STANDING COMMITTEE ON FINANCE (2001)

(THIRTEENTH LOK SABHA)

MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS)

TWENTY FOURTH REPORT

FINANCIAL INSTITUTIONS-OBJECTIVES, PERFORMANCE AND FUTURE PROSPECTS

[Action taken by the Government on the recommendations contained in the Eighth Report of the Standing Committee on Finance on Financial Institutions-Objectives, Performance and Future Prospects]

Presented to *Hon'ble Speaker on* 28.12.2001
Laid in Lok Sabha on.....
Laid in Rajya Sabha on.....

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LOK SABHA SECRETARIAT NEW DELHI

December, 2001/Pausa, 1923 *(Saka)*

COMPOSITION OF STANDING COMMITTEE ON FINANCE (2001)

Shri Shivraj V. *Patil-Chairman*

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5. Shri Srinivasulu Gunda - *Committee Officer*

'Nominated *vice* Shri Ajoy Chakraborty to the Committee *w.ef* 23 July, 2001.
'Nominated to the Committee *w.e.f* 9 April, 2001. "Nominated to the Committee *w.e.f* 29 November, 2001.

INTRODUCTION

I, the Chairman of the Standing Committee on Finance-2001, having been authorised by the Committee to submit the Report on their behalf present this Twenty Fourth Report on action taken by Government on the recommendations contained in the Eighth Report (Thirteenth Lok Sabha) of the Committee on Financial Institutions-Objectives, Performance and Future Prospects.

2. The Eighth Report was presented to Lok Sabha/laid in Rajya Sabha on 22 December, 2000. The Government furnished the replies indicating action taken on all the recommendations on 23 March, 2001. The Draft Action Taken Report was considered and adopted by the Standing Committee on Finance at their sitting held on 27 December, 2001.

3. An analysis of action taken by Government on the recommendations contained in the Eighth Report (Thirteenth Lok Sabha) of the Committee is given in the Appendix.

4. For facility of reference, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;
27 *December*, 2001
Pausa, 1923 *(Saka)*

SHIVRAJ V. P ATIL,
Chairman,
Standing Committee on Finance

CHAPTER 1

REPORT

This Report of the Standing Committee on Finance deals with action taken by Government on the recommendations/observations contained in their Eighth Report (Thirteenth Lok Sabha) on Financial Institutions – Objectives, Performance and Future Prospects of the Ministry of Finance (Department of Economic Affairs) which was presented to Lok Sabha on 22 December, 2000.

2. Action taken notes have been received from the Government in respect of all the 18 recommendations contained in the Report. These have been categorised as follows:

(i) Recommendations/observations which have been accepted by the Government:

Sl. Nos 1,3,9, 10, 11 & 13

(Chapter II- Total 6)

(ii) Recommendations/observations which the Committee do not desire to pursue in view of Government's replies:

SL Nos. 2 &14

(Chapter III- Total 2)

(iii) Recommendations/observations in respect of which replies of Government have not been accepted by the Committee:

SL Nos. 7,8 &12

(Chapter IV- Total 3)

(iv) Recommendations/observations in respect of which final reply of the Government is still awaited:

Sl. Nos. 4,5,6,15,16,17 & 18

(Chapter V – Total 7)

3. The Committee desire that replies in respect of the recommendations contained in Chapter I and final replies in respect of the recommendations contained in Chapter V for which only interim replies have been given by the Government should be furnished to the Committee expeditiously.

4. The Committee will now deal with the action taken by Government on some of their recommendations/observations:

A. Non-Performing Assets (NPAs) – Wilful default

Recommendation (Sl. no. 7; para nos. 3.18-3.23)

5. With a view to ensure that Financial Institutions distinguish wilful defaulters from those who default otherwise in respect of action taken to recover the dues and also to prevent recurrence of such defaults the Committee in their Eighth Report on Financial Institutions – Objectives, Performance and Future Prospects recommended inter alia as under :-

> " '…….there is need for distinguishing wilful defaulters from those who default otherwise, in respect of action taken to recover the dues and the punishment meted out. Stringent action such as filing criminal cases at least against those who take recourse to such tactics as siphoning the funds, misrepresentation, falsification of accounts and fraudulent transactions must be resorted to invariably .'
>
> '……..the promoters of such companies (who have wilfully defaulted) should not be allowed to avail themselves of institutional finance from public sector commercial banks, DFIs, Govt. owned NBFCs, Investment Institutions etc. for floating new ventures etc. for a period of at least 15 years. '
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> '……..the Government should define wilful default for incorporating the same either under Chapter III B of the RBI Act, 1934 or under Public Financial Institutions (Obligation as to Fidelity and Secrecy) Act, 1983 and the statutory discretion may be given to the Financial Institutions to disclose their names to the public to have deterrent effect'."

6. The Ministry of Finance (Department of Economic Affairs) in their action taken reply stated inter-alia as follows:-

> "We agree that there is need for distinguishing wilful defaulters from those who default otherwise, in respect of action taken for recovery and the punishment meted out. Management of FIs are free and competent to take decision regarding filing criminal cases in fraudulent transactions or in case of falsification of accounts etc. It is expected of banks and FIs that they will not finance any unit promoted by persons who had been wilful defaulters and this ensured by their respective boards.
>
> It is not practical and advisable to define wilful default in the main statute as the parameters and circumstances of wilful default may change from time to time. Therefore, under power available under RBI Act, RBI shall issue necessary guidelines for defining wilful default and the same shall have force of law. "

7. The Committee note that though the need to distinguish wilful defaulters from those who default otherwise has been accepted by the Ministry in respect of action taken for recovery, the assertion made by them to the effect that managements of Financial institutions are free and competent to take action for filing criminal cases in fraudulent transactions or in case of falsification of accounts does not seem to be very convincing to the Committee particularly in the face of an attitude of laxity which has often been shown in the past by such institutions. The Committee are of the considered view that not only strict guidelines in this respect are required to be issued but the same should also be strictly enforced so as to have deterrent impact. Therefore, while reiterating their earlier recommendation the Committee desire that the monitoring agencies must ensure that criminal cases against at least those who are found responsible for siphoning of funds, falsification of accounts, fraudulent practices etc. should invariably be filed by these institutions.

The Committee are dismayed to find that no specific answer has been furnished to the Committee's recommendation for debarring the wilful defaulters from availing institutional finance from public sector commercial banks, DFI's Govt. owned NBFCs, Investment Institutions, etc. for a period of at least fifteen years for floating new ventures. Instead it has been mentioned in the reply that the banks and Financial institutions are expected not to finance any unit promoted by persons who had been wilful defaulters. Had the Financial Institutions been working in accordance with prudent business principles, the Committee would not have made such a recommendation. They therefore, reiterate their recommendation and urge that guidelines must be issued to the Banks, Financial Institutions etc. for not extending finance to wilful defaulters for at least fifteen years.

In the light of the fact that some Financial Institutions having large amount of NPAs on account of wilful default have not followed the classification/categorisation of wilful default as contained in the RBI's circular issued in October, 1999 and instead they chose to adopt their own way of classification, the Committee are not inclined to accept the reply

that since parameters and circumstances of wilful default change from time to time, it is not practical and advisible to define the same and incorporate it either under Chapter III B of the RBI Act, 1934 or the Public Financial Institutions (Obligation as to Fidelity and Secrecy) Act, 1983 and instead RBI shall issue guidelines which shall have the force of law. The Committee, however, believe that defining wilful default under either of the statutes and enabling the concerned Financial Institutions to make the names of wilful defaulters 'public' will go a long way in preventing the recurrence of such defaults. The Committee therefore, reiterate their recommendation for defining wilful default and incorporating the same under either of the aforementioned statutes and for giving statutory discretion to the Financial Institutions to disclose their names to the public to have deterrent impact.

B. Non Performing Assets - Diversion of Funds

Recommendation (Sl no. 8; Para Nos. 3.32 – 3.36)

8. The Committee were distressed to note that diversion of funds lent by the DFIs to corporates for purposes other than those mentioned in the loan agreement, especially to capital markets and real estate business, was the foremost reason for occurrence of NPAs in the financial sector. What further dismayed the Committee was the fact that such companies were seldom held accountable and this lack of accountability had caused enormous damage not only to the projects for which loans had been sanctioned but also to the health of the DFIs which in turn had to earmark huge amounts as provisions for such advances having turned into non-performing assets (NPAs) as per the Regulations laid down by RBI.

The Committee were of the view that the corporates who availed of the loans and subsequently diverted these, did so knowingly and with the intention of getting more funds towards completion of projects so that DFIs also did not classify their account as non-performing one by making provisions as per prudential norms specified by RBI. The Committee therefore, apprehended that some DFIs due to practical constraints could not take drastic action and might have extended further loans to help companies revive the stalled projects and thereby might make their account performing one.

The Committee had therefore recommended that no institutional finance should be made available to the same promoters who had diverted the funds for a minimum period of 10 years for starting any new venture.

9. The Ministry of Finance (Deptt. of Economic Affairs) in their action taken reply stated as follows :-

> "So far as giving further assistance to defaulting companies or companies which have diverted monies for unauthorised purposes, RBI have issued strict guidelines regarding treatment of default and categorisation of account as NPA. This is also checked by statutory auditors as well as in the inspection of RBI."
>
> "Regarding debarring promoters who have diverted funds for minimum period of 10 years, it is submitted banks/FIs consider the background of the promoter and obtained information from other FIs/banks before considering any financial assistance. Normally, such promoters are not given any further assistance. However, in the interest of industrial development, it may not be prudent to fix a ceiling of time for debarment from further funding by FIs. FIs are also expected to ensure end use of funds. FIs are also expected to take deterrent action in those cases where diversion is reported by any bank/FI."

10. The Committee are of the view that despite existence of strict RBI guidelines on categorisation/classification of NPAs evergreening of the balance sheet(s) by resorting to extension of additional funds by Financial Institutions to those clients whose accounts are likely to become NPAs due to diversion of funds for unauthorised purposes is prevalent.

The Committee observe that there is no comprehensive credit information sharing mechanism in existence among all the financial intermediaries such as DFIs, banks, Investment Institutions, State Finance Corporations (SFC's), State Industrial Development Corporations (SIDCs), etc. The Committee believe that absence of such comprehensive credit information sharing mechanism may help unscrupulous promoters who diverted the funds availed from any of the above said financial intermediary/ies in getting funds from other financial intermediary/ies. It is evident from the reply that banks/FIs obtain information pertaining to the background of the promoter from other FIs/banks only leaving a number of important financial

intermediaries such as SFCs, SIDCs, Investment Institutions from whom the said entrepreneur may have availed the loans. The Committee, therefore, are not in agreement with the reply that banks/Financial Institutions take into account the background of the promoter and obtain information from other Financial Institutions/ banks before considering any financial assistance to ensure denial of funds to those who diverted the funds taken from other financial intermediaries.

The Committee are of the view that there is no dearth of creditworthy entrepreneurs in the country. Further, FIs are not able to ensure the end use of the funds to the desired extent, which is reflected in the data provided by the Government. Hence, they do not agree with the contention that debarring such promoters for 10 years from availing institutional finance would hamper economic development. Instead, the Committee believe it will act as deterrent mechanism for such promoters. Moreover, such a ban will make available the requisite amount of funds to the new as well as genuine borrowers. The Committee, therefore, reiterate their recommendation and desire that the promoters who have diverted the funds for unauthorised purposes may be debarred from availing institutional finance for a period of 10 years.

C. NPAs – Personal Guarantees

Recommendation (Sl. no. 12; Para nos. 3.57 & 3.58)

11. As there was considerable amount of NPAs due to personal guarantees invoked but not honoured in the books of IDBI, ICICI Ltd., IFCI Ltd. and IIBI Ltd. effecting their recovery, the Committee had opined that such entrepreneurs deserved punishment over and above filing suits against them to have deterring effect. Accordingly, the Committee had recommended that the entrepreneurs who otherwise had the capacity to honour the invoked guarantees but deliberately did not do so should be debarred from becoming directors on the Board of Directors of public sector commercial banks, DFIs, Investment Institutions, Govt. owned and controlled companies/corporation.

The Committee had further recommended that such entrepreneurs should not be allowed to avail financial assistance from public sector/commercial banks, DFIs, Investment Institutions for a period of 15 years to have desirable impact.

12. The Ministry of Finance (Deptt. of Economic Affairs) in their action taken reply stated as follows :-

> "It is felt that in the interest of all round industrial development debarring all such entrepreneurs for 15 years for availing financial assistance may not be prudent and desirable. However, RBI will issue necessary guidelines to ensure that the concerns expressed by the Committee are fully addressed. Government does not appoint such defaulters on Boards of Directors of Public Sector Banks/DFIs etc."

13. Since the personal guarantees are invoked by FIs only when all other means of recovery and restructuring efforts are exhausted the Committee do not agree with the views of the Govt. that it was not prudent or desirable to debar such entrepreneurs from availing financial assistance for 15 years from banks and FIs. Further, the Committee are of the view that mere issue of guidelines by RBI may not be of much use keeping in view the huge amount of NPAs in the books of FIs and the consequent impact on their profitability. Hence, debarring such promoters who are not interested in having an amicable settlement and prolong the recovery of dues of the FIs will not in any way impact the economic development of the country. The Committee, therefore reiterate their recommendation that promoters who otherwise have the capacity to honour the invoked guarantees but did not do so and opted for litigation should be barred from availing financial assistance for 15 years.

D. Corporate Governance – Role of Nominee Directors

Recommendation (Sl. no. 14; Para nos. 4.7 – 4.9)

14. In the light of the fact that despite the presence of nominees of FIs on the Board of Directors, the Companies have diverted the funds availed from FIs to unauthorised purposes the Committee inter alia recommended as under :-

"……these nominee directors during whose tenure diversion took place should be disqualified from being appointed as nominee directors"

15. The Ministry of Finance (Department of Economic Affairs) in their action taken reply inter-alia stated follows :-

"Suitable instructions have been issued by FIs to their nominees in the Board of companies. FIs are being advised by the Government to ensure that sensitive matters like end use of funds and its diversion, if any, are brought before the Board and monitored regularly and also that only competent persons should be appointed as nominee directors."

16. The Committee find that the action taken reply furnished by the Ministry is conspicuously silent on their recommendation for disqualifying nominee directors during whose tenure diversion took place from being appointed as nominee directors. They, therefore, reiterate the same and want the Government to provide them a specific reply in this regard.

CHAPTER II

RECOMMENDATIONS/ OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No.1, PARA No. 1.12)

In the light of reforms in the financial sector especially the prudential norms prescribed by RBI, the Committee recognize the need for diversification of the financial institutions into new areas like working capital finance, retail finance and insurance etc. However, the Committee are of the view that there are number of private players infusing sufficient competition in the retail finance compared to a few institutions engaged in long-term finance where the risks associated with it and the repayment period is on the higher side. Moreover, the Committee apprehend that though unbridled entry of DFIs into retail business may result in improved bottomlines of these institutions since such retail financing is considered more profitable and less risky but in the long run it might result in causing shortage of long-term funds for projects especially in infrastructure. The Committee, therefore, recommend that Govt./RBI should ensure that these institutions are not allowed to enter into retail financing to such an extent that there is shortage of availability of funds and these FIs are unable to discharge their primary role of meeting the long term resource requirements of the Industry for which these were originally set up.

The Committee further recommended that the approach to universal banking should be gradual and sufficient precautions especially in the realm of devising regulatory mechanisms for consolidated supervision should be taken diligently.

Reply of the Government

The business environment in which FIs operate has significantly changed and they have to face stiff competition in resource raisings as also in attracting good clients. FIs are discharging their primary responsibility of providing long-term finance to the industry and are committed to extend finance to all viable projects. However, it may be mentioned here that after liberalization and stoppage of

funding from the Government of India/RBI, FIs have to raise substantial amount of long-term borrowing from the market. Given the status of the long-term debt market in the country, it may be difficult to raise the required quantum of long-term funds. In the circumstances, FIs have to borrow short and lend long exposing it to interest rate as well as liquidity mismatch. In order to contain this risk within the acceptable limits, FIs have to move into structured short-to-medium term lending to the corporate sector.

Regarding the suggestions to minimize retail lending/financing by FIs, the need for an appropriate balance in meeting different types of financing requirements is acceptable. However, it has to be recognized that since FIs have to raise their resources from the market the optimal mix between retail and long-term loans would depend on their asset liability structure.

The Narasimham Committee II suggested that DFIs should convert ultimately into either commercial banks or non-banking finance companies. The Khan Working Group held the view that DFIs should be allowed to become banks.

The DFIs would continue to have a special role in the Indian financial system until the debt market demonstrates substantial improvement in terms of liquidity and depth. Any DFI, which wishes to become a Bank has the option to transform into bank (which it can exercise), provided the prudential norms as applicable to banks are fully satisfied. To this end a DFI would need to prepare a transition path in order to fully comply with the regulatory requirement of a bank. The regulatory framework of RBI in respect of DFI would need to be strengthened if they are given greater access to short term resource for meeting their financing requirements, which is necessary. Government/ RBI, therefore, agree with the Committee's recommendation that the approach to universal banking should be gradual and sufficient precautions especially in regulatory mechanisms for consolidated supervision should be taken diligently. Banking Division has advised RBI to prepare the necessary guidelines for this transition in a gradual manner.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl. No.3, PARA No. 1.35)

The Committee are of the opinion that one of the objectives of inviting foreign capital in the form of Foreign Direct Investment is to supplement the scarce domestic capital. Though the Committee are not at variance with Financial Institutions regarding extension of financial assistance by DFIs to MNCs for acquiring Indian companies in view of the ongoing reforms in the financial sector, due to scarce domestic capital, they are of the view that some kind of restraint/caution has to be exercised by the DFIs in extending finance to MNCs for acquiring Indian companies, lest such requirement of financing by the foreign companies should deprive the domestic industry and commerce of much needed capital. The Committee therefore recommend that Govt. should ensure that there is no unbridled financial assistance to MNCs by DFIs for the above-mentioned purpose.

Reply of Government

The Govt. of India (Ministry of Industry) Press Note 9 (1999 series) dated April 22, 1999 already stipulates certain conditions applicable to funding of foreign owned Indian holding companies for downstream investments. One of the conditions prescribes that such foreign owned Indian holding companies would have to bring in equity funds from abroad and no leverage funds from domestic markets for such investments. This ensures that domestic capital is not used up to finance the equity contribution of the foreign acquirer in the acquisition. The same Press Note further states that this would not however preclude the downstream operating companies from raising debt in the domestic market. Moreover, the DFIs would finance the debt requirements solely on the merit of the acquisition, long-term commitment of the foreign acquirer and only at a commercially appropriate interest rate so as to ensure that merit worthy proposals from domestic industry are not deprived of capital at the right cost. Acquisition of Indian Companies by institutions would be within the framework of national policy and on commercial considerations. However, in the wake of liberalization and globalization such acquisition of Indian companies is likely to

occur in the years to come. But till now limited number of such companies have been given financial assistance within the prescribed policy.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl. No.9 , PARA Nos. 3.45 & 3.46)

The data furnished by Ministry of Finance shows dismal performance of DRTs in disposal of the cases filed before them in spite of their existence for the last 7 years thereby defeating the very purpose of having an expeditious adjudication machinery for disposal of the recovery cases. The Committee are inclined to concur with the views expressed by the representatives of IDBI that there would be large number of additional cases before DRTs in view of the recent policy measures taken by RBI/Govt. such as initiation of legal proceedings in case One Time Settlement (OTS) proposals do not materialise within the stipulated period. The Committee are anguished to notice that despite the fact that some of the DRTs such as DRT at Delhi, Jaipur and Bangalore were established as far back as in 1994, a large number of vacancies in these still continue to exist. Besides, since the total number of DRTs still continues to be small and these happen to suffer from lack of infrastructure and manpower constraints, the Committee are of the opinion that impending addition of cases, will definitely result in causing further inordinate delays in disposal of the cases even if the recent amendments to DRTs Act are taken into account. The Committee therefore, recommend that the cases already filed before civil courts should be allowed to continue to be heard by them only.

The Committee further recommended that the recovery cases involving minimum amount of Rs. 10 lakh for referring to DRTs may suitably be enhanced, in order to reduce the number of cases pending before DRTs. Besides, as large number of cases involving huge amount of money are pending before DRTs lack of infrastractural facilities and manpower should not be allowed to constrain their functioning. The Committee, therefore

recommend that necessary steps should be taken immediately to provide DRTs with necessary physical infrastructure and manpower. Moreover, Govt. should increase the number of DRTs to reduce the number of pending cases. The Committee also recommend that DRTs Act may be amended suitably.

Reply of Government

DRTs have been set up specifically under an Act of Parliament with a view to help Banks/Financial Institutions to recover their dues. The Act was amended in January, 2000 to tackle some problems with the existing Act. DRTs are dealing with cases involving Rs.10 lacs and above. 20 DRTs have been set up so far, one each at Aurangabad, Allahabad, Ahmedabad, Bangalore, Calcutta, Chennai, Chandigarh, Cuttack, Ernakulam, Guwahati, Hyderabad, Jaipur, Jabalpur, Nagpur, Patna, three at Mumbai and two at Delhi. Two more DRTs, one each at Chennai and Calcutta are likely to be set shortly. In addition to the above, seven more DRTs one each at Delhi, Calcutta, Coimbatore, Pune, Vishkhapatnam, Baroda and Lucknow are in the process of being set up. The number of DRTs are on the increase gradually. With the increase in number of DRTs, the number of cases, pending before each DRT will get reduced and it will ensure expeditious recovery of banks/financial institutions' dues. Five DRATs, one each at Allahabad, Calcutta, Chennai, Delhi and Mumbai have also been set up for speedy disposal of appeals.

Initially, each DRT was sanctioned 19 posts including the post of Presiding Officer. Subsequently, the manpower strength in each DRT has been raised to 30 employees. Power has been delegated to the Presiding Officer of each Tribunal to fill up the vacant posts upto the level of Section Officer on deputation basis. Postings of Presiding Officers, Secretary/Registrars, and Recovery Officers are made in the Tribunal as and when vacancies occur. Basic infrastructural facilities have been made available to all DRTs. All the DRTs have been housed in rented accommodation. Furniture & fixtures, staff car and other necessary amenities

such as Bar Room, toilets, water, etc., have also been provided. Funds are placed at the disposal of each DRT as per their requirements.

With the increase in the number of DRTs and strengthening of DRTs manpower and infrastructure the debt recovery process will improve considerably and 29 DRTs will be able to take care of the increased case load.

DRTs also look after the cases filed by banks, where the amounts involved in individual cases are not as large as FIs. Enhancing the ceiling might affect the interests of banks adversely. Moreover, the increase in the cases has not been as much as projected by IDBI. Further, Civil Courts continue to look after cases below Rs.10 lacs numbering more than 20 lacs.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl.No.10 , PARA No. 3.50)

The Committee are of the view that the cost of litigation as well as the time consumed in the adjudication of recovery cases involving small amounts up to Rs. 10 lakhs through formal channels of justice i.e. courts is on the higher side affecting adversely both the parties. Hence, the involvement of alternative channels of justice which are cost effective and less time consuming such as Lok Adalatas and banking ombudsman for adjudication of recovery cases appears to be desirable, especially in the light of the fact that the decrees of the Lok Adalats have the legal status of formal courts with the option of resorting to filing of suits in the courts, in case of non-settlements. The Committee appreciate the initiatives taken by the government and RBI in this regard and recommend that suitable steps be taken immediately to operationalise the involvement of these two institutions in the recovery of NPAs and the upper ceiling of amount in their cases should also be enhanced

Reply of Government

The recommendation has been accepted for implementation. Necessary action is being taken. Supre Court has also been requested to enhance the ceiling of Lok Adalat Cases to Rs.10 lacs.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl.No.11 , PARA No. 3.54)

The Committee are concerned to note that the lack of co-ordination among banks and FIs financing projects as a consortium is not only causing NPAs but also hampering the recovery of NPAs. As the delay in taking decisions by one or more institutions in the consortium might result in derailment of completion schedules of projects of the corporates, causing NPAs in books of all the lenders of the consortium, the Committee recommend that a formal standing co-ordinating mechanism may be evolved with the Chairman / MDs of participating institutions in the consortium to resolve the contentious issues in project financing

Reply of Government

A Standing Co-ordination Committee has already been constituted in October 1999 under the aegis of IDBI to consider the issues of co-ordination among banks and FIs. Some Ground Rules have since been evolved with the consensus of the select banks and FIs on the identified issues. RBI has also since issued a circular to the all-India FIs and banks for adoption of these Ground Rules by the respective Boards of Directors for implementation.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl.No.13 , PARA No. 3.65)

The Committee note that there are a large number of loan cases involving huge amount of money in respect of which the guarantees given by

Central and State Governments have been invoked but not honoured so far. The Committee observe that huge amount of IDBI and IFCI Ltd. has been involved in Government guarantees already invoked but not honoured, in their books. The Committee express their displeasure at the Central and State Governments' failure to honour their guarantees especially in the light of the fact that they are supposed to set an example for others in maintaining financial discipline.

In view of the fact that w.e.f. March, 2000 the guarantees invoked but not honoured are to be treated as substandard, DFIs have to accordingly provide for the same as per new RBI regulations which in turn will have adverse impact on the profitability of the DFIs. The Committee, therefore, recommend that expeditious and continuous steps should be taken with the concerned State Governments and Central Government for realising the amount involved in the invoked guarantees.

Reply of Government

RBI has accepted the recommendation for implementation. Concerned State Governments and Central Government departments are also being asked to honour guarantee given by them.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLIES

Recommendation (Sl.No.2, PARA No. 1.26)

The Committee recognise the constraints being faced by the DFIs in extending finance at subsidised interest rates for setting up of projects in backward areas in the light of drying up of cheap sources of long term funds from Govt. of India and RBI. However, the Committee are also aware of the fact that due to industrial backwardness in various parts of the country resulting consequently in deprivation of employment opportunities even for educated and skilled, lakhs of people are forced to migrate to metropolitan cities thereby creating enormous pressure on the urban infrastructure. The Committee are of the view that the main stumbling block for industrial backwardness of a particular region is lack of dependable and affordable infrastructure. The Committee, therefore, recommended that the Financial Institutions should devise innovative financial instruments to finance development of dependable and affordable infrastructure, which in turn would result in inducing the entrepreneurs to set up industrial units in these areas.

Reply of the Government

Financial Institutions and banks finance viable projects, including those in backward areas, across the country, based on their viability with respect to technical feasibility and economic, financial, and commercial parameters. All viable projects are assisted by FIs irrespective of their location. With the introduction of financial sector reforms, institutions' access to low cost funds from Government/RBI or availability of tax concessions has by and large been phased out and the Institutions have to access the markets for resource mobilization at market rates. In the circumstances, it is not possible for financial institutions to provide financial assistance at concessional rates to projects anywhere.

It is a fact that dependable/affordable infrastructure would encourage the entrepreneurs to set up industrial units in non-urban/backward areas. Recognizing the importance of infrastructural development, FIs have been funding infrastructure projects in a big way through appropriate financial instruments in roads ports, power, telecom and other sectors.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl.No.14 , PARA Nos. 4.7, 4.8 and 4.9)

The Committee are surprised to find that despite the presence of nominee directors on their Boards companies conveniently diverted the funds thereby jeopardizing the health of all the stakeholders – lenders, equity holders, employees etc. The Committee therefore recommends that these nominee directors during whose tenure diversion took place should be disqualified from being appointed as nominee directors

Instead of being passive onlookers of the ongoings in the company, the nominee directors should adopt pro-active approach in protecting interests of the institutions, which they represent.

The Committee are in agreement with the suggestions given by IDBI and recommend that steps should be taken to enhance the effectiveness of the nominee directors by issuing suitable guidelines especially in the light of the fact that they are expected to fulfill the objectives laid down in the respective statutes.

Reply of Government

Suitable instructions have been issued by FIs to their nominees in the Board of companies. FIs are being advised by the Government to ensure that sensitive matters like end use of funds and its diversion, if any, are brought before the Board and monitored regularly and also that only competent persons should be appointed as nominee directors.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Comments of the Committee

(please refer para no. 16 of Chapter I of this Report)

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation (Sl.No.7, PARA Nos. 3.18 to 3.23)

The Committee observe from the replies furnished by IDBI and IFCI Ltd. that though the regulator – RBI issued a circular as far back as in Oct, 1999, classifying six categories of defaulters as wilful defaulters, IFCI Ltd. seems to have not adhered to the stipulation by adopting their own way of classification/categorisation of wilful defaulters, whereas IDBI furnished the category-wise classification as per RBI circular. The divergence in categorisation and classification of wilful default amply clarifies the fact that the Financial Institutions have not followed the RBI's circular/directive in this regard. The Committee, would therefore like RBI to ensure that all the notified Financial Institutions follow RBI directives in respect of classification/categorisation of wilful default to have uniformity in the interpretation and compilation of data on the issue

It is noticed that the process of recovery of dues from the willful defaulters and the action taken on account of non-recovery from such defaulters, such as - holding discussions, issuing recall notices, entering into One Time Settlement (OTS) and filing suits, etc. is similar to that of genuine defaulters. The data on the recovery from willful defaulters shows that the institutions could recover only a small percentage of willful defaults implying thereby that the procedure of holding discussions, issuing recall notices etc. has not had desired impact. It further indicates that a lenient view is taken in respect of even those entrepreneurs who abuse the public funds with impunity thereby jeopardising the health of both the industrial concern and the DFI.

The Committee are not inclined to accept the Ministry's reply stating that it is difficult to distinguish between willful and genuine defaulters, particularly when six categories of default as willful default have clearly been specified by

RBI. The Committee, are however of the considered view that there is need for distinguishing willful defaulters from those who default otherwise, in respect of action taken to recover the dues and the punishment meted out. Stringent action such as filing criminal cases at least against those who take recourse to such tactics as siphoning the funds, misrepresentation, falsification of accounts and fraudulent transactions must be resorted to invariably. The Committee also recommend that the promoters of such companies should not be allowed to avail themselves of institutional finance from public sector commercial banks, DFIs, Govt. owned NBFCs, Investment Institutions etc. for floating new ventures etc. for a period of at least 15 years. Moreover, willful defaulters should be debarred from becoming directors on the Boards of Directors of Govt. controlled/owned companies/corporations, and in case any of the willful defaulters happens to be on the Boards of these companies, steps should be taken for his/her immediate removal

They further recommend that the companies, on the Boards of which wilful defaulters are present, access the primary market for raising resources through equity and debt issues, it should be made mandatory to mention the fact to this effect in the prospectus and offer documents enabling the investors to take an informed decision about investing in the company's issue. The Committee believe that this step will go a long way in having deterring effect on the wilful defaulters. The Committee further recommend that SEBI should ensure incorporation of this provision in their "disclosure requirements". Relevant Acts may be amended, if necessary, for the purpose

As already stated above, the Committee do not accept the reply furnished by the Ministry stating that it is difficult to define wilful default exhaustively in view of the practical difficulties. They therefore, recommend that the Government should define wilful default for incorporating the same either under Chapter III B of the RBI Act, 1934 or under Public Financial Institutions (Obligation as to Fidelity and Secrecy) Act, 1983 and the statutory discretion

may be given to the Financial Institutions to disclose their names to the public to have deterrent effect

The Committee would like to be apprised of the specific reasons for such a high amount of NPAs in respect of DFIs and the specific/concrete steps taken to recover the same

Reply of Government

RBI has been asked to reiterate their guidelines and impress upon FIs that they should adopt uniform criteria for determining willful defaults for reporting to RBI.

We agree that there is need for distinguishing wilful defaulters from those who default otherwise, in respect of action taken for recovery and the punishment meted out. Management of FIs are free and competent to take decision regarding filing criminal cases in fraudulent transactions or in case of falsification of accounts etc. It is expected of banks and FIs that they will not finance any unit promoted by persons who had been wilful defaulters and this ensured by their respective board. Recommendation relating to barring/ removing defaulters from the Boards of the Government owned/controlled Companies is accepted.

Recommendation is accepted for implementation. Necessary steps are being taken by SEBI to implement the recommendations.

It is not practical and advisable to define willful default in main statute as the parameters and circumstances of willful default may change from time to time. Therefore, under power available under RBI Act, RBI shall issue necessary guidelines for defining willful default and the same shall have force of law.

There are various reasons for high NPAs in respect of DFIs. The DFIs are mostly providing project finance in respect of large industrial units. In case of

down turn in a particular industrial sector of the economy loan portfolios of DFIs are adversely affected e.g. there was sizeable build up of capacity in sectors like cement, steel and synthetic fibres while projected growth in demand did not materialise due to different reasons. Changes in price of raw materials and other inputs like power etc. also effect the viability of number of industries. In certain cases factors like non-achievement of financial closure due to subdued conditions prevailing in the equity market, promoters inability to bring the required funds, mid stream change in scope of the projects also lead to time and cost overrun finally resulting in assets becoming NPAs. Some of the units became NPAs due to mismanagement including wilful default on the part of promoters. There could also be some accounts becoming NPAs due to internal factors like deficiencies in project appraisal and post disbursement supervision. The external factors contributing to increase in NPAs are increased competition from imports due to lowering of tariffs, reduced exports in the aftermath of East Asian and Russian crisis, cheaper access to import substitutes etc. Similarly, owing to a general recession demands for certain products become substantially lower as compared to the supply in the market. Moreover, after de-licensing additional capacities were created in different industries in anticipation of demand growth, which did not materialise.

GOI and RBI have advised Fis and Banks to take several steps for recovery of dues such as evolving and implementation of recovery policy, filing of suits with civil courts, filing cases with DRTs, compromise settlement through Settlement Advisory Committees and monitoring and follow up of non-performing accounts at various levels

Government have also decided to introduce a law on foreclosure, which will enable the DFIs /Banks to realise the assets and securities of defaulting units without intervention of courts.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Comments of the Committee

(please refer para no. 7 of Chapter I of this Report)

Recommendation (Sl.No.8 , PARA Nos. 3.32 to 3.36)

The Committee observe that the information given by the representatives of RBI and IFCI Ltd. during the oral evidence held on 18 September, 2000 and the written replies furnished by the Ministry of Finance and IDBI are not in conformity with each other as explained below :-

(i) RBI Governor during the evidence informed that the amount of NPAs due to diversion are very large. However, the aforementioned data reveal that the total NPAs of three DFIs IIBI Ltd., IFCI Ltd. and IDBI – due to diversion for the last 5 years stood at about Rs 94 crore constituting a mere 0.80% of their combined Net NPAs as on 31 March, 2000, implying that extent of NPAs due to diversion in the total NPAs is not as large as is made out to be.

(ii) IDBI, in their written replies furnished to the Committee at their sitting held on 20 September, 2000 informed that in one case diversion of the funds led to poor performance of the company rendering the account to become NPAs. However, the subsequent data furnished by the Ministry shows that there is no NPAs in IDBI's books due to diversion of the funds since 1995-96. Further in the data provided by the Ministry, there is no mention of the remaining three cases. Out of these three cases in one case the diverted funds were brought back. In the remaining two cases the companies have been advised to retrieve the funds in time bound manner.

iii) The Chairman, IFCI Ltd. as mentioned above during the evidence held on 18 September, 2000 informed that the amount involved in diversion in respect of IFCI Ltd. is about Rs. 2500 crore, whereas the subsequent data furnished by the Ministry shows that the amount of NPAs of IFCI Ltd. due to diversion since 1995-96 stood at about 81 crore. Further, the Ministry informed that no amount could be recovered by IFCI Ltd. from those corporates, which have diverted the funds. This, the Committee are of the opinion, implies that out of about Rs. 2500 crore diverted money nothing could be recovered thereby entire amount becoming NPAs

The Committee are displeased to note that there is large-scale variance in the data provided by the respective Institutions and Ministry of Finance. Hence, the Committee feel that it is not possible to have an objective assessment on their financial health. The Committee therefore, recommend that RBI should look into the matter and furnish the Committee the correct data in this regard.

The Committee are distressed to note that diversion of funds lent by the DFIs to corporates for purposes other than those mentioned in the loan agreement, especially to capital markets and real estate business, is the foremost reason for occurrence of NPAs in the financial sector. What further dismays the Committee is the fact that such companies are seldom held accountable and it is this lack of accountability on the part of the Indian corporates which has caused enormous damage not only to the projects for which loans have been sanctioned but also to the health of the DFIs who in turn had to earmark huge amounts as provisions for such advances having turned into non-performing assets (NPAs) as per the Regulations laid down by RBI

The Committee are of the view that the corporates who availed the loans and subsequently diverted these, did so knowingly with the intention of getting more funds towards completion of projects so that DFIs also do not classify their account as non-performing one by making provisions as per prudential norms specified by RBI. The Committee therefore, apprehend that some DFIs due to practical constraints could not take drastic action and might have extended further loans to help companies the stalled projects and thereby make the account performing asset.

In view of all this, the Committee recommend the following: -

(i) No institutional finance should be made available to the same promoters who have diverted the funds for a minimum period of 10 years for starting any new venture.

(iii) In case any promoters who diverted the funds happen to be on the Board of Directors of other company(ies) which access the capital markets for raising equity & debt, such a fact should be mentioned in the prospectus and offer documents. Accordingly, SEBI should be asked to make amendments to disclosure requirements. Relevant Acts may be amended if necessary for purpose.

(iii) If any of the directors of companies which have diverted funds happens to be on the Board of other Companies, wherein DFIs have substantial equity exposure, DFI should ensure his exit from the Board.

(iv) The DFIs should take a proactive approach in changing the managements of the companies who diverted the funds

Reply of Government

IFCI have clarified that the CMD, IFCI during his evidence had given a figure of approximately Rs.2,500 crores of excess exposure in those cases where prudential norms regarding exposure of FIs to a particular company or to a particular group have been exceeded. This figure was not with regard to NPAs due to diversion of funds. In case of IDBI, it has been clarified that three out of four accounts have subsequently become standard accounts.

It will be seen from above that there is no attempt to provide data which are at variance with each other. However, in view of the recommendations of the Committee. DFIs have been asked to be careful in their reporting and supplying data.

So far as giving further assistance to defaulting companies or companies which have diverted monies for unauthorised purposes, RBI have issued strict guidelines regarding treatment of default and categorisation of account as NPA. This is also checked by statutory auditors as well as in the inspection of RBI.

(i) Regarding debarring promoters who have diverted funds for minimum period of 10 years, it is submitted banks/FIs consider the background of the promoter and obtained information from other FIs/banks before considering any financial assistance. Normally, such promoters are not given any further assistance. However, in the interest of industrial development, it may not be prudent to fix a ceiling of time for debarment from further funding by FIs. FIs are also expected to ensure end use of funds. FIs are also expected to take deterrent action in those cases where diversion is reported by any bank/FI.

(ii) Recommendation accepted for implementation. SEBI will take necessary measures for implementation.

(iii) RBI/ DFIs have been asked to comply with the recommendation.

(iv) RBI/ DFIs have been advised to comply with this recommendation

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Comments of the Committee

(please refer para no. 10 of Chapter I of this Report)

Recommendation (Sl.No.12 , PARA Nos. 3.57 & 3.58)

The Committee note that Financial Institutions resort to invoking personal guarantees only when all other options of recovery and restructuring efforts get exhausted. The Committee therefore, are of the opinion that such entrepreneurs deserve punishment over and above filing suits against them to have deterring effect. Accordingly, the Committee recommend that the entrepreneurs who otherwise have the capacity to honour the invoked guarantees but deliberately did not do so should be debarred from becoming directors on the Board of Directors of public sector commercial banks, DFIs, Investment Institutions, Govt owned and controlled companies/corporations.

The Committee further recommend that such entrepreneurs should not be allowed to avail financial assistance from public sector/commercial banks, DFIs, Investment Institutions for a period of 15 years to have desirable impact.

Reply of Government

It is felt that in the interest of all round industrial development debarring all such entrepreneurs for 15 years for availing financial assistance may not be prudent and desirable. However, RBI will issue necessary guidelines to ensure that the concerns expressed by the Committee are fully addressed. Government does not appoint such defaulters on Boards of Directors of Public Sector Banks/DFIs etc.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Comment of the Committee

(please refer para no. 13 of Chapter I of this Report)

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT ARE STILL AWAITED.

Recommendation (Sl.No.4, PARA No. 1.39)

The data furnished by the Ministry of Finance reveals that not only the proportion of advances to medium scale units vis-à-vis large scale is very low but even the absolute amounts advanced to these units has witnessed continuous decline in the case of IFCI Ltd, IIBI Ltd. and IDBI for the last two years. The Committee would like to be apprised of the specific reasons as to why there has been progressive decline in the financial assistance to medium scale units.

The Committee are of the opinion that there are large number of medium scale industries providing employment to lakhs of people. Lack of adequate institutional finance for their working capital and capital expenditure might ultimately result in their sickness. The Committee therefore recommend that the term 'medium scale industrial units' should be defined and their fund requirements for project related capital expenditure should be catered to fully by the DFIs

Reply of Government

The decision to finance a particular project (other than a small scale project which is generally taken care by the State level FIs) depends on the viability and specific requirements of the project irrespective of the scale/ size and location.

Medium-Scale Industrial Units have not been defined. While there are certain concessions and reservations available to the small scale sector, other sectors stand deregulated Without any incentive, mere definition may not serve

the desired result. However, Ministry of Industries have been informed of the Committee's recommendations. There is no restriction on DFIs funding the capital expenditure of medium scale industries

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl.No.5, PARA No. 2.6)

The Committee find that there are two different definitions of Public Financial Institutions (PFIs) – one under the Companies Act, 1956 and the other under the Public Financial Institutions (Obligation as to Fidelity and Secrecy) Act, 1983. They are given to understand that the need for having uniformity in the definition of PFI was under consideration of the Government.

In consonance with the views of the Government the Committee also feel that it is desirable to have uniformity in the definition of the PFIs for the purpose of greater clarity. They, therefore, recommend that immediate steps be taken to amend the Companies Act, 1956 and PFIs (Obligation as to Fidelity and Secrecy) Act, 1983 insofar as definition of PFIs is concerned

Reply of Government

The Public Financial Institutions (PFIs) (Obligation as to Fidelity and Secrecy) Act, 1983 provide for obligations of PFIs as to fidelity and secrecy and it prohibits PFI from divulging any information relating to, or to the affairs of, its constituents. The definition of PFIs under the said Act does not include all the institutions named as such under the Companies Act, 1956. Ordinarily, a definition in the Act is relevant in the context of the objectives to be achieved. The matter concerning common definition would require further examination and consultation. RBI has been asked again to examine how best uniformity in the definition can be achieved

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl.No.6, PARA No. 2.9)

The Committee observe that all the Financial Institutions – Development Financial Institutions, Investment Institutions, Refinance Institutions, SFC's , State Industrial Corporations etc. are financial intermediaries engaged in mobilising resources from the public and investing in/ lending to different industries for a variety of purposes. The Committee are of the view that all the aforesaid financial institutions played a predominant role through their respective spheres of operations in contributing to economic development.

The Committee are further of the view that the credit information about the defaulters especially wilful defaulters, defaulters of Group Companies and the promoters who have diverted the funds taken from any of the said financial Institutions should be made available to the remaining financial institutions. Such an elaborate credit sharing of information mechanism is sin-qua-non to prevent unscrupulous promoters from availing financial assistance from other institutions despite their deplorable past. The Committee, therefore, recommend the RBI/Govt. of India to notify the remaining institutions also for the purpose of sharing of credit information under the RBI Act, 1934.

Reply of Government

RBI is regulating and supervising 10 all-India term lending and refinancing institutions namely, IDBI, IFCI, ICICI, IIBI, NABARD, Exim Bank, NHB, SIDBI, TFCI and IDFC. Thus in the case of major all-India financial institutions the mechanism of sharing information is in place.

RBI has also been asked to examine from the practical point of view whether there are any difficulties in sharing information with regard to other institutions, including SFCs and to take necessary steps in this direction.

RBI has not prescribed any category-wise reporting.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl. No.15 , PARA No. 4.14)

The Committee are of the view that concentration of financial powers for investing huge amounts of funds in securities of different kinds in single individual may lead to undesirable and unhealthy practices. The Committee, therefore recommend that the upper ceiling of the financial powers of the Chairman which are on the higher side need to be rationalized. The Committee note that though the Board of Trustees is competent enough to delegate the Executive Committee consisting of 3 Members of Board of Trustees the power to sanction/invest unlimited amount of money yet the entire Board should not have completely divested of its responsibility for sanctioning even huge amounts of money. The Committee, therefore recommend that entire Board of Trustees should invariably be involved in decisions pertaining to sanctioning/investing huge amounts of money.

The Committee are of the view that the functioning of UTI need to be more professional and transparent. Further, the Committee are in favour of bringing all the Schemes of UTI under the ambit of mutual fund regulations prescribed by SEBI. Accordingly, the Committee recommend that the UTI Act may suitably be amended.

Reply of Government

A proposal regarding review of financial powers of Chairman and Executive Committee in the light of observations of the Standing Committee has been referred to the Board of Trustees of UTI for consideration at its meeting to be held on March 14, 2001 including the proposals for :

(a) reducing the power delegated to Chairman in respect of primary market and unrated tier II capital issues of nationalized banks.

(b) Cap the powers of the Executive Committee in respect of primary market investments and in unrated tier II capital issues of banks.

(c) To refer all other proposals in respect of primary market investments and tier II capital of banks above the aforesaid limits to the Board of Trustees.

In respect of schemes of UTI to be brought under MF guidelines of SEBI. We wish to inform that UTI has already lent itself to SEBI MF supervision from July, 1994. All the domestic schemes launched after this date are submitted to SEBI for vetting. UTI, in consultation with SEBI, has worked out a time frame for bringing the schemes launched before July 1994 under SEBI supervision.

Regarding suitable amendments to UTI Act, these are under examination by the Corporate Positioning Committee constituted by the Board of Turstees of UTI at its meeting held on July 3, 2000. The Committee is expected to submit its report by end of March, 2001

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl. No.16 , PARA No. 5.4)

The Committee are of the view that in the light of relaxation of lending norms/pattern of DFIs and banks allowing them to enter into each other's domain – DFIs extending working capital loans and commercial banks giving long term advances – and the impending implementation of Universal Banking Concept where ultimately there would be banks and restructured NBFC's effective supervision seems to be essential. The Committee, therefore, recommend that RBI be bestowed with such powers.

Reply of Government

Reserve Bank of India (RBI) has made certain recommendations to amend the Banking Regulations Act. The same is under examination and the proposed enactment will take care of the financial institutions as well. On the question of NBFCs, it is submitted that a new NBFC Bill has been introduced in the Parliament.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl.No.17 , PARA No. 5.7)

The Committee note that huge amount of DFIs funds are locked up in BIFR cases because of inordinate delay in settlement of the cases. Hence, the Committee recommend that urgent steps should be taken to revamp BIFR enabling it to dispose off the cases expeditiously.

Reply of Government

There is a proposal under the consideration of the Government to repeal the Sick Industrial Companies (Special Provision) Act, 1985. This proposal has been made realizing the fact that SICA has not achieved the desired results in addressing the problem of industrial sickness and protection of worker's dues. There is also a proposal to amend the Companies Act to include the provisions for setting up of a National Tribunal which will have the jurisdiction and powers presently exercised by the Company Law Board under the Companies Act, 1956 and the power to consider rehabilitation and revival of companies - a function presently entrusted to BIFR/AAIFR under SICA, as well as the power for winding up of companies. The matter is under active consideration in the Government.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

Recommendation (Sl. No.18 , PARA No. 5.13)

The Committee observe that there has been flight of efficient and well trained people from Govt. owned/controlled financial institutions and mutual funds due to lower compensation packages offered by them vis-à-vis their counterparts in the private sector. The Committee feel that human resources are an indispensable asset to any institution and unless there is some motivating factor, it would be difficult to make them contribute to the productivity and growth of the organisation/institution. The Committee are given to understand that the matter is already under the active consideration of the Government. They

however, desire that concrete steps in this regard should be taken expeditiously by keeping the changed scenario in the financial sector in view

Reply of Government

FIs have been asked to look into the matter and develop and submit necessary proposal for the approval of the competent authorities.

[Ministry of Finance, (Department of Economic Affairs), OM No.3/7/2000-IF.1 dated 23.3.2001]

New Delhi
December, 2001
Pausa, 1923 (Saka)

SHIVRAJ V. PATIL
Chairman
Standing Committee on Finance

MINUTES OF THE THIRTIETH SITTING OF STANDING COMMITTEE ON FINANCE

The Committee sat on Thursday, 27 December, 2001 from 1500 hrs. to 1700 hrs.

PRESENT

Shri Shivraj V. Patil - *Chnirman*

MEMBERS

Lok Sabha

2. Shri Raashid Alvi
3. Smt. Renuka Chowdhury
4. Shri Rattan Lal Kataria
5. Shri M.V.V.S. Murthy
6. Shri Raj Narain Passi
7. Shri Varkala Radhakrishnan
8. Shri S. Jaipal Reddy
9. Shri Kirit Somaiya
10. Shri Kharabela Swain
11. Shri Narayan Dutt Tiwari

Rajya Sabha

12. Shri S.S. Ahluwalia
13. Shri K. Rahman Khan
14. Shri Suresh A. Keshwani
15. Shri Narendra Mohan
16. Shri Vijay Darda
17. Shri Solipeta Ramachandra Reddy

SECRETARIAT

1.	Shri P.D.T. Achary	-	*Additional Secretary*
2.	Dr. (Smt.) P.K. Sandhu	-	*Joint Secretary*
3.	Shri RK. Jain	-	*Deputy Secretary*
4.	Shri S.B. Arora	-	*Under Secretary*

2. At the outset, Chairman welcomed the Members to the sitting of the Committee. The Committee then took up for consideration the following draft Action Taken Reports and adopted the same without any amendments:

(i)	**	**	**
(ii)	**	**	**
(iii)	**	**	**
(iv)	**	**	**

(v) Action Taken Report on Financial Institutions - Objectives, Performance and Future Prospects.

3. ** ** **

4. Keeping in view the fact that the House was not in Session and there was no prospects of the Session being commenced before the end of the term of the Committee *i.e.* 31st December, 2001, the Committee authorised the Chairman to present the above mentioned Action Taken Reports to the Hon'ble Speaker, under Direction 71A of the Directions by the Speaker, Lok Sabha. The Committee also desired that Hon'ble Speaker might be requested to order for the printing and publication/ circulation of these reports under Rule 280 of the "Rules of Procedure and Conduct of Business in Lok Sabha."

The Committee then adjourned.

APPENDIX

[Vide Para 3 of the Introduction]

ANALYSIS OF THE ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE EIGHTH REPORT OF THE STANDING COMMITTEE ON FINANCE (THIRTEENTH LOK SABHA) ON FINANCIAL INSTITUTIONS-OBJECTIVES, PERFORMANCE AND FUTURE PROSPECTS

	Total	% of total
(i) Total number of recommendations	18	
(ii) Recommendations / observations which have been accepted by the Government *(Vide* Recommendations at SI. Nos. I, 3, 9, 10, 11 & 13)	6	33.33
(iii) Recommendations/observations which the Committee do not desire to pursue in view of the Government's replies *(Vide* Recommendations at SI. Nos. 2 & 14)	2	11.11
(iv) Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee *(Vide* Recommendations at SI. Nos. 7, 8 & 12)	3	16.66
(v) Recommendations/observations in respect of which final replies of the Government are still awaited *(Vide* Recommendations at SI. Nos. 4, 5, 6, IS, 16, 17 & 18)	7	38.88