that the party takes 'effective steps' for setting up the licensed capacity in six months time and actually sets up the capacity within 12 months of the issue of the licence. The first extension, limit of which is not clearly specified, can also be granted by the administrative Ministries etc. without reference to the Licensing Committee. In the absence of a centralised record, Government have not been able to furnish data on the implementation of licences issued. The Committee are, therefore, unable to assess the progress made in the implementation of the licences or to see as to what extent the non-implementation is on account of reasons that are genuine. Since what is of substance is the actual setting up of the industrial capacity and not the issue of an industrial licence, the Committee recommend that Government should expedite the setting up of a central agency, already under their consideration, which should not only maintain a record, but also keep a strict watch and actively progress the licence applications from the time of their receipt to the stage of actual setting up of the capacities licensed for.
- 72.
- 5.54
- The Committee also recommend that all applications for revalidation of industrial licences should be routed centrally through the Ministry of Industrial Development and copies of communications to parties indicating the final decision on those applications should also be endorsed to that Ministry. The Ministry of Industrial Development should also issue instructions to all concerned as regards the time-limits to be observed for disposal of such applications and keep a strict watch on its observance.
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73. 5.55 The Committee would suggest that the instructions to the administrative Ministries in regard to the procedures and time limits to be observed by them in regard to disposal of applications at various stages in the industrial licensing process should be issued after approval of the Cabinet Committee on Economic Coordination and there should be a system of periodically reporting to the Cabinet Committee on Economic Coordination cases of delay in disposal beyond a certain period.
74. 5.58 The Committee note that at present if it is proposed to reject an application for issue of letter of intent/industrial licence or to revoke a licence already issued, the party is afforded an opportunity to represent his case before final decision is taken. They also note that no system of appeal has been provided for as the decisions in the matter of industrial licensing are in the nature of executive decisions taken at the highest level and there is a Reviewing Sub-Committee consisting of non-officials which has the power to review all licences issued, refused, varied, amended or evoked from time to time. The Committee have earlier in this report already recommend giving adequate publicity to the existence and role of this not so widely known non-official body. At this stage they would only recommend that if it is proposed to take an adverse decision at any stage of industrial licensing process, in order to reassure the party that the decision is fair and impartial, a show cause notice should invariably be issued to the party and a final view in the matter taken after due consideration of the representation received, if any, at the highest level.
75. 6.9 The Committee observe that long delays are taking place in the disposal of applications for issue of Carrying-on-Business Licences in respect of industrial undertakings which have been

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brought under licence under the new industrial licensing policy announced in February, 1970 and that more than half of the 417 applications pending on 1-1-1972 were pending for over one year. Since without a COB licence the existing undertakings cannot get allocations and quotas of scarce raw materials as also import licences, it is necessary that applications for such licences are disposed of quickly, at least within the time-limit of 60 days prescribed therefor. The Committee note the assurance given to them that Government would try to speed up the clearance of these applications and try to dispose of all the pending applications in about four months time i.e. by about the end of April this year, and hope that the industry will no longer have any cause for complaint in this regard.

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6.14

The declared aim of registration of units not required to take out an industrial licence under the Industrial Licensing Policy in force is only to organise the flow of adequate statistical information necessary for Government as well as for entrepreneurs in taking decisions relevant to investment and industrial growth. The Committee, therefore, recommend that Government should see that in the case of such industrial units, the returns required to be submitted are kept to the minimum necessary for statistical purposes. The Committee would, in particular, like Government to examine whether it would serve the purpose if the registered units already in production are required to furnish to the central technical authorities concerned 'production returns' on a six-monthly or quarterly basis instead of every month

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6.18

The Committee emphasise that the Public Relations and Complaints Cell of the Ministry of Industrial Development should be manned by experienced and knowledgeable persons well

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versed in the industrial licensing system and Government's latest policy on various aspects of it, so that the Cell could really be of help to parties who choose to seek its advice in these matters. The Committee also suggest that this Cell should be integrated with the Central Record Agency recommended by them earlier in the report so that information in regard to the progress of a licence application is readily available through it to the applicants.

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The Committee emphasise that the public Relations and Complaints Cell of the Ministry of Industrial Development should be manned by experienced and knowledgeable persons w



## APPENDIX VII

*Analysis of Recommendations/Conclusions contained in the report*

### CLASSIFICATION OF RECOMMENDATIONS

- A. Recommendations for improving the organisation and working  
Serial Nos. 2, 6, 11, 16, 19, 21, 43—50, 52, 54—77.
- B. Miscellaneous Recommendations  
Serial Nos. 1, 3, 5, 7—10, 12—15, 17, 18, 20, 22—42, 51, 53.