

HOUSE OF THE PEOPLE

THE TARIFF COMMISSION BILL, 1951

(REPORT OF THE SELECT COMMITTEE)



PARLIAMENT SECRETARIAT
NEW DELHI.

March, 1951

REPORTS OF SELECT COMMITTEE PRESENTED

TO PARLIAMENT IN - 1951.

S. No.	Short title of the Bills.	Date of introduction. (Presentation) 3.	Date of Publica- tion. (in the Gazette) 4.
	2.		
1.	The Port Trusts and Ports (Amendment) Bill, 1950.	7- 2-51.	24-2-51.
2.	The Representation of the People (No.2) Bill, 1950.	31- 3-51.	14-4-51.
3.	The Finance Bill, 1951.	21- 4-51.	24-4-51.
4.	The Constitution (First Amendment) Bill, 1951.	25- 5-51.	2-6-51.
5.	The State Financial Corporations Bill, 1951.	10- 8-51.	25-8-51.
6.	The Tariff Commission Bill, 1951. ✓	-do-	-do-
7.	The Forward Contracts (Regulation) Bill, 1950.	20- 8-51.	1- 9-51.
8.	The Indian Companies (Amendment) Bill, 1951. ✓	30- 8-51.	8- 9-51.
9.	The Evacuee Interest (Separation) Bill, 1951.	10- 9-51.	29- 9-51.
10.	The Benares Hindu University (Amendment) Bill, 1951.	7- 9-51.	29- 9-51.
11.	The Aligarh Muslim University (Amendment) Bill, 1951.	-do-	-do-
12.	The Press (Incitement to Crime) Bill, 1951.	27-9-51.	6-10-51.
13.	The Industries (Development and Control) Bill, 1949.	24- 9-51.	-do-
14.	The Plantations Labour Bill, 1951. ✓	29- 9-51.	13-10-51.

1.	2.	3.	4.
15. The Delhi Premises (Requisition and Bisectio) Amendment Bill, 1951.	10- 9-51.	22- 9-51.	
16. The Displaced Persons (Debts Adjustment) Bill, 1951.	1-10-51.	20-10-51.	
17. The Notaries Bill, 1951.	4-10-51.	-do-	

THE TARIFF COMMISSION BILL, 1951.

PARLIAMENT OF INDIA.

CORRIGENDA

to

The Report of the Select Committee on the
Tariff Commission Bill, 1951, together
with the Bill as amended.

Bill as amended.

At page 2, -

- (i) in line 15, for "services" read
"service" ; and
- (ii) in line 22, for "allowances"
read "allowances".

At page 3, in line 47, for "
"prefective" read "protective"

New Delhi,

M.N. KAUL,

the 17th August, 1951.

S E C R E T A R Y

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provide that appointments above a certain limit, say Rs. 300 per mensem, should

THE TARIFF COMMISSION BILL, 1951.

REPORT OF THE SELECT COMMITTEE

We, the undersigned Members of the Select Committee to which the Bill to provide for the establishment of a Tariff Commission and to regulate its duties and functions was referred, have considered the Bill and have now the honour to submit this our report, with the Bill as amended by us annexed thereto.

Clause 3.—Although we agree with the recommendation of the Fiscal Commission that the Tariff Commission should ordinarily consist of five members, the majority of us are of the opinion that the position should remain flexible as proposed in the Bill so that the number of members may be increased if the volume of work demands it. We think, however, that the maximum should be increased from four to five.

By a majority we have also decided that the proviso to sub-clause (1) providing for the appointment of temporary additional members should remain.

As a matter of drafting we have recast this clause.

Clause 4.—Although we do not propose to make any changes in this clause, we recommend that except where necessary officers of the Government in the administrative services should not be appointed as members of the Commission, and if any such appointments have to be made, they should be confined to the minimum.

Clause 5.—In our opinion a Member of Parliament or of a State Legislature should not be disqualified for appointment as a member of the Commission, but the law should provide for the vacation of his seat on his being appointed a member. We also feel that the proviso to sub-clause (1)(b) should be omitted as, firstly, it is unnecessary, and secondly, it may have the effect of negating what is sought to be achieved by sub-clause (1)(b). The clause has been redrafted accordingly.

Clause 6.—Although we do not feel called upon to make any changes in sub-clause (3), we recommend that in the case of temporary additional members of the Commission the consent of the Central Government to their holding private appointments after the termination of their office should be freely given. We also feel that as membership of the Commission is a high office there is no need to prescribe a penalty for securing compliance with the provisions of this sub-clause.

Clause 7.—In our opinion the powers of removal contained, for example, in sub-clauses (a) and (b) require to be regulated so as to prevent the arbitrary exercise thereof, and we have, therefore, provided in clause 24 for rules to be made in this behalf. As an additional safeguard we have provided that every case of removal should be reported to Parliament. Incidentally we have added the words "or mentally" in sub-clause (a), and have made a few minor drafting changes.

Clause 8.—Although in our opinion no amendment is called for in this clause, we recommend that in making rules in this behalf the Central Government should provide that appointments above a certain limit, say Rs. 300 per mensem, should

be made only on the recommendation of the Union Public Service Commission while appointments below that limit may be made by the Commission.

Clause 11.—In sub-clause (1)(a) we have substituted the words “or in any other suitable form” for the word “otherwise” to indicate clearly that protection may assume any form, whether fiscal or non-fiscal. In the nature of things it is difficult to specify all forms of protection. We have also omitted the words “primary or secondary” as unnecessary. Moreover, in the absence of suitable definitions these words may cause some difficulty.

In sub-clause (1)(c) we have omitted the word “manufacture” as being irrelevant and the change in sub-clause (1) (d) is consequential upon the amendment to clause 13.

A new sub-clause (1)(e) has been added providing for the reference to the Tariff Commission of protected industries where the protection given requires to be further considered with a view to its modification or abolition.

Suitable provisions exist in the Indian Tariff Act, 1934 enabling the Central Government to take action in emergencies and a provision on the lines of sub-clause (2) is hardly necessary. In our opinion this provision should be omitted.

Clause 13.—In our opinion the powers of the Commission to make inquiries *suo motu* should also extend to the matters specified in clause 11(1)(b) and in the new clause 11(1)(e).

Clause 14.—We have made express provision in the new sub-clause (1)(e) to ensure that due regard is given by the Tariff Commission to cottage and other small scale industries engaged in the same or allied field before granting protection to an industry. We have also amended sub-clause (3) indicating two more matters in respect of which conditions may be prescribed. A suggestion was made that a reference to conditions relating to labour should also find a place here, but as this is implicit in sub-clause (1)(a) we have not thought it necessary to include any such express provision.

Clause 16.—In our opinion a time limit should be fixed within which the Government should be compelled to take action on every report of the Tariff Commission. We have redrafted sub-clause (2) accordingly.

Clause 18.—We have redrafted this clause so as to provide for the appointment of assessors on the request of the Commission also.

Clause 20.—We have omitted sub-clause (3) as being unnecessary and too drastic for the purposes of this Bill.

Clause 22.—We think that the penalties prescribed in this clause should be enhanced to one thousand rupees and six months respectively.

Clause 24.—We have included a specific reference to a few more items on which rules can be made.

Clause 26.—This is new and provides for the construction of references to the Tariff Board in other enactments.

2. The Bill was published in Part II—Section 2 of the *Gazette of India*, dated the 24th March, 1951.

3. We think that the Bill has not been so altered as to require circulation under rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament, and we recommend that it be passed as now amended.

M. ANANTHASAYANAM AYYANGAR
 B. R. AMBEDKAR
 HAREKRUSHNA MAHTAB
 D. P. KARMARKAR
 M. L. DWIVEDI
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 *ARUN CHANDRA GUHA
 THAKUR LALSINGH
 RAJ BAHADUR
 **THAKUR DAS BHARGAVA
 *GOKULBHAI DAULATRAM BHATT
 KAKA BHAGWANT ROY
 O. V. ALAGESAN
 C. D. PANDE

NEW DELHI;

The 10th August, 1951.

* Subject to a Minute of Dissent.

** The Minute of Dissent was received after the Report was presented to Parliament. It has therefore not been included in this report.

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MINUTES OF DISSENT

I

I have signed this report subject to the following note.

2. The Bill, as reported upon, still provides for a term of three years to every whole-time member of the Commission. Considering that the persons found competent and suitable for such posts would be, in all probability, past middle age: considering, further, that they would be allowed a second term, if re-appointed, for three years only, it would be most unfair, in my opinion, to leave any such person, at the end of six years of conscientious public service, to shift for himself.

3. It is true, provision has been made for permitting any such person, under suitable circumstances, after retirement, to take up any other employment, conformable to his aptitude or opportunity but, unless such permission is to become a mere formality, it would place the retiring Commissioner under a severe strain, under which, in the concluding months of his term of office, he may not be able to discharge his duties as efficiently and whole-heartedly as may be desired.

4. I have, further, an objection, on principle, for granting such permission, except under wholly exceptional and unexpected circumstances. The opportunity to take employment in a private concern, especially in one of the kind that has received State aid or protection of some sort during the term of such a person's office, is apt to be abused. I would, therefore, guard, as effectively as possible, against any such temptation to impropriety. No permission should, accordingly, be given to seek and accept employment under private business or enterprise, unless an extraordinary and unusual situation has arisen over which the person seeking such permission had no control. These posts should be made, like the judges, integral part of the national public service, with all its rights and obligations, even though persons appointed to these posts, may have been selected rather late in life.

5. An appropriate and effective solution would be to lengthen the term of office, and make it, in the first instance, for five years, and, under suitable circumstances, allow another term of not exceeding five years. By this time the person concerned would have, normally speaking, arrived at an age, where superannuation is the correct step. In no case should these be life appointments for any person; and no vested interests should be suffered to be created, or even to be suspected. Superannuation would be easier, and the public service rendered would not have been all to no purpose, so far as making provision for one's old age is concerned, if some kind of a proportionate pension is allowed in all such cases, as a matter of course and right. The analogy of the Judges' pensions may be quoted, in this connection, to reinforce the argument.

6. Another matter on which some change in the report is necessary relates to the form, or the manner, in which protection, encouragement, or assistance to an industry in need of such help may be provided. Clause 11(a), as amended in the Select Committee, provides for "protection (whether by the grant of subsidies or the levy of protective duties, or in any other suitable form)". But, while mentioning, specifically, only two of the important forms in which effective assistance, relief or protection may be afforded, in appropriate cases, a large category is left undefined. If it is found necessary and desirable specifically to mention two of the forms of State help to industry, I see no reason why other forms, equally orthodox and perhaps more effective, should not even be mentioned. The aim of State aid to indigenous industry—call it protection if you like—was wholly different before the achievement of national independence from what it is and should be to-day. The forms of protection must, consequently, also undergo a corresponding change. The omnibus wording,

therefore, in this clause is likely to cause more confusion than real assistance, or effective protection. For many reasons of a political as well as economic nature, it is undesirable to leave the precise form, or combination of forms, in which such aid can be given, to the discretion of the Tariff Commission, or even to that of the Executive Government. Forms of protection may involve grave questions not only of national but also of international policies. It is, therefore, necessary that the various forms be particularised in the basic legislation itself. At the proper time amendments will be moved to give effect to this view.

7. There are other minor issues on which, also, there appears room for amendment, which will be submitted at the proper moment.

NEW DELHI;
The 10th August, 1951.

K. T. SHAH

II

I am in several agreement with the Bill as amended by the Select Committee. But I have some apprehension about some of the provisions.

2. In Section 8 the Tariff Commission has been authorised to appoint its own staff. From our experience in some other autonomous bodies I would very much like to it obligatory for the commission to go through the Union Public Service Commission for all appointments carrying a salary over Rs. 300 per mensem, instead of leaving it to be regulated by rules. In the past the Government have not been very particular in these matters, so it is difficult for me to accept the assurance that the Government would put such a provision in the rules.

3. Section 11 authorises the Commission to give protection to an industry which has not yet started production. This system is already existing; and we cannot say that in all cases only bonafide use has been made of this system. So I wanted a particular time limit—say preferably not exceeding 1 year—to be fixed within which that industry must start production. But the Select Committee has only added a new sub-section (b) to section 14 by which the Commission will be competent to fix such a time limit. Instead of making it optional for the Commission, I would like to have a definite time fixed by the Act.

4. By section 7, a member of the Commission can be removed for physical inability. Here also I would like in all such cases, a Medical Board should be consulted. But the Select Committee has only put a new sub-section (b) to section 24 by which the Government by rules may provide for such a procedure.

5. Lastly I would like the members of the Commission to be appointed for 5 years instead of 3 years. The responsibilities and the post-retirement disabilities of the members are such as to limit the scope of choice to a narrow circle. So a longer tenure of appointment would have been better.

NEW DELHI;
The 10th August, 1951.

ARUN CHANDRA GUHA

III

I am constrained to write this note of dissent.

CLAUSE 6—*Conditions of service of members of the Commission*

2. *Term of office.*—In sub-clause 1, the term of office proposed is three years. This period seems to be short. It must be raised to five years to stabilise the working of the Tariff Commission. Five years period will go a great way in maintaining continuity of work and uniformity of action. We are now starting to set up a permanent body required to discharge manifold functions and duties. This body has in the first instance to do much spade

work in organizing its office etc. and therefore it is all the more necessary to extend the term to five years.

3. *Restriction on ceasing members.*—Sub-clause 3 of clause 6 runs as follows:—

“(3) A member of the commission ceasing to hold office as such shall not hold any appointment in any private industry or under-taking for a period of three years from so ceasing to hold office, save with the consent in writing of the Central Government.”

This is a novel sort of future disability introduced. This will apply to permanent as well as to *ad hoc* members of the Commission under clause 3 but for *ad hoc* members, the report of the Select Committee, which has no legal status, recommends to the Central Government to be liberal in granting consent to hold appointments after ceasing to hold office. Whom are we restricting and for what? Let us examine these points. It is said that the members of Tariff Commission will be dealing with important matters concerning the industry and therefore a check proposed would keep them clean and impartial otherwise they are likely to be influenced by the future gain after relinquishing office.

4. First of all we must realise whom are we appointing? They will be ‘men of ability and standing’ enjoying and inspiring public confidence. They are required to submit detailed reports with their recommendations; the reports will mainly depend on thorough inquiries; these inquiries will be open to the public. And after all what is this Commission for? It has to tender advice to the Central Government. The Government might or might not accept the recommendations of this Commission and even if the Tariff Commission’s recommendations are unreasonably accepted by the Government the Parliament is there finally to approve or disapprove the action of the Government.

5. We do not expect the members of the Tariff Commission, men of integrity and position, to act in a manner of favouritism and contrary to the confidence reposed in them. But let us assume for a moment the worst possible case. The member who is bought over or influenced does not himself accept an appointment to conform to the letter of the law but he indirectly in numerous ways receives the benefits of favour shown to an industry. How are we going to check that? And what are we going to do for one who contrary to the restriction accepts an appointment? Our report says: “we also feel that as membership of the Commission is a high office there is no need to prescribe a penalty for securing compliance with the provisions of this sub-clause.” On the one hand we put them on so high a level on the other hand, we begin to doubt their integrity. This is curious and incongruous.

6. I wish to allude to sub-clause (1) of clause 5 wherein it is said: “No person shall be qualified for appointment as, or for continuing to be, a member of the Commission if he has directly or indirectly any such financial or commercial interest in any industry or undertaking as is likely to affect him in the discharge of his duties as a member of the Commission.”

7. What harm will be done if a ceasing member actively joins an undertaking in which he had, as a continuing member, some limited interest?

8. One would naturally ask, which is the other Commission embodying in its structure such a ‘salutory’ provision? Taxation on Income (Investigation Commission) Act does not have such a provision. Income Tax Investigation Commission has much more powers to do and undo a thing. And are we placing restrictions on Ministers and others who hold very important offices of profit and who command executive powers? As far as I know such a restriction is non-existent in similar Acts of other countries. So on principle, I think that such a restriction should not be imposed on the members of the Tariff Commission which is an advisory body.

9. But if, for my inability to express and convince, my point of view is not acceptable, I make the following suggestions also:—

- (a) period of three years to be reduced;
- (b) pension, gratuity or suitable allowance be given to the ceasing member till the time he is permitted to take an appointment;
- (c) sub-clause 3 may be so amended, so as to leave scope for a ceasing member to take an appointment in an industry not enquired into during his tenure of office.

CLAUSE 11—*Reference—obligatory or optional?*

Clause 11 says: "The Central Government may refer to the Commission for inquiry and report any matter....."

10. I think that the Government should refer all applications asking for grant of protection. As it stands at present, the Government may or may not refer any matter.

11. When we are enacting a measure to set up an expert body to tender advice taking into consideration all matters governed by the principles and directions contained in clause 14, the Government should by way of routine refer all applications received. The present procedure of the Government before reference to the Tariff Board is as follows:

".....An industry seeking protection or assistance from Government has first to submit its application to the Ministry of Commerce. This application is placed before an Inter-Departmental Committee consisting of representatives of the Ministries of Commerce, Industry and Supply and Finance. Representatives of other Ministries if concerned with any particular industry, are also present at such meetings. If it is found that a *prima facie* case has been made out by the industry in question that it is a fit case to go before the Tariff Board, the Ministry of Commerce refers the case to the Board for investigation and report. This reference is made through a Resolution of Government....." (Para. 12, Review of Work of the Indian Tariff Board.....from 1945 to 1949).

12. As I am not yet in possession of relevant factual information asked for, I cannot definitely state how much time is taken in the process of reference. But it seems to me that much energy, time and money must be required on the part of the Government and the industry concerned. Is there a necessity for this preliminary examination of a case before reference? Departmental experts may make out a *prima facie* case which, when reported by the Tariff Board, may not deserve protection or assistance sought for (*vide* annexure B of the Review of Work of the Tariff Board); and it is difficult to know how many cases were not referred to the Tariff Board.

13. And therefore if, as a matter of course, applications are straightaway referred to the Tariff Commission, time, energy and money will be saved, duplicating of work would be avoided, and nothing would be lost.

14. It may be said that the Government should be the final authority to refer an application asking for protection, because it can alone take into consideration the Government policy. I do not think there is much substance in this; because the Tariff Commission, before recommending, has to bear in mind 'the public interest' [(e) of (2) of Clause 14.]

15. I have only touched the points, as this note is to be submitted in time.

GOKULBHAI DAULATRAM BHATT.

NEW DELHI;

The 10th August 1951.

THE TARIFF COMMISSION BILL, 1951.

(AS AMENDED BY THE SELECT COMMITTEE.)

(Words underlined indicate the amendments suggested by the Select Committee; asterisks indicate omissions.)

A

BILL

to provide for the establishment of a Tariff Commission and to regulate its duties and functions.

Be it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Tariff Commission Act, 1951. 5

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "Commission" means the Tariff Commission established under this Act; 10

(b) "chairman" means the chairman of the Tariff Commission;

(c) "member" means a member of the Tariff Commission and includes the chairman of the Commission;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "regulations" means the regulations made by the Commission 15 under section 25.

CHAPTER II

ESTABLISHMENT OF THE TARIFF COMMISSION

3. Constitution of a Tariff Commission and appointment of chairman thereof.— For the purposes of this Act, the Central Government shall establish a Tariff Commission which shall consist of not less than three, but not exceeding five, whole-time members appointed by the Central Government, and one of them shall be nominated by the Central Government to be the chairman thereof: 20

Provided that the Central Government may, as often as may be necessary, appoint not more than two additional members on the Commission for such purpose and period and on such conditions as it thinks fit. 25

* * *

4. Qualifications for membership of the Commission.—The persons to be appointed as members of the Commission shall be men of ability and standing who have shown capacity in dealing with problems relating to commerce or industry or in administration or who have special knowledge in any matter as renders them suitable for appointment on the Commission.

5. Disqualifications for membership.—(1) No person shall be qualified for appointment as, or for continuing to be, a member of the Commission if he has * * * * * directly or indirectly any such financial or 35

commercial interest in any industry or undertaking as is likely to affect him in the discharge of his duties as a member of the Commission.

* * *

(2) The appointment as a member of the Commission of any person who is a Member of Parliament or of the Legislature of any State shall be void unless within one month of the date of his appointment he ceases to be such Member, and if any member of the Commission is elected as a Member of Parliament or of any State Legislature, he shall cease to be a member of the Commission as from the date of such election.

(3) Every member shall, whenever required by the Central Government so to do, furnish to it such information as it may require for the purpose of securing compliance with the provisions contained in * * * * * sub-section (1).

* * *

6. Conditions of services of members of the Commission.—(1) Every whole-member of the Commission shall hold office for a period of three years from the date of his appointment:

Provided that a member relinquishing his Office on the expiry thereof shall be eligible for reappointment for a second period of three years.

(2) There shall be paid to the members of the Commission such salaries and allowances as may be determined by the Central Government:

Provided that such salaries and allowances shall not be varied to the disadvantage of a member after his appointment.

(3) A member of the Commission ceasing to hold office as such shall not hold any appointment in any private industry or undertaking, for a period of three years from so ceasing to hold office, save with the consent in writing of the Central Government.

7. Power of Central Government to remove members from office in certain cases.—(1) The Central Government may remove from office any member of the Commission who has been adjudged an insolvent or has been convicted of an offence involving moral turpitude, and also any member who, in the opinion of the Central Government,—

(a) has become physically or mentally incapable of acting as such member, or

(b) has so abused his position as to render his continuance in office detrimental to the public interest, or

(c) has incurred the disqualification specified in sub-section (1) of section 5.

(2) The removal of any member under sub-section (1) shall be reported, as soon as may be, to Parliament.

8. Appointment of officers and servants of the Commission.—Subject to such rules as may be made in this behalf, the Commission may for the purpose of enabling it to efficiently discharge its functions under this Act appoint such number of officers and servants as it may think fit and determine their conditions of service.

9. Sitzings of the Commission.—(1) Subject to the regulations, the Commission may hold sittings in any part of India in such place or places as it may deem most convenient for the transaction of its business or proceedings and shall keep the minutes of its proceedings in such form as it may think fit.

(2) **Sittings of the Commission** shall be convened by the chairman and shall be open to the public unless the Commission in any particular case decides otherwise.

(3) The chairman shall preside at all sittings of the Commission at which he is present and in his absence from any such sitting the members present thereat shall elect one of the members to preside as chairman. 5

10. Vacancy not to invalidate proceedings.—No act or proceeding of the Commission shall be deemed to be invalid by reason merely of any vacancy in or any defect in the constitution of, the Commission.

CHAPTER III

10

FUNCTIONS OF THE COMMISSION

11. Reference of matters relating to protection of industries generally to the Commission.—* The Central Government may refer to the Commission for inquiry and report any matter requiring in its opinion—

(a) the grant of protection (whether by the grant of subsidies or the levy of protective duties or in any other suitable form) for the encouragement of any * * * * * industry in India (including any industry which has not started production but which is likely to do so if granted suitable protection); 15

(b) an increase or decrease in the duties of customs or other duties in relation to any industry for the protection thereof; 20

(c) action to be taken in relation to the dumping of goods in the market occasioned by excessive import * * * * * or otherwise;

(d) action to be taken where an industry is taking undue advantage of the tariff protection granted to it, particularly with reference to whether the protected industry is— 25

(i) charging unnecessarily high prices for its goods, or

(ii) acting or omitting to act in a manner which results in high prices being charged to consumers through limitation of quantity, deterioration in quality or inflation of cost of production and the like, 30
or

(iii) acting in restraint of trade to the detriment of the public;

(e) further action to be taken in relation to the protection granted to an industry, with a view to its increase, decrease, modification or abolition according to the circumstances of the case. 35

* * *

12. Reference to the Commission of additional matters arising out of protection.—The Central Government may also refer to the Commission for inquiry and report any matter relating to— 40

(a) the effect of protection on—

(i) the general level of prices in the country,

(ii) the cost of living of any specified class of people,

(iii) the different sectors of the country's economy;

(b) the effect of tariff concessions under trade or commercial agreements on the development of any specified industry; 45

(c) any anomalies that may result from the working of protective or revenue duties (as for example, relationship between the rates of duty on finished goods, partly finished goods and raw materials);

(d) the prices of particular commodities, whether protected or not.

13. **Power of Commission *suo motu* to make inquiries.**—The Commission may on its own motion inquire into and report to the Central Government on any of the matters referred to in clauses (b), (c), (d) and (e) of sub-section (1) of section 11, or in clauses (a), (b) and (c) of section 12.

14. **Principles to be taken into account in making any inquiry under section 11(1)(a).**—(1) In making a report in respect of any matter referred to it under clause (a) of sub-section (1) of section 11, the Commission shall among other matters have due regard to—

10 (a) the cost of production or manufacture in the principal growing, producing or manufacturing regions of India of the commodity produced by the industry claiming protection and the cost which should be taken to be representative of the * * * * * industry concerned;

15 (b) the approximate cost of production or manufacture in the principal growing, producing or manufacturing centres of foreign countries of the commodity which competes with the commodity produced by the industry claiming protection if the determination of such cost is necessary for the purpose of any case;

20 (c) the approximate cost of import of any such competing commodity as is specified in clause (b);

(d) the price which may be deemed to be the representative fair selling price for growers, producers or manufacturers in India in respect of the industry claiming protection;

25 (e) the quantities of the commodity required for consumption and the quantities thereof produced in or imported into India;

(f) the effect of protection, if granted to an industry, on other industries, including cottage and other small scale industries.

(2) On the basis of its findings on the matters referred to in sub-section (1), the Commission shall assess, for the purpose of its report,—

30 (a) the relative advantages enjoyed by the industry;

(b) the nature and extent of foreign competition;

(c) the possibility of the industry developing sufficiently within a reasonable time to be able to carry on successfully without protection * * * ;

35 (d) the likely effect of a protective tariff or other form of protection on the interests of the consumer or of industries using the commodity in question, as the case may be;

(e) the desirability or otherwise of protecting the industry in the public interest.

40 (3) In recommending the grant of protection to any industry, the Commission may specify the conditions which shall be fulfilled before and after the grant of protection, with particular reference to the following points, namely:—

(a) the scale of output;

(b) the quality of its products;

(c) the price charged for its products;

45 (d) the technological improvements required by the industry;

(e) the need for research in the process of manufacture;

(f) the training of officers, technicians and other persons employed in the industry,*

(g) the use in the industry of indigenous products, whether raw or manufactured;

(h) the time within which an industry, in respect of which protection has been given in advance of production, should start production; and

(i) any other matter in respect of which the Commission considers it necessary to specify conditions.

15. Duties of the Commission.—It shall be the duty of the Commission, at such intervals as may be prescribed,—

(a) to investigate into the manner in which protection in relation to any industry has been working, with particular reference to—

(i) the cost of production of the protected commodity;

(ii) the scale of output of the protected industry;

(iii) the quality of the protected commodity;

(iv) the prospects of future expansion of the protected industry;

(v) the relative competitive position of the industry and the factors entering into it; and

(vi) any other factor having a bearing on the usefulness of the industry to the country's economy;

(b) to investigate into any special conditions that may have been imposed * * * on a protected industry, with particular reference to—

(i) the extent to which and the manner in which the obligations have been discharged,

(ii) the further steps that would be necessary to implement them fully,

(iii) the difficulties, if any, in the way of the full discharge of such obligations,

and to make a report thereon to the Central Government.

16. Action on Commission's report.—(1) Upon receipt of a report made to it by the Commission, the Central Government may take such action as it considers fit in respect of any of the matters dealt with in the report.

(2) A copy of every final report made to the Central Government, together with a report of the action taken thereon by the Central Government under subsection (1), shall be laid on the table of Parliament within three months of the submission of the report to the Central Government, if Parliament is then sitting, or, if Parliament is not then sitting within seven days of its re-assembly:

Provided that when the report cannot be so laid, a statement explaining the reasons therefor shall be laid on the table of Parliament.

CHAPTER IV

MISCELLANEOUS

17. Reports and statements.—(1) At the end of every financial year or such earlier period as may be prescribed, the Commission shall submit a report to the Central Government containing a detailed account of its activities during the year.

(2) The Central Government may also call for such reports, returns or statements from the Commission from time to time as it considers necessary.

18. Appointment of assessors to help Commission in the discharge of its functions.—For the purpose of any inquiry under this Act, the Central Government may, either on its own motion and in consultation with the Commission or at the request of the Commission, appoint one or more persons possessing special knowledge of any matter relevant to the inquiry to assist the Commission.

19. Members of Commission to be public servants.—All members and officers of the Commission shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

20. Powers of the Commission.—(1) For the purpose of conducting any inquiry under this Act, the Commission shall have all the powers of a civil court while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any office;
- (e) issuing commissions for the examination of witnesses.

(2) The Commission shall have power to require any person to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of any inquiry.

* * *

(3) The Commission shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898); and any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

21. Statements made by persons to the Commission.—No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

- (a) is made in reply to a question which he is required by the Commission to answer, and
- (b) is relevant to the subject matter of the inquiry.

22. Restriction on disclosure of information.—(1) No information relating to any industry being information which has been obtained by or on behalf of the Commission for the purpose of its functions under this Act shall, without the previous consent in writing of the owner for the time being of that industry, be disclosed otherwise than in compliance with or for the purposes of this Act.

(2) Nothing in the preceding sub-section shall apply to any disclosure of information made for the purpose of any legal proceeding pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report relating to any such proceeding.

(3) If any person discloses any information in contravention of this section, he shall be punishable on conviction with fine, which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

23. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against any member, officer or servant of the Commission for anything which is in good faith done or intended to be done under this Act.

24. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. 5

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(a) the salaries and allowances payable to members, officers and servants of the Commission and their conditions of service; 10

(b) the procedure to be followed before any member can be removed from office under section 7;

(c) the intervals within which reports under section 15 shall be made by the Commission;

(d) the form in which and the period within which reports under section 17 shall be submitted to the Central Government; 15

(e) the fees or allowances that may be paid to persons appointed under section 18 to assist the Commission.

25. Power to make regulations.—Subject to the provisions contained in this Act and in any rules made thereunder, the Commission may, with the previous consent of the Central Government, make regulations for the purpose of enabling it to discharge its functions under this Act, and, in particular, such regulations may provide for— 20

(a) the conduct of the proceedings of the Commission;

(b) the terms and conditions of service of officers and servants of the Commission; 25

(c) the delegation to one or more members of the Commission of such functions of the Commission as the Commission may specify.

26. Construction of references to Tariff Board in other laws.—References in the Indian Tariff Act, 1934 (XXXII of 1934), or in any other law for the time being in force to the Tariff Board as set up under any Resolution of the Government of India shall be construed as references to the Tariff Commission established under this Act. 30

PARLIAMENT OF INDIA

Report of the Select Committee on the Bill to provide for the establishment of a Tariff Commission and to regulate its duties and functions.

(As amended by the Select Committee)