

**MINISTRY OF FINANCE  
(DEPARTMENT OF ECONOMIC  
AFFAIRS)—**

**BOARD FOR INDUSTRIAL AND  
FINANCIAL RECONSTRUCTION**

**ESTIMATES COMMITTEE  
1990-91**

**NINTH LOK SABHA**

  
*95R*  
**LOK SABHA SECRETARIAT  
NEW DELHI**

**FIFTEENTH REPORT**

**ESTIMATES COMMITTEE**  
**(1990-91)**

**(NINTH LOK SABHA)**

**MINISTRY OF FINANCE**  
**(DEPT. OF ECONOMIC AFFAIRS)—**  
**BOARD FOR INDUSTRIAL AND**  
**FINANCIAL RECONSTRUCTION**



*Presented to Lok Sabha on 4.1.1991*

**LOK SABHA SECRETARIAT**  
**NEW DELHI**  
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# CORRIGENDA

15th Report of EC(1990-91) &  
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**(1990-91)**

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30. Shri Kailash Nath Singh Yadav

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1. Shri G.L. Batra—*Joint Secretary*
2. Shri B.B. Pandit—*Deputy Secretary*

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\*Shri K.C. Tyagi has resigned from the membership of the Committee on Estimates w.e.f. 30th August, 1990.

## INTRODUCTION

1. The Chairman of Estimates Committee having been authorised by the Committee to submit the Report on their behalf present this Fifteenth Report on the Ministry of Finance—Department of Economic Affairs—Board for Industrial and Financial Reconstruction.

2. The Government enacted Sick Industrial Companies Act in 1986 in order to arrest the growing industrial sickness in the country. BIFR was set up in 1987 to undertake rehabilitation of sick industrial undertakings as envisaged under the Act. Keeping in view the important role of this organisation, the Estimates Committee (1989-90) decided to examine BIFR. Detailed questionnaires were issued to the Ministry of Finance (Department of Economic Affairs) for eliciting information about the organisation, functioning and achievements of BIFR. After considering the replies received, the Committee took evidence of the representatives of the Ministry of Finance (Department of Economic Affairs)/RBI/IDBI on 6th September, 1989. The Committee wish to express their gratitude to the Additional Secretary, Ministry of Finance (Department of Economic Affairs) (Banking Division) and other officers of the Ministry as well as RBI and IDBI for placing before us the material and information which they desired in connection with the examination of the subject and for giving evidence before the Committee.

3. The Report was considered and adopted by the Estimates Committee on 31.8.1990.

4. The Committee have called upon the Government to modify the existing criteria for bringing an unit under the care of BIFR in such a manner as will help initiation of remedial measures well before the unit becomes irretrievably sick. At the same time the Committee recognise the need to shorten the time-lag at all stages of the rehabilitation process. They have emphasised the criticality that time factor bears in such cases. The Committee would also like to caution the Government about permissiveness in investigation of cases of mismanagement. We hope that the Government will expedite its final decisions on proposals that are under consideration. With this in mind, the Committee have underlined the desirability of empowering the Board to enquire suo-moto into references received under Section 23 of SICA.

5. As at present recommendations of the Board are not mandatory, the Government would do well to invest BIFR with some statutory authority, if only to realise the objectives for which it has been set up. While this may be examined the Committee have advised the Government to issue

necessary instructions to R.B.I., nationalised banks, financial institution etc. for implementation of rehabilitation schemes within a fixed time period. We have also advised the Government to examine the possibility of arranging single-window clearances in the matter of releasing funds to units under rehabilitation.

6. The small scale and ancillary industrial units are outside the scope of BIFR. The Committee hope that the proposed legislation for such units would provide for a suitable mechanism under which they could also be helped through BIFR. Similarly, the Government will also have to take a positive view about bringing sick public sector units within the purview of BIFR.

7. The existing arrangements for effective coordination between the Board, the State Governments and other financial institutions are not satisfactory. The Committee expect the Government to initiate necessary steps for monitoring and upgrading the existing level of coordination.

8. While looking into the composition and performance of the Board itself, the Committee found that the disposal of cases entrusted to it was not quick enough. This warrants not only an increase in the strength of the Board but also the setting up of permanent benches at places like Bombay, Calcutta and Madras. A beginning in this direction can be made by holding more benches (currently mostly held at Delhi) at these places. Simultaneously, augmentation of the supporting staff cannot be postponed without compromising the effectiveness of the Board.

9. The Committee would also like to express their thanks to the Estimates Committee (1989-90) for taking evidence on the subject and obtaining valuable information thereon.

10. For facility of reference and convenience, the recommendations/ observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix to the Report.

NEW DELHI,  
3rd December, 1990  

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12 Agrahayana, 1912 (S)

JASWANT SINGH  
Chairman,  
Estimates Committee,



## CHAPTER I

### *A. Introductory*

1.1 Industrial sickness is as common on Industry. Where market force dominate, unviable units get eliminated, in due course, unless revived through the intervention of parties, like creditors, or change of ownership, or management, or both. However, due to various historical reasons Indian economy has been characterised by policies of protection. The consequent lack of competition provided a captive market to many, particularly to industries producing mass consumption goods like textiles, jute etc. This situation gradually made Indian Industries complacent with neither compulsion nor incentive for modernisation. In recent time Industrial sickness has thus become a regular feature. At the end of December, 1987, the latest period for which the relevant data is available, there were more than 2 lakh sick industrial units in the portfolios of all financial institutions.

1.2 The need for tackling the problem of industrial sickness was than recognised by the Government of India. In July, 1970 a joint meeting of the Central Government, Government of West Bengal, RBI, IDBI, LIC and the Banks was held when certain decisions regarding rehabilitation of sick industrial units were taken. Pursuant to this the Central Government decided upon the institutionalisation of rehabilitation efforts. Consequently, the Industrial Reconstruction Corporation of India Ltd. (IRCI) was established in April, 1971, to strengthen the institutional structure for provision of reconstruction and rehabilitation assistance to sick and closed industrial units. Despite this coordinated approach, there was no significant impact on the incidence of industrial sickness in the country. In May, 1976, therefore, the RBI drew up a scheme whereby the banks were requested to strengthen their internal organisation for analysing and interpreting the data obtained from client industrial units and, speedy communication, at the operating levels to the Head Office, regarding units seen to be showing signs of sickness. In this context the RBI has been advising the banks, from time to time, on various matters like setting up of cells for rehabilitation of sick industrial units. In September, 1984, the IRCI was transferred and vested in the Industrial Reconstruction Bank of India (IRBI) with a view to enable it to function as a Central agency for rehabilitation of sick industrial units and coordinate similar efforts with other institutions and to assist/promote industrial developments etc.

1.3 A special legislation for tackling the problem of industrial sickness in India, namely, the Sick Industrial Companies (Special Provisions) Act, 1985, (hereinafter referred to as SICA) was passed by Parliament in January, 1986. The legislation is, in fact, based on the recommendations of a High Power Committee, headed by Shri T. Tiwari, the then Chairman of the erstwhile IRCI, and constituted by the RBI in May, 1981 to examine legal and other difficulties confronted by banks and financial institutions in the rehabilitation of sick industrial undertakings, as also to suggest remedial measures, including changes, if any, required, in the various related laws.

1.4 Apart from the setting up of the Board for Industrial and Financial Reconstruction (BIFR) w.e.f. 12.1.1987, the salient features of the Sick Industrial Companies (Special Provisions) Act, are:—

- (a) its application to industries specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, with the initial exception of the industry relating to ships and other vessels drawn by power;
- (b) identification of sickness in an industrial company, registered for not less than 7 years, on the basis of the symptomatic indices of cash losses for two consecutive financial years and accumulated losses equalling or exceeding the net worth of the Company at the end of the second of such financial years;
- (c) the onus of reporting sickness and impending sickness (at the stage of erosion of 50% or more of the net worth) is laid on the Board of Directors of the concerned Company. The Central Government or the State Govts. or the Reserve Bank of India, or the Scheduled Banks of the public financial institutions can also report industrial sickness in respect of a Company;
- (d) establishment of a Board consisting of experts in various relevant fields with powers to inquire into and determine sickness in industrial companies and devise remedial measures through appropriate schemes and for proper implementation of such schemes as also for recommending to the concerned High Court winding up of such companies which cannot be revived;
- (e) constitution of the Appellate Authority for hearing appeals against the orders of the Board;
- (f) appointment of an Operating Agency for conducting detailed viability studies, preparation of rehabilitation schemes etc. to assist the BIFR in drawing up and implementing rehabilitation schemes for sick industrial companies;

- (g) suspension of legal proceedings and contracts etc. when an inquiry is pending or a rehabilitation scheme is under implementation;
- (h) the provision of the Act, Rules and Schemes therein have overriding effect on other Acts except for FERA and the Urban Land Ceiling Act

## **B. Organisational set up**

### **(i) Composition of the Board**

1.5 According to the SICA Act, 1985, the Board shall consist of a Chairman and not less than 2 and not more than 14 members. The Chairman and other members shall be persons who are/or have been or are qualified to be High Court Judges, or persons of ability, integrity and standing who have special knowledge of and professional experience of not less than fifteen years in science, technology, economics, banking industry, law, labour matters, industrial finance, industrial management, industrial reconstruction, administration, investment, accountancy, marketing or any other matter, the special knowledge of or professional experience which would in the opinion of the Central Government, be useful to the Board.

1.6 It is seen from the statement (See Appendix-A) furnished by the Ministry that at present the Board has only 8 Members besides the Chairman.

1.7 Asked whether the existing strength of the Members was adequate to cope with workload pending with the Board and whether there was any proposal to increase the strength of the Members of the Board, the Ministry has stated that the Board now has 8 members. The Sick Industrial Companies (Special Provisions) Act, 1985 (SICA) has provision for a Board consisting of a Chairman and not more than 14 other Members to be appointed by the Central Government. The position regarding strength of the Board is reviewed from time to time in consultation with Chairman, BIFR.

1.8 In reply to another question regarding the adequacy of the existing organisational set up of BIFR, the Ministry has stated that the existing organisational set up with four benches working is considered adequate.

1.9 Representative of the Ministry of Finance, Deptt. of Economic Affairs (Banking Division) during evidence also stated:

“The Act provides upto 14 Members. We can go upto 14 Members without amending the Act.”

**(ii) Staff strength**

1.10 It is seen from the statement (Appendix-A) furnished by the Ministry that out of a sanctioned staff strength of 175 only, 141 are in position. There are 35 vacancies in various categories as detailed therein.

1.11 Asked to state the reasons for keeping such a large number of posts vacant and whether the inadequacy of staff strength had in any manner, affected the smooth functioning of the Board, the Ministry stated that most of the vacant posts were those created in 1989, in the context of constitution of the Fourth Bench. BIFR has further reported that the posts relating to the Fourth Bench are likely to be filled up shortly.

1.12 Giving reasons for not filling the posts, the representative of the Ministry stated during evidence:—

“There has been some problem with BIFR also in the matter of recruitment. Naturally as of now, under the existing arrangement they have framed their rules to recruit their staff. But, they are finding it difficult in certain areas. The Chairman, BIFR has made a request that his requirement can also not be met by the central staffing pattern or the Government of India. We are considering the question.”

1.13 In a written Memorandum to the Committee the Federation of Indian Chamber of Commerce and Industry gave the following views regarding the organisational set up of the Board.

No doubt, the SICA makes it clear that “the Chairman and other members of the Board shall be persons who are or have been or are qualified to be High Court Judges, or persons of ability, integrity and standing who have special knowledge of and professional experience of not less than fifteen years in science, technology, economics, banking industry, law, labour matters, industrial finance, industrial management, industrial reconstruction administration, investment accountancy, marketing or any other matter, the special knowledge of or professional experience which would, in the opinion of the Central Government, be useful to the Board. However, presently, only bureaucrats and ex-government servants man the Board. There are no financial or business experts to speak of and certainly no one who has ever run an industry or business. In order to ensure well thought out decisions the BIFR should, therefore, be represented by experts from different fields like Industry, Government, Law, Accountancy Finance etc.”

1.14 As regards the existing rate of disposal by BIFR the FICCI in its Memorandum stated as under:—

“The speed of disposal of cases by BIFR has been slow. For instance, out of 1040 references received by BIFR, 743 were registered by the end of August, 1989 and out of these registered cases only 43 schemes have been sanctioned and 30 cases referred to the High Court for winding up.”

**Appendix A**

Sl. No.	Designation of the post	Sanctioned	Filled	Vacant	Date from which vacant
(1)	(2)	(3)	(4)	(5)	(6)
1.	Chairman	1	1	—	
2.	Members	8	8	—	
3.	Secretary	1	1	—	
4.	Directors	5	3	2	23.2.87
5.	Deputy Secretary	2	2	—	
6.	EDP Manager	1	—	1	23.2.87
7.	Under Secretary	1	1	—	
8.	Sr. Research Officer	2	2	—	
9.	Deputy Director	2	—	2	17.2.89
10.	Private Secretary	9	7	2	(a) 17.2.89 (b) 28.8.89
11.	Research Officer	3	2	1	23.2.87
12.	Bench Officer	4	4	—	
13.	Section Officer	7	4	3	17.2.89
14.	Analyst Programmer	2	—	2	23.2.87
15.	Hindi Officer	1	1	—	
16.	Stenographer Gr. 'B'	9	9	—	
17.	Assistant	15	11	4	17.2.89
18.	Accountant	1	1	—	
19.	Librarian	1	1	—	
20.	Sr. Hindi Translator	1	1	—	
21.	Jr. Hindi Translator	1	1	—	
22.	Stenographer Gr. 'C'	11	10	1	4.8.89
23.	Stenographer Gr. 'D'	9	7	2	17.2.89
24.	Upper Division Clerk	2	2	—	
25.	Lower Division Clerk	25	26	—	
26.	Staff Car Driver	13	12	1	17.2.89
27.	Despatch Rider	1	1	—	(a) 23.2.87 (b) 17.2.89
28.	Gestetner Operator	2	—		
29.	Jamadar	5	2	3	23.2.87
30.	Daftary	4	4	—	
31.	Peon	20	12	8	(a) 23.2.87(2) (b) 17.2.89(2) (c) 27.3.89(4)

(1)	(2)	(3)	(4)	(5)	(6)
32. Sweeper		5	4	1	17.2.89
33. Farash		1	1	-	
		175	141	35	

Government of India:

(Source: Ministry of Industry, Replies to the Questionnaire).

1.15 The Committee are of the opinion that the existing strength of the Members of the Board may not be adequate to cope with the work load pending with the Board. In view of relatively slow disposal of cases by BIFR it is necessary that the strength of the Board be increased, and effective steps taken to accelerate the pace of disposal of cases.

1.16 The Committee are of the opinion that all care be taken to appoint Members of the Board from amongst experts from different fields. They would like to be apprised of necessary action taken in this regard.

1.17 The Committee would like the Board to have sufficient supporting staff, also with appropriate professional qualifications and an attitudinal orientation towards development.

1.18 The Committee are constrained to note that there are as many as 35 posts including those of Directors, EDP Manager, Dy. Director etc. that are lying vacant; some of them from as early as February, 1987, i.e., almost from the date of inception. It is desirable that expeditious action is taken to fill these vacancies. It is also essential that in future advance planning is done to ensure that there is no substantial delay in the occurrence and the actual filling of vacancies.

#### *C. Objective of the Board*

1.19 The main objective of the Board is to ensure speedy determination of preventive, ameliorative, remedial and other measures that need to be taken with respect to sick industrial companies, and an expeditious enforcement of the measures determined, besides other measures connected therewith or incidental thereto.

1.20 Asked to indicate the various activities of the Board and to explain the extent upto which the problem of industrial sickness in various units has been tackled, the Ministry stated that revival of a sick unit depended on the implementation of one or more of the measures like modernisation, diversification, amalgamation, change of management, change of product mix, labour rationalisation, capital restructuring, etc. This, in turn, also depended on actual release of relief / assistance by the concerned agencies. Hence the implementation of a rehabilitation package was possible only over a period extending, in some cases, to a few years. Even thereafter, a further period would be needed to reverse the negative net worth of the company which, in many cases, was several times the paid up capitals and

reserves. The Ministry further stated that as the BIFR had been in operation only for about two years, it was too early to say how many sick units had actually been revived as such revival would be happening only after the net worth became positive.

1.21 In reply to another question regarding the functioning of the Board, the Ministry has stated that the basic objective of BIFR was to revive the potentially viable units and to recommend closure of the non-viable units. Looking to the number of cases disposed of by the Board during 1987, 1988 and 1989 (upto August) i.e. 243, and as also the fact that BIFR has so far recommended winding up of 30 non-viable companies, the Ministry has taken the view that BIFR is serving usefully, the purpose for which it was formed.

1.22 The Committee desired to know whether any proper evaluation had been made in regard to functioning of the Board. The Ministry in its reply stated that no evaluation study as such had yet been undertaken in regard to the functioning of BIFR. It also averred that the Board had made substantial progress in disposal of cases, as is evident from the following statement showing number of cases disposed of during the period from 1987 to August 1989:

	1987	1988	1989	Total
1. Dismissed as not maintainable	8	28	51	87
2. Approval u / s 17(2)	8	44	31	83
3. Schemes sanctioned	1	15	27	43
4. Winding up recommended	1	15	14	30
5. Draft Schemes*	1	19	35	—
6. Winding up notices issued*	1	29	57	—
				243

\*Position as at the end of the year.

1.23 In reply to another question regarding preparation of Annual Report on the activities of the Board, the Ministry stated that being a quasi-judicial body no annual report of BIFR as such was being brought out. However, the Annual Report of the Ministry of Finance contained portions relating to the work of BIFR.

1.24 Asked to state its views relating to the adequacy of the existing provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 in tackling the problem of sickness of industries the FICCI has stated as under:—

“The jurisdiction of BIFR needs to be extended. Under Section 3(1) (f), industrial undertakings have been defined as any undertaking pertaining to a scheduled industry carried on in one or more factories by any company excluding ancillary and small scale



industrial undertakings. The provision of the Act is, therefore, restrictive. It should be extended to all industrial undertakings. Today about 52 per cent of production is from small scale units. Many small scale units have turnover in excess of Rs.10 crores and employ over 100 workers. Perhaps units having turnover, say over Rs.2.5 crores, should also be eligible to apply."

1.25 During evidence the additional Secretary, Ministry of Finance Department of Economic Affairs (Banking Division) deposed as under:—

"So, the jurisdiction under the Act excludes public sector undertakings and it also excludes small scale industries."

1.26 He elaborated further on this issue as under:—

"In the 1985 Act, industries which are included have been specifically mentioned and the intention, so far as I understand, is that jurisdiction of BIFR is not to be extended to small scale industries because the latter's problems are quite different compared to those of medium and large scale industries. In the rehabilitation of small scale industries, the State Governments or the Central Governments are not involved to that extent. Our broad strategy is that our Banks Financial Institutions and the State Financial Institutions should take the responsibility for their rehabilitation. Of course, there are weaknesses in that sector also. But that is a different matter."

1.27 He also stated that out of 22 lakhs small scale industrial (SSI) units, 2 lakhs would be sick.

1.28 The Additional Secretary, Department of Economic Affairs (Banking Division) also conceded during evidence that the largest manpower of the country is employed in SSI units. Maintaining that SSI units were to be placed on a different footing he advanced the following arguments during the course of evidence:—

"But in the case of SSI, the intention towards rehabilitation and the steps are being taken with seriousness. In the case of SSI, their needs are such that the banks and financial institutions can take care of them. The banks have set up a system for working out their rehabilitation programmes and to help the unit one bank would be involved and not a multiplicity of institutions, as in medium and large scale industries. The strategy is different. It is only against this background that we have been wanting to give a separate recognition to small scale industries, and we have this new institutions of Small Industries Development Bank of India for which we had introduced this Bill. It was passed by the Lok Sabha and is pending consideration in the Rajya Sabha. We are setting up this separate institution to take particularly, care of the problems of small scale industries."

1.29 The pre-Budget Economic Survey (1989-90) which has presented a very grim picture with regard to industrial health of the country states as under:—

“Growing incidence of sickness has been one of the persisting problems faced by the industrial sector of the country. Substantial amount of loanable funds of the financial institutions is locked up in sick industrial units causing not only wastage of resources but also affecting the healthy growth of the industrial economy. At the end of December 1987, the latest period for which date are available, there were more than 2 lakh sick industrial units in the portfolios of all financial institutions and scheduled commercial banks involving an outstanding bank credit of Rs. 6256 crores (Appendix B). Between December 1986 and December 1987, the number of sick units has gone up by nearly 40 per cent and bank credit outstanding against these units by more than 28 per cent. Sickness has been growing faster in the small scale sector than in the large and medium scale sectors and as on December 31, 1987, about 29 per cent of the outstanding bank credit locked up in sick units was in the small scale sector. As per RBI data, out of Rs. 22.27 lakh borrowal accounts in the SSI sector as on 31st December 1987, Rs. 2.04 lakhs were reported to be sick, which means that every eleventh SSI unit in the country was sick.

The viability status of identified sick units as on December 31, 1987 shows that 91.5 per cent of the SSI sick units and 46.1 per cent of non-SSI sick/weak units were not viable (Appendix C). Bank credit blocked in non-viable sick units was as high as 71.5 per cent in the SSI sector and 38.7 per cent in the non-SSI sector. About two-third of the total viable sick units were already brought under nursing programme at the end of December, 1987.”

(Reproduced in the report as Appendix B and Appendix C respectively)

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\* Data on sick units as at the end of June, 1988, supplied by the Ministry at the time of factual verification is enclosed as Annexure 'D'.

**Industrial Sickness**

Category	No. of Units		Amount Outstanding (Rs. Crores)	
	End- December 1986	End- December 1987	End- December 1986	End- December 1987
1. SSI Sick Units	145776 (21.9)	204259 (40.0)	1306.10 (22.0)	1797.31 (37.6)
2. Non-SSI sick Units (covered by SICA 1985)	1964 (7.7)	1119 (-43.0)	3568.39 (11.5)	2801.79 (-21.5)
3. Non-SSI weak Units (not covered by SICA)	—	720	—	1657.30
<b>Total</b>	<b>147740 (23.5)</b>	<b>206098 (39.5)</b>	<b>4874.49 (14.4)</b>	<b>6256.40 (28.3)</b>

Note: Figures in parenthesis indicate the percentage change over the previous year.

(Source: Appendix I to Pre-Budget Economic Survey (1989-90))

**Viability Position of Sick/Weak units—End December, 1987**  
(Rs. Crores)

Category	Sick SSI Units		Non-SSI Sick & Weak Units		Total	
	No.	Out-standing Bank Credit	No.	Out-standing Bank Credit	No.	Out-standing Bank Credit
Viable Units	12484 (6.1)	389.50 (21.7)	613 (33.3)	1838.53 (41.3)	13097 (6.4)	2228.03 (35.6)
Non-viable Units	186834 (91.5)	1284.99 (71.5)	847 (46.1)	1726.95 (38.7)	187681 (91.0)	3011.94 (48.1)
Viability not decided	4941 (2.4)	122.82 (6.8)	379 (20.6)	893.61 (20.0)	5320 (2.6)	1016.43 (16.3)
<b>TOTAL</b>	<b>204259 (100)</b>	<b>1797.31 (100)</b>	<b>1839 (100)</b>	<b>4459.09 (100)</b>	<b>206098 (100)</b>	<b>6256.40 (100)</b>
(a) Units under nursing programme	8470	287.48	381	1198.45	8851	1485.93
(b) As percentage of viable Units	(67.8)	(73.8)	(62.2)	(65.2)	(67.6)	(66.7)

(Source: Appendix II to Pre-Budget Economic Survey 1989-90)

**INDUSTRIAL & EXPORT CREDIT DEPARTMENT**  
(Industrial Rehabilitation Division)

Review of sick/weak Industrail Units for the half-year ended June, 1988

1. *Overall position for the half year ended June 1988*

The number of sick/weak units with outstanding bank credit as at end June, 1988 is indicated hereunder:

(Amount in crores of Rs.)

Category	No. of Units	Outstanding Bank Credit
1. SSI sick	217436	1979.85
2. Non-SSI sick	1172	3025.88
3. Non-SSI weak	743	1921.52
- Total	219351	6927.25

Although the number of SSI sick units is large (99.1% of total number of sick/weak units), they account for only 28.6% of the total outstanding bank credit; the relatively small number of non-SSI sick/non-SSI weak (0.9% of total), account for a large proportion (71.4%) of the outstanding bank credit.

1.1 The bank's outstanding advances to SSI sick, non-SSI sick and non-SSI weak units as a proportion of (i) the total bank advances and (ii) the total bank advances to 'Industry' are given below:

(Amount in crores of Rs.)

(i) *Proportion of total Bank advances*

	December 1987	June 1988
Total bank advances	66740.52	70050.52
SSI sick	2.7 per cent	2.8 per cent
Non-SSI sick	4.2 per cent	4.3 per cent
Non-SSI weak	2.5 per cent	2.7 per cent
Total advances to sick/weak units	9.4 per cent	9.8 per cent

*(ii) Proportion of total Bank advances to 'Industry'*

	December 1987	June 1988
<b>Total Bank advances to 'Industry'</b>	<b>34751.00</b>	<b>37231.00</b>
SSI sick	5.2 per cent	5.3 per cent
Non-SSI sick	8.1 per cent	8.1 per cent
Non-SSI weak	4.8 per cent	5.2 per cent
Total advances to sick/weak units	18.1 per cent	18.6 per cent

*2. Comparative position as at the end of December 1987 and June 1988*

The table below indicates the comparative position in regard to total number of SSI sick, non-SSI sick and non-SSI weak industrial units and their outstanding bank credit as at the end of December 1987 and June 1988.

(Amount in crores of Rs.)

Category	No. of Units		Increase	Amount Outstanding		Increase
	December 1987	June 1988		December 1987	June 1988	
1. SSI sick	204259	217436	13177	1797.31	1979.85	182.54
2. Non-SSI sick	1119	1172	53	2801.79	3025.88	224.09
3. Non-SSI weak	720	743	23	1657.30	1921.52	246.22
<b>Total</b>	<b>206098</b>	<b>219351</b>	<b>13253</b>	<b>6256.40</b>	<b>6927.25</b>	<b>670.85</b>

3. The data in respect of the non-SSI sick units, non-SSI weak units and SSI sick units are reviewed in the following paragraphs:

*3.1 Non-SSI sick industrial units*

1172 such non-SSI sick industrial units (0.53 per cent of the total number of sick/weak industrial units) accounted for bank credit of Rs. 3025.88 crores (43.7 per cent of total outstanding bank credit to sick/weak industrial units).

### 3.2 Non-SSI weak units

743 non-SSI weak units (0.34 per cent of the total number of sick/weak industrial units) accounted for bank credit of Rs. 1921.52 crores (27.7 per cent of total outstanding bank credit to sick/weak industrial units).

1.30 The rationale behind the exclusion of ancillary and small scale industrial undertakings from the purview of SICA is not clear to the Committee. The pre-budget economic survey (1989-90) presents a very disturbing picture in regard to industrial sickness in the country, as it indicates that at the end of December 1987, there were more than 2 lakh sick industrial units in the port folio of all financial institutions and scheduled commercial banks involving an outstanding bank credit of Rs. 6,256 crores. Adverse impact on the national economy of such a large amount of capital being locked up with unviable units, or being inefficiently employed, cannot be over-exphasised, particularly when Government is faced with the problem of finding sufficient resources to finance the VIII Five Year Plan. It is also disquieting to note that between December 1986 and December 1987, the number of sick units had gone up by nearly 40%, and bank credits outstanding against them by more than 28%. The survey also indicates that out of 22.27 lakhs borrower accounts in the SST Sector, as on 31st December 1987, 2.04 lakhs were reported to be sick, indicating that every 11th SSI unit in the country was financially unhealthy. This trend if not corrected will have very grave consequences for the national economy. The Committee hope that the proposed legislation for small scale industries would take adequate care of SSI units and would provide some mechanism for inter action with BIFR to ensure a well-coordinated strategy to combat industrial sickness as a whole. In view of resource constraints it is necessary to identify and provide succour, on priority basis, to those industries that have greater chances of revival.

1.31 The Committee note that so far no review of the functioning of BIFR has been undertaken by the Government. In the absence of any such evaluation a realistic and objective assessment about effectiveness of the procedures followed by the Board, and its organisation, cannot be ensured. In the opinion of the Committee a periodical evaluation study/review of the activities of BIFR is very important.

1.32 The Committee recommend that an Annual Report detailing the various activities of the Board during the year be brought out. It would also be desirable to publish brochures relating to the functions of the Board, and containing orders and instructions, issued from time to time for the benefit of the industry. Publication of yearly/half yearly reports on relief packages sanctioned by BIFR, and their despatch to Chambers of Commerce and industry, would also be a useful exercise.

1.33 The Committee feel that since a number of Government Companies are also industrially sick, the Ministry may give thought for taking necessary remedial measures, as envisaged for the private sector units through BIFR.

#### *D. Powers of the Board*

1.34 In a pre-evidence note the Ministry has stated that the Board is a quasi judicial body. It has powers inter alia to regulate its procedure and conduct of business. Under Sec. 13(3) of the SICA, the Board has the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of summoning/enforcing the attendance of any witness, discovery/production of documents; reception of evidence on affidavit, requisitioning of any public record from any court of office, etc. Under Section 14 of the Act proceedings before the Board shall be deemed to be judicial proceedings. Under Section 26 of the Act, no order passed or proposal made under the Act shall be appealable and no civil court shall have jurisdiction in respect of any matter which the Board is empowered to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken pursuant to any power conferred by or under the Act. Independance of the Board is ensured by the Act by providing that the salary and allowances or other terms and conditions of service of the Chairman or any member shall not be varied to their disadvantage after the appointment. Further, the Act provides for a reference being made to the Supreme Court to hold an inquiry for removal of members of the Board.

1.35 Asked whether the Board had any authority to ask/direct financial institutions, scheduled banks to give financial assistance to sick industrial units and if not, steps taken to equip the BIFR with such powers, the Ministry has stated that presently, the Board does not have the powers to direct financial institutions/scheduled banks to give any financial assistance to sick industrial units. Under section 19 of the Act where any scheme prepared by the Board provides for such assistance, the consent of the concerned financial institutions/bank is a precondition for sanctioning a scheme by the Board. Suitable suggestions for amendments to various provisions of the Act, including giving financial powers to BIFR have been received by the Government and are receiving its attention.

1.36 Asked whether the Board could issue interim orders and directions to prevent action which were prejudicial to the interests of or indicative of omission on the part of the companies, their Directors, employees etc., the Ministry has stated that presently, the Board has no such powers, however, suggestions have been received for suitable amendments to various provisions of the Act.

1.37 In its Post evidence replies the Ministry has further added that certain changes in the Act would be indicated after a detailed examination of these issues

1.38 The Committee desired to know the views of the Ministry for giving mandatory powers to Board to enable it to direct banks and financial institution to participate at the time of passing schemes for reviving of sick



units. In response to this query, the Ministry has stated that the powers as suggested would virtually confer upon BIFR power to sanction financial assistance and grant reliefs on behalf of various agencies thereby imposing sacrifices on them. The legality of granting such power is *prima-facie* doubtful.

1.39 Explaining the position further the representative of the Ministry during evidence stated:—

“Sir, I agree with you. That kind of absoluteness is not there in the Act. There are provisions in SICA. The Reserve Bank of India also deals with these problems. So, every party has therefore to be taken into confidence.”

1.40 In reply to another question, the representative of the Ministry, during evidence, stated:—

“It is binding, sir once the scheme is approved by BIFR, before the approval of the scheme, full opportunity is given to all the participating partners to agree or disagree. Once they have agreed and BIFR passes final order, it has to be implemented.”

1.41 The representative of the Ministries further added:—

“What I am saying is, if they don't agree, then nothing happens. The point is, we cannot give authority to an agency to compel, for example, the Central Government must give this excise rebate or they must waive this excise-duty. One of the major things in the textile industry is, they are located in the metropolitan cities and there is land there and if the land is allowed to be given for construction purposes, can a Board give a direction? I cannot visualise any body which has got overriding power over all the financial institutions and banks. The problem is, therefore, not so simple, although one may desire that earnestness in implementing anything must be there and there should be proper monitoring. But so far BIFR has not taken any one to task under section 33(1). If somebody is not doing something for certain *mala fide* reasons, it will come to the notice of the BIFR. Let them bring money first in good faith. These are matters where lot of relationship develop on the basis of trust and the earnestness of the parties concerned. Therefore, if you make it mandatory, I think, it will be difficult. We have to examine it. I cannot compel a State Government as of now, to take one decision. They are the agencies in areas where they are sovereign under the Constitution to take their decisions.”

1.42 Explaining the position further the Additional Secretary of the Ministry of Finance stated during evidence:—

“Actually, when you are dealing with a number of agencies, one thing is that in an area where money is involved, the basic point is, who takes the ultimate decision. If you give it to BIFR—I am

only expressing the views it becomes a kind of a super bank. I think we have not given this jurisdiction even to the judicial courts. They can determine compensation etc., but they cannot compel a bank stating that 'you give Rs. 20 crores to so and so! Ultimately, it is not a question of package, but the question is one of implementation. A package is implemented and that is something to be seen in relation to the totality of the circumstances. Let us say, a promoter is there, he is not able to bring the money, of course, he has to go to BIFR for that. There are sections under the Act where they can take action. This is only a group of experts. As the Act says, it is a Board of Experts. That being the conception, if you convert it into a body which takes decisions on their behalf and those decisions become binding on them, then in relation to implementation, the responsibility for any failure etc., who will share—the implementation agency or the agency who took the decision? So, there has to be a delicate balance. Having understood the issue fully, let us see what are the comparative sacrifices made by each and then you implement it. Fundamentally you have got to accept that it is a difficult exercise. It is easier to give money, but it is more difficult to ensure that whether the money given is being properly put to use or not and money receiving is every day affair.

1.43 In reply to a Starred Question No. 372 answered in Lok Sabha by the Minister of State for Finance on 11.8.89 has stated as under:—

“Hon. Member is right when he says that the powers of the BIFR are not mandatory but they are directive or they are indicative. This, in brief, is the position. The financial institutions that lend the money cannot surrender their own financial judgment to any other authority. Therefore, this is the principle underlying why the powers are merely directive and not mandatory. Hon. Member would like this power, however, to be mandatory and not just directive. We will look into his suggestion.”

1.44 Asked to give their views in the matter, the FICCI has stated as under:—

“The setting up of BIFR under Sick Industrial Companies (Special Provisions) Act, 1985 (SICA) is primarily intended to deal with the cases of those sick industrial units which have eroded their entire net worth. No doubt, even such enterprises can be revived. More important, however, is to initiate measures to cure sickness at the incipient stage itself. This reduces significantly the cost of revival. Sick units which are non-retrievable should be allowed to be wound up; indeed ordered to be done so to save national resources from being wasted during the period of terminal sickness.

The procedure for closure of units should, therefore, be made

easier. Similarly units which are viable should be given immediate sustenance. The procedure for such assistance has also to be expeditious. Every day's delay aggravates sickness and makes revival difficult. Unfortunately in respect of both closure and revival, speedy action is not available. It is with this objective that the role of BIFR has to be redefined and the institution suitably strengthened so as to enable it to tackle the problem of industrial sickness most effectively."

1.45 The Minister of Finance in reply to an Unstarred question No. 7546 dated 4th May, 1990 relating to the cost effectiveness of rehabilitation package of sick units stated as under:—

"(a) Cost effectiveness is one of the important considerations that weigh with the financial institutions while formulating the rehabilitation packages for sick units envisaging reliefs/concessions and/or additional assistance. Board for Industrial & Financial Reconstruction (BIFR) has also reported that for cases coming within its purview, cost effectiveness and long term viability of the Company are kept in view in framing rehabilitation packages.

(b) Inter-alia "the Sick Industrial Companies (Special Provisions) Act, 1985 provides that the Board may, by order, direct the person responsible for misfeasance, malfeasance etc. to compensate the loss to the Company."

1.46 The Committee note that the recommendations of BIFR are not binding on the banks and financial institutions, or other Central and State Government institutions. The Committee are, therefore, of the view that absence of such statutory powers with the Board, needs to be re-examined by the Ministry. In the opinion of the Committee the role of BIFR needs to be redefined and the body suitably restructured to enable it to tackle the problem of industrial sickness more effectively. The Committee hope that Government will examine the suggestions, already received in this regard, expeditiously and take suitable steps to make necessary amendments in the SICA.

1.47 In the opinion of the Committee inefficiency must invariably be investigated, and an enquiry conducted into the causes that lead to the sickness of a unit. In this context the Committee note with satisfaction the statement made by the Minister of Finance in the Lok Sabha on 4th May, 1990 (in reply to Unstarred question No. 7546) and hope that the relevant provisions of SICA would be invoked whenever warranted. The Committee advise that necessary investigation in this regard however, should not be permitted to retard the progress of rehabilitation of sick units.

1.48 The Committee are of the opinion that the BIFR should also be authorised to grant interim reliefs/exemptions like rescheduling of loans and concessions in respect of post interest for speedy rehabilitation.

1.49 The Committee have been informed that some suggestions with regard to vesting the Board with powers to issue interim orders and directions to prevent actions which are prejudicial to the interest of the companies etc., have been received and are under examination. The Committee hope that a decision on these suggestions and the above views of the Committee would be taken early and where necessary, amendments in the SICA will also be incorporated timely.

*E. Benches/Regional Offices*

1.50 Under Section 12(2) of the SICA, Benches of the BIFR are constituted by its Chairman. Each bench shall consist of not less than 2 Members. Till recently 3 benches were functioning and the 4th Bench was constituted w.e.f. 10.7.89.

1.51 As on 30.6.89, 1202 sittings were held by the 3 benches of the Board (including 72 sittings outside Delhi). The Fourth Bench has started functioning from 10 July, 1989.

1.52 In reply to a question during evidence the representative of the Ministry stated:—

“We started the BIFR with two Benches. Then the third was added and in this year in July the fourth Bench was added. We go by the advice of the Chairman of the BIFR. Whenever he feels that he requires an additional Bench, we try and provide another Bench.”

1.53 Asked whether the existing benches of the Board were adequate enough to handle the workload of cases of sick industries and whether there was any proposal to increase the number of benches of the Board, the Ministry has stated that the number of benches is considered adequate to handle the present work load. The Board has also informed that as at present, the rate of disposal of cases per month exceeds the rate of registration of fresh cases. BIFR has therefore, not proposed any increase in the number of Benches.

1.54 The Committee desired to know the criteria for the constitution of a Bench and the number of cases allotted to each bench for disposal and the sittings of each bench so far. In reply thereto the Ministry has stated that the law required that a bench should have not less than two members. In more important cases, a Special Bench of three members (including Chairman) is generally constituted. Cases are allocated to different benches taking into account the need to ensure that the work load is distributed evenly. Information regarding the number of cases disposed of by the

Benches and the number of sittings as on 31.3.89 is given below:

*Position as on 31.8.89*

	I	II	III	IV	Total
1. No. of sittings	419	380	533	27	1359
2. Dismissed as not maintainable	39	23	21	4	87
3. Approved u/s 17(2)	18	36	29	—	83
4. Schemes sanctioned	14	10	19	—	43
5. Winding up recommended	8	10	12	—	30
6. Draft Schemes circulated	9	7	19	—	35
7. Winding up notices issued	16	13	26	2	57

1.55 When the attention of the representative of the Ministry was drawn during evidence to the backlog of cases pending before the Board and asked how he could justify the adequacy of four benches, he stated:

"They feel that the strength given to them is adequate as of now. There is no norm fixed that there should be a Bench for so many cases and so on. When the Chairman of the BIFR feels that an additional Bench is necessary we undertake to sanction the additional Bench."

1.56 In reply to a question, the representative of the Ministry further stated:

"The BIFR does not feel any more strengthening of the benches necessary at this stage."

1.57 Asked what were the norms of the BIFR regarding sittings of benches, the representative of the Ministry has stated:

"They have given us the figures regarding the number of sittings held. They have also been going outside Delhi and conducting sittings. They also discuss informally with the operating agency, etc."

1.58 Regarding the opening of branches of BIFR in Metropolitan cities of Bombay, Calcutta and Madras to ease the inconvenience of industries located in those regions, the Ministry has stated that there is no proposal to set up separate branches of BIFR in places mentioned. The question had been considered by BIFR. It has been pointed out that for a variety of reasons BIFR did not find it practical or desirable to have branches. In the present arrangement, it is possible for the Chairman and other Members of the Board to have formal discussions at their level on all important issues. This facilitates solution of several difficult problems. Besides it also ensures the minimum uniformity of approach essential for the successful functioning of BIFR. Further when the Benches are all located at one place it is easier to distribute the workload evenly as also to reconstitute the Benches whenever a Member is on leave, thus avoiding the need for adjournment. Nevertheless, to take care of the convenience of

the clients to the extent feasible, BIFR benches have been moving out and have held their sittings at Bombay, Calcutta, Bangalore, Trivandrum, Cochin, Madras and Hyderabad.

1.59 When the attention of the Representative of the Ministry was drawn to the fact that Company Law Board had benches in every state, the Representative of the Ministry during evidence stated:

“You may like to set up branches in each region. Where an institution has started a new, naturally, many members may not be entirely exposed to new area. They feel that at this stage it would be more useful to go over to the places than to set up different units in different parts of the country. They have been going to different places. I have some data of the cities where they had their sittings. For example, Bangalore, Bombay, Calcutta, Madras, Hyderabad, Trivandrum and Cochin. They have gone out to establish their rapport. They met the industrialists in order to make themselves familiar with their position. They also meet other people in order to familiarise them with their method of working. So, they have held sittings outside Delhi.”

1.60 When the attention of the Representative was again drawn to the fact that union people and other persons who were connected with the sick industries had to come to Delhi to ventilate their grievances which had caused them great inconvenience which indicated the need for setting up permanent Benches at Bombay, Calcutta, and Madras, the Representative of the Ministry during evidence has stated:

“Your point is well taken”.

1.61 Elaborating the practical difficulty, the representative of the Ministry has however added:

“The practical difficulty is that the Chairman is here. The Chairman naturally coordinates a lot of thinking amongst the members. If you have a separate bench, then the bench may have to come for meetings and perhaps that kind of rapport which ought to be between members, on approach to problem, cross fertilisation of ideas etc. that advantage may get go. If certain volume of work is reached enough strength is gathered by the set up of BIFR, they may think of locating the Bench in other parts. I would not rule out the possibility. But my submission only at this stage is that, perhaps we may not press them at this stage for regionalisation of the BIFR”.

1.62 In reply to a question regarding establishment of Regional Offices of BIFR in different parts of the country, the Ministry has stated that there are no Regional Offices of the BIFR.

1.63 Asked whether any thought had been given to establishing regional office in Bombay, Calcutta and Madras the representative of the Ministry stated:

“The first point is that in a new institution, they should develop the total thinking in a cohesive manner. If you split your benches in different places, there would be certain problems. Because, here they have a collective input also. They also have their experience in relation to various benches. Take for example the Supreme Court. You have a Supreme Court in Delhi and there are no benches elsewhere. What is happening is that it is more useful, if at the initial stages, the BIFR maintains its collective presence at one place”.

1.64 The Committee, while appreciating that the number of new cases coming before the Board is less than those being disposed of during a given period, would still like the Government to take suitable measures to increase the number of benches. The Committee consider it desirable that people are given an opportunity to ventilate their grievances at or near their respective places of business. In this context they also take note of the assurances given by the representatives of the Ministry, during evidence, to set up permanent benches at Bombay, Calcutta and Madras. The Committee recommend accordingly.

1.65 Until more benches of BIFR are established it would be desirable to hold more sittings of benches, outside Delhi. The Committee would like to be informed about steps taken in this direction.

## **CHAPTER-II**

### **PROCEDURE**

#### **A. Reference**

2.1 Under Section 15(1) of the Act, where an industrial company has become sick, its Board of Directors shall within 60 days from the date of finalisation of the duly audited accounts of the company for the financial year at the end of which it has become sick make a reference to BIFR. If the Board of Directors of an industrial company has sufficient reasons even before finalisation of the accounts to form the opinion that the company has become sick, it may make a reference to the Board. The Central Government/RBI/State Government/Public Financial Institutions/State Level Institutions/Scheduled Banks may also make a reference under Section 15(2) of the Act, if the Govt./other institutions etc. have sufficient reasons to believe that an industrial company has become sick. Potentially sick companies (whose net worth is eroded by 50% or more) are required to make a reference to the Board under Section 23 of the Act. While the references received under Section 15 are required to be inquired into by the Board, there is no such requirement in respect of references received under Section 23 of the Act. The references received under Section 15 are scrutinised with a view to rectify defects, if any, and registered thereafter.

2.2 The registered cases are assigned to one of the Benches or a Special Bench of the BIFR (a Bench becomes a Special Bench when Chairman presides over). The Bench gives an opportunity to the informant company, Financial Institutions, State Government(s) concerned workers unions etc. to be heard in person. On the basis of the reference received and subsequent written and oral submissions, the Bench considers carefully whether the company in question, fulfills all the three conditions as laid down in Section 3(1) (o) of the Act. According to these provisions the company should have been registered for not less than 7 years, it should have accumulated losses equal to or exceeding its entire network and should have suffered cash loss in the financial year and the financial year immediately preceding. If it does not fulfil these three conditions, the reference is dismissed. If a company fulfils all the three conditions of sickness it is declared sick and a Special Director is appointed under Section 16(4) of the Act to safeguard the financial and other interests of the sick industrial company. The Bench may call for further information from the informant company or the Financial institutions or Banks etc., as appropriate, before declaring a company sick.

2.3 Once a company is declared sick, the Bench considers carefully



whether the company can revive on its own within a reasonable time. If so, an order to that effect is passed under Section 17(2) of the Act. If not, and if it is considered in the Public interest to consider further measures to revive the unit, an Operating Agency is appointed. In preparing the scheme, the Operating Agency will consider reconstruction, change in management, amalgamation with another company, sale or lease of a part or whole of the sick industrial company, etc. The Bench also gives guidelines to the Operating Agency. The scheme prepared by the Operating Agency is discussed with all concerned including the informant company, State Government etc. and modified by the Bench, if considered necessary.

2.4 The Draft Scheme of the BIFR is then circulated to all concerned inviting consent/comments/objections. Short particulars of the Draft Scheme are also published in two dailies inviting comments/objections from employees, creditors, shareholders etc. The concerned agencies and representatives of the shareholders, creditors, employees etc. (if they so desire) are heard before approving a scheme for rehabilitation. A copy of the sanctioned scheme is then sent to the sick company, Operating Agency, State Govt. etc. for implementation. On the other hand, if the report of the Operating Agency reveals that the unit is unviable and the promoters are not in a position to bring in additional funds to improve viability and no other measures under the Act like merger/amalgamation or lease or sale is also possible the Board forms the *prima facie* opinion that it is just and equitable that the company be wound up and show-cause notice for winding up is issued to all concerned. The *prima facie* opinion of the Board that Company be wound up is also published in two local dailies inviting comments/objections, if any, from employees, shareholders, creditors etc. The objections/comments received in response to the notice for winding up are considered carefully and a further hearing is again held. Based on the hearing the concerned Bench may revise its earlier decision to wind up the company or record, its opinion that the recommendation for winding up the company be sent to the concerned High Court. In such an event the Board's decision is communicated to the High Court.

2.5 The Committee desired to know the views of the Ministry about reduction in the period of registration from 7 years to 5 years so that it was possible to control sickness of such units effectively and to delete altogether the above condition of increasing cash losses for 2 years so that effective steps were taken at an early stage itself. The Ministry has stated that suggestions for changes in respect of various sections of the Sick Industrial Companies (Special Provisions) Act, 1985 have been received. These are under consideration.

2.6 The Ministry were asked whether the time schedule for making reference was observed by the Boards of Directors and whether reference cases were received within the stipulated time or after the expiry of 60

days and what action was being taken against the defaulting company. It stated in reply that the substantive provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 were brought into effect from 15 May, 1987. BIFR has reported that having regard to the remedial and ameliorative nature of this special legislation, the emphasis has been on finding solutions. Wherever there has been delay in making reference, the parties concerned are suitably admonished. Statistics regarding delay in filing references is not being maintained by the Board.

### *Time Lag*

2.7 Asked to state the time-lag between the receipt of reference from a Sick Industrial Unit/other agencies and its final revival indicating the various stages which each case has to undergo, and time prescribed/taken at each stage by the concerned authorities, the Ministry has stated that BIFR has reported that in a case where the reference as initially made is complete and banks/institutions concerned have responded within time schedules as laid down and no outside factors like stay orders from competent courts are received, it may take about 10 months for revival/rehabilitation scheme to be sanctioned. On the other hand, depending upon the nature, facts and circumstances of a case, proceedings culminating into an order under Section 17(2) allowing time to the company to make it not worth positive may be disposed of earlier.

2.8 Asked to state how the Board has exercised its authority over other agencies to expedite cases with regard to sick industrial units involving huge money, the Ministry stated that the Act does not confer upon the Board any specific authority of this nature. However, in the proceedings before itself, the Board tries to expedite cases to the extent possible.

2.9 The Committee wanted to know the views of the Ministry for setting up some monitoring agency to find out the offenders or the companies that are becoming potentially sick as promoters or the management would not like to go before BIFR *sue motto*, the Ministry has stated that the definition of a potentially sick industrial company is inbuilt in Section 23 itself. As regards monitoring agency to find out signs of sickness in companies which are becoming potentially sick it has been reported by IDBI that presently the financial institutions have a follow up mechanism through periodic progress reports, inspections, and reports of the nominee directors in cases assisted by them. BIFR has reported that its own experience has been that promoters/management are not averse to making a reference to the Board under Section 15(1) or Section 23 of the Act.

2.10 Explaining the position further, the representative of the Ministry has stated during evidence:

"Under the law, it is made obligatory to do that job. If somebody doesn't do it, if a complaint is lodged with the Board, the BIFR gets to know about it. The Board will take action."

2.11 When it was pointed out that unless some machinery or agency was there to find out the offenders or the companies which were becoming potentially sick, it would not be possible to detect the same, the representative of the Ministry during evidence stated:—

“Whenever loans etc. have been taken from banks, all advances are categorised into 8 categories. They call it as the Health Code System. If the Company is in an excellent condition, then it is given Code No. 1. The Health Code System has been evolved also to keep internal tab on Companies and their progress.....whether they are potentially sick or whether they are functioning in an irregular manner or whether beyond redemption and whether there is any suit filed in the court and so on and so forth. Therefore, I would like to say that every account is categorised in terms of the Health Code System. It will give us a clear idea about the health of the company.”

2.12 Commenting upon the adequacy of procedure underlined in Chapter IV for identification and revival of potentially sick industrial units, the representative of the Ministry stated:

“As of now, the intention was that there should be some mechanism to make it obligatory on the part of the companies to at least give data whether they are sick or potentially sick. The question regarding as to how we would make use of this data is an area where we can sit and discuss.....This is an area where the concerned bank or the financial institution, on their own, has to work to see that the potential sickness can be eliminated.”

2.13 In reply to a question regarding the adequacy of existing time lag between the receipt of a reference case from sick industrial units /other agencies and its final revival, the FICCI, when asked to give their views in the matter, stated as under:—

“Despite the emphasis on timely detection of sickness in industrial units and the adoption of expeditious measures, the existing time lag between the receipt of a reference case from sick industrial unit/other agencies and its final revival is too much. This is evident from the table below. There is a strong need to reduce the delays. The time allowed at every stage requires to be reduced otherwise

the entire viability of a sick company will be seriously affected. The suggested period for different stages should be as given in column III.

I	II	III
	<i>Period allowed</i>	<i>Period suggested</i>
Reference to the Board by the Board of Directors of a sick industrial company for determination of measures.	60 days from the date of finalisation of the duly audited accounts of the company for the financial year at the end of which company has become a sick industrial company. (This is currently interpreted to mean the AGM adoption).	30 days from the date of adoption by the Board of the duly audited accounts of the company for the financial year at the end of which company has become a sick industrial company.
Completion of enquiry by the Board or operating agency for determining whether the industrial company has become a sick industrial company.	60 days from the commencement of the enquiry.	30 days from the commencement of the enquiry.
Preparation of the scheme by the operating agency.	90 days from the date of the order issued by the Board.	60 days from the date of the order issued by the Board. Special extension only may be granted for 30 days.
Consent from concerned parties for providing financial assistance by way of loans, advances, guarantees, reliefs, concessions, etc.	60 days from the date of the circulation of scheme.	If no objection is received within 30 days, it should be taken as necessary consent given.

2.14 The requirement of calling the extra-ordinary meeting to discuss the Report of revival package should be done away with. It should be discussed immediately after passing accounts at the annual general meeting.

2.15 In the opinion of the Committee it is necessary that the existing criteria for bringing a unit under the purview of BIFR, be changed; further that the eligibility period be reduced from 7 to atleast 4 years of its

registration. Provisions relating to a company having incurred cash losses consecutively, needs to be re-examined, so as to avoid sickness of a unit before it becomes grave.

2.16 The existing criteria to bring a sick unit under the care of BIFR appear to be such that the unit has to be almost irretrievably sick. The Committee feel that this criteria for application of sicker unit needs to be reviewed, as remedial measures ought to be taken at the incipient stages, rather than later when the unit may be beyond redemption.

2.17 The Committee note that existing time lag between the receipt of a reference case from sick industrial unit/other agencies and its final revival is on the higher side. The Committee agree with the suggestion of FICCI that time limit for completing all processes leading to rehabilitation of a unit i.e. from reference to the BIFR by Board of Director of a sick industrial company to consent from concerned parties for providing financial assistance by way of loans, advances, guarantees reliefs, concessions etc. should be suitably reduced to facilitate quick decisions, as time is the most critical factor in any revival programme. The Committee hope that the Government will take suitable steps to this effect.

2.18 The Committee further feel that the primary object of the SICA is to secure timely detection of both sick and potentially sick industrial companies and therefore, it is essential that the Board should also be empowered to enquire into references received under Section 23. The Committee desire the Government to take suitable steps in this regard.

#### *B. Disposal of Cases*

2.19 In a note furnished to the Committee, the Ministry has stated that since inception the Board has received 1005 references under section 15 of the Act and 402 references U/s 23 of the Act as on 31.8.89. Of the former 743 cases have been registered, 254 rejected and 35 are under scrutiny. 569 references have come up for hearing. Of these about 475 units were declared sick and 87 references dismissed as not maintainable. In 83 cases the Board accorded approval under Section 17(2) of the Act after satisfying itself that the company concerned can make its net worth positive on its own within a reasonable time. Revival/rehabilitation schemes were sanctioned under Section 18(4) of the Act in respect of 30 cases. In 30 cases the Board reached the conclusion that the company concerned cannot be revived and should be wound up. The necessary recommendation in respect of these companies were conveyed to the concerned High Courts. In addition, in 35 cases draft schemes have been formulated and circulated for comments/objections/suggestions. In 57 cases winding up notices have been issued. Short particulars of the draft schemes and winding up notices have also been published in local dailies inviting comments/objections, if any, from employees, creditors, etc.

2.20 The Ministry has further stated that the revival/rehabilitation of sick

industrial companies is time consuming and it is too early to assess the actual achievement of the objective behind setting up BIFR i.e. revival/rehabilitation of sick industrial companies.

2.21 Of the 569 cases heard, Operating Agency (OA) was appointed in 309 cases; scheme/report was received in respect of 182 cases; schemes in respect of the remaining are under preparation by the concerned operating Agency. The schemes, received from the OA are examined by the Secretary of the BIFR and a report submitted by him to the concerned Bench. Most of the OA's schemes have been considered by the concerned Bench and heard further at the hearing. In some cases, the OA has been directed to revise/modify the scheme in the light of the hearing before the Bench. As the procedure before the BIFR is of a quasi-judicial nature and as reasonable opportunity has to be given to all concerned to be heard, there has been some backlog in hearing the cases. With the setting up of 4th Bench the position is expected to improve.

#### *Scrutiny of cases*

2.22 Asked to furnish details of the 35 cases which were under scrutiny and to indicate at what stages these cases were lying as also by what time these cases would be scrutinised, the Ministry has stated that references received under Section 15 of the Act are scrutinised by the Registrar to identify defects/inadequacy of replies to the various points etc. The unit concerned is then addressed, if necessary, to rectify the defects and/or furnish complete information. References which are complete in all respects and fulfil the conditions of Section 3(1)(O) are then registered. Those which do not fulfil the conditions are rejected. Sometimes it may be necessary to consult other agencies like the Deptt. of Industrial Development, State Government etc. to establish whether the unit is covered by the Industrial Development & Regulations Act.

2.23 The references to the party/other agencies take time and hence some references are categorised as "Under Scrutiny". BIFR has reported that every effort is made to register references, which are complete, within 15 days.

2.24 Explaining the position further, the Representative of the Ministry during evidence stated:—

"Some cases are still pending. The average period for the disposal of a case is roughly ten months. They have been having hearings."

2.25 Regarding pendency of cases the representative of the Ministry, during evidence, stated:—

"There is pendency. There are some cases which may have been registered quite sometime ago. They may have been registered in the initial stages. But they are still not able to finalise a

rehabilitation package for them. That kind of pendency would remain. Sometimes a party may go to the Appellate agency and because of that again there may be pendency."

2.26 Giving the position of arrears of cases before the Board, the representative of the Ministry during evidence stated:—

"As per the data given by the BIFR, as of now the number of receipts on their side, on the average is about 20 per month and their disposal is about 23 per month. I can give you some statistics. Upto July 1989, the number of cases was 1026. Out of these 725 were actually registered. This means that the remaining cases did not fall under their jurisdiction or the party did not qualify or the matter might not have come under the definition of 'sickness'. Then, out of 725, 257 cases have been rejected by them."

2.27 Asked whether the Ministry was satisfied with the disposal of cases by the Board, the Ministry has stated that the BIFR has been implementing a new statute which involves bringing a number of parties together in the complex matter of industrial rehabilitation.

2.28 Commenting upon the need for an expert study for speeding up disposal of cases by the Board, the Ministry has stated:—

"BIFR itself is an expert body. It keeps its procedures under review. The fact, however, remains that the Board is a quasi judicial authority and has to give reasonable opportunity to all concerned, at different stages of its inquiry, before sanctioning a revival scheme."

2.29 Asked about the criteria for rejecting, scrutiny and dismissal of cases, the Ministry has stated that BIFR has reported that in respect of references assigned to the Benches, the latter gives an opportunity to the company, State Government, concerned financial institutions/banks etc. to be heard in person. At the first hearing, the Bench considers whether the reference is covered by the Act i.e. whether all the 3 conditions of section 3(1) (O) are fulfilled. If not, the reference is dismissed/rejected.

2.30 The Committee are not satisfied with the present pace of disposal of cases by the BIFR. Out of 1005 references, under Section 15, and 402, under Section 23 of the Act, received by the BIFR upto 30.6.89; 716 cases under section 15 have been registered. Of these only 569 references have been heard. Thus 147 cases are still unheard. Of the 569 cases considered, 475 units were declared sick, whereas 73 were dismissed. 21 cases are still to be decided. Of the 475 cases, in 79, the Board could accord approval under section 17(2) of the Act and revival schemes could be sanctioned in respect of only 30 cases. In 25 cases the Board came to a conclusion for winding up. Final action about remaining 341 cases is yet to be taken. This is not a satisfactory situation. The Committee

**recommend that the government initiate immediate measures to expedite the pace of work. The Committee would like to be informed about these measures.**

### *C. Rehabilitation Schemes*

2.31 Schemes for revival of sick industries are taken up by the concerned unit, in association with the banks, financial institutions etc. BIFR either accords approval under Section 17(2) of the Act to a sick industrial company to make its net worth positive on its own or sanction a revival/rehabilitation scheme under Section 18(4) of the Act. The approved/sanctioned schemes inter alia stipulate furnishing of periodical reports on the progress of implementation by the company to the Board/Operating Agency/Lead Bank/Institution. In the Board, the progress reports are scrutinised and appropriate action considered, wherever called for.

2.32 The Committee desired to know the views of the Ministry about a press clipping which had reported that the BIFR's schemes were getting hamstrung because of Board's dependence on agencies such as Industrial Development Bank of India, Industrial Credit and Investment Corporation of India and Industrial Finance Corporation of India for its primary functions. The Ministry has stated that the board has reported that it has been receiving fullest cooperation from the Financial Institutions. They have been helpful and cooperative in fulfilling their role, particularly as operating agencies under the Act, in the preparation of feasibility studies, revival schemes, etc.

2.33 The Ministry were asked to indicate whether the revival/rehabilitation schemes for sick industrial units were prepared in a stipulated time and the number of cases where the revival schemes in respect of sick units had not been prepared by the Board/Operating Agencies within 90 days as stipulated in the Act, 1985.

2.34 The Ministry in its reply has stated that the experience till then had been that schemes had often not been prepared within the stipulated period. The reason for this was that several agencies like the State Governments, State Electricity Boards, Financial Institution, Banks, labour (employees), promoters have to participate in this effort and coordinating this takes time, particularly because of the concessions sacrifices infusion of fresh funds etc. necessary for revival of a sick unit. It had however, been the Board's endeavour, to have the schemes prepared with utmost dispatch.

2.35 BIFR has been writing to the concerned agencies in this regard. The Chairman and other Members of the Board have also been holding meetings with representatives of the State Government Financial Institutions etc. stressing the need for speedy action.

**2.36 The Committee are of the view that all schemes for revival should be prepared/implemented within the time stipulated under SICA. The Committee**



wish to point out that delays in the execution of revival schemes have adverse implications on the economic and employment scene of the country. Notwithstanding the difficulties faced by the Board in preparing/implementing the schemes, the Committee desire the Government/Board to take suitable steps so that they are not delayed on account of the Board's dependence on various agencies for its primary functions. The Central Government may consider issuing necessary directions to RBI/Banks/Financial Institutions in this regard. The Government may also consider the establishment of a single window clearance, in the matter of release of funds; by the lead bank, or lead institutions, and then its sharing by the other banks/institutions.

#### *D. Cooperation with State Governments*

2.37 Asked whether the BIFR was experiencing any difficulty in speedy processing of cases of sickness for deciding rehabilitation measures because of poor response from State Government and the measures taken by the Board in this regard the Ministry has stated that for quick revival of sick industries it is essential to enlist full support of the concerned State Governments. To achieve this objective the State Governments were requested to formulate policy packages for revival of sick industries so that the actual rehabilitation scheme could be calibrated by the Operating Agency within the framework of such policies. Some State Governments have already formulated such policy packages. The Board has also informed that whenever there is delay, the parties concerned are urged upon to expedite action and extensions of time, are granted only for compelling reasons.

2.38 Asked what had generally been the role of State Governments in implementing the provisions of BIFR and steps taken by the Ministry in cases where the response of State Governments was lacking, the Ministry has stated that the response of State Governments for formulating/implementing the schemes for cases before BIFR have varied from State to State. A number of States, as listed below, have formulated relief package/policy guidelines for revival of sick units being considered by BIFR:

- (i) Andhra Pradesh
- (ii) Gujarat
- (iii) Haryana
- (iv) Karnataka
- (v) Kerala
- (vi) Madhya Pradesh
- (vii) Maharashtra
- (viii) Orissa
- (ix) Punjab
- (x) Tamil Nadu
- (xi) Uttar Pradesh

The States which have yet to respond were being constantly reminded by the Government.

2.39 Maharashtra is the State having the largest number of sick units, followed by West Bengal. BIFR has reported that the response requested for by the sick industries in these States related to reliefs like waiver of minimum demand charges in respect of supply of electricity during the closed period, high rate of interest on past dues deferred, decision in grant of permission for disposal of surplus land, etc.

2.40 Regarding the cooperation with State Governments the representative of the Ministry stated during evidence:

"In the Central-State syndrome, one makes every effort and efforts have also been made at the highest level. The Finance Minister has been writing to the Chief Ministers and many of the States have given their response and have worked out a comprehensive package. States like Uttar Pradesh, Tamil Nadu, Punjab, Haryana, Karnataka, Gujarat and Kerala have worked out their comprehensive response to this. Some of the other States have given partial response but not complete response. These States are Bihar, Orissa, West Bengal, Madhya Pradesh, Maharashtra, Andhra Pradesh, Rajasthan and Assam. Some States have agreed on a case to case basis but they have not been able to give a comprehensive policy, or how far they have been willing to respond."

2.41 Asked whether the Ministry of Finance or BIFR had circulated some model policies which could be adopted by the State Governments and; if so, what was their reaction, the representative of the Ministry, during evidence added:

"The advice given by the BIFR and their suggestions made initially were transmitted to the State Governments that they might consider them and have a comprehensive policy."

2.42 Asked further whether the package model had been circulated, the representative of the Ministry during evidence stated:

"We would expect the State Governments to take a decision on electricity dues, tax dues and various other Government dues and land dues? For instance, in the sales tax packages, the amount of reliefs and concessions form part of rehabilitation packages. All these things are indicated. Then I had said that power failures have contributed to industrial sickness. If the State Government has control on raw materials, they must see that this raw material is available."

2.43 Asked again whether the cooperation of the State Government was not available to the BIFR or to the concerned unit, the representative of the Ministry during evidence stated:

"It will be difficult for me to answer at the Government level because that would depend on case to case basis."

2.44 Asked whether it was possible to have a Chief Ministers' Conference to be attended by Industry Ministers together with officials for the purpose of solving this problem, the representative of the Ministry stated:

"We shall take note of your suggestion. My own feeling is that the Minister of Industry may have been including these points in their meetings."

2.45 The Committee are of the opinion that the existing arrangements for coordination between the Board, the State Governments and other Financial Institutions in this respect are not effective enough. They are of the view that coordination between the Board, State Governments and Institutions needs to be further strengthened.

2.46 While appreciating the steps taken by the Government in approaching the Chief Ministers of States for tackling the problem of the industrial sickness, the Committee desire that the Government should also hold periodical conference of concerned Chief Minister/Industry Ministers to monitor the level of coordination with State Governments.

#### *E. Operating Agencies*

2.47 Asked to state the number, composition, etc. of various 'Operating Agencies' appointed for conducting detailed viability studies, and for preparing the rehabilitation schemes, etc. and the criteria for nominating any body as 'Operating Agency' for a particular sick unit the Ministry has stated that 12 institutions/banks have so far been notified as Operating Agencies for conducting viability studies and preparing rehabilitation schemes etc. They are:

- (1) Industrial Credit & Investment Corporation of India
- (2) Industrial Finance Corporation of India
- (3) Industrial Reconstruction Bank of India
- (4) Industrial Development Bank of India
- (5) State Bank of India
- (6) Central Bank of India
- (7) Bank of India
- (8) Bank of Baroda
- (9) Punjab National Bank
- (10) Canara Bank
- (11) United Bank of India
- (12) Indian Bank

2.48 Initially the four financial institutions at serial Nos. 1 to 4 were notified. Thereafter, on the basis of the Reserve Bank's advice, public sector banks which had the requisite experience in preparing techno-economic viability studies and in industrial rehabilitation, were also notified as operating agencies. Apart from the specialised experience that

the particular operating agency may have in dealing with sickness in the industry concerned, BIFR has also been taking into account the extent of exposure of the financial institution/bank in the particular company's case, while appointing an operating agency in that case.

2.49 Regarding the adequacy of the existing number of operating agencies to cope with the pending cases before the Board. The Ministry has stated that BIFR has reported that the existing number is adequate for the present.

2.50 A suggestion to amend the statute to include state level institutions also as Operating Agency has been received. This is receiving attention of the Government.

2.51 In a written note the FICCI gave the following views regarding the BIFR and other financial institutions:

"There is also need to improve the coordination between banks and financial institutions. Presently, although banks and financial institutions agree to provide working capital assistance and term loan respectively for the rehabilitation of sick units, they either do not adhere to their commitments or take long time. The problem is more pronounced in respect of banks. In a number of cases even after approval of the RBI, the participating banks delay the sanction and disbursement of credit. The problem gets compounded when more than one bank are involved in the rehabilitation package. The single window concept of lending by banks has, therefore, to be implemented in true spirit. A time limit needs to be prescribed and strictly adhered to by banks and financial institutions for sanction and disbursement of assistance. It is also necessary to make it obligatory on the part of foreign banks to fall in line with the national policy and participate in the rehabilitation package."

2.52 The Committee recommended that a time limit ought to be prescribed, and scrupulously adhered to, by Financial institutions and banks for sanction and disbursement of assistance. There should be adequate monitoring and control mechanism for the purpose.

2.53 The Committee would also like the Government to examine suggestions made by the FICCI for promoting the concept of single window, in implementing rehabilitation programme for a industrial unit. They also feel that the possibility of involving foreign banks, operating in India, in revival of sick industries should be seriously explored.

#### *F. Monitoring Cell*

2.54 There is a Monitoring Cell in the Board consisting of a Deputy Secretary, Senior Research Officer and Section Officer with the necessary supporting staff.

2.55 Asked whether the existing Monitoring system was effective to

monitor the progress and implementation of various schemes for the revival of sick industrial units and if not, what steps were being contemplated to strengthen the existing system, the Ministry has stated that the strength of the monitoring cell and the existing monitoring system are presently considered adequate. With increasing number of schemes being sanctioned, the system may require appropriate strengthening.

2.56 The Committee have been informed that the existing monitoring system is adequate. The Committee desire that the existing monitoring system should be evaluated afresh and further strengthened, if found necessary, by associating professionally qualified and experienced persons.

NEW DELHI;  
3rd December, 1990  
 12 Agrahayana, 1912 (S)

JASWANT SINGH  
 Chairman,  
 Estimates Committee.

## **APPENDIX**

### ***Summary of Recommendations/Observations***

<b>Sl. No.</b>	<b>Para No. of the Report</b>	<b>Recommendations/Observations</b>
1	2	3
1	1.15	The Committee are of the opinion that the existing strength of the Members of the Board may not be adequate to cope with the work load pending with the Board. In view of relatively slow disposal of cases by BIFR it is necessary that the strength of the Board be increased, and effective steps taken to accelerate the pace of disposal of cases.
2.	1.16	The Committee are of the opinion that all care be taken to appoint Members of the Board from amongst experts from different fields. They would like to be apprised of necessary action taken in this regard.
3.	1.17	The Committee would like the Board to have sufficient supporting staff, also with appropriate professional qualifications and an attitudinal orientation towards development.
4.	1.18	The Committee are constrained to note that there are as many as 35 posts including those of Directors, EDF Manager, Dy. Director etc. that are lying vacant; some of them from as early as February, 1987, i.e. almost from the date of inception. It is desirable that expeditious action is taken to fill these vacancies. It is also essential that in future advance planning is done to ensure that there is no substantial delay in the occurrence and the actual filling of vacancies.

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5. 1.30 The rationale behind the exclusion of ancillary and small scale industrial undertakings from the purview of SICA is not clear to the Committee. The pre-budget economic survey (1989-90) presents a very disturbing picture in regard to industrial sickness in the country, as it indicates that at the end of December 1987, there were more than 2 lakh sick industrial units in the port folio of all financial institutions and scheduled commercial banks involving an outstanding bank credit of Rs. 6,256 crores. Adverse impact on the national economy of such a large amount of capital being locked up with unviable units, or being inefficiently employed, can not be over-emphasised, particularly when Government is faced with the problem of finding sufficient resources to finance the VIII Five Year Plan. It is also disquieting to note that between December 1986 and December 1987, the number of sick units had gone up by nearly 40%, and bank credits outstanding against them by more than 28%. The survey also indicates that out of 22.27 lakhs borrower accounts in the SST Sector, as on 31st December 1987, 2.04 lakhs were reported to be sick, indicating that every 11th SSI unit in the country was financially unhealthy. This trend if not corrected will have very grave consequences for the national economy. The Committee hope that the proposed legislation for small scale industries would take adequate care of SSI units and would provide some mechanism for inter action with BIFR to ensure a well-coordinated strategy to combat industrial sickness as a whole. In view of resource constraints it is necessary to identify and provide succour, on priority basis, to those industries that have greater chances of revival.
6. 1.31 The Committee note that so far no review of the functioning of BIFR has been undertaken by the Government. In the absence of any such evaluation a realistic and objective assessment about effectiveness of the procedures followed by the Board, and its organisation, cannot be ensured. In the opinion of the Committee a periodical evaluation study/review of the activities of BIFR is very important.
7. 1.32 The Committee recommend that an Annual Report detailing the various activities of the Board during the year be brought out. It would also be desirable to publish
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brochures relating to the functions of the Board, and containing orders and instructions, issued from time to time for the benefit of the industry. Publication of yearly/half yearly reports on relief packages sanctioned by BIFR, and their despatch to Chambers of Commerce and Industry, would also be a useful exercise.

8. 1.33 The Committee feel that since a number of Government Companies are also industrially sick, the Ministry may give thought for taking necessary remedial measures, as envisaged for the private sector units through BIFR.
9. 1.46 The Committee note that the recommendations of BIFR are not binding on the banks and financial institutions, or other Central and State Government institutions. The Committee are, therefore, of the view that absence of such statutory powers with the Board, needs to be re-examined by the Ministry. In the opinion of the Committee the role of BIFR needs to be redefined and the body suitably restructured to enable it to tackle the problem of industrial sickness more effectively. The Committee hope that Government will examine the suggestions, already received in this regard, expeditiously and take suitable steps to make necessary amendments in the SICA.
10. 1.47 In the opinion of the Committee inefficiency must invariably be investigated, and an enquiry conducted into the causes that lead to the sickness of a unit. In this context the Committee note with satisfaction the statement made by the Minister of Finance in the Lok Sabha on 4th May, 1990 (in reply to Unstarred Question No. 7546) and hope that the relevant provisions of SICA would be invoked whenever warranted. The Committee advise that necessary investigation in this regard, however, should not be permitted to retard the progress of rehabilitation of sick units.
11. 1.48 The Committee are of the opinion that the BIFR should also be authorised to grant interim reliefs/exemptions like rescheduling of loans and concessions in respect of post interest for speedy rehabilitation.



12. 1.49      The Committee have been informed that some suggestions with regard to vesting the Board with powers to issue interim orders and directions to prevent actions which are prejudicial to the interest of the companies etc., have been received and are under examination. The Committee hope that a decision on these suggestions and the above views of the Committee would be taken early and where necessary, amendments in the SICA will also be incorporated timely.
13. 1.64      The Committee, while appreciating that the number of new cases coming before the Board is less than those being disposed of during a given period, would still like the Government to take suitable measures to increase the number of benches. The Committee consider it desirable that people are given an opportunity to ventilate their grievances at or near their respective places of business. In this context they also take note of the assurances given by the representatives of the Ministry, during evidence, to set up permanent benches at Bombay, Calcutta and Madras. The Committee recommend accordingly.
14. 1.65      Until more benches of BIFR are established it would be desirable to hold more sittings of benches, outside Delhi. The Committee would like to be informed about steps taken in this direction.
15. 2.15      In the opinion of the Committee it is necessary that the existing criteria for bringing a unit under the purview of BIFR, be changed; further that the eligibility period be reduced from 7 to at least 4 years of its registration. Provisions relating to a company having incurred cash losses consecutively, needs to be reexamined, so as to avoid sickness of a unit before it becomes grave.
16. 2.16      The existing criteria to bring a sick unit under the care of BIFR appear to be such that the unit has to be almost irretrievably sick. The Committee feel that this criteria for application of sicker unit needs to be reviewed, as remedial measures ought to be taken at the incipient stages, rather than later when the unit may be beyond redemption.

- 17 2.17 The Committee note that existing time lag between the receipt of a reference case from sick industrial unit/other agencies and its final revival is on the higher side. The Committee agree with the suggestion of FICCI that time limit for completing all processes leading to rehabilitation of a unit i.e. from reference to the BIFR by Board of Director of a sick industrial company to consent from concerned parties for providing financial assistance by way of loans, advances, guarantees, reliefs, concessions etc. should be suitably reduced to facilitate quick decisions, as time is the most critical factor in any revival programme. The Committee hope that the Government will take suitable steps to this effect.
- 18 2.18 The Committee further feel that the primary object of the SICA is to secure timely detection of both sick and potentially sick industrial companies and, therefore, it is essential that the Board should also be empowered to enquire into references received under Section 23. The Committee desire the Government to take suitable steps in this regard.
- 19 2.30 The Committee are not satisfied with the present pace of disposal of cases by the BIFR. Out of 1005 references, under Section 15, and 402, under Section 23 of the Act, received by the BIFR up to 30.6.89; 716 cases under Section 15 have been registered. Of these only 569 references have been heard. Thus 147 cases are still unheard. Of the 569 cases considered, 475 units were declared sick, whereas 73 were dismissed. 21 cases are still to be decided. Of the 475 cases, in 79, the Board could accord approval under Section 17(2) of the Act and revival schemes could be sanctioned in respect of only 30 cases. In 25 cases the Board came to a conclusion for winding up. Final action about remaining 341 cases is yet to be taken. This is not a satisfactory situation. The Committee recommend that the government initiate immediate measures to expedite the pace of work. The Committee would like to be informed about these measures.

- 20 2.36 The Committee are of the view that all schemes for revival should be prepared/implemented within the time stipulated under SICA. The Committee wish to point out that delays in the execution of revival schemes have adverse implications on the economic and employment scene of the country. Notwithstanding the difficulties faced by the Board in preparing/implementing the schemes, the Committee desire the Government/Board to take suitable steps so that they are not delayed on account of the Board's dependence on various agencies for its primary functions. The Central Government may consider issuing necessary directions to RBI/Banks/Financial Institutions in this regard. The Government may also consider the establishment of a single window clearance, in the matter of release of funds by the lead bank, or lead institutions, and then its sharing by the other banks/institutions.
- 21 2.45 The Committee are of the opinion that the existing arrangements for coordination between the Board, the State Governments and other Financial Institutions in this respect are not effective enough. They are of the view that coordination between the Board, State Governments and Institutions needs to be further strengthened.
- 22 2.46 While appreciating the steps taken by the Government in approaching the Chief Ministers of States for tackling the problem of the industrial sickness, the Committee desire that the Government should also hold periodical conference of concerned Chief Minister/Industry Ministers to monitor the level of coordination with State Governments.
- 23 2.52 The Committee recommend that a time limit ought to be prescribed, and scrupulously adhered to, by Financial institutions and banks for sanction and disbursement of assistance. There should be adequate monitoring and control mechanism for the purpose.
- 24 2.53 The Committee would also like the Government to examine suggestions made by the FICCI for promoting the concept of single window, in implementing rehabilitation programme for a industrial unit. They also feel that the possibility of involving foreign banks, operating in India, in revival of sick industries should be seriously explored.

25 2.56

The Committee have been informed that the existing monitoring system is adequate. The Committee desire that the existing monitoring system should be evaluated afresh and further strengthened, if found necessary, by associating professionally qualified and experience persons.

**LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA  
SECRETARIAT PUBLICATIONS**

Sl. No.	Name of Agent	Sl. No.	Name of Agent
<b>ANDHRA PRADESH</b>		<b>UTTAR PRADESH</b>	
1.	M/s. Vijay Book Agency, 11-1-477, Mylargadda, Secunderabad-500 361.	12.	Law Publishers, Sardar Patel Marg, P.B. No. 77, Allahabad, U.P.
<b>BIHAR</b>		<b>WEST BENGAL</b>	
2.	M/s. Crown Book Depot., Upper Bazar, Ranchi (Bihar).	13.	M/s. Madimala, Buys & Sells, 123, Bow Bazar Street, Calcutta-1.
<b>GUJARAT</b>		<b>DELHI</b>	
3.	The New Order Book Company, Ellis Bridge, Ahmedabad-380 006. (T. No. 79065)	14.	M/s. Jain Book Agency, C-9, Connaught Place, New Delhi, (T. No. 351663 & 350806)
<b>MADHYA PRADESH</b>		15.	M/s. J.M. Jaina & Brothers, P. Box 1020, Mori Gate, Delhi-110006 (T. No. 2915064 & 230936).
4.	Modern Book House, Shiv Vilas Place, Indore City. (T. No. 35289).	16.	M/s. Oxford Book & Stationery Co., Scindia House, Connaught Place, New Delhi-110001. (T. No. 3315306 & 45896)
<b>MAHARASHTRA</b>		17.	M/s. Bookwell, 2/72, Sant Nirankari Colony, Kingsway Camp, Delhi-110 009. (T. No. 7112309).
5.	M/s. Sunderdas Gian Chand, 601, Girgaum Road, Near Princes Street, Bombay-400 002.	18.	M/s. Rajendra Book Agency, IV-DR59, Lajpat Nagar; Old Double Storey, New Delhi-110 024. (T. No. 6412362 & 6412131).
6.	The International Book Service, Deccan Gymkhana, Poona-4.	19.	M/s. Ashok Book Agency, BH-82, Poorvi Shalimar Bagh, Delhi-110 033.
7.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-400 001.	20.	M/s. Venus Enterprises, B-2/85, Phase-II, Ashok Vihar, Delhi.
8.	M/s. Usha Book Depot, 'Law Book Seller and Publishers' Agents Govt. Publications, 585, Chira Bazar, Khan House, Bombay-400 002.	21.	M/s. Central News Agency Pvt. Ltd., 23/90, Connaught Circus, New Delhi-110 001. (T. No. 344448, 322705, 344478 & 344508).
9.	M & J Services, Publishers, Rep- resentative Accounts & Law Book Sellers, Mohan Kunj, Ground Floor, 68, Jyotiba Fuele Road Nalgaum, Dadar, Bombay-400 014.	22.	M/s. Amrit Book Co., N-21, Connaught Circus, New Delhi.
10.	Subscribers Subscription Services India, 21, Raghunath Dadaji Street, 2nd Floor, Bombay-400 001.	23.	M/s. Books India Corporation Pub- lishers, Importers & Exporters, L-27, Shastri Nagar, Delhi-110 052. (T. No. 269631 & 714465).
<b>TAMIL NADU</b>		24.	M/s. Sangam Book Depot, 4378/4B, Murari Lal Street, Ansari Road, Darya Ganj, New Delhi-110 002.
11.	M/s. M. M. Subscription Agencies, 14th Murali Street (1st Floor), Mahalingapuram, Nungambakkam, Madras-600 034. (T. No. 476558)		