



**Report on**

**REFORMING  
INVESTMENT  
APPROVAL**

**&**

**IMPLEMENTATION  
PROCEDURES**

November 2002

**Part-II**

**(Downstream Issues - Implementation and Operation)**

S.No.	Contents	Page
	Executive Summary	i-vii
1	Introduction	1
2	Existing Procedures for Approval and Operation	2
3	Some Previous Reports & Studies	9
4	Review of Extant Procedures for Clearances	14
6	State Level Initiatives	45
7	Recommendations	49
	Annexes	59

## **LIST OF ANNEXES**

<b>Annex</b>	<b>Contents</b>	<b>Page</b>
I	Copy of Office Memorandum dated 24.9.2001 of Cabinet Secretariat constituting the Committee	59
I-A	Copy of Office Memorandum dated 19.3.2002 of Cabinet Secretariat designating Secretary, Industrial Policy and Promotion as Convenor	60
II	Copy of Office Memorandum of Department of Industrial Policy & Promotion dated 9.10.2001 constituting the Sub-Group	61
III	List of References	62
IV	Illustrative List of Acts requiring simplification for registration and regulation of industry	64
V	Presentation on 'Synthesis Study on Barriers to Approvals and Implementation of Investment Projects' by ASSOCHAM and A T KEARNEY	66
VI	Illustrative List of Inspectors Under Different Legislations	76
VII	Inspections, Registers and Returns to be maintained under Central Acts	77
VIII	Returns/Forms to be maintained by a Medium Sized Company	79
IX	Downstream Approval Requirements	81
X	Draft Terms of Reference for the Re-engineering Groups to be set up in Administrative Ministries	82
XI	Concept Paper for the Proposed Technical Assistance for Undertaking Re-engineering of Regulatory Processes	85
XII	Steps to Land Acquisition	89
XIII	Steps to Environmental Clearance	90
XIV	Steps to Forest Clearance	91

## FOREWORD

The Committee, set up by the Cabinet Secretariat to examine extant procedures for investment approvals and implementation of projects and suggest measures to simplify and expedite the process of both public and private projects, presented Part-I of its report, containing recommendations on the upstream issues i.e. from the stage of conceptualization of project till investment approval, in May 2002.

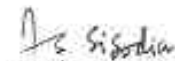
A sub-group of the Committee specifically looked into various issues relating to investment in schemes and projects in the private sector. The Sub-Group in a number of interactive sessions deliberated at length the issues. The Sub-Group also had the benefit of some of the previous reports and studies on this subject. A synthesis study was also commissioned with A. T. KEARNEY on the factors impeding the implementation of projects.

Part-II of the report contains recommendations on the downstream issues i.e. from the stage of investment approval to the implementation of projects and their operational phase.

The Committee acknowledges the invaluable contribution of Shri S. Prabhakaran and Dr. Rakesh Mohan, who during their tenure as Members of the Sub-Group, contributed significantly to its deliberations and in concretizing many of the recommendations.

New Delhi  
October, 2002

  
Pradip Bajaj

  
N. S. Sisodia

  
R. Poornalingam

  
V. Govindarajan  
(Convenor)

  
K. K. Jaswal

  
Dr. Pradipto Ghosh

## Executive Summary

1. Part-II of Committee's report covers recommendations on downstream issues from the stage of investment approval till implementation of project and its operation. Part-I of the report, containing recommendations on the upstream issues, i.e., from the stage of conceptualization of project to investment approval, was presented on 20.5.2002.

2. Various studies have shown that complexities in the approvals required for primary resources like land, power, etc., multiplicity of approvals, disproportionate level of details sought with applications are among the major difficulties in the implementation of projects. Many approvals also do not seem to serve any public interest. Recent studies have shown that, while handling of approvals at Central level has registered a marked improvement, state level handling of approvals and reducing ground level hassles have emerged as important issues.

### Re-engineering of Regulatory Processes

3. Re-engineering of regulatory processes prescribed under various legislations, regulations, etc., is necessary to simplify the procedures for grant of approvals, reduce delays & ground level hassles and simplify the regulation of projects during their operational phase. Re-engineering groups may be set up in the Ministries for detailed examination of each approval requirement under different Acts Rules and Regulations and re-engineering of the regulatory process. As many approvals as are possible should be placed on self-regulation, i.e., under automatic approval upon filing of necessary documents. Draft Terms of Reference for the re-engineering groups are at **Annex-X**.

4. The re-engineering groups may be set up, to begin with, in the Ministries of Labour, Environment & Forests, Power, Agriculture, Petroleum & Natural Gas and Department of Industrial Policy & Promotion. These groups would re-engineer the regulatory processes under the Acts, Rules, Regulations, etc., administered by the Ministry, prescribe time limits for grant of non-statutory approvals, develop appropriate trigger mechanism to automatically raise the matter to next higher level in cases of delays, review requirements of multiple approvals, indicate interse priority among various reform measures and examine extant laws with the objective of their consolidation and rationalization. The groups would also recommend a generic structure

for the re-engineering of processes at the State level, to be fine-tuned for State specific requirements.

5. The re-engineering groups would complete re-engineering of the regulatory processes within a period of six months, and review updation and consolidation of extant laws within a period of one year. A Committee of Secretaries would review the progress of these groups. The Ministries would present the position on the progress of re-engineering groups in their monthly report to CCER.

### **Approval for Primary Resources**

6. Simplification in procedures relating to approval for primary resources, viz., land, electricity, water, building plans, etc., is necessary. The process of land acquisition takes an inordinately long time due to delays in publication in official gazette. In the absence of a clear rehabilitation policy, acquisition of land gets delayed due to issues of resettlement of displaced persons. Similarly, delays in approval for changes in land use, building plans, etc., from the local authority also delay implementation of projects. Authority to approve building plans may be conferred upon architects registered under the Architects Act, 1972. A comprehensive legislation may be enacted to dispense with the requirement of publication of notices in the official gazette, under various legislations - both Central and State.

### **Environmental & Forest Clearances**

7. Environmental clearance perhaps takes the longest time and causes maximum delays to projects. Cumbersome procedures for environmental clearance and public hearing, submission of incomplete information, poor quality of EIA/EMP, disproportionate details required with applications, delays in the meetings of the Expert Committees and site visit, etc., are the major reasons behind delays.

8. MOEF has taken several measures to reduce delays in the grant of environmental, forest and coastal zone regulation clearances. The investment limit as well as the list of projects requiring environmental clearance should be made co-terminus with Plan period necessitating review every five years and be also linked with the consumer price index for automatic adjustment with price index. Besides taking up various activities in parallel, MOEF may also examine the document requirement at the stage of receipt of application. Delays in site visits need to be curtailed.

9. Empowered Committees, with representation of all concerned including States, may be set up for expediting decision on environment and forest clearances. Expert agencies may be authorized for initial scrutiny of applications. Diversion of forestland for pre-construction activities may be permitted after the non-forest land identified for compensatory afforestation has been transferred to the forest department and funds for raising compensatory afforestation deposited.

### **Power Sector Projects**

10. Inability of the State Electricity Boards to support payment security mechanism due to their poor financial position is the major roadblock for projects in power sector. Besides delays in finalisation of various agreements, viz., Power Purchase Agreement, Fuel Supply Agreement, Fuel Transportation Agreement, etc., techno-economic clearance from CEA also contributes to delays. Regular meetings of all concerned responsible for various linkages would help reduce delays. The proposed Electricity Bill 2002 will address many of the concerns of existing legislations for speedy implementation of power projects.

### **Re-engineering of Regulatory Processes at State Level**

11. Re-engineering of the regulatory processes on lines similar to re-engineering proposed at Central level would be necessary. State Governments may consider setting up re-engineering groups to take up re-engineering of regulatory processes in a time bound manner. The progress may be reviewed at the highest level.

### **Single Window and Composite Application Forms**

12. Empowering of the Single Window System at the state level along with re-engineering of regulatory processes would have maximum impact on reducing delays in getting the required approvals and implementing projects. States may consider various alternatives, viz., enactment of legislation, amendment to the Rules of Business, etc., for empowering specially constituted bodies to operationalise and empower the 'Single Window System'.

13. Single Composite Application Forms (SCAF) to facilitate issue of all approvals from a single point need to be introduced for large and medium projects, to begin with. An agency at the State level may be responsible for development, implementation and follow up of clearances under SCAF.

### **Prescribing and Adhering to Time Limits**

14. The time frame prescribed for grant of various approvals needs to be followed up and adhered to. Industrial Investment Facilitation Board (IIFB) would follow the grant of various statutory approvals with the concerned Administrative Ministries/Agencies. At State Level Single Window Mechanism or any other designated agency would undertake similar follow up. Appropriate trigger mechanisms would need to be developed to take the matter to the next higher level, whenever the prescribed time frames are not adhered to

### **Regulatory Environment During Operation of Projects**

15. The projects even after completion are also subjected to many regulatory requirements in terms of periodic inspections, returns, licenses, etc.; Simplification in these aspects is also required.

### **Inspections & Clearances**

16. By clubbing duties of different inspecting authorities from different departments, multiplicity of inspecting authorities can be reduced. A Committee under Secretary (Industry) of the State Government may decide on the inspection schedule of projects, under both Central and State legislations.

17. Frequency and requirement of clearances and permissions under different Acts, Regulations, etc., need to be reviewed and brought in line with advancement in technologies and experience gained by the industry. Authority for some inspections can also be outsourced to accredited certifying agencies. Internal disciplinary mechanisms of the professional associations, to act against complaints of malpractices, would need to be strengthened.

### **Registers and Returns**

18. The requirement of maintaining separate registers and forms for related subjects under different Acts imposes a heavy burden on projects as well as regulatory authorities and needs to be reviewed. A time limit of, say, 4 weeks may be prescribed within which concerned authorities may respond to these forms for any further clarification. The Labour Laws (Exemption From Furnishing Returns and maintenance of Registers by Certain Establishments) Act, 1988, permitting maintenance of common registers may be made applicable to enterprises, employing up to 500 persons.



## **Incentivising the States**

19. Since the States stand to benefit immensely from regulatory reforms, which will catalyse greater investment flows, there would be greater inclination among the States to undertake such reforms, which unlike other sectoral reforms, are not perceived to have huge political implications. The Government of India may provide technical assistance to the States for re-engineering their regulatory processes. Institution of awards, etc., may be considered to recognise the achievements of States.

20. Assistance under different reform-linked incentive schemes in various sectors may be dovetailed for the purpose of monetary incentive for re-engineering the regulatory processes in the States with clearly earmarked provisions for identified infrastructure components/projects, as may be determined by the State Governments concerned. Additional budgetary provisions may also be considered for augmenting the funds available as incentive to the States. Institutional arrangements would be necessary to ensure that these funds are properly utilised under appropriately designed projects. The Government may also consider issuing directive to the financial institutions to link lending to States for infrastructure projects with progress on regulatory reforms.

## **Facilitation & Dispute Resolution Mechanism**

21. Industrial Investment Facilitation Board (IIFB), recommended by the Committee in Part-I of its report for being set up as the central facilitation body, would follow up grant of approval for projects with investment of Rs. 100 crores and above. Besides, any investor facing difficulties in obtaining approvals from the Ministries/Agencies may also approach IIFB irrespective of the investment limit.

22. Facilitation Teams (FTs), in the Administrative Ministries and States should be set up to facilitate implementation of both public and private projects. Regular interaction with investors would help remove impediments in the implementation of projects.

23. In view of the delays in settlement of disputes through regular proceedings, resolution of disputes through alternative dispute resolution mechanisms needs to be encouraged.

## **Lack of Information and Transparency**

24. Greater transparency in approval administration, easy availability of information on procedural and documentation requirements, time frame and authority responsible for various approvals, status of pending applications along with reasons for delay beyond prescribed time would help reduce delays. A net-enabled system could be developed for this purpose.

25. Forms for all types of approvals/clearances along with procedural and documentary requirements should be available in a downloadable format on the websites of concerned departments/agencies or State Level Investment Promotion Agency. Necessary systems may be put in position for electronic submission of these applications.

26. In order to curb the tendency of abuse of power by implementation machinery at the field level resulting in delays in grant of approvals, disciplinary proceedings against public servants, both at central and state level, should invariably be initiated in such cases and concluded expeditiously. Stringent action should be taken in cases of proven abuse of power.

### **Sensitisation and Awareness Generation**

27. Sensitizing people about the best practices in India and elsewhere, initiatives taken in Central Ministries and States, etc., through seminars, workshops, meetings, etc., would be necessary. A separate exercise would need to be undertaken to design the components of documentation and dissemination needs, assess resource availability & requirement and implementation methodology, which can be taken up as a project by Industry Associations.

28. Periodic publication of information on performance of States on 8 to 10 critical parameters and ranking States on these parameters would generate healthy competition among States and incentivise them for undertaking further reforms. Government may also encourage Industry Associations, Rating Agencies, etc., to take up this exercise of rating of States on regulatory reforms and simplification of procedures.

### **Greater Use of IT**

29. A time bound action plan for greater use of IT in approval administration would be necessary. National Institute of Smart Governance, being set up, can provide the necessary technical support. In view of the growing use of computers in day-to-day

transactions, computerized forms may be accepted for maintaining registers and filing of returns.

### **Capacity Building**

30. Capacity of personnel engaged in approval, implementation, facilitation, monitoring and evaluation of projects would need to be strengthened through orientation trainings on modern project management techniques, use of IT, monitoring & evaluation techniques, etc. Assistance of multilateral financial institutions may be availed of for this purpose. Ministries/Departments of Government of India and the State Governments will also require support for the actual process of re-engineering of their regulatory processes. An inventory of the global best practices would need to be prepared. Multilateral financial institutions may be approached for technical assistance. Reputed training and research institutions, both in the public and in the private sector, may also be associated in the training of staff and the re-engineering of regulatory processes at the State level.

## Chapter -1

### Introduction

1.1 Cabinet Secretariat, vide its order dated 24. 09. 2001, set up a Committee with Shri V. N. Kaul, Secretary, Petroleum and Natural Gas as convenor, to examine extant procedures for investment approvals and implementation of projects and to suggest measures to simplify and expedite the process for both public and private investment. Following the appointment of Shri V. N. Kaul as Comptroller & Auditor General of India, Shri V. Govindarajan, Secretary DIPP was designated convenor of the Committee vide cabinet Secretariat order dated 19.3.2002. Copies of the orders are at **Annex-I** and **I-A** respectively.

1.2 A Sub-Group was also set up with Shri V. Govindarajan, Secretary DIPP, as convenor, to look into various issues relating to investment in schemes and projects in private sector; including those related to infrastructure and also downstream issues. A copy of the order is at **Annex-II**.

1.3 Meetings of the Sub-Group were held on 7.12.2001, 11.03.2002, 28.5.2002, 2.7.2002 and 23.7.2002 to discuss various issues. The Sub-Group, during its deliberations, also considered several case studies, reports and material on similar subjects as well as material prepared by other Ministries. The Sub-Group also referred to the base papers prepared by various Ministries/Organisations. A list of references is at **Annex-III**.

1.4 The Committee presented Part-I of its report to the Cabinet Secretary on 20.5.2002 containing its recommendations on the upstream issues, i.e., from the stage of conceptualization of project to investment approval. Part-II of the report covers recommendations on the downstream issues, from the stage of investment approval till implementation of project and its operation.

## **Chapter-2**

### **Existing Procedures for Approval and Operation**

2.1 The Industrial Policy Reforms, initiated in 1991, have substantially liberalized the industrial licensing requirements, removed restrictions on investment & expansion, facilitated import of foreign technology and inflow of foreign direct investment (FDI). Industrial licensing is now virtually abolished except for a few industries, still reserved for public sector, and six other industries where it is still considered necessary on strategic/environmental safety considerations. In tune with the liberalised Licensing Policy, the Locational Policy has also been significantly simplified. Zoning and land use regulations as well as Environmental legislations, however, continue to regulate industrial locations.

2.2 Industrial undertakings exempt from industrial license including existing units undertaking substantial expansion are required to only file Industrial Entrepreneur Memoranda (IEM) for the purpose of monitoring industrial trends in the economy. In respect of manufacture of items retained under compulsory licensing, reserved for exclusive manufacture by small-scale industries and for locations not conforming to the locational policy, industrial undertakings are required to apply for industrial license. Approvals are normally available within 4-6 weeks of filing the application.

2.3 Simultaneous with the dismantling of the elaborate and complex industrial licensing regime, simplified policies and procedures allowing foreign direct investment have also come in force in virtually all sectors except those of strategic concern. FDI for a large number of activities is now permitted through automatic route under powers delegated to RBI. For remaining activities Government approval is granted on the recommendation of Foreign Investment Promotion Board (FIPB). In almost 95-98% cases, decision is communicated by FIPB within 4-6 weeks of filing the application.

2.4 Under FIPB route, projects involving foreign investment with estimated project cost of up to Rs. 600 crores are approved at the level of Commerce and Industry Minister. Cases beyond Rs. 600 crores are considered by the Cabinet Committee on Economic Affairs (CCEA). There is no restriction in terms of investment limit under the automatic route.

## Stages a Typical Project Has to Pass Through

2.5 A project after approval from concerned authorities of the Central and State Governments, as the case may be, has to typically pass through the following stages during its implementation:

S.No.	Type of Clearance	Authority	Act under which required
<b>Central Level Clearances</b>			
1	Registration as a Company	Registrar of Companies	The Companies Act, 1956
2	Clearance from Coastal Regulation Zone	MOEF	The Environment (Protection) Act, 1986
3	Environment Clearance	MOEF	The Environment (Protection) Act, 1986
4	Forest Clearance for diversion of forest land	State Forest Department/ MOEF	The Forest (Conservation) Act, 1980
5	Explosive License	Controller of Explosives	The Explosives Act, 1884
6	Certificate of commencement of business	Registrar of Companies	The Companies Act, 1956
7	Rehabilitation and Resettlement Plan	State Government/ MOEF	
8	Permission for Import of goods	Director General Foreign Trade	Exim Policy
9	Pollution Clearance	State Pollution Control Board (SPCB)/ Central Pollution Control Board (CPCB)	The Water (Prevention and Control of Pollution) Act, 1974 & The Air (Prevention and Control of Pollution) Act, 1981
<b>State Level Clearances</b>			
1	Allotment of land		
a	Allotment of land/ shed in industrial areas	Concerned Industrial Development Authority	
b	Allotment of Government Land	District Collector/ Revenue Department	State Land Revenue Act
c.	Acquisition of land	District Collector/ State Government	The Land Acquisition Act, 1894
2	Change in land use		

a.	Conversion of Land use to Non agriculture purposes	District Collector/ Revenue Department	State Land Revenue Act
b	Change in land use in urban areas	Town Planning Department	State Urban Improvement/ Municipal Act
3	Approval of building plan		
a	Approval of building plans in Industrial areas	Concerned Industrial Development Authority	
b	Approval of building plans in other areas	Local Authorities #	Municipal Byelaws
4	'No Objection' from Fire Department	Fire Services Department #	
5	Release of power connection	State Electricity Board or its successor entities	
6	Consent for setting up captive power plant	State Electricity Board or its successor entities	The Electricity (Supply) Act, 1948
7	Release of water connection		
a	Release of water connection in Industrial Areas	Industrial Development Authority	
b.	Release of water connection in other areas	State Water Supply Department	
8	Site Clearance Certificate - required in case of identified highly polluting industries	State Government	The Factories Act, 1948
9	Boiler Certification	Chief Inspector of Boilers	The Indian Boilers Act, 1923
10	Registration as a Factory	Chief Inspector of Factories	The Factories Act, 1948
11	Sales Tax Registration	Sales Tax Department	State Sales Tax Act
12	Registration under the Trade Union Act, 1926	Labour Department of State Government	The Trade Unions Act, 1926
13	Registration under the Provident Funds Act, 1925	Labour Department of State Government	The Provident Funds Act, 1925
14	Registration under Shops and Establishments Act, 1988	Labour Department of State Government	The Shops and Establishments Act, 1988

15	Registration under Industrial Disputes Act, 1947	Labour Department of State Government	The Industrial Disputes Act, 1947
16	Registration under Minimum Wages Act	Labour Department of State Government	The Minimum Wages Act, 1948
17	Registration under the State Employees Insurance Act 1948	Labour Department of State Government	The State Employees Insurance Act, 1948

# Pertains to Local bodies

2.6 Besides the above general clearances required for most projects, sector specific projects require additional clearances. An illustrative list of specific clearances required for projects in the power sector is as under:

S.No.	Type of Clearance	Authority	Act under which required
a.	Statutory Clearances-Central Government		
1	Techno-economic clearance	Central Electricity Authority	Sections 29 & 30 of the Electricity (Supply) Act, 1948
2	Pollution Clearance (Water and Air)	State Pollution Control Board / Central Pollution Control Board	The Water (Prevention and Control of Pollution) Act, 1974 & The Air ((Prevention and Control of Pollution) Act, 1981
3	Forest Clearance	State government & MOEF	The Forest (Conservation) Act, 1980
4	Civil Aviation Clearance	National Airports Authority of India	The Indian Aircraft Act, 1934
5	Defence clearance	Ministry of Defence	
6	Stage-I Site Clearance from MOEF in case of Mega and Pithead projects	MOEF	The Environment (Protection) Act, 1986
b.	Non- Statutory Clearances - Central Government		
1	Fuel Supply Agreement	Ministry of Coal/ Ministry of Petroleum & Natural Gas	
2	Fuel Transportation Agreement	Ministry of Railways/ Ministry of Petroleum & Natural Gas/	



		Ministry of Coal	
3	Rehabilitation and Resettlement of displaced persons due to land acquisition	State Government / MOEF	
4	Water Availability	State Government / Ministry of Water Resources, in case of hydel projects	
5	Long Term Coal Linkage	Ministry of Coal (Standing Linkage Committee)	
6	Gas Linkage	Ministry of Petroleum & Natural Gas	
c.	Non- Statutory Clearances - State Government		
1	State Electricity Board clearance	SEB/ State Government	Section 44 of The Electricity (Supply) Act, 1948
2	Power Purchase Agreement	Between developer and SEB	
d.	Other Institutions		
1	Financial Closure	Financial Institutions	

2.7 In addition to a large number of clearances, the power projects are also required to obtain many approvals/licenses periodically from many agencies during operation of the project. An illustrative list of periodic approvals/licenses to be obtained for operating a power plant is as under:

S.No.	Regulatory Process	Frequency	Regulatory Body
a.	Central Government		
1	Coal Linkage Allocation(short term)	3 months	Ministry of Coal
2	Gas Linkage Allocation (short term)	As per need	Ministry of Petroleum & Natural Gas

b.	State Government		
1	Air and water consent order	Yearly	State Pollution Control Board
2	Boiler Certification under Indian Boiler Regulation	Yearly	Boiler Inspector
3	Inspection under Factories Act	6 months	Factory Inspector
4	License to store petroleum products	3 years	District Supply Officer
5	Calibration and stamping of weights and measures	5 years	Meteorological Department
6	Boiler License Renewal	Yearly	Under the Indian Boilers Act
7.	Approval of plans for construction/ extension under Factories Act	As per need	Factories Inspector

## Industrial Legislation

2.8 Administration of industries and other sectors of economy have been allocated to the Union and State Governments under the Union and State Lists under the Constitution of India. A number of legislations related to land revenue, land ceiling, local government, State taxation, etc., are also applicable to the industrial and other projects. In addition, many related subjects like trade unions, industrial disputes, social security, factories, labour welfare, etc., fall in the Concurrent List. A large number of Acts and Rules, therefore, regulate various aspects of economic activities, and departments responsible for the administration of these Acts are responsible for various clearances to be issued under the respective Acts. An illustrative list of Acts - both Central and State, regulating the industry in general is at **Annex-IV**.

2.9 While the requirement of obtaining license which was the major bottleneck of pre-liberalization era is no longer a major constraint, most of the problems now relate to 'ease of doing business' and removing such problems would benefit both Indian and foreign companies. While many of the regulations and procedures are necessary, and will have to be continued, poor administrative mechanisms have emerged as key problem.

2.10 It can be concluded that while overall policy has been liberalised, reforms in institutional mechanism and procedural simplification to translate policy liberalisation into ease of doing business have generally lagged behind. Main bottlenecks relate to multiplicity of laws on the same subject, multiple approvals still required

after approval of the project, innumerable returns to be filed and registers to be maintained and multiplicity of inspections. A great deal of this lies within the State domain, and therefore any attempt to remove the bottlenecks would necessarily require complete involvement of State Governments.

### **Institutional Arrangements for various Approvals and Facilitation**

2.11 Following institutional mechanism exist for approval of industrial and FDI projects at the level of Government of India:

- i. Foreign Investment Promotion Board (FIPB) for approving foreign investment proposals not falling under the automatic route.
- ii. Project Approval Board (PAB) for approving foreign technology transfer proposals not falling under the automatic route.
- iii. Licensing Committee (LC) for considering and recommending proposals for grant of industrial license.

2.12 In addition, concerned Ministries/ Departments issue various approvals as per the allocation of business and various Acts being administered by them.

2.13 At the State level, State Investment Promotion Agency and, at the district level, District Industries Centres, generally look after projects. Concerned departments of the State Government handle sectoral projects.

2.14 At the Central Government level, Foreign Investment Implementation Authority (FIIA) has been established in the Department of Industrial Policy & Promotion, to assist foreign investors in resolution of their operational difficulties and in getting necessary approvals. Apart from the Ministries of Government of India, senior officials from States and representatives of apex Industrial organizations, investors also participate in the meetings of FIIA. Besides, Fast Track Committees (FTCs) have been set up in 30 Ministries/Departments for close monitoring of projects with estimated investment of Rs. 100 crores and above and for resolution of issues hampering implementation.

## Chapter -3

### Some Previous Reports & Studies

3.1 Main findings/recommendations of some of the previous reports/studies as well as case studies commissioned to identify specific impediments to early implementation of projects are summarized below:

#### Case studies conducted by PMO

3.2. PMO commissioned 13 case studies, in the private and public sector, to identify various procedural, institutional, regulatory and implementation bottlenecks that cause delays in approval, commissioning and operation of such projects. These case studies covered the following categories of projects:

- i. Infrastructure including power, road, refineries and telecommunications.
- ii. Knowledge intensive projects such as manufacture of drugs.
- iii. Service sector projects in banking, food and beverages, etc.
- iv. Small and medium scale projects in the fields of textiles, garments and auto ancillaries.

3.3 Findings of 5 case studies were integrated by A.T. KEARNEY into a synthesis study, which has identified the following four key issues for projects in power sector:

- a. Primary resources, such as land, require clearance from multiple agencies.
  - . Multiple clearances need to be obtained from the same agency, e.g., CEA in case of power projects.
  - . Environmental clearances require disproportionate level of details
  - . Certain clearances do not appear to serve any specific purpose or public interest.

3.4 The analysis of the clearances has shown that environmental and forest clearances, land acquisition formalities and techno-economic clearances take up most time and effort and, therefore, require urgent intervention. A copy of the presentation by A.T. KEARNEY is at **Annex-V**.

## **Case Studies of Projects in the Power Sector**

3.5 Despite liberalisation, investment in power sector has been slow to come by primarily because of some fundamental issues affecting this sector. Case studies of projects in the power sector have highlighted following key impediments to speedy implementation of projects:

- i. Poor financial position of the State Electricity Boards, presently the sole agency for purchasing power. Inability to provide payment security leads to delays in financial closure of projects.
- ii. Delays in obtaining various clearances like fuel linkages, power purchase agreement, etc., due to differences in perceptions of participants.
- iii. Statutory process for clearance of schemes.

3.6 A new power plant requires a number of approvals and linkages before it can be commissioned. An illustrative list of major approvals required before commissioning power plants is at paragraph 2.6.

## **Studies by Ministry of Statistics and Programme Implementation**

3.7 The Ministry of Statistics and Programme Implementation, had commissioned a study on 'Systems of Clearances Required for Various Types of Projects in Public and Private Sector' with Advance Coal Management & Marketing Private Ltd. and Advance Design and Engineering Ltd.

3.8 This study has found the following, in order of severity, as major impediments to implementation of projects:

- i. Environmental clearance
- ii. Land acquisition
- iii. Forest clearance
- iv. CEA clearance
- v. Site clearance

## **Study by NCAER on 'Compilation of Industrial Policies and Procedures Governing FDI Projects'**

3.9 The study by NCAER, in 1998, on 'Compilation of Industrial Policies and Procedures Governing FDI Projects' has also listed specific approvals required for projects in some of the major infrastructure sectors and issues hampering implementation. The report has focused on the steps to environmental clearance, land, building design approval, electricity & water connections and labour related aspects.

3.10 Responses received from managers of 120 MNCs in 1999 on 32 parameters relating to investment decisions and their implementation were used by NCAER to create an index that assigned negative ratings in respect of responses which said 'below satisfactory', positive values in respect of responses which said 'above satisfactory' and zero to 'satisfactory'.

3.11 Out of the 32 factors studied, only in 10 ratings of satisfactory or above were reported. In the remaining 22 factors, the ratings were below satisfactory. Non-ethical practices, transparency and regulatory framework emerged as areas where the ratings were low. Similarly, power condition and transport received unsatisfactory ranking signifying areas where immediate improvements are required.

### **Study by Administrative Staff College of India (ASCI)**

3.12 A study by Administrative Staff College of India (ASCI) has listed 36 permissions typically required for setting up industrial projects and has suggested simplification in various Acts, procedures for registration, inspections and maintenance of records and registers. The study has listed 27 inspectors for inspection of an industrial undertaking (**Annex-VI**), Inspection registers and returns to be maintained by the industry (**Annex-VII**) and 42 returns/ forms to be completed by a medium size company (**Annex-VIII**) where simplifications are warranted.

3.13 The study has recommended that legal backing is needed to bring about procedural simplification, reduce delays in various approvals and reduce number of registers and returns. It has suggested enactment of a special legislation to achieve these objectives and, simultaneously, bring in necessary changes in other legislations governing the industrial projects.

### **Direct Feedback from Investors**

3.14 Direct feedback from foreign investors to Foreign Investment Implementation Authority has shown that 50% of references relate to implementation issues including delays in grant of approvals and clearances, 20% issues relate to changes in policies/ Acts, etc., while another 20% seek some relaxations in the existing conditions with 10% miscellaneous.

### **Study by Centre for Monitoring Indian Economy**

3.15 Department of Industrial Policy & Promotion, in May 2001, commissioned a study with the Centre for Monitoring Indian Economy (CMIE) to identify reasons for slow progress in the implementation of investment projects. This study, based on responses from promoters of 304 projects comprising 165 from private sector, 78 from Government sector and 61 involving FDI, conducted during the period May-October 2001, has revealed that about 19% of the respondents consider Governmental clearance to be a problem in project implementation.

3.16 The study has further shown that getting clearances from local authorities is a greater problem than from the Central or State Governments. The finding of this study is summarised below:

Clearance By	Seriously problematic	Mildly Problematic
Central Government	2.3%	15.3%
State Government	3.9%	14.8%
Local Government	2.6%	18.2%

### **FICCI-FDI Survey 2002**

3.17 A survey of 385 foreign companies, conducted by Federation of Indian Chambers of Commerce & Industry (FICCI) in March 2002, has shown that handling of approvals at Central level has registered a marked improvement over the previous year with 93% respondents rating it from good to average against only 61% last year. Infrastructure, particularly in telecom, has also shown improvement compared to last year. 70% of respondents have reported the ease of bringing in funds as 'good to average' and 69% respondents have expressed that repatriation of funds can be carried out rather easily.

3.18 The survey has shown that regulatory framework and ground level hassles are becoming more of an impediment. 43% of the respondents have described tax regime and 35 % of respondents have described labour laws a serious problem. 52 % of the respondents rated regulatory framework as bad. In contrast to the high ratings for handling of approvals at central level, 38 % of the respondents found state level handling of approvals bad while 74 % respondents reported ground level hassles to be high. 76 % respondents have expressed the

view that reducing ground level hassles is imperative for future FDI inflows.



## **Chapter - 4**

### **Review of Extant Procedures for Clearances**

4.1 The policy reforms initiated during the last decade have liberalized the economy by deregulation, removing restrictions in terms of licensing and by introduction of competition, etc. However, simplification of the rules and regulations governing different sectors of the economy and of procedures for various approvals and clearances has generally lagged behind. As a result, the economy continues to be regulated under a plethora of laws. While several initiatives have been taken at the Central and State level towards simplification of procedures, such measures have largely concentrated on simplification of procedures, delegation of greater authorities at field level, etc., within the gamut of the prevailing laws and have generally not looked at the very need for many of these permissions and simplification or consolidation of laws. As a result, the benefits of the liberalization of economy have not been fully reaped since cumbersome procedures continue to hamper investment.

4.2 Among the most commonly noted bottlenecks in implementation of projects are:

- i. Multiplicity of laws governing same or similar set of issues.
- ii. Requirement of a large number of approvals/permissions.
- iii. Separate clearances/approvals required from different authorities on same or similar issues.
- iv. Too many points of contact between investor and authorities.
- v. Lack of transparency in the administration of clearances and approvals.
- vi. Large number of returns and amount of information to be provided to many departments/agencies.
- vii. Little communication and information-sharing among related departments.

### **Consolidation of Regulatory Framework**

4.3 Besides the requirement of clearances/ approvals for implementation of projects, many inspection and reporting requirements during the operation of projects, viz., an elaborate and complex system of records and registers to be maintained, inspections by a number of regulatory bodies, periodic renewal of approvals/licenses, etc., also regulate the operational phase of projects. The operating environment suffers from acute lack of transparency and information on steps to be taken for various

approvals. These regulatory constraints have a decided bearing on the ease of doing business and, thereby, influence investment decisions.

4.4 Simplification in the regulatory environment would necessarily require changes in the regulatory processes. An illustrative list of Acts, -both Central and State, regulating the projects is at **Annex-IV**. Many of the enactments regulating projects were enacted long back, in many cases over 50 years ago. While the economic environment has undergone a near total transformation, the regulatory framework under these legislations has not changed much. In fact, with growing concerns over environmental, safety and other issues, the regulatory framework has evolved to cover such vital aspects also. At present, in many cases multiple legislations regulate some issues, viz., labour welfare and safety. This not only makes their enforcement very cost-ineffective but also makes compliance difficult as the requirements prescribed under each legislation have to be separately complied with.

4.5 The extant laws need to be consolidated and updated by weeding out legislations that have outlived their utility, bringing others in line with the present day technological, environmental, competitive and social requirements. This will also make administration as well as compliance effective.

### **Re-engineering of the Regulatory Processes**

4.6 In order to simplify the procedures for grant of approvals, reduce delays and simplify regulation of projects during their operational phase, re-engineering of the regulatory processes prescribed under various legislations, regulations, etc., is an immediate necessity. Unless the procedures prescribed under extant laws are simplified to meet the requirements of the present economic, technological and competitive environment, delays in the grant of approvals are unlikely to come down significantly. Re-engineering of the regulatory processes is also necessary to reduce ground level hassles, make administration and compliance easy as well as amenable to IT tools and to minimise interface between project promoters and official machinery.

4.7 Re-engineering of the regulatory processes would require detailed interaction with the Ministries/States administering these legislations and is too elaborate an exercise to be undertaken by the Committee at this stage. Re-engineering groups may be formed in the Ministries administering Acts regulating the implementation and operation of projects. The re-engineering groups may review and complete the illustrative list of Acts given at **Annex-IV** and approval requirement, at the central and States level, at **Annex-IX** pertaining to

their Ministry/Department. To begin with, such re-engineering groups could be formed in the Ministries of Labour, Environment & Forests, Power, Agriculture , Petroleum & Natural Gas and the Department of Industrial Policy & Promotion.

4.8 These groups, under the Chairmanship of Secretary of the concerned Department/Ministry, may include other officers and representatives of the attached and sub-ordinate offices responsible for grant of various approvals. Representatives of the State Governments and other Ministries may be associated as considered necessary. Industry Associations, being important stakeholders, may also be associated. Assistance of public management specialists may also be taken, as considered necessary, to bring in professional inputs and international experience in best practices. In addition, considering the vast experience, intimate knowledge of extant processes and expertise available in-house in existing implementing machinery, their close interaction with outside experts would be useful. While a panel of experts for reference may be prepared for greater coherence of views, the choice of experts may be left with concerned Ministries to suit their requirements.

4.9 Re-engineering groups would recommend re-engineering of the regulatory processes and systems, which are to be retained for administration by the Government, to embody the following principles:

- i. Clear and non-discretionary decision rules to realize the public interest to be protected as provided by law, and no extraneous objectives;
- ii. Minimising and standardising requirements of information and documentation specific to the applicant( i.e., dispensing with the need to bring information which is either already available to the public or available to the regulator from other public agencies) to support just the decision rules and no more;
- iii. No queue jumping without specific and documented supervisory level authorisation;
- iv. Reducing stages and levels of review;
- v. Defined time limits for each stage of processing, as well as the process overall, with a preliminary stage for confirmation that all required information/documentation has been provided, to which the regulator will not revert;
- vi. Standardised response, including furnishing of reasons in the event of refusal, to enable the applicant to represent meaningfully against such refusal;
- vii. Real-time monitoring of each stage of the process by supervisory authorities; and
- viii. One stage of official review for redressal of grievances.

4.10 Re-engineering groups would examine each approval/permission requirement under different legislations, rules and regulations, for their re-engineering in the following order:

- i. Category A; where any violation may result in minor third-party impacts, which are easily remediable/compensable. In such cases, self regulation may be the norm, with legal penalties if violation is detected (**'blinking traffic lights'** model)
- ii. Category B: where violation may result in some significant third-party impacts, but not involving proximate danger to life or serious injury, and still remediable/compensable. In such cases, professional outsourcing may be preferred to direct case-by-case regulation by a Government agency. The professional providers of such services may be formally designated by their respective professional agencies (e.g., engineers, architects, etc.), and the basis of their certification sufficiently documented to enable determination of professional malpractice ( by the regulatory agency, which may move the concerned professional association for de-registration) (**'stop-go traffic lights'** model) .
- iii. Category C: where violation may result in high risks of serious third-party impacts or long-term damage to key natural resources or cultural assets. Only in such cases would prior case-by-case regulation be advisable by a public agency (**'policeman regulating traffic'** model).

The Committee felt that as many approvals as are possible should be placed on self-regulation, i.e., automatic permission upon filing of necessary documents.

4.11 The re-engineering groups should also prescribe time limits for grant of non-statutory approvals and develop systems for ensuring grant of approvals within this time limit. These groups should develop appropriate trigger mechanisms to automatically raise the matter to the next higher level in case the concerned authorities fail to decide the matter within prescribed time limits. The re-engineering groups would also indicate interse priority among various regulatory reforms being proposed by the group so that reforms aiming at maximum simplification are undertaken first. They would also examine the extant laws being administered by their Ministry with the objective of consolidation of laws, weeding out laws that have outlived their utility and to generally bring them in alignment with the present technological, economic and competitive environment.

4.12 Simplification of procedures, including quality of appraisal, followed by commercial banks and financial institutions is also

important for timely flow of investment into projects. Lack of institutional capacity in the banks and financial institutions to meet the requirements of project financing also needs to be suitably addressed. These issues are too detailed for the Committee to look into at this stage. The re-engineering group to be set up in the Ministry of Finance may consider such issues for taking further appropriate action.

4.13 A large number of approvals/permissions are administered at the State level and it would not be possible to suggest changes in the prevailing processes specific to each state. The re-engineering groups may indicate the best practices adopted in different states and elsewhere and suggest a generic structure of the re-engineering of the regulatory processes. State specific fine-tuning of specific institutional and statutory/regulatory features of each state may be undertaken in consultation with concerned states.

4.14 The re-engineering groups should finalise their recommendations within a period of six months for the re-engineering of the regulatory processes and, within a period of one year, for review, updation and consolidation of legislations. IIFB, recommended for being set up by the Committee in Part-I of its report, would co-ordinate re-engineering of regulatory processes with the re-engineering groups set up in different Ministries/Departments. A Committee of Secretaries under Cabinet Secretary, with Secretaries to Government of India in the Ministries/Departments of Labour, Environment & Forests, Power, Agriculture, Petroleum & Natural Gas, Industrial Policy & Promotion, Information Technology, Revenue and Additional Secretary in the PMO as members, would review on a monthly basis the progress of re-engineering groups and act as a trigger in case of any delay in the re-engineering processes. A position report on re-engineering of regulatory processes will be included as one of the items in the monthly report of the concerned Ministry to the Cabinet Committee on Economic Reforms (CCER). Draft Terms of Reference for the re-engineering groups are at **Annex-X**.

### **Capacity Building for Re-engineering of Regulatory Processes**

4.15 Various Ministries/Departments of Government of India as well as the State Governments would require technical assistance for capacity building of the personnel associated with the re-engineering of the regulatory processes and administration of approvals. In addition, the Ministries/Department of Government of India and the State Governments will also require support for the actual re-engineering of their regulatory processes. An inventory of the global best practices would need to be prepared. Multilateral financial institutions may be

approached for necessary technical assistance. Reputed training and research institutions, both in the public and private sector, may also be associated in the training of staff and the re-engineering of regulatory processes at the state level. A concept paper on the technical assistance requirements is at **Annex-XI**.

### **Review of Procedures for Some of the Main Approvals for Projects**

4.16 While each sector would have its specific set of approvals and difficulties in obtaining these approvals, there are many approvals, which are required by a large number of projects. Approvals related to land acquisition, possession of land, approval of building plans, release of electricity and water connection, environmental clearance, etc., are instances of such approvals, which affect many projects. Some issues affecting a majority of projects are dealt with in the following paragraphs:

#### **Approval of Location of Projects, Building Plans and Changes in Land Use**

4.17 Multiplicity of approvals pertaining to land development, utilization, as well as restrictions in availability of utilities, etc., influence the location of investment and many agencies have to be approached for these clearances. In general, the following clearances are required in respect of location of a project:

- i. Restrictions in respect of land use and zoning.
- ii. Approval of building plans from local self-government institutions or industrial development organization.
- iii. Approval from Factories, Town Planning, Labour, Fire Services departments, wherever applicable.
- iv. Restrictions, if any, in respect of power load in specific areas.

#### **Land Acquisition**

4.18 Under the existing provisions, the process for land acquisition is very long drawn and cumbersome. Starting from identification of land, the process can take nearly 18 months to 2 years. Case studies by NTPC have shown that, even under the best case scenario, physical possession of land was expected only 18 months after identification of the requirement. A flow chart showing the stages involved in land acquisition and the time taken at each stage is at **Annex-XII**. Among the major reasons identified to be causing delays in land acquisition are:

- i. Proposals are routed through various agencies in the State Government, viz., Power department in case of Power projects, Revenue and Law Departments in State Government.
- ii. Delays in publication of notifications in the official Gazette.
- iii. Disputes pertaining to quantum of compensation.

4.19 Delays in land acquisition could be reduced by following measures:

- i. Need for publication in official gazette may be dispensed with in view of their limited circulation and considerable delays in their publication. Instead, publication in a vernacular newspaper having adequate circulation in the area should be deemed sufficient. A comprehensive legislation to dispense with the requirement of publication of notice in official gazette under different legislations may be considered.
- ii. The State Government may appoint a nodal officer for follow up of clearances required from concerned departments.
- iii. There is no clear cut policy on Relief & Rehabilitation leading to problems being faced at the time of implementation of R&R plan with project-affected persons insisting on employment. The National Rehabilitation Policy is under preparation by the Ministry of Rural Development. A clear R&R Policy would reduce delays on this account during implementation of projects. The Ministry of Rural Development may also consider setting time limits for implementation of rehabilitation measures by concerned project authorities.

### **Land Availability and Utilisation**

4.20 Land being a necessary element in most projects, complexities in the procedures related to allotment of Government land, purchase of private land and getting its land use changed impact project implementation. While land availability in industrial and other specially developed areas developed by the State level agencies has been considerably streamlined, getting land outside such areas is still a very complex process. Although agricultural land can be purchased from Government agencies or private parties, its conversion to appropriate land use is still required. Proposals for conversion of land to non-agriculture purposes have to pass through many levels. In case of land situated in urban areas involving changes in the master plan, a public notice inviting objections is often necessary, which considerably delays the process. In many cases clearances under the Urban Land Ceiling (Regulations) Act is also needed. The requirement for such approvals would need to be reviewed during the re-engineering of the regulatory processes.

## **Approval of Building Plans**

4.21 Approval of building plans by local authorities is another area where considerable delays are experienced highlighting the need to simplify the process. Powers to approve building plans can be given to architects registered under the Architects Act, 1972, who could certify the building plans as being in conformity with applicable building byelaws. Alternatively, specific time limits need to be fixed and adhered to for approval of building plans by the local authorities and, in case the local bodies do not issue permission within the prescribed period, the approval would be deemed to have been given. In both types of cases, the owner should be held responsible for any deviations from the building byelaws.

## **Release of Electricity and Water Connection**

4.22 Delay in release of electricity and water connection also delays implementation of projects. The process for release of these connections, particularly for electricity, is cumbersome and the applicant is required to visit a large number of offices. State Electricity Boards, fearing an adverse impact on their revenues, are often reluctant to accord permissions to industries for setting up captive power plants. Since the release of connection also depends on the capacity of the existing system, a high degree of discretion vests with concerned official. Similar problems are encountered in case the sanctioned load is to be revised. Problems also exist in case of water connections, but are less acute.

4.23 Applications for release of new connection or for changes in the existing connections could be received at a single point in the SEB or its successor entities and technical constraints, if any, need to be resolved in a fixed time. Regular review of progress of release of electricity and water connections, at least for medium and large projects, and progress of augmentation works at the level of the State Investment Promotion Agency, Single Window Agency or any other designated agency, would help in reducing delays. Many states have taken initiatives to introduce single composite application form, which also includes application form for electricity connection. The proposed Electricity Bill, 2002 also seeks to prescribe time limits for release of electricity connections.



## **Environmental Clearance**

4.24 Many developmental projects are required to obtain clearance under the following legislations/notifications:

- i. The Environment (Protection) Act, 1986
- ii. The Water (Prevention and Control of Pollution) Act, 1974
- iii. The Air (Prevention and Control of Pollution) Act, 1981
- iv. Forest (Conservation) Act, 1980
- v. Wildlife (Protection) Act, 1972
- vi. EIA Notification, 1994
- vii. CRZ Notification, 1991

4.25 Depending upon the nature of the project, environmental and pollution control clearances are required from Central/State Government/agencies. MOEF has, in its notification of 27.1.94, listed 29 categories of projects where environmental clearance is necessary from the MOEF. One more item was added to the list in January 2000. Broadly, environmental clearance is mandatory where the investment is above Rs. 100 crores, in the sectors of petroleum refineries, fertilizers, hydrocarbon exploration, primary metallurgical industries, cement and paper. In the sectors of highly polluting industries/hazardous industries, generally all proposals require environmental clearance. Environmental Impact Assessment (EIA) is mandatory for the 30 identified categories of industries covered under the notification of 1994 and its subsequent amendment. Public hearing has been made mandatory since April 1997 for greater involvement of stakeholders and local population and to maintain transparency in decision-making.

4.26 As per the provisions of the Environmental Impact Assessment (EIA) Notification of 1994, site-specific projects require two stage clearances. Stage-I (site clearance) is required for five categories of projects, namely river valley projects, pit-head thermal power projects, mining projects, ports and harbours. After obtaining site clearance, project authorities are permitted to undertake survey and investigations, prepare feasibility reports and collect environmental data, etc. Based on this information, Environmental Impact Assessment Report has to be prepared by the promoters for seeking final environmental clearance from MOEF.

4.27 After getting the EIA report, application for environmental clearance is submitted by the project authorities to the MOEF. The application is to be accompanied by a feasibility report, Environmental Impact Assessment Report (EIA) , Environmental Management Plan (EMP) and details of public hearing. The applicant is also required to

obtain a “No Objection Certificate’ from the State Pollution Control Board (SPCB), which is issued only after completing the public hearing. The projects are then evaluated and assessed by an Expert Committee constituted for various developmental sectors. In case of projects located in critically polluted or ecologically sensitive areas, site visits are undertaken by a Sub-Group for ground verification. The recommendations of the Expert Committee are considered in the MOEF and final environmental clearance is issued.

4.28 A flow chart showing the steps involved in environment clearance and time taken for each stage is at **Annex-XIII**. While a time limit of 90 days is stipulated for completing appraisal, various studies/reports, etc., have shown that environmental clearance perhaps takes the longest and causes maximum delays in implementation of projects. In case of power projects, the entire process of environment clearance including preparation of the EIA and EMP could take up to 28 months. Inadequate information on critical aspects of EIA reports also delays appraisal. MOEF also accepts Rapid EIA for all projects except river valley projects for which a comprehensive EIA is insisted upon. To improve the quality of EIAs, MOEF should consider setting up a data centre, which could serve as a one-stop source for obtaining reliable and validated data for preparing EIAs.

4.29 Some of the main causes behind delays in environmental clearances have been identified by project promoters as:

- i. Cumbersome procedure for environmental clearance and public hearing.
- ii. Submission of incomplete information and poor quality of EIA/EMP necessitating additional information.
- iii. Reopening of technical issues at every stage and raising of fresh issues during the course of grant of environmental clearance.
- iv. Delays in the meetings of the Expert Committee and site visit, if considered necessary, before clearance.

4.30 MOEF has taken several policy initiatives to reduce delays in the grant of environmental and coastal zone regulation clearances. Some of the steps taken are given below:

- i. The EIA Notification was amended in 1997 to delegate powers to state governments for environmental clearance of certain categories of thermal power projects such as co-generation plants, coal-based power plants up to 250 MW. Gas/naphtha based projects up to 500 MW, coal based power plants with CFBC technology up to 500 MW, etc.

- ii. Amendment has been made in 1997 to exempt improvement and widening/strengthening of highways with marginal land acquisition (20 m width on either side) along existing alignments provided they do not pass through ecologically sensitive areas.
- iii. Construction of roads for defence purposes in border areas has been exempted from the purview of EIA Notification.
- iv. The Notification has been amended to dispense with the requirement of public hearing in respect of following categories of projects:
  - a. Small-scale industrial undertakings located in industrial areas/estates.
  - b. Widening and strengthening of highways.
  - c. Mining projects of major minerals (lease up to 25 ha.)
  - d. Units to be located in EPZ/SEZ.
  - e. Modernization of existing irrigation projects.
- v. Manufacture of drugs based on genetically engineered microorganisms, etc., has been exempted from the purview of EIA Notification by a recent amendment.
- vi. In order to expedite public hearing process, the EIA Notification has been amended to prescribe a time limit of 60 days for completing the public hearing by the State Pollution Control Boards/ Pollution Control Committees.

4.31 Similarly, a number of amendments have been carried out to streamline the original CRZ Notification of 1991 and simplified procedures and policies have been incorporated for expeditious clearance from CRZ angle. These include provisions for taking up developmental activities such as exploration and extraction of oil/gas, setting up of LNG facilities, construction of pipelines, conveyor systems and transmission lines and projects relating to atomic energy sector in CRZ areas.

4.32 MOEF has, by way of an amendment in the EIA notification, further streamlined the procedures as follows:

- i. Enhancing the investment threshold from the previous limit of Rs. 50 crores to Rs. 100 crores for new projects.
- ii. Exemption of modernization projects in the river-valley sector with investment up to Rs. 100 crores or command area less than 10,000 ha. from the purview of environmental clearance.
- iii. Simplification of project documentation with regard to pipeline transport projects, etc.

4.33 MOEF has also amended the CRZ Notification 1991 on 21.5.2002 permitting non-polluting industries in the field of information technology and other service industries, desalination plants, beach

resorts and related recreational facilities in the CRZ area of the notified Special Economic Zone (SEZ). In addition, the Ministry has also dispensed with 'No Development Zone (NDZ)' in CRZ-III of SEZ and existing ports, and permitted salt harvesting by solar evaporation of seawater in inter-tidal areas.

4.34 Suggestions to reduce delays in environmental clearances:

- i. The investment limit for certain categories of projects requiring environmental clearance has, during deliberations by the Committee, been enhanced by MOEF from Rs. 50 crores to Rs. 100 crores. The investment limit as well as the list of projects requiring environmental clearance should be made co-terminus with Plan period necessitating a review every five years. It is also desirable to link this limit with CPI for automatic adjustment with inflation in future.
- ii. Instead of the present procedure under which various stages of environmental clearance are undertaken seriatim, MOEF should evolve a procedure to take up activities in seriatim.
- iii. MOEF should also examine if all the documents referred to in the explanatory memorandum attached to the EIA Notification, 1994 need to be insisted upon at the time of receipt of application itself.
- iv. Site visits, if necessary, must be carried out within a month of submission of application. In case the site visit is not carried out within the prescribed period, it may be deemed that such visits are not required and the next stage of approval process may be taken up.
- v. Expert Committee may raise all issues at the first meeting itself and Members not present may send their comments to the Committee in writing. In case any Member does not give his or her comments within the prescribed period, it should be presumed that he or she has no comments to offer and the next stage of approval process taken up.
- vi. Once first stage site clearance has been given, final clearance to be issued after commissioning of all necessary plant & machinery may be accorded as deemed approval if it is not granted within the prescribed time, unless the competent authority for valid reasons to be recorded extends this time limit.

### **Forest Clearance**

4.35 Clearances from Forest authorities are required for projects requiring diversion of forest land for non-forestry purposes. The MOEF gives clearance for diversion of forestland. Proposal for diversion of forestland has to be submitted to the Forest department in the district.

After detailed site survey by the field staff, a compensatory afforestation plan is prepared and sent to the State Forest department. After departmental approval, this proposal requires approval of the State government before being sent to the MOEF.

4.36 In the MOEF, the proposal is scrutinised and a site inspection report from field offices is taken before an Expert Committee considers the case. A site visit by the Expert Committee may be required. Recommendations of the Expert Committee are processed by the MOEF for according the forest clearance. A flow chart showing the steps to forest clearance and the time taken at each stage is at **Annex-XIV**. It may be seen that the entire process of forest clearance may take up to 13 months.

4.37 The issues causing delays in forest clearance have been identified as :

- i. Two stage Forest clearance where first an 'In Principle' clearance is issued and once conditions mentioned therein are fulfilled and compliance report is received by MOEF, formal forest clearance is issued.
- ii. There is considerable delay in identification of non-forest lands for compensatory afforestation.

4.38 MOEF has taken several steps to reduce delays in forest clearance. These include:

- i. MOEF has delegated powers to decide on proposals for diversion of forestland up to 5 ha. to its 6 Regional Offices located at Bhopal, Bhubaneshwar, Bangalore, Lucknow, Chandigarh and Shillong.
- ii. It has prescribed a simplified format for submission of proposals involving forest areas up to 2 ha., provided no felling of trees is involved.
- iii. For hill areas and districts having more than 50% forest cover, it has permitted compensatory afforestation to be raised over an extent of double the degraded forest instead of normal stipulation of raising it over equivalent non-forest land provided the forest land required does not exceed 20 ha.
- iv. State Governments have been given general permission to allow execution of projects regarding laying of underground pipelines for drinking water supply, electricity cables, telephone lines and optical fiber cables along roads which do not involve any felling of trees.
- v. The area limit for mandatory site inspections has been raised from 40 ha. to 100 ha.

- vi. Proposals for diversion of forest land up to 5 ha. are entertained even if the Nodal Officer submits these instead of the State Government, thereby reducing the number of layers.
- vii. The major user agencies have been persuaded to create a forest bank for compensatory afforestation purposes so that final approval for the project can be issued by the Ministry at first instance itself instead of the in-principle (first stage) approval after setting off the compensatory afforestation area from the land bank.

4.39 From the procedure prescribed for forest clearance, it is seen that the proposal initiated at the district level in the State and recommended by the State Government is again examined by the Regional Director of MOEF before being forwarded to the MOEF. These proposals, therefore, pass through various levels in concerned departments and are repeatedly scrutinised at the field, department and Government level in State as well as Central Government. It would be useful to set up an Empowered Committee for Forest Clearance where all concerned departments/agencies of the State and Central Government can be represented and cases decided expeditiously.

4.40 MOEF may consider permitting diversion of forestland for pre-construction activities based on the 'in-principle' clearance after the non-forest land identified for compensatory afforestation has been transferred to the forest department and funds for raising compensatory afforestation deposited by the user agency. Forestland required for main project components can be approved later based on final clearance.

4.41 For cases requiring environmental and forest clearances detailed information is required to be submitted at the time of filing application. Under the existing arrangements, MOEF has prescribed a checklist for documentation and conducts preliminary scrutiny of the proposals on receipt. The Expert Committee at the time of consideration of proposals may also require additional information. This process consumes considerable time and effort.

4.42 Considering the requirement of voluminous information to be submitted for obtaining these approvals, it is recommended that expert agencies may be authorised for initial scrutiny of applications for environmental and forest clearances for completeness of essential information before these are submitted to the concerned authorities for approval. The time limits prescribed for the grant of approvals may be reckoned from the date of filing of applications with concerned authorities.

## **Impediments to Specific Clearances Required by Projects in Specific Sectors**

4.43 Besides the clearances mentioned earlier normally required by a large number of projects, sector-specific projects, particularly in the infrastructure sectors, need additional clearances. The Sub-Group has examined the difficulties in getting specific clearances/approvals in the power and road sectors. Main difficulties and suggestions for reducing delays in getting these clearances/approvals are dealt with below:

### **Power Sector**

4.44 Under section 29 of the Electricity (Supply) Act, 1948, every scheme involving capital expenditure exceeding such sum as may be fixed from time to time, requires concurrence of the Central Electricity Authority (CEA). This clearance, popularly called the tech-economic clearance, applies to both generation and transmission schemes. In respect of captive generation, clearance from the State Electricity Board is required under section 44 of the Act. If the capacity of the captive generating plant exceeds 25 MW, SEB is also required to consult CEA.

4.45 Some of the major impediments to speedy implementation of power projects in the private sector are:

- i. Poor financial position of the State Electricity Boards, who are presently the sole buyer of electricity, and the inability of States to push forward power sector reforms. As a result, SEBs do not have adequate payment capacities for power to be purchased from private power producers. Financial institutions insist on adequate payment security arrangements to be put in place to ensure regular payment by SEBs. Inability of SEBs to provide escrow cover and other payment security guarantees acceptable to the financial institutions delays financial closure and the projects get stalled.
- ii. Delays in finalisation of various agreements such as Power Purchase Agreement, Fuel Supply Agreement, Fuel Transportation Agreement, etc., acceptable to all concerned parties and financial institutions.
- iii. The process of getting techno-economic clearance from the CEA is a time-consuming one. Several references are made to the CEA.

4.46 The common issues involved in the main clearances and suggestions for reducing such delays are covered below:

a. Delay in clearance for water requirement

Procedure and Issues:

- i. Application indicating consumptive requirement of water, source and drawal points is submitted to State Government.
- ii. Necessary approval is to be obtained from State Government and Central Water Commission. Permission of Ministry of Water Resources (MOWR) is needed in cases of water sources involving inter-state issues.
- iii. Lack of consensus on water sharing between states delays projects.

Suggestions for reducing delays:

- i. MOWR may accord clearances within 6 months by convening meetings of all concerned states.

b. Notifications under section 29 of the Electricity (Supply) Act, 1948

Procedure and Issues:

- i. Details of the power project are published in the official gazette and newspapers giving 2 months' time for filing objections. Corrigendum is also to be published in case of even minor changes in key features.
- ii. Delays in publication in the official gazette, need for fresh publication in case of changes in key features and 2 months' time allowed for filing objections also delay the grant of approval under section 29. This process can take about 8-9 months before the scheme gets finalized for consideration of CEA.

Suggestions for reducing the delay:

- i. In view of larger reach of newspapers today, publication in vernacular newspapers having adequate circulation in the area should suffice and the need for publication in the official gazette may be dispensed with. The Committee has made a recommendation to this effect at paragraph 4.19.
- ii. The time for filing objections may be reduced to 1 month.
- iii. Fresh publication may be necessary only in case of major changes in nature and scope of the project (over 20% in cost terms excluding standard updation in cost due to exchange rate variation, changes in the tax/duty structure, etc.)
- iv. Since public hearing is mandatory for NOC from State Pollution Control Board, the requirement of section 29 may altogether be dispensed with.

c. Coal Linkages

Procedure and Issues:



- i. Project authorities approach MOP/CEA with project details for recommending to SLC (Long Term), Ministry of Coal for grant of long-term linkage.
- ii. MOC considers the request and gives 'in principle' clearance.
- iii. Coal linkage is granted by SLC in its meetings that are held only once or twice a year, leading to delays in coal linkages.

Suggestions for reducing delays:

- i. SLC should meet more frequently and a Joint Committee comprising representatives from MOP, MOC, CIL and Power Utilities needs to be formed to identify new mining blocks for new power stations.

d. Ash utilization conditions by MOEF

Procedure and Issues:

- i. As per the present norm, 100% utilization is required by the ninth year while there is no tie up for ash utilization at the DPR stage.

Suggestion for reducing delays:

- i. The time frame should be extended to the life of the project as reckoned at the appraisal stage, subject to a maximum of 25 years.
- ii. For stations having dry ash storage facilities like construction of ash mound with adequate safeguards as prescribed, the ash stored at the ash mound can be considered as ash utilized, as it does not pose any environmental hazard.

4.47 Besides the above, clearance from Coastal Zone Regulations may also be required. It has been proposed by the Ministry of Power that clearances from CRZ aspects should be given on case to case basis, based on the investigations carried out by identified agencies as per defined norms and should not be linked to drawing up of the total coast line. The competent authorities should give clearance within one month of submission of the report.

4.48 Government of India has been assisting the states in the resolution of these issues. Model PPA and Fuel Supply Agreements have been drafted with the help of international consultants. Poor financial health of the power utilities in the public sector has emerged as the major reason behind slow pace of implementation of power projects in private sector. Reforms in the power sector, therefore, assume paramount importance and unless the financial health of the sector is restored, private investment will be difficult to come by. Government of India has been supporting the states in the reform and

restructuring of the State Electricity Boards. Memoranda of Agreements (MOA) have been signed with many states on time-bound implementation of the reform programme and financial institutions have been extending credit to the SEB's / Successor Companies based on agreed roadmaps.

4.49 The proposed Electricity Bill, 2002 will address many of the concerns of existing legislation in speedy implementation of power projects and will replace the existing Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948. Under the proposed legislation, techno-economic clearance from CEA under section 29 of the Electricity (Supply) Act, 1948 will no longer be required in respect of non-hydro generation projects. The requirement of clearance by CEA is proposed to be continued in case of hydro projects because of the issues involving inter-state rivers, dam safety and design, etc., besides the need for comprehensive and optimum development of hydro potential of rivers. The Electricity Bill, 2002 also proposes to do away with any clearance from the SEB before setting up captive power plants.

4.50 Under the proposed Electricity Bill, 2002, a time limit of 90 days has been prescribed for grant of license. The existing provision of approval of the Central Transmission Utility/State Transmission Utility before obtaining a transmission license is also proposed to be done away with.

### **Road Projects**

4.51 Road projects generally require extensive land acquisition, relocation of displaced persons, removal of construction on acquired lands and shifting of utilities managed by various departments/agencies. This requires very close coordination between a large number of agencies of the Central and State Government. Some of the issues hampering progress of projects in road sector are:

- i. Delay in land acquisition as lands, which have to be acquired alongside existing alignments, are often under use/occupation. This requires removal of a large number of structures, relocation and rehabilitation of a large number of persons and removal of encroachments from Government lands.
- ii. Often utilities like electricity and telecom poles, pipelines, cables, etc., are located alongside existing road alignment that need to be shifted before work can start. Shifting/relocation of utilities requires clearance from various departments, which also have to relocate these utilities. Besides involvement of a

number of Governmental agencies in relocation of utilities, non-availability of information on exact location of underground installations also causes delays in completion of such works. Each agency is required to plan and implement relocation of such utility. Often these do not get synchronized with project progress, leading to delays in implementation of project.

4.52 A task force under Secretary to State Government in charge of Public Works Department may be set up for coordination among concerned agencies, both State and Central, for shifting of utilities so that the work for shifting all utilities could be taken up simultaneously by the concerned agencies in a well coordinated manner.

### **Multiplicity of Clearances**

4.53 There are many activities where clearances from many Government departments/ agencies and other authorities have to be obtained. For instance, to set up a captive power plant, even after taking permission from the State Electricity Board, separate clearances/ permissions/ licenses have to be obtained from local authorities, police, public works department, District Collector, Controller of Explosives, etc. Except the clearances required from the safety point of view, other clearances could be made automatic. Even on safety related aspects, clearance from one agency, say District Collector, should suffice. The requirement of multiple clearances for an activity from different agencies or multiple clearances from the same agency may also be reviewed at the time of re-engineering of regulatory processes.

### **Re-engineering of Regulatory Processes at State Level and Single Window Clearance**

4.54 Re-engineering of the regulatory processes at the state level on lines similar to the re-engineering proposed at Central level would be necessary to examine the approval requirements under extant laws, prescribe time limits, develop appropriate trigger mechanisms to automatically raise the matter to the next higher level in cases of delay in decision making, review extant laws and indicate inters-se priority among proposed regulatory reforms. The State Governments may consider setting up groups to take up re-engineering of regulatory processes at the State level in a time-bound manner. The progress may be reviewed at the highest level.

4.55 After investment approval in case of public projects and financial closure in case of private projects, the project needs to obtain

necessary approvals/permissions from the concerned departments of the Government of India/State Government before the commencement of operation and during operation. Such cases for approvals/permissions are examined in various departments of the Central/State Government with respect to their functions. Most approvals/permissions for implementing the project after investment approvals pertain to the state level agencies.

4.56 In the absence of adequate networking among departments/agencies, necessary linkages among various departments/ agencies do not get established and the processes of approvals in different departments become stand-alone processes with findings of examination of any issue by one department not being made available to other departments. Examination of applications in different departments, in isolation of examination already carried out by other departments, leads to delays and, at times, conflict of opinion among departments. The concept of Single Window system was conceived to overcome the inordinately long time taken in obtaining all approvals/licenses, etc., from concerned Government departments/agencies. It was expected that, with Single Window system, all approvals will be issued at one place or at least one single agency will follow up the issue of necessary approvals.

4.57 Although specialised investment promotion agencies have been set up by most States, in view of the control over approval mechanism by respective line departments, these investment promotion agencies have not been able to effectively address the needs of the Single Window system. Powers to accord approvals are vested in various departments/agencies under their respective statutes and notifications. Existing legal framework does not support the Single Window concept, as it does not empower any department, body or agency with overriding powers to accord all requisite clearances under the Acts administered by different departments. Under such circumstances, the success of the Single Window system depends to a large extent on the leadership of the State.

4.58 Many States have attempted to overcome this difficulty through suitable institutional changes. Andhra Pradesh has, in June 2002, promulgated the Andhra Pradesh Industrial Single Window Clearance Ordinance, 2002 to provide legal backing to the single window clearance system. Earlier, a special legislation, 'The Andhra Pradesh Infrastructure Development Enabling Act, 2001, was enacted which empowers the 'Infrastructure Authority' established under the Act to monitor the grant of approvals by different departments and grant such approvals in case the concerned departments failed to grant the

approvals within prescribed time. In Rajasthan, Rules of Business have been amended and specially empowered bodies set up to accord approvals for subjects under different departments. In Chattisgarh state, 'The Chattisgarh Audyogik Nivesh Protsahan Adhiniyam, 2002' has been enacted. State level initiatives are covered in greater detail in Chapter-5 of the report.

4.59 The Committee recommends that an empowered single window system at the state level is vital to reduce delays in various approvals. This, along with re-engineering of the regulatory processes, would have maximum impact on reducing delays in getting required approvals and implementing the projects. The single window agency at the state level should be empowered to lay down time frames for approvals, review the grant of approvals by concerned agencies/departments, local bodies, etc., accord approvals in case concerned departments/agencies do not grant these approvals in a predetermined time frame, and also give appropriate directions to the concerned agencies/departments. The states may consider various alternatives such as enactment of legislation, amendment in the Rules of Business, etc., to operationalise and empower the single window system. Model legislation on the lines of 'The Andhra Pradesh Infrastructure Development Enabling Act, 2001', 'The Andhra Pradesh Industrial Single Window Clearance Ordinance, 2002' or 'The Chattisgarh Audyogik Nivesh Protsahan Adhiniyam, 2002' could be considered for expediting clearances.

4.60 While such legislations are limited to subjects in the State list, many infrastructure project-related issues would fall under the Union/Concurrent list. Under these circumstances, the effectiveness of states' initiatives would be limited and would need to be reinforced with similar initiatives at Central level. The 'Industrial Investment Facilitation Board (IIFB)', recommended by the Committee in Part-I of its report for being set up as the central facilitation body, would follow up the grant of approvals for projects with investment of Rs. 100 crores and above. Besides, any investor facing difficulties in obtaining approvals from the Ministries/Agencies may also approach IIFB irrespective of the investment limit. IIFB would also prescribe time limits for grant of various non-statutory approvals in consultations with the concerned Ministries. FIIA would continue to look after specific difficulties being faced by foreign investors.

### **Single Composite Application Form (SCAF)**

4.61 Industrial projects and projects in other sectors are governed by numerous Acts and regulations, each requiring specified forms to be

filled, returns to be filed and registers to be maintained. The information required in many of these forms is similar with a lot of repetition and overlap. Different departments/agencies have to be approached for these clearances. Composite application forms aim at consolidating the applications required for basic clearances/approvals in one set. Attempts towards introduction of composite application by consolidation of all applicable forms in their present form without a serious attempt towards reduction, if not elimination, of redundant forms and avoiding repetition of information in different forms cannot result in simplification of procedures.

4.62 Many states have developed single composite application forms (SCAF) for clearances generally required by large and medium projects. State level investment promotion or facilitation agencies that receive these composite application forms are responsible for obtaining necessary clearances from concerned departments. At the District level, the respective District Industry Centres (DICs) are generally responsible for obtaining such clearances. A high-powered committee monitors progress of grant of approvals under these composite applications. State level initiatives in introducing single composite application forms are covered at length in Chapter-5.

4.63 These initiatives for single window clearances are welcome steps to facilitate issue of all approvals from a single point and need to be extended to all types of projects. A lot of work also needs to be done for simplification of forms prescribed for different approvals. Different approvals from the same department can be combined into a single approval. State Level Investment Promotion Agency or any other designated agency may be assigned the specific responsibility for development, implementation and follow up of clearances from concerned departments/agencies under Single Composite Application Forms, for large and medium projects to begin with.

4.64 Similarly, greater use of information technology tools by the State and Central Government departments and their networking could allow information sharing among concerned departments, avoid the need for providing separate information to different departments and permit simultaneous processing of cases in different departments/agencies and thereby cutting down time taken in granting such approvals. Under such arrangements, the process of verification/examination carried out at one place need not be repeated elsewhere and information on examination by other departments / agencies would be readily available.

### **Incentivising the States**

4.65 Several states have already undertaken measures to simplify their regulatory procedures and the need for reforming the regulatory framework is well recognized and accepted at the state level. Reforms in regulatory processes, unlike other sectoral reforms, are not perceived to have huge political implications, and the states are more likely to undertake such measures. Since states stand to benefit immensely from such reforms, which will catalyse greater investment flows, there would be greater inclination among states to undertake such reforms and, therefore, non-monetary incentives in the form of technical support, sensitization about practices elsewhere, performance of the States, institution of awards, etc., may be effective.

4.66 Many progressive states are quite sensitive to investor perceptions. Documentation and dissemination of information on best practices in India and other developing economies would sensitise people and exert pressure on the regulatory system to deliver better services and, thereby, create pressure for undertaking regulatory reforms. The Committee felt that simplification in the regulatory processes would be a one-time as well as an ongoing exercise. The states would need to be supported during the exercise of re-engineering of the regulatory processes. The Government of India may provide technical assistance to the states for re-engineering of their regulatory processes for which assistance of multilateral financial institutions may be availed. A concept paper on technical assistance is at **Annex-XI**.

4.67 The State Governments and the Central Government are already implementing a number of schemes and projects focusing on infrastructure augmentation for industries in the states. Government of India is also providing reform-linked assistance under Accelerated Power Development and Reform Programme (APDRP) and Urban Reform Incentive Fund (URIF). In addition, an amount of Rs. 2500 crores has been provided in the Union Budget for 2002-03 for ushering in policy reforms in sectors which are constraining growth and development. The proposed monetary incentive scheme may be dovetailed with various incentive schemes and clearly earmarked for identified infrastructure components/projects, as may be determined by the State Governments concerned. Additional budgetary provisions may also be considered for augmenting the funds available as incentive to the states. Institutional arrangements would be necessary to ensure that the funds are properly utilised on appropriately designed projects. The Government may also consider issuing directive to the financial Institutions to link lending to states for their infrastructure projects with the progress of regulatory reforms. This would further

incentivise the States for undertaking regulatory reforms and to simplify procedures for approval and implementation of projects.

### **Prescribing and Enforcing Time Limits for Approvals**

4.68 IIFB would, in consultation with the concerned Administrative Ministries, prescribe time limits for the grant of various non-statutory approvals and follow up the grant of various statutory approvals with the concerned Administrative Ministries/Agencies. Cases of delay in approvals by the Ministries/Departments of Government of India will be followed up by IIFB with the concerned for their expeditious resolution. As the representative of the concerned States would also be co-opted in IIFB, cases involving delays at the level of State Departments would be followed up in IIFB. Besides, the State Level Single Window Mechanism or Investment Promotion Agencies would follow up the grant of approvals by the departments /agencies of State Government. Re-engineering of the regulatory processes would also enable many approvals to be replaced by either deemed approvals or automatic approval upon fulfilling the requirements. Individual Ministries/Departments, both at Central and State level, should develop appropriate trigger mechanisms to take the matter to the next higher level whenever the prescribed time frames are not adhered to.

4.69 The recommendations to empower the State Level Single Window system also include a recommendation to suitably empower such bodies to decide on cases of approvals, in case the concerned departments fail to decide within the prescribed time limits. This would ensure that the cases for approvals are not delayed.

### **Regulatory Environment During Operation of Projects**

4.70 A study conducted jointly by CII and the World Bank in January 2002 on 'Competitiveness in Indian Manufacturing' based on firm level survey has shown that nearly 16% of management's time in India is spent in dealing with regulatory authorities. The average number of visits by regulatory authorities in a year for the 10 surveyed states was 11.5 with states having better investment climate having lesser number of visits.

4.71 As stated earlier at paragraphs 3.17 & 3.18, a survey of 385 foreign investors conducted by FICCI in March 2002, has shown that 74% of respondents have reported ground level hassles to be high and 76 % respondents have observed that reducing ground level hassles is imperative for enhancing FDI inflows. 38% respondents have rated



state level handling of approvals 'bad' in contrast to 93 % respondents reporting handling of approvals at central level from 'good to average'.

4.72 Removing the ground level hassles by making the system of reporting meaningful, less bureaucratic and by minimizing interaction between project and regulatory agencies will simplify the operating environment for the projects. Some of the issues related to interface of the regulatory machinery with the project are briefly covered below:

### **Inspections**

4.73 Multiplicity of inspecting authorities from different departments creates operational difficulties for the projects during their operation. A study by ASCI has listed at least 27 different kinds of inspections for industrial undertakings by various agencies. Most of these inspections will be applicable to other projects as well. An illustrative list of inspectors of various departments is at **Annex-VI**.

4.74 The number as well as frequency of inspections needs to be reduced. Besides clubbing duties of different inspecting authorities to reduce the number of inspectors, annual inspections could also be carried out at one time by all concerned departments as a team after giving advance notice. Some inspections can still be carried out as surprise inspections by special teams of concerned departments. A Committee under the Secretary (Industry) of the State Government may decide on the inspection schedule of projects under both Central and State legislations.

4.75 Numerous Acts regulating the operation of enterprises, prescribe periodic renewal of approvals/licenses, etc. This requires frequent interaction with concerned regulatory agencies. With advancement in technologies and experience gained by the industry, it should be possible to revise the frequency of these clearances and permissions. Requirement of permission under the Factories Act before taking up construction, external & internal inspection, etc., needs to be reviewed. The period for renewal of license for factories may be increased to three years from the present limit of one year. The Ministry of Labour has already initiated the process of carrying out comprehensive amendments to the Factories Act, 1948. The re-engineering groups, during the re-engineering of regulatory processes, may also look into the inspection requirements. Periodic inspections may be necessary only for Category-C issues where the frequency of inspections would vary across regulatory issues.

4.76 At present a lot of time is spent on inspections by various departments. Besides clubbing these inspections into a few combined inspections, the authority for conducting inspections can also be given to accredited external certifying agencies with responsibility assigned to them for ensuring various statutory compliances by the units inspected. Along with outsourcing of approval, authority for inspection & pre-examination, etc., internal disciplinary systems of professional associations to act against complaints of malpractices would need to be strengthened. Induction of outside experts could be considered.

### **Registers and Returns**

4.77 An enterprise during its operation has to maintain a large number of registers and file many returns. An illustrative list of registers and returns to be maintained under Central Acts is at **Annex-VII**. A medium sized company is required to maintain 42 different types of returns /forms (**Annex-VIII**). Multiplicity of Acts and the procedural requirements under each Act require a large number of registers to be maintained even for identical objectives. For example, separate attendance and payment registers have to be maintained under the following Acts:

- i. The Factories Act, 1948
- ii. The Minimum Wages Act, 1948
- iii. The Contract Labour (Regulation and Abolition) Act, 1970
- iv. The Payment of Wages Act, 1936
- v. The Payment of Gratuity Act, 1972
- vi. The Employees' State Insurance Act, 1948
- vii. The Provident Funds Act, 1925

4.78 The stipulation of maintaining separate registers under each Act for related subjects imposes a heavy burden on the project as well as the regulatory authorities and needs to be reviewed. Instead of maintaining different registers, a single register or electronically maintained database may be sufficient. The Labour Laws (Exemption From Furnishing Returns and Maintenance of Registers by Certain Establishments) Act, 1988, permits maintenance of common registers but is presently applicable to only small-scale enterprises, employing up to 19 persons. This restriction and punishments prescribed under this Act for violation being more stringent than what individual laws impose, have restricted its use. It is recommended that this law be made applicable to a larger number of industries by increasing the limit of persons employed to 500.

4.79 Besides reducing the number of forms to be submitted by a unit, there should be a time limit, of say 4 weeks, within which the

concerned authorities may respond to these forms for any clarification required. After this period, the form submitted by the unit should be deemed to have been accepted and approved. As a growing number of industries and business undertakings are now using computers for their day-to-day transactions, computerized records may be accepted for maintaining registers and filing of returns.

4.80 Re-engineering groups during re-examination of regulatory issues suggested at paragraph 4.10, may also look at consolidation of reporting, record keeping and inspection requirements under extant laws to minimize the points of contact between project promoters and regulatory authorities, allow electronic reporting and record keeping and bring together provisions dealing with same subject. Mandatory reporting requirement may be needed only for Category-C issues, and documentation, but not reporting, for Category-B issues. In general, Category-A issues may be exempt from documentation/reporting.

### **Facilitation Mechanisms**

4.81 Facilitation Teams (FTs), recommended by the Committee in Part-I of the report for being set up in the Administrative Ministries, would facilitate implementation of projects, both public and private, involving investment of Rs. 100 crores and above. The FTs would also include representatives from departments responsible for according various clearances as well as concerned State Governments.

4.82 At the State level also facilitation mechanisms are needed since a large number of approvals/clearances required for implementation of projects pertain to the departments/organizations of the State Government. Besides regular review and follow up of grant of approvals, Single Window Agency or State Investment Promotion Agency may interact at least once every three months with the investors on the factors impeding implementation of projects, scope for further simplification of procedures and facilitate resolution of difficulties being encountered by them in the implementation of their projects.

### **Settlement of Legal Disputes**

4.83 Many investors have identified time-consuming legal processes and delays in settlement of legal disputes as an impediment to implementation of their projects. As disposal of cases gets delayed in regular judicial proceedings, recourse to alternate dispute redressal remedies is becoming increasingly important. International Centre for Alternative Dispute Resolution (ICADR) has been established as a society under the aegis of the Ministry of Law and Justice, to promote

alternative dispute resolution facilities. ([www.ICADR.org](http://www.ICADR.org)). ICADR, besides appointing arbitrators / conciliators, also keeps track of the proceedings for their early conclusion. Almost all commercial, civil and labour disputes, in respect of which parties are entitled to conclude a settlement, can be settled by alternate dispute resolution procedures. This remedy is also available to foreign companies under the provisions of the Arbitration and Conciliation Act, 1996, provided there is an agreement between the parties to refer their disputes to arbitration, conciliation or mediation. Even when the parties have not included the arbitration/conciliation clauses in their original agreements for referring their disputes to ICADR, they can enter into a separate agreement for settling their dispute through arbitration/conciliation and reference to ICADR.

4.84 ICADR has been receiving, on an average, only 2-3 cases every month for appointment of arbitrators. While alternate dispute resolution offers expeditious resolution of disputes, yet the small number of cases referred for arbitration suggests limited knowledge and awareness about this mechanism. It would be useful to give wide publicity to the alternate dispute resolution mechanism. All Ministries of Government of India and State Governments could encourage investors to include appropriate provisions in agreements to refer their disputes for resolution by alternative methods. Concerned departments can also provide information about ICADR on their websites.

4.85 Apart from ICADR, state level initiatives have also been taken to reduce delays in settlement of disputes and to provide an alternative system of dispute resolution. Under the 'Andhra Pradesh Infrastructure Development Enabling Act, 2001', a Conciliation Board, comprising 3 Members with a retired High Court Judge as its Chairperson, has been established to assist the Government agency or Local authority and any developer to reach an amicable settlement of their disputes. The Board is empowered to call upon the party to dispute to file its reply. Conciliation proceedings will need to be completed in 3 months. This time limit can be extended by 90 days on the request of both parties.

### **Lack of Information and Transparency**

4.86 Lack of transparency in the system of grant of approvals and difficulties in obtaining necessary information on the procedural and documentary requirements for various approvals, latest orders and instructions, also cause delays. Sometimes even the forms or specific information to be provided for getting approval are not readily available. It is recommended that every department must clearly spell out its policy framework for investment, approvals required from both Central

and State Governments, agencies responsible for grant of each approval, their contact address, procedural requirements for each approval, prescribed time frame, etc. Information on the applicable Acts and Rules should also be widely disseminated.

4.87 A net-enabled information system should be developed to provide this information. To begin with, such net-enabled information system could be developed by each department of the Central and State Governments as a distinct part of their website. This could subsequently be interconnected across departments to provide all related information at one point.

4.88 Forms for all types of approvals/clearances along with information on the procedural requirement and list of documents to be attached must be available on the websites of concerned departments/agencies or State Level Investment Promotion Agency in a downloadable format. This may be completed within the next six months. Any deficiency in the particulars furnished in the application must be conveyed to the applicant within a specific time frame, of say 7 days, and an acknowledgment on receiving complete application must be issued. Necessary systems may be put in position, within one year, for electronic submission of these applications. Status of pending applications should be made public at regular intervals and must also be available on the department's website along with reasons for delay in approval beyond prescribed time. This may be done within three months' time.

4.89 Periodic publication of information on the performance of states on 8-10 critical parameters and ranking states on these parameters would generate healthy competition among states and incentivise them for undertaking further reforms. The SIA newsletter of the Department of Industrial Policy & Promotion containing details of state-wise IEMs is now available on the website of the department. While some Ministries/Departments are making public information on the performance of states in various parameters, it needs to be done on a broader scale and on a regular basis. In view of the wide disparities in the present level of regulatory reforms in the states, it may be useful to categorise the states based on their existing levels of reforms and rank them accordingly within their categories to generate competition among similarly placed states. Administrative Staff College of India may also study the procedures prevalent in states and supplement this with feedback from investors on the quality of decision making.

### **Sensitisation and Awareness Building**

4.90 Sensitizing people about the best practices elsewhere, initiatives taken in Central Ministries and States, etc. would be a highly effective method of creating awareness about regulatory reforms. Towards this objective, documentation of the best practices in India and other developing economies, and their dissemination through seminars, workshops, meetings, etc., would be necessary. Industry associations, States, etc., may be associated for documentation. The sensitization exercise needs to be taken deeper to the level of citizens who would exert pressure on the system to deliver better services and thereby create the pressure for undertaking regulatory reforms. A separate exercise would need to be undertaken to design the components of the documentation and dissemination needs, assess resource availability & requirement and implementation methodology, which can be taken up as a project by the Industry Associations. While each department would be undertaking this exercise in relation to the programmes under their jurisdiction, States would need to be actively associated. PMO is also considering a sensitization programme for the reform programmes and their impact on the lives of citizen. Regulatory reforms could also be considered for inclusion in such a programme.

4.91 It is felt that mere simplification of procedures would not suffice, as the attitude of implementation machinery at the field level is also crucial for reducing hassles and harassment. Abuse of power resulting in delays in grant of various approvals needs to be curbed. It is, therefore, necessary that disciplinary proceedings are invariably initiated in such cases against public servants, both at central and state level, and are concluded expeditiously. Stringent action should be taken in cases of proven abuse of power.

### **Greater Use of IT in Approval Administration**

4.92 Greater use of IT tools in the administration of various approvals would not only reduce delays and bring in more efficiency but would also increase transparency. Some Ministries/departments have taken initiatives in this direction by providing information requirements for various approvals, status of pending case, etc. It is necessary that these individual initiatives be integrated through an inter-Ministry as well as intra-Ministry effort. This would require rewriting of office procedures making these amenable to IT tools, standardization of data requirements, inter-linked processing across Ministries, eventually allowing on-line filing of applications & returns and processing of applications.

4.93 In the course of re-engineering of the regulatory processes, it must be ensured that the outcomes are amenable to e-governance. A

major Centrally Sponsored Scheme (CSS) is under preparation for the 10<sup>th</sup> Five Year Plan, jointly by the Department of Administrative Reforms and Department of IT, and a technical support institution, the 'National Institute of Smart Governance', is being set up at Hyderabad. The re-engineered processes may accordingly be implemented from the scratch by IT systems.

4.94 It would be necessary to have a time bound action plan for greater use of IT in approval administration. Generally speaking, the Ministries/ Departments should be able to place information on the website on the status of pending applications, procedural and documentary requirements with various applications within three months. Application forms for various approvals could be made available in downloadable form on the websites within six months. Interconnecting Ministries and allowing on-line filing of applications and returns should be possible within one year while connecting the States with the central system should take place within two years.

#### **Skill Upgradation and Attitudinal Changes in Administrative Machinery**

4.95 Liberalisation in the policy framework needs to be supported by simplification of procedures and a re-orientation of the machinery handling such issues. Functioning of the offices of various departments/agencies need to be brought in line with the present day technologies and practices. These offices need to drastically reduce their paperwork and instead move towards paperless working. Regular training of the staff at cutting edge level is necessary to bring about and sustain this attitudinal change.

4.96 The Committee in Part-I of its report has furnished recommendations on the capacity building needs. Training of the officials of line agencies & members of the Facilitation Teams on modern project management techniques, use of IT, etc., would benefit project implementation. The functionaries in various Government departments/ agencies responsible for according various clearances/approvals must be imparted training on modern management practices, greater use of IT in grant of approvals as well as post-commissioning regulatory requirements. The extant procedures must be revised to reflect the present business and technological environment.

## **Chapter-5**

### **State Level Initiatives**

5.1 Many states have launched initiatives to simplify the procedures, reduce delays in approval administration and facilitating implementation of projects. The steps taken in some of the states are briefly covered below:

#### **Andhra Pradesh**

5.2 A special Act, the 'Andhra Pradesh Infrastructure Development Enabling Act, 2001' has been enacted laying down a strong legal framework for reducing delays in obtaining various approvals and clearances. The Act empowers the 'Infrastructure Authority', established under the Act, to grant all clearances and permissions for any project in case concerned departments do not grant these clearances in the prescribed time frame.

5.3 The Act also authorizes the 'Infrastructure Authority' to prescribe time limits for according clearance for projects by departments and also to periodically review the status of clearances. It also empowers the 'Infrastructure Authority' to give directions to any Government agency or local authority or other authority or developer or any other person with regard to implementation of any project, which are binding upon such agency/authority or developer.

#### **Andhra Pradesh Industrial Single Window Clearance Ordinance, 2002**

5.4 The Andhra Pradesh Industrial Single Window Clearance Ordinance promulgated on 22.6.2002 provides for District and State Level Single Window Clearance Committees, Empowered Committees and State Board. Single Window Clearance Committees would receive applications for all clearances for setting up industrial units, review and monitor the processing of applications and forward the orders of the competent authorities to the applicant. These Committees would also inform the applicant the date on which the application was received by the competent authority and the date on which the application may be deemed to have been approved in the case of deemed approval.

5.5 The Empowered Committee besides reviewing the disposal of applications by the District and State level Committees, would also examine the orders passed by these Committees and pass appropriate



orders. The orders of the Empowered Committee will be binding on the District and State Committees. Similarly, the State Board may examine any orders passed by the Empowered Committee and pass appropriate orders.

5.6 The ordinance empowers the State Government to prescribe a combined application form which all departments or authorities are mandated to accept. The ordinance also empowers the State Government to prescribe the time limits for processing and disposal of applications. The competent authorities can ask for additional information only once before the expiry of time period for disposal of such applications. The State Government may also notify the clearance in respect of which failure of the competent authority to pass final order on the application within the prescribed period shall result in deemed approval.

### **Tamil Nadu**

5.7 In Tamil Nadu, a High Powered State Level Investment Promotion Board and a Project Approval Authority have been established to accord composite clearances to the projects. The composite application form covers the following clearances:

- i. Local body clearance.
- ii. Environmental clearance from TNPCB under the Air & Water Acts.
- iii. Land allotment by SIPCOT/TIDCO/SIDCO.
- iv. Reclassification of land use.
- v. Water supply.
- vi. Power connection (Temporary/permanent).
- vii. Registration under The Factories Act, 1948.
- viii. Registration under The Indian Boilers Act, 1923.

5.8 Investors have to file the composite application form with the Documentation and Clearance Centre (DCC) in the GUIDANCE Bureau. Follow up of these applications with concerned departments for speedy clearance is the responsibility of the GUIDANCE. The Project Approval Authority under the Chairmanship of Chief Secretary reviews the status of these applications.

5.9 In many other States similar initiatives have been taken. In Andhra Pradesh also a Centralized Documentation and Clearance Centre (CDCC) has been established in the Commissionerate of Industries to assist the entrepreneurs of large and medium projects in obtaining all clearances through a single consolidated application. A district cell of the CDCC looks after the cases of SSI.

## **Rajasthan**

5.10 The Government of Rajasthan introduced the Single Window system in March 2000, with the setting up of Empowered Committees and introduction of Single Composite Application Forms (SCAF) for clearances/ approvals/ services needed for setting up of large and medium industries. The Bureau for Investment Promotion (BIP), which is the State Level Investment Promotion Agency, receives all composite application for projects valued at over Rs. 3 crores, projects promoted by NRIs, 100% EOUs and FDI projects irrespective of value. Projects valued at less than Rs. 3 crores are received in the respective DICs.

- 5.11 SCAF includes forms for the following approvals/ clearances:
- i. General information about the project.
  - ii. Information for provisional registration of industry.
  - iii. Information about allotment/ acquisition of land in other than State Industrial Development Agency's institutional areas.
  - iv. Information about allotment/ acquisition of land in State Industrial Development Agency's institutional areas.
  - v. Information required by State Pollution Control Board for consent to establish under Air & Water Acts.
  - vi. Information required for site clearance by the Environment Department.
  - vii. Information required for application for electricity connection.
  - viii. Information required for application to Inspectorates of Factories & Boilers.
  - ix. Information required for conversion of agriculture land.

5.12 Escort officers are nominated in BIP for each large project. Applications under SCAF are received in the BIP/DIC, as the case may be, and are forwarded to the nodal officers in the respective department who are required to indicate any lacuna in application to the nominated escort officer in BIP/DIC within 7 days. After completion of all formalities by the applicant, BIP/DIC accepts the application after verifying the checklist provided by the respective departments. Applications are sent to respective departments by BIP/DIC and follow up of the approvals / clearances are the responsibility of BIP/DIC. The disposal of these applications is monitored by the Empowered Committees. A total of 246 applications involving a proposed investment of Rs. 5,600 crores have been cleared till June 2002 under single window clearance system since March 2000.

## **Chattisgarh**

### **The Chattisgarh Audyogik Nivesh Protsahan Adhiniyam, 2002**

5.13 The Chattisgarh Audyogik Nivesh Protsahan Adhiniyam, 2002 provides for setting up of District Investment Promotion Committee under the District Collector, Divisional Investment Promotion Committee under the Divisional Commissioner and State Investment Promotion Board under the Chief Minister. Notwithstanding anything contained in any law enacted by the legislative assembly of the State and being in force, the District and Divisional Committees are empowered to exercise powers of any local Government and of any authority or agency of the State Government in respect of the following:

- i. Identification and allotment of land.
- ii. Identification, allocation and facilitation of sources of water and other utilities including electric power.
- iii. All approvals in respect of matters relating to the implementation of the projects from the local Governments.
- iv. Approvals, if any, relating to matters concerning the welfare of labour and
- v. Approvals, if any, relating to the Chattisgarh Environment Control Board (in case of Divisional Committee).

5.14 The State Investment Promotion Board exercises powers in respect of all proposals referred to it by the District and Divisional Committees or brought before it by the investor or suo moto. The Board also exercises powers for simplification of procedures of the State Government in respect of any matter relating to investment and operation of projects and fixation of minimum wages.

5.15 The members of the District and Divisional Committee are jointly and severally responsible for providing the services contained in the schedule for which specific time limits have also been prescribed.

## Chapter-6

### Recommendations

#### 6.1 Central Government Level

##### I. Policy Related:

In order to simplify the procedures for grant of approvals, reduce delays and simplify the regulation of projects during their operational phase, re-engineering of the regulatory processes prescribed under various legislations, regulations, etc., is necessary. Simplification of procedures prescribed under extant laws is necessary to reduce delays in the grant of approvals. Re-engineering of the regulatory processes is also necessary to reduce ground level hassles, make administration and compliance easy as well as amenable to IT tools and minimise interface between project promoters and official machinery.

##### **Re-engineering of the Regulatory Processes**

- i. Simplification of the extant procedures for approvals/clearances would also require basic changes in the regulatory process prescribed under relevant legislations. Detailed examination of each approval requirement under different Acts, rules and regulations would need to be carried out for re-engineering of the regulatory process in the following order :
  - a. Self-regulation, i.e., automatic approval upon filing of necessary documents ('blinking traffic lights' model).
  - b. Professional outsourcing with sufficient documentation of certification to enable determination of professional malpractices ('stop-go traffic lights' model).
  - c. Prior case-by-case regulation by public agency ('policeman regulating traffic' model).

(Paragraph: 4.10)

The Committee felt that as many approvals as are possible should be placed on self-regulation, i.e., under automatic permission upon filing of necessary documents.

- ii. Re-engineering of the regulatory processes is too elaborate an exercise to be undertaken by the Committee at this stage since extensive consultations with the concerned Ministries would also be required. It is, therefore, recommended that re-engineering groups may be formed, to begin with, in the Ministries of Labour, Environment & Forests, Power, Agriculture, Petroleum & Natural

Gas and Department of Industrial Policy & Promotion. These Groups under the chairmanship of the Secretary of the concerned Ministry/Department could include representative of the attached and sub-ordinate offices responsible for granting various approvals. Representatives of the State Governments and other Ministries may be associated as considered necessary. Industry Associations, being important stakeholders, may also be associated. Assistance of a public management specialist may also be taken, as considered necessary, to bring in professional inputs and data on international experience in best practices. Close interaction with the personnel in the existing implementation machinery would be essential. While a panel of experts may be prepared for reference, the choice may be left to the Ministry to suit their requirements. Suggested Draft TOR for the re-engineering groups is at **Annex-X**. The functions of the re-engineering groups would be as follows:

- a. Re-engineering of the regulatory processes under extant laws on the principle laid down at paragraphs 4.9 & 4.10.  
(Paragraph : 4.10)
- b. Prescribe time limits for grant of non-statutory approvals and develop systems for ensuring grant of approvals within this time limit.  
(Paragraph: 4.11)
- c. Develop appropriate trigger mechanisms to automatically raise the matter to the next higher level in case the concerned authorities fail to decide the matter within prescribed time limit.  
(Paragraph: 4.11)
- d. To indicate inter-se priority among the regulatory reforms being proposed by the group so that reforms aiming at maximum simplification are undertaken first.  
(Paragraph: 4.11)
- e. Examine the extant laws being administered by their Ministries with the objective of consolidation of laws, weeding out laws that have outlived their utility and to generally bring them in line with the present technological, economic and competitive environment. Illustrative list of Acts at **Annex-IV** may be reviewed and compiled for the Ministry by the re-engineering group.  
(Paragraph 4.11)
- f. Review requirement of approvals from multiple agencies or multiple approvals from a single agency.  
(Paragraph: 4.53)
- g. Indicate best practices adopted within the country and elsewhere and suggest a generic structure for re-engineering of

the regulatory processes at the State level. State specific fine-tuning may be undertaken in consultation with the States.

(Paragraph: 4.13)

- iii. The re-engineering group to be set up in the Ministry of Finance may look into the issues of simplification of procedures adopted by Commercial Banks and Financial institutions and their capacity building needs to meet the requirements of project financing aimed at reducing delays in timely flow of investments to projects.

(Paragraph 4.12)

- iv. The re-engineering groups should complete the re-engineering of the regulatory processes within a period of six months, and review, updation and consolidation of extant laws within a period of one year.

(Paragraph: 4.14)

- v. A Committee of Secretaries may review the progress of re-engineering groups on a monthly basis and act as a trigger in case of any delay in the re-engineering process. IIFB would co-ordinate re-engineering of regulatory processes in consultation with the re-engineering groups set up in different Ministries/Departments. The concerned Ministries will include a position report on the re-engineering of regulatory processes as an item in the monthly report of the concerned Ministry to CCER.

(Paragraph: 4.14)

### **Other Policy Issues**

- vi. The Government of India may consider institution of awards, rating of States, etc., for recognising the progress made by States in undertaking regulatory reforms.

(Paragraph 4.65)

- vii. Assistance under different reform linked incentive schemes in various sectors may be dovetailed for the purpose of extending monetary incentive for re-engineering of regulatory processes in the States, with clearly earmarked funds for identified infrastructure components/projects, as may be determined by the State Governments concerned. Additional budgetary provisions may also be considered for augmenting the funds available as incentive to the States. Institutional arrangements would be necessary to ensure that the funds are properly utilised under appropriately designed projects. The Government may also consider issuing directive to the financial Institutions to link lending to States for their infrastructure projects with the progress of regulatory reforms.

(Paragraph 4.67)

viii. A comprehensive legislation may be enacted to dispense with the requirement of publication of notices, under various legislations - both central and State, in the official gazette. Publication in a vernacular newspaper having adequate circulation in the concerned area should be considered sufficient for this purpose.

(Paragraph: 4.19)

ix. The National Rehabilitation Policy, under preparation by the Ministry of Rural Development, may be finalized quickly to reduce delays on account of rehabilitation issues during implementation of projects. The Ministry of Rural Development may also consider setting time limits for implementation of rehabilitation measures by the concerned project authorities.

(Paragraph: 4.19)

x. Disciplinary proceedings should invariably be initiated against public servants, both at central and state level, for abuse of power resulting in delays in grant of approvals. Stringent action should be taken in cases of proven abuse of power.

(Paragraph: 4.91)

## **II. Procedural**

i. MOEF should consider setting up a data centre, which could serve as a one-stop source for obtaining reliable and validated data for preparing EIAs.

(Paragraph: 4.28)

ii. Instead of the present procedure under which the various stages of clearances in the MOEF are undertaken one after another, MOEF should evolve a procedure to take up activities in parallel. MOEF should also examine if all the documents referred to in the explanatory memorandum attached to the EIA Notification, 1994 need to be insisted upon at the time of receipt of application itself.

(Paragraph: 4.34)

iii. While the Committee was deliberating upon this issue, the investment limit for certain categories of projects requiring environmental clearance has been enhanced by MOEF from Rs. 50 crores to Rs. 100 crores. The investment limit as well as the list of projects requiring environmental clearance should be made co-terminus with Plan period necessitating a review every five years. It is desirable to link this limit with CPI for automatic adjustment for inflation in future.

(Paragraph: 4.34)

iv. In case site visits for environmental and forest clearance are not carried out within the specified time period, it may be deemed that such visits are not required. Similarly, in case the members

of the Expert Committee do not give their response within specified time period, it may be presumed that they have no comments to offer and next stage of the approval process may be taken up.

(Paragraph: 4.34)

- v. MOEF may consider permitting diversion of forestland for pre-construction activities based on the 'in principle' clearance after the non-forest land identified for compensatory afforestation has been transferred to the forest department and funds for raising compensatory afforestation deposited by the user agency.

(Paragraph: 4.40)

- vi. In case of environmental and forest clearances, expert agencies may be authorized to initially scrutinise applications for essential requirements before formally submitting to the department/agency concerned. The department/agency should accept applications only after confirming the availability of essential requirements. The time limits prescribed for clearances should be reckoned from the date of acceptance of application.

(Paragraph: 4.42)

- vii. Water clearance and coal linkages need to be expedited for power projects by periodic meetings of all concerned by the respective Ministries.

(Paragraph: 4.46)

- viii. The requirement of registers and forms to be maintained under different Acts needs to be reviewed. Instead of the present requirement of maintaining a separate register for the purposes of each Act, even when the subject matters are related, common registers or reports in electronic formats must be introduced. The Labour Laws (Exemption From Furnishing Returns and Maintenance of Registers by Certain Establishments) Act, 1988, permits maintenance of common registers but is applicable to only small-scale enterprises, employing up to 19 persons. Its scope needs to be increased to cover enterprises employing up to 500 persons. This recommendation aims at reducing the enormous paperwork which is required now and most of which just gets filed.

(Paragraph: 4.78)

### **III. Institutional Arrangements**

- i. The Committee, in Part-I of its report, has recommended setting up of the Industrial Investment Facilitation Board (IIFB), as a central facilitation body, to follow up the grant of approval for projects with investment of Rs. 100 crores and above. Besides, any investor facing difficulties in obtaining approvals from the Ministries/Agencies may approach IIFB irrespective of



investment limits. FIIA would continue to look after specific difficulties being faced by foreign investors.

(Paragraph: 4.60 & 4.68)

- ii. Empowered Committees for Forest Clearance may be set up with representation from concerned departments/agencies for disposal of cases requiring forest clearance.

(Paragraph: 4.39)

- iii. Facilitation Teams may be set up in the Administrative Ministries dealing with projects with investments of Rs. 100 crores and above and other priority sector projects.

(Paragraph: 4.81)

- iv. While outsourcing approvals, authority for inspection & pre-examination, etc., internal disciplinary systems of the professional associations would need to be strengthened to act against complaints of malpractices. Induction of outside experts could be considered.

(Paragraph: 4.76)

- v. Periodic publication of information on the performance of States on 8-10 critical parameters and ranking the States on these parameters would generate healthy competition among the States and incentivise them for initiating further reforms in their regulatory processes. Government may encourage Industry Associations, Rating Agencies, etc., to take up the exercise of periodic publication of information on the relative performance of States in undertaking regulatory reforms and may provide inputs on the rating criteria.

(Paragraph: 4.89)

- vi. Industry Associations and States may be encouraged to document and disseminate information on best practices in India and elsewhere, initiatives undertaken by States, etc. A separate exercise would need to be undertaken to design the components of the documentation and dissemination needs, assess resource availability & requirement and implementation methodology, which can be taken up as a project by the Industry Associations.

(Paragraph 4.90)

#### **IV. Capacity Building**

- i. Government of India may provide technical assistance to the States for capacity building of personnel and also re-engineering of regulatory processes for which assistance of multilateral financial institutions may be availed. Reputed Training and Research Institutions may be associated in this process. Inventory of the global best practices may also be prepared.

(Paragraph 4.15)

## 6.2 Common to Central & State Levels

- i. Greater publicity needs to be given on the availability of the alternative dispute resolution mechanism. Investors must be encouraged to refer their disputes for resolution through ICADR. All Ministries of Government of India and State Governments must encourage investors to incorporate suitable provisions in their contract agreements or to enter into arbitration agreements if a need for arbitration were to arise.  
(Paragraph: 4.84)
- ii. A net-enabled information system should be developed to provide information on investment policies, sector wise approvals required from both Central and State Governments, the agency responsible for approval, its contact address, procedural requirements for the approvals, prescribed time frame, etc. Information on the applicable Acts and Rules should also be available. To begin with, such net-enabled information system could be developed by each department of the Central and State Governments as a part of their website. This could subsequently be interconnected across departments to provide all related information at one point.  
(Paragraph: 4.87)
- iii. Forms for various permissions/ approvals should be made available in downloadable format within the next six months at the website of all departments of the Central and State Governments. Necessary systems may be put in position for electronic submission of these applications within one year.  
(Paragraph: 4.88)
- iv. All departments/ agencies must be required to make public the status of pending applications. This information should also be available on their websites. This recommendation may be implemented within the next three months. Specific reasons for delays in granting approvals beyond prescribed period must also be indicated.  
(Paragraph: 4.88)
- v. A time-bound action plan may be prepared for progressively higher use of IT in approval and operational administration of projects starting from information on procedural requirements and status of pending applications, and may be implemented within three months, and progressively extended to applications like electronic acceptance of applications within one year and inter-connecting Ministries and States within two years.  
(Paragraph: 4.94)
- vi. The functionaries in various departments/agencies responsible for according various clearances/approvals and in the

Facilitation Teams must be imparted training on modern management practices and greater use of IT in project approval administration as well as post commissioning regulation.

(Paragraph: 4.96)

### **6.3 State & Local Self Government Levels**

#### **I. Policy Related:**

- i. Re-engineering of the regulatory processes on lines similar to the re-engineering proposed at Central level would be necessary. The State Governments may consider setting up re-engineering groups to take up re-engineering of regulatory processes in a time bound manner.

(Paragraph: 4.54)

- ii. The Committee recommends enactment of a suitable legislation or alternate arrangements such as amendment in the Rules of Business, etc., by the State Governments for empowering specially constituted bodies to operationalise and empower 'single window system' at the State level. The Single Window Agency should be empowered to lay down the time frames for approvals, review the issue of approvals by concerned agencies/departments, accord approvals in case concerned departments/agencies do not grant these approvals in a predetermined time frame, and also give appropriate directions to the concerned agencies/departments/local bodies. Model legislation on the lines of the Andhra Pradesh Infrastructure Development Enabling Act, 2001, Andhra Pradesh Industrial Single Window Clearance Ordinance, 2002 or Chattisgarh Audyogik Nivesh Protsahan Adhiniyam, 2002 could be considered for expediting clearances.

(Paragraph 4.59)

#### **II. Procedural**

- i. In order to reduce delays in acquisition of land, the nodal department in the State Government must be entrusted with the responsibility of obtaining various approvals within the State Government.

(Paragraph: 4.19)

- ii. The system of approval of building plans from local authorities needs to be streamlined. In case the local authority fails to decide the application within stipulated time, the approvals should be deemed to have been given. In such cases, however, the applicant will still be responsible for adherence to the applicable building byelaws.

- (Paragraph: 4.21)
- iii. The powers of approval of building plans may also be given to architects registered under the Architects Act, 1972. Based on the certification by the architects, intimation to the local authority should be deemed sufficient.
- (Paragraph: 4.21)
- iv. The application forms for electricity and water connections, at least for medium and large projects, should be included in the single composite application form (SCAF). Concerned agencies/department must notify areas having any constraint in capacities of systems or availability of water, power, etc. State Level Investment Promotion or any other designated agency should periodically review the disposal of such cases as also progress of augmentation works.
- (Paragraph: 4.23)
- v. Once first stage site clearance has been issued, final clearance to be issued after commissioning of all necessary machinery and completion of other requirements may be a deemed approval if it is not granted within the prescribed time.
- (Paragraph: 4.34)
- vi. State Level Investment Promotion Agencies or any other designated agency may be assigned the specific responsibility for development, implementation and follow up of clearances from concerned departments/agencies under Single Composite Application Forms, for large and medium projects to begin with.
- (Paragraph: 4.63)
- vii. Multiplicity of inspecting authorities from different departments and frequency of their visits can be reduced by clubbing duties of different inspecting authorities. In order to reduce the number of inspections, a team of inspectors from different departments may be deputed for joint inspection after giving advance notice, A Committee under the Secretary in charge of Industries Department in the State Government can prescribe the schedule for such combined inspections. The powers to carry out regular and routine inspection may also be given to expert agencies.
- (Paragraph: 4.74 and 4.76)
- viii. A time limit, of say 4 weeks, may be prescribed within which the concerned authorities need to respond to periodical returns submitted to them for any further clarifications. After this time limit, the information given should be deemed to have been accepted and approved.
- (Paragraph: 4.79)

### **III. Institutional Arrangements**

- i. A task force under the Secretary in charge of department dealing with public works in the State Government may be set up for coordination among the concerned agencies for shifting of utilities so that the work for shifting all utilities could be taken up simultaneously by all concerned agencies in a co-ordinated manner.  
(Paragraph: 4.52)
- ii. State Level Single Window Agency or State Invest Promotion Agency may interact at least once every three months with the investors on the factors impeding implementation of projects, scope for further simplification of procedures and facilitate resolution of difficulties being experienced by them in the implementation of projects  
(Paragraph: 4.82)

### **6.4 Prescribing and Enforcing Time Limits**

- i. Individual Ministries/Departments, both at Central and State levels, should develop appropriate trigger mechanisms to take the matter to the next higher level whenever the prescribed time frames are not adhered to.  
(Paragraph: 4.11)
- ii. The empowered State Level Single Window agency may also monitor the grant of approvals by the Local bodies and district level functionaries and grant approvals, in case these are not granted by the concerned authorities within the prescribed time limits.  
(Paragraph: 4.59)
- iii. IIFB at Central level and the empowered Single Window Agency at the State level would prescribe the time limits for grant of non-statutory approvals in consultation with concerned Ministries/Departments.  
(Paragraph: 4.59 & 4.68)
- iv. IIFB would follow up with the concerned Ministries/Departments at Centre and State level cases of delays in the grant of approvals in case of projects with investments of Rs. 100 crores and above both in public and private sector.  
(Paragraph:4.68)

**Annex-I**

No.212/9/2/2001-CA.IV  
Government of India/Bharat Sarkar  
Cabinet Secretariat / Mantrimandal Sachivalaya  
Rashtrapati Bhavan

New Delhi 110004 the 24<sup>th</sup> September, 2001.

**Office Memorandum**

In pursuance of the deliberations of the meeting held on 4<sup>th</sup> September, 2001 under the Chairmanship of the Prime Minister, to discuss a fiscal stimulus initiative for the economy, it has been decided to set up a Committee to examine the extant procedures for investment approvals and implementation of projects and suggest measures to simplify and expedite the process for both public and private investment.

2. The Committee will comprise the following
  1. Shri V. N. Kaul, Secretary, Ministry of Petroleum and N.G. - Convenor
  2. Shri P. V. Jayakrishnan, Secretary, Ministry of Environment and Forests
  3. Shri A.K. Basu, Secretary, Ministry of Power
  4. Shri C. M. Vasudev, Secretary, Department of Expenditure
  5. Shri Shyamal Ghosh, Secretary, Department of Telecommunication
  6. Shri Vinod Vaish, Secretary, Ministry of Labour
  7. Shri Pradip Baijal, Secretary, Department of Disinvestment
  8. Shri V. Govindarajan, Secretary, Department of IPP
  9. Dr. Rakesh Mohan, Adviser to FM and Chief Economic Adviser, DEA
  10. Shri K. V. Irniraya Secretary, M/o Statistics & Programme Implementation
  11. Dr. Pradipto Ghosh, Additional Secretary, PMO
  12. Shri N.S. Sisodia, Additional Secretary, Cabinet Secretariat - Member Secretary
3. While the above Committee will suggest measures to simplify the procedures, a Sub-Group headed by Secretary, IPP will make specific suggestions regarding effecting simplification of procedures relating to private investment. These suggestions would be incorporated in the main report.
4. The Committee will be serviced by the M/o Statistics & Programme Implementation.
5. The Committee will submit its report by 31<sup>st</sup> January, 2002.

Sd/-  
(C.K. Mishra)  
Director  
Tel No. 379-2204

**Annex-I-A**

No.212/9/2/2001-CA.IV  
Government of India/Bharat Sarkar  
Cabinet Secretariat / Mantrimandal Sachivalaya  
Rashtrapati Bhavan

New Delhi the 19<sup>th</sup> March, 2002

**Office Memorandum**

Reference this Secretariat OM of even number dated the 24<sup>th</sup> September 2001 regarding setting up a Committee to examine the extant procedures for investment approvals and implementation of projects and suggest measures to simplify and expedite the process for both public and private investment.

2. Shri V. Govindarajan, Secretary, D/ Industrial Policy & Promotion, will be the Convenor of the said Committee, with immediate effect in place of Shri V. N. Kaul, Secretary, Ministry of Petroleum & Natural Gas, who has been appointed as Comptroller and Auditor General of India.
3. Other terms and conditions of the Committee remain unchanged.

Sd./-  
(Ravi Mittal)  
Director  
Tel. No. 379-2204

To

All members of the Committee.  
All Ministries /Departments.

Copy for information to:

- a. Shri V. N. Kaul, C&AG of India.
- b. Shri Brajesh Mishra, Principal Secretary to the Prime Minister.

Sd./-  
(Ravi Mittal)  
Director  
Tel. No. 379-2204

**Annex-II**

No. 5/5/2001-FIIA  
Government of India  
Ministry of Commerce & Industry  
Department of Industrial Policy & Promotion  
\*\*\*\*\*

Udyog Bhavan, New Delhi.  
Dated, the 9<sup>th</sup> October, 2001.

**OFFICE MEMORANDUM**

In pursuance of the Cabinet Secretariat's O.M. No. 212/9/2/2001-CA.IV dated 24<sup>th</sup> Sept. 2001 regarding fiscal stimulus initiative for the economy, it has been decided to set up a Sub-Group headed by Secretary, Industrial Policy & Promotion to make specific suggestions regarding effecting simplification of procedures relating to private investment.

2. The Sub-Group will comprise the following: -
  - a Secretary, Department of Industrial Policy & Promotion Chairman
  - b Secretary, Department of Disinvestment Member
  - c Secretary, Ministry of Power (To be represented by Special Secretary) Member
  - d Chief Economic Adviser, Department of Economic Affairs Member
  - e Additional Secretary, Ministry of Statistics & Programme Implementation Member
3. The Sub-Group may invite specifically any other Department depending on requirement.
4. The Sub-Group will submit its report by the end of January 2002.

**Sd/-**  
**(Umesh Kumar)**  
**Director**  
**Tel. No. 3016951.**

To

1. All members of the Committee
2. Principal Secretary to the PMO
3. Shri C.K. Mishra, Director, Cabinet Secretariat, Rashtrapati Bhavan.
4. JS (MSS)

**Sd/-**  
**(Umesh Kumar)**



## **List of References**

### **Case Studies**

- a. 13 case studies of specific projects undertaken by PMO to identify specific procedural, institutional, regulatory and implementation bottlenecks that cause delays in the approval, commissioning and operation of projects and the synthesis study by ATKEARNEY based on 5 case studies of power sector projects.
- b. Case studies of power projects by NTPC.

### **Reports & Studies**

- a. Report on 'System of Clearances Required for Various Types of Projects in Public & Private Sector' by Consultants appointed by the Ministry of Statistics and Programme Implementation.(November 2001)
- b. 'Foreign Direct Investment in India' carried out by NCEAR ( March, 1998)
- c. 'Simplification of Procedures Governing Industries' by Administrative Staff College of India ( December,1999.)
- d. Study commissioned by the Department of Industrial policy & Promotion with CMIE on the causes behind slow implementation of projects. (April-September 2001)
- e. "Simplification and consolidation of registers of records to be maintained by the employers and the returns or notices required to be submitted by them under various Labour Laws" by Ministry of Labour.
- f. Report on Administrative Reforms by CII
- g. Prime Minister's Council on Trade & Industry; Subject Group on Administrative and Legal Simplifications.
- h. Prime Minister's Council on Trade & Industry; "Unshackling Indian Industry"
- i. FICCI study on "Impediments to Investments- Regulatory and Procedural Bottlenecks"
- j. McKinsey report on "Achieving a quantum leap in India's FDI"
- k. CII-World Bank Study on 'Competitiveness in Indian Manufacturing' (January 2002)
- l. FICCI-FDI Survey (March 2002) of 385 Foreign Companies

### **Acts and Legislations**

- a. The Andhra Pradesh Infrastructure Development Enabling Act, 2001
- b. Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988
- c. Andhra Pradesh Industrial Single Window Clearance Ordinance , 2002

- d. Chattisgarh Audyogik Nivesh Protsahan Adhiniyam, 2002

**Base papers and inputs from Ministries/Department/Organisations**

- a. Base paper on Simplification of procedures for investment approvals and implementation from various Ministries/Departments.
- b. Comments and notes received from IOCL, BPCL, HPCL and GAIL
- c. Base paper on the Ministry of Environment and Forest and response on the comments received from various Ministries on the base paper
- d. Suggestions by Department of Fertilizer
- e. Note from Ministry of Statistics and Programme Implementation on implementation of Central Sector Projects

**Other Material**

- a. Steps taken by State Governments to bring about administrative reforms to cut down delays in grant of various approvals
- b. Single Composite Application Forms for Industries in Rajasthan
- c. Common Application Form for Single Window Clearance in Tamil Nadu
- d. Compilation of Application Forms in Uttar Pradesh
- e. Information on International Centre for Alternative Dispute Resolution (ICADR)

**Illustrative List of Acts Requiring Simplification for Registration and Regulation of Industry**

S.No.	<b>Act</b>
<b>I</b>	<b>Central Acts</b>
<b>A</b>	<b><i>Labour Related Laws</i></b>
1	Apprentice Act, 1961
2	Bonded Labour System ( Abolition ) Act, 1976
3	Child Labour ( Prohibition and Regulation ) Act, 1986
4	Collection of Statistics Act, 1953
5	Contract Labour (Regulation and Abolition) Act, 1970
6	Dangerous Machines (Regulation) Act, 1983
7	Employees Provident Fund and Miscellaneous Provisions Act 1952
8	Employees State Insurance Act, 1948
9	Employers Liability Act, 1938
10	Employment Exchange (Compulsory Notification of Vacancies ) Act, 1959
11	Employment of Children Act, 1938
12	Equal Remuneration Act, 1976
13	Factories Act, 1948
14	Fatal Accidents Act, 1855
15	Industrial Disputes Act, 1947
16	Labour Laws (Exemption from Furnishing Returns) Act, 1988
17	Maternity Benefits Act, 1961
18	Minimum Wages Act, 1948
19	Payment of Bonus Act, 1965
20	Payment of Gratuity Act, 1972
21	Payment of Wages Act, 1948
22	Persons with Disabilities (Equal Opportunities) Protection Act, 1996
23	Trade Unions Act, 1926
24	Weekly Holidays Act, 1942
25	Workers Compensation Act, 1923
<b>B</b>	<b><i>Financial Laws</i></b>
1	Central Excise Act, 1944
2	Central Sales Tax Act, 1956
3	Income Tax Act, 1961
<b>C</b>	<b><i>Corporate Laws</i></b>
1	The Companies Act, 1956
2	Indian Partnership Act, 1932

- D      *Environmental Laws***
- 1      Air (Prevention and Control of Pollution) Act, 1981
  - 2      Environment (Protection ) Act, 1986
  - 3      Water (Prevention and Control of Pollution) Act, 1974
- E      *Infrastructure Acts***
- a.      Ministry of Power
    - 1      Electricity (Supply) Act, 1948
    - 2      Indian Electricity Act, 1910
  - b.      Ministry of Rural Development
    - 1      Land Acquisition Act, 1894
- F      *Other Regulations***
- a.      Department of Consumer Affairs
    - 1      Essential Commodities Act, 1955
    - 2      Standards of Weights and Measures Act, 1976
  - b.      Department of Industrial Policy & Promotion
    - 1      Explosives Act, 1884
    - 2      Indian Boilers Act, 1923
    - 3      Inflammable Substances Act, 1952
  - c.      Ministry of Health
    - 1      Prevention of Food Adulteration Act, 1954
- G      *Other Central Acts Applicable to Specific Sectors***
- 1      Beedi and Cigar Workers (Conditions of Employment) Act, 1966
  - 2      Dock Workers (Regulation of Employment) Act, 1948
  - 3      Interstate Migrant (Regulation of Employment & Conditions of Service) Act, 1979
  - 4      Motor Transport Workers Act, 1961
  - 5      Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955
- II      *State Acts***
- 1      Shops and Establishments Act, 1988
  - 2      State Sales Tax Act
  - 3      Urban Land (Ceiling and Regulation) Act, 1976
  - 4      State Panchayat Raj Act
  - 5      State Municipality Act
  - 6      State Urban Areas (Development) Act
  - 7      State Land Revenue Act
  - 8      State Land Tenancy Act

**Synthesis Study**

[‘Barriers to Approvals and Implementation of Investment Projects ’](#)

**Illustrative List of Inspectors Under Different Legislations**

<b>S. No.</b>	<b>Inspector</b>
<b>A</b>	<b><i>Labour Laws Related</i></b>
1	Employees State Insurance Fund Inspector
2	Factories Inspector
3	Labour Inspector
4	Provident Fund Inspector
<b>B</b>	<b><i>Other Act Related</i></b>
1	Apprenticeship Advisor
2	Chief Inspector of Boilers
3	Controller of Weights and Measures Inspector
4	Electricity Inspector
5	Fire Inspector
6	Food Inspector
7	Hazardous waste Inspector
8	Mines Inspector
9	Municipality Inspector ( For units located in Municipal Areas)
10	Professional Tax Assessor
11	Public Health Inspector
12	Shops and Establishment Act Inspector
13	State Sales Tax Inspector
<b>C</b>	<b><i>Other Inspectors</i></b>
1	Small Scale Industry Inspector (If SME)
2	State Excise Inspector (If involved in the production of State Excisable products)
<b>D</b>	<b><i>Central Government Inspector</i></b>
1	Air Inspector
2	Central Excise Inspector
3	Customs Inspector
4	Income Tax Inspector
5	Export Inspection Council Inspector for Export Units
6	Banks Inspector (For mortgaged stock etc.)
7	SIDBI Inspection Team ( For credit from SIDBI)
8	Water Inspector

**Annex-VII****Inspection, Register Maintenance and Returns to be Maintained Under Central Acts**

<b>S.No</b>	<b>Name of the Act</b>	<b>Inspection Section</b>	<b>Register Section</b>	<b>Returns to be filed Section</b>
1	Air (Prevention and Control of Pollution) Act, 1981	24-26		Rule 14 of Environment Protection Act
2	Apprenticeship Act, 1961	29	29	29
3	Child Labour (Prohibition and regulation) Act, 1986	17	11 and Rule 16	
4	Contract Labour (Regulation and Abolition) Act, 1970	28	29	Rule 82
5	Dangerous Machines (Regulation) Act, 1983	27-30	18	State Rules
6	Employees Provident Fund and Miscellaneous Provisions Act, 1952	13		EPF Scheme Para 33,35,36,55
7	Employee State Insurance Act, 1948	45	44	44
8	Employment Exchange (Compulsory Notification of Vacancies) Act, 1959	6		5
9	Environmental Protection Act, 1986	10	20	20, Rule 14
10	Equal Remuneration Act	9	8, Rule 6	
11	Factories Act	7,9		
12	Indian Boilers Act, 1923	5,17		
13	Maternity Benefits Act, 1961	15-17	20	
14	Minimum Wages Act, 1948	Rule 26-B/19	18/Rule 26	Rule 21
15	Motor Transport Workers Act, 1961	4-6	AP Rules 17,28,30,33-38	AP Rules 39

16	Payment of Bonus Act, 1965	27	26 & Rule 4	Rule 5
17	Payment of Gratuity Act, 1972	7-A, 7-B	AP Rules 6	AP Rules 5
18	Payment of Wages Act, 1948	14, 14A	13A	
19	Prevention of Food Adulteration Act, 1954	9-11		
20	Standard of Weights and Measures Act 1976	29		
21	Water (Prevention and Control of Pollution) Act, 1974	20,23		Rule 14 of Environment Protection Act

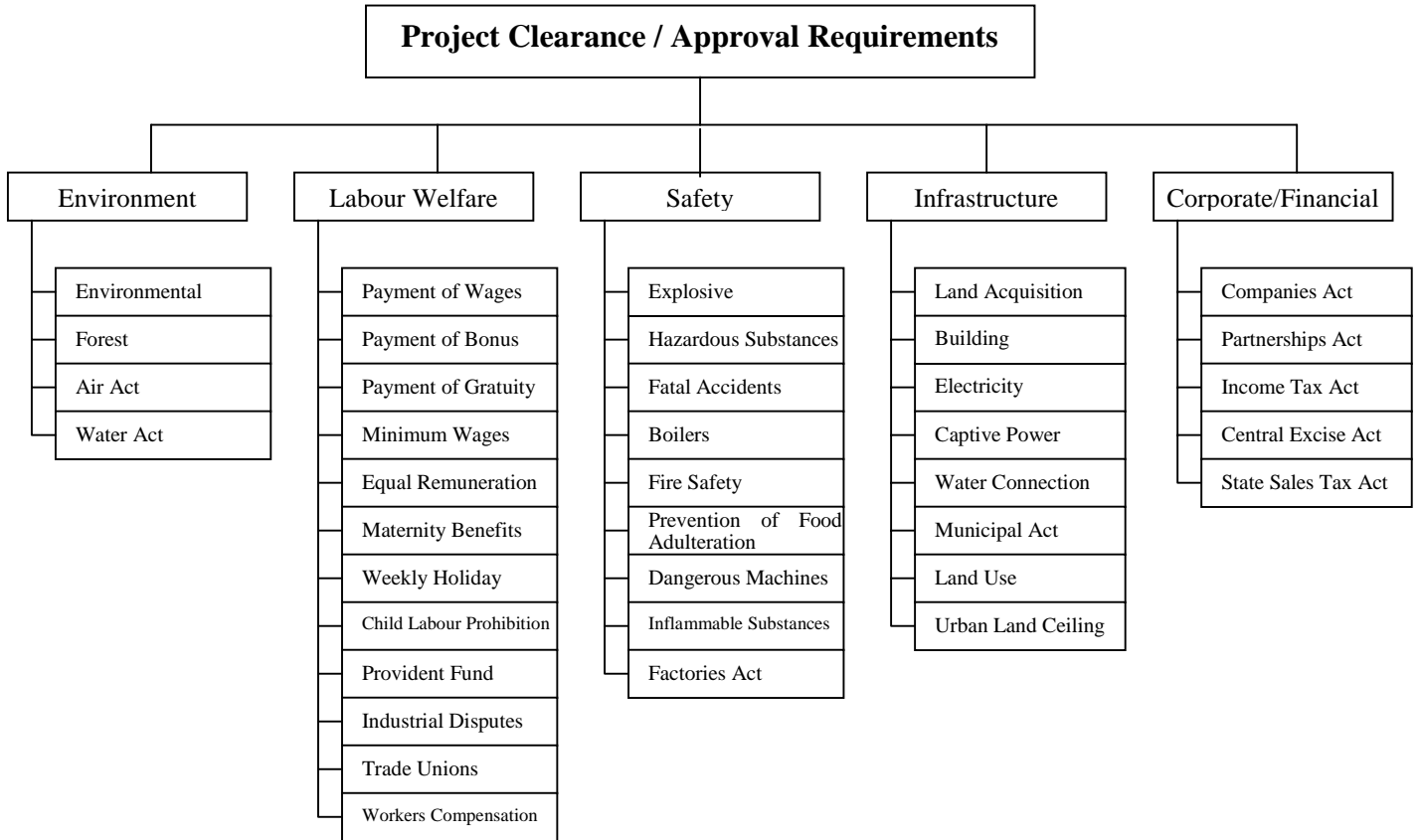


## Returns/Forms to be Maintained by a Medium Size Company

S.No.	Department	Nature of Returns	Responsibility (Deptt.)
<b>A</b>	<b>Inspector of Factories</b>		
1	Form No. 20	Annual Return	
2.	Form No. K.L.&M	Annual Return	
3.	Form No. 21	Half Yearly Return	
4.	Form No. 2	Annual Return	
5.	Form No. 17	Notice of Accident	
6.	Form No. IV	Annual Return	
<b>B.</b>	<b>Labour Department</b>		<b>Personnel</b>
7.	Form No. V	Annual Return	
8.	Form No. D	Annual Return	
9.	Form No. III	Annual Return	
10.	Form No. XXV	Annual Return	
11.	Form No. I&IV	Annual Return	
12.	Form No. D	Annual Return	
<b>C.</b>	<b>Employment Exchange</b>		<b>Personnel</b>
13.	Form No. ER-I	Quarterly	
14.	Form No. ER-II	Bi -Annual Return	
<b>D.</b>	<b>Provident Fund Office</b>		
15.	Form No.12A, 5 &10 & 3	Monthly Return	
16.	Form No. 3A & 6A	Annual Return	
<b>E.</b>	<b>ESI Department</b>		<b>Personnel</b>
17.	Form No. 6	Half-yearly return	
18.	Form No. 2	Monthly	
<b>F.</b>	<b>Apprentice Advisor</b>		<b>Personnel</b>
19.	Form No.APP-2	Half-yearly	
20	Form No.1A	Yearly	
21	Form No.APP4	Yearly	
<b>G.</b>	<b>Pollution Control Board</b>		<b>Personnel</b>
22	Concept Air & Water	Yearly Return	

23.	Environment Statement	Yearly Return	
24.	Water Consumption	Yearly Return	
<b>H.</b>	<b>National Sample Survey</b>		<b>Personnel</b>
25	Statistical Date	Annual	
<b>I.</b>	<b>Commercial Tax Office</b>		<b>Accounts</b>
26.	Entry Tax Form No. 3	Monthly	
27.	Entry Tax Form No. 5	Monthly	
28.	Sales Tax Form No.3	Monthly	
29.	Sales Tax Form No. 4	Monthly	
<b>J.</b>	<b>Income Tax Office</b>		<b>Accounts</b>
30.	TDS Salary Form No. 24	Yearly	
31	TDS Salary Form No.18	Yearly	
32	TDS Form No. 21	Yearly	
33	TDS Form No. 26c	Yearly	
34	TDS Form No.16K	Yearly	
35	TDS Form No. 26K	Yearly	
36	TDS Form No.26J	Yearly	
37.	TDS Form No.27A	Yearly	
38.	Com. Income Tax Form No. 1	Yearly	
<b>K.</b>	<b>Central Excise</b>		<b>F G S</b>
39	Form No. RT-12	Monthly	
<b>L.</b>	<b>Director Statistics</b>		<b>Costing</b>
40.	Production Return	Monthly	
<b>M.</b>	<b>Labour Department</b>		<b>Administration</b>
41	Form No. G	Annual Return	
42	Form No.AA	Renewal of License	

**DOWNSTREAM APPROVAL REQUIREMENTS**



**Level of Approval**

- Environmental : From Central and State Government
- Labour welfare: From State Government
- Safety: Explosives from Central Government, others from State Government
- Infrastructure: From State Government and Local bodies
- Corporate & Financial: From Central Government, State Sales Tax from State Government

## **Draft Terms of Reference for the Re-engineering Groups to be set up in Administrative Ministries**

### **Objective**

In order to simplify the procedures for grant of approvals and reduce delays, re-engineering of the regulatory processes prescribed under various legislations, regulations, etc., is necessary. Unless the procedures prescribed under extant laws are simplified to meet the requirements of the present economic, technological and competitive environment, delays in the grant of approvals are unlikely to reduce significantly. Re-engineering of the regulatory processes prescribed under different legislations, regulations, etc., is necessary to reduce ground level hassles, make administration and compliance easy as well as amenable to IT tools and minimise interface between project promoters and official machinery.

### **Composition**

2. Re-engineering groups would be formed in the Ministries administering Acts regulating the implementation and operation of projects. An illustrative list of such central Acts is available at **Annex-IV**. To begin with such re-engineering groups would be formed in the Ministries of Labour, Environment & Forests, Power, Agriculture, Petroleum & Natural Gas and Department of Industrial Policy & Promotion.

3. These groups, under the Chairmanship of Secretary of the Department, would include other officers and representatives of the attached and sub-ordinate offices responsible for granting such approvals. Representatives of the State Governments and other Ministries may be associated as considered necessary. Industrial associations, being important stakeholders, may also be associated. Assistance of public management specialist may be taken, as considered necessary, to bring in professional inputs and international experience in best practices.

### **Functions of the Re-engineering Groups**

4. The regulatory processes and systems, which are to be retained for administration by the Government, are to be re-engineered to embody the principles of:

- i. Clear and non-discretionary decision rules to realize just the public interest to be protected as provided by law, and no extraneous objectives;
- ii. Minimising and standardizing requirements of information and documentation specific to the applicant(i.e. not bring information which

- is either publicly available or available to the regulator from other public agencies) to support just the decision rules and no more;
- iii. No queue jumping without specific and documented supervisory level authorization;
  - iv. Reducing stages and levels of review;
  - v. Defined time lines for each stage of processing, as well as the process overall, with a preliminary stage for confirmation that all required information/documentation has been provided, to which the regulator will not revert;
  - vi. Standardised response, including furnishing of reasons in the event of refusal to enable the applicant to represent meaningfully against the refusal;
  - vii. Real time monitoring of each stage of the process by supervisory authorities; and
  - viii. One stage of official review for redressal of grievances
5. The re-engineering groups would undertake the following:
- i. Examine approval/permission requirement under each legislation, regulation, etc., for their re-engineering in the following order:
    - a. Category A; where any violation may result in minor third-party impacts, which are easily remediable/compensable. In such cases, self regulation may be the norm, with legal penalties if violation is detected ('blinking traffic lights' model)
    - b. Category B: where violation may result in some significant third party impacts, but not involving proximate danger to life or serious injury, and still remediable/compensable. In such cases, professional outsourcing may be preferred to direct case-by-case regulation by a Government agency. The professional providers of such services may be formally designated by their respective professional agencies (e.g. engineers, architects, etc.), and the basis of their certification sufficiently documented to enable determination of professional malpractice ( by the regulatory agency, which may move the concerned professional association for de-registration) ('stop-go traffic lights' model) .
    - c. Category C: where violation may result in high risks of serious third-party impacts or long-term damage to key natural resources or cultural assets. Only in such cases would prior case-by-case regulation be advisable by a public agency ('policeman regulating traffic' model).

While doing so, as many approvals as are possible should be placed self-regulation i.e. under automatic permission upon filing of necessary documents.

- ii. Prescribe time limits for the grant of non-statutory approvals and develop systems for ensuring grant of approvals within this time limit. The re-engineering groups should also develop appropriate trigger mechanisms to automatically raise the matter to the next higher level

- in case the concerned authorities fail to decide the matter within the prescribed time limits.
- iii. The re-engineering groups would also examine the extant laws being administered by their Ministry with the objective of consolidation of laws, weeding out laws that have outlived their utility and to generally bring them in line with the present technological, economic and competitive environment.
  - iv. The re-engineering groups would also indicate the inter-se priority among the various regulatory reforms being proposed by the group such that reforms aiming at maximum simplification are undertaken first.
  - v. A large number of approvals/permissions are administered at the State level and it would not be possible to suggest specific changes in the processes prevailing in each state. The re-engineering groups may indicate the best practices adopted in different states and elsewhere and suggest a generic structure of the re-engineering of the regulatory processes. State specific fine-tuning to the specific institutional and statutory/regulatory features of each State may be undertaken in consultation with concerned States.
  - vi. The groups may finalise their recommendations within a period of six months for the re-engineering of the regulatory processes and within one year for the consolidation of legislations.

### **Review of Progress**

6. A Committee of Secretaries under Cabinet Secretary, with Secretaries to Government of India in the Ministries/Departments of Labour, Environment & Forests, Power, Agriculture, Petroleum & Natural Gas, Industrial Policy & Promotion, Revenue, Information Technology and Additional secretary in the PMO as members, would review on a monthly basis the progress of the re-engineering groups and act as trigger in case of any delay in the re-engineering processes.
7. IIFB would co-ordinate the re-engineering of regulatory processes with the re-engineering groups set up in different Ministries/Departments.
8. A position report on the re-engineering of regulatory processes will be included as one of the items in the monthly report of the concerned Ministry to the CCER.

## **Concept Paper for the Proposed Technical Assistance for Undertaking Re-engineering of the Regulatory Processes**

### **Objective**

Personnel working in various Ministries/ Departments as well as in the State Governments would require training, skill upgradation and support for undertaking re-engineering of regulatory processes and to be able to play an effective role in the facilitation process. Re-engineering groups to be formed in various Ministries/Departments of the Government of India would, besides undertaking re-engineering of the regulatory processes prescribed under the Acts, Rules and Regulations, being administered by their Ministry/Department, also play an important role in guiding and advising re-engineering processes at the State level. Technical assistance of multilateral financial institutions can be availed to strengthen the human and institutional capabilities within the Ministries/Department as well as State Governments to facilitate the re-engineering process.

### **Technical Assistance- Capacity Building & Re-engineering of Regulatory Processes**

2. The Ministries/Departments of the Government of India and the State Governments would require technical assistance for capacity building of the personnel engaged with the policy formulation as well as implementation of various regulatory processes. In addition, the Ministries/States will also require technical support for the actual re-engineering of regulatory processes and to ensure that the re-engineered processes embody the requirements of IT mode. As a precursor to this, an inventory of global best practices will also need to be prepared. One of the Multilateral Financial Institutions (MFIs) can be approached for funding assistance for such study.

3. The report has, in paragraph 4.7, recommended that re-engineering groups may be established in 6 Ministries/Departments to begin with. These re-engineering groups, besides re-engineering the regulatory processes prescribed in the Acts, Rules and regulations being administered by their respective Ministries/Departments, would also collect details and list out best practices adopted in various States and elsewhere and suggest a generic structure for the re-engineering of the regulatory processes at the State level. Similar re-engineering groups may also be set up at the State level for undertaking re-engineering of the regulatory processes at that level.

## Association of Training and Research Institutions

4. Since a large number of approvals/permissions, etc., are administered at the State level, a greater focus on capacity building at the State level would be required. Ministries/Departments of the Government of India and the State Governments may avail the services of training and research institutions for the capacity building needs. An illustrative list of such institutes is given below:

S. N.	Name of the Institute	Place
<b>State Sector</b>		
1	Administrative Staff College of India	Hyderabad
2	Lal Bahadur Shastri National Academy of Administration	Mussoorie
3	National Productivity Council of India (NPC)	New Delhi
4	National Institute of Financial Management	Faridabad
5	Institute for Financial Management & Research	Chennai
6	HCM Rajasthan Institute of Public Administration	Jaipur
7	UP Academy of Administration	Nainital
8	Y. B. Chavan Academy of Developmental Administration	Pune
9	Assam Administrative Staff College	Guwahati
<b>Private Sector &amp; Autonomous Organisations</b>		
1	Indian Institute of Management	Bangalore
2	Indian Institute of Management	Ahmedabad
3	Indian Institute of Management	Kolkata
4	Indian Institute of Management	Lucknow
5	Indian Institute of Management	Indore
6	Indian Institute of Management	Kozikode
7	Tata Consultancy Services (TCS)	Mumbai
8	ORG-MARG Research Limited	Mumbai
9	Tata Management Training Centre	Pune
10	Xavier Institute of Management	Bhubaneswar
11	Xavier Labour Relations Institute	Jamshedpur
12	Management Development Institute (MDI)	Gurgaon
13	Institute of Development Studies (IDS)	Jaipur
14	Symbiosis Institute of Management	Pune



## **Components of Technical Assistance**

5. Since the training packages to be used at various training institutions would be quite similar in terms of content, one of the premier institutions, say, the Indian Institute of Management, Ahmedabad (IIM-A) may be assigned the responsibility of developing the training packages and also for training the trainers at other select training institutions. The Ministries/Departments and the State Governments may, thereafter, select the training institutions from the illustrative list of institutions. This component may require funds to the extent of Rs. 100 lac (US\$ 200,000). As and when re-engineering groups are established in other Ministries/Departments, the technical assistance will need to be expanded to also cover such Ministries/Departments.

6. In the first phase, capacity building through training may be taken up for the six select Ministries/Department and 10 States. As per review, IIM Ahmedabad would review the results of trainings conducted by other institutions. The technical assistance requirement for training, at an average of 8 person-months for each Ministry/Department and 12 person-months for each State, is estimated at 168 person-months and is likely to cost around Rs. 200 lac (US\$ 400,000), including the expenses on resource personnel, training material, visits, travel and other miscellaneous expenses.

7. The re-engineering groups in the Ministries/Departments of Government of India would also propose generic re-engineering of regulatory processes at the State level, to be fine-tuned in consultation with States for state specific response. The States would require technical assistances from identified institutions for the actual re-engineering of their regulatory processes. It is expected that on an average, technical assistance of around 30-40 person-months would be required by each State for actual re-engineering of regulatory processes. At an estimated average cost of Rs. 50,000 per person-month, the total expenditure would be around Rs. 15-20 lac for each State. The estimated cost for covering 10 States in the first phase would be around Rs. 150-200 lac (US\$ 300,000-400,000).

8. The National Institute of Smart Governance, Hyderabad (NISG) could act as the nodal point for re-engineering of regulatory processes at the State level. Assistance of IIM Ahmedabad may be taken to embody the principles of IT mode in the re-engineered processes at the State level. The re-engineered processes would be subject to peer review jointly by NISG and IIM Ahmedabad.

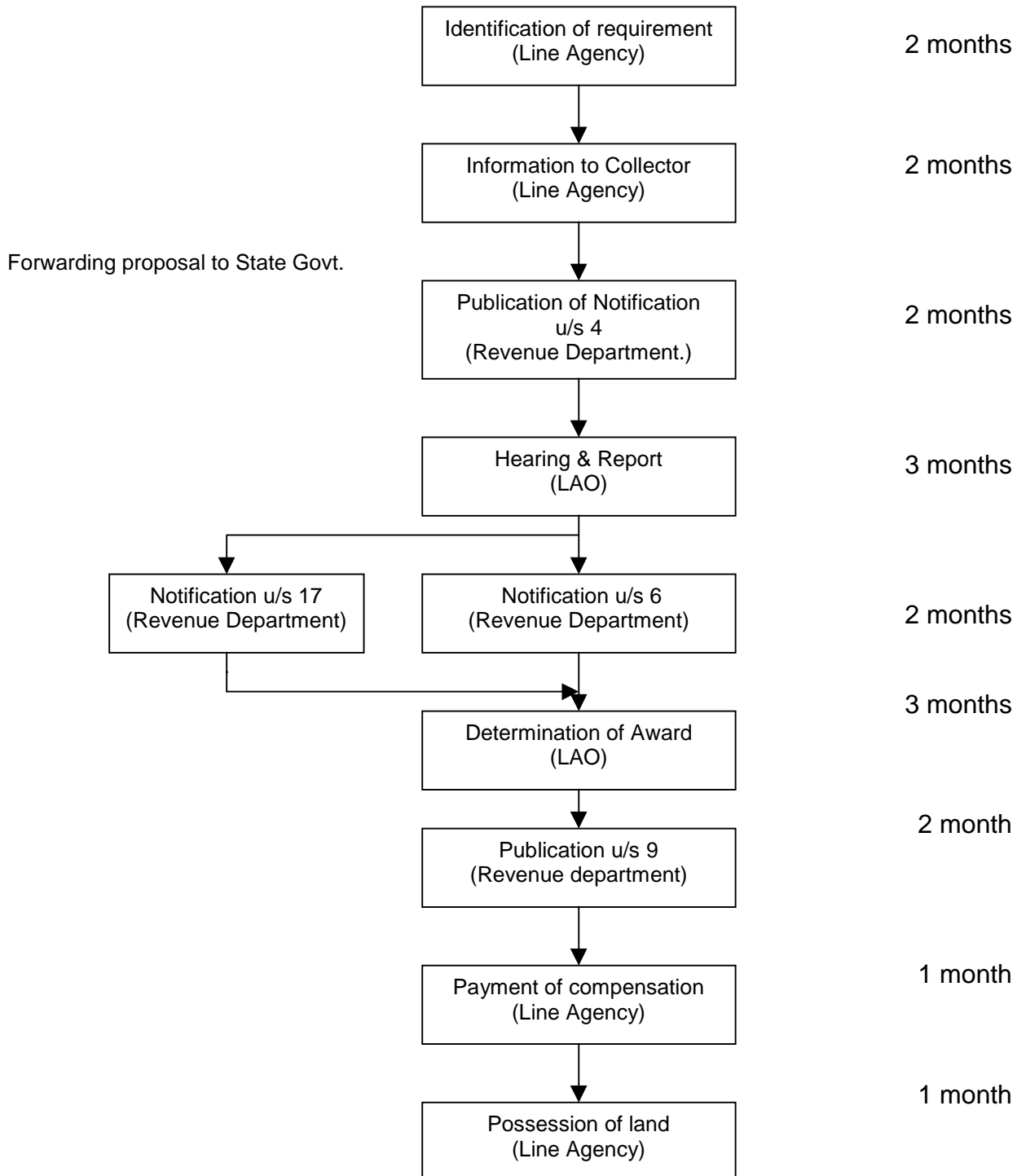
## **Funds Requirement**

9. While the actual funds requirement for the technical assistance through capacity building and actual re-engineering of the regulatory processes may be worked out in consultation with the concerned institutions, an indicative requirement of funds has been worked out as under:

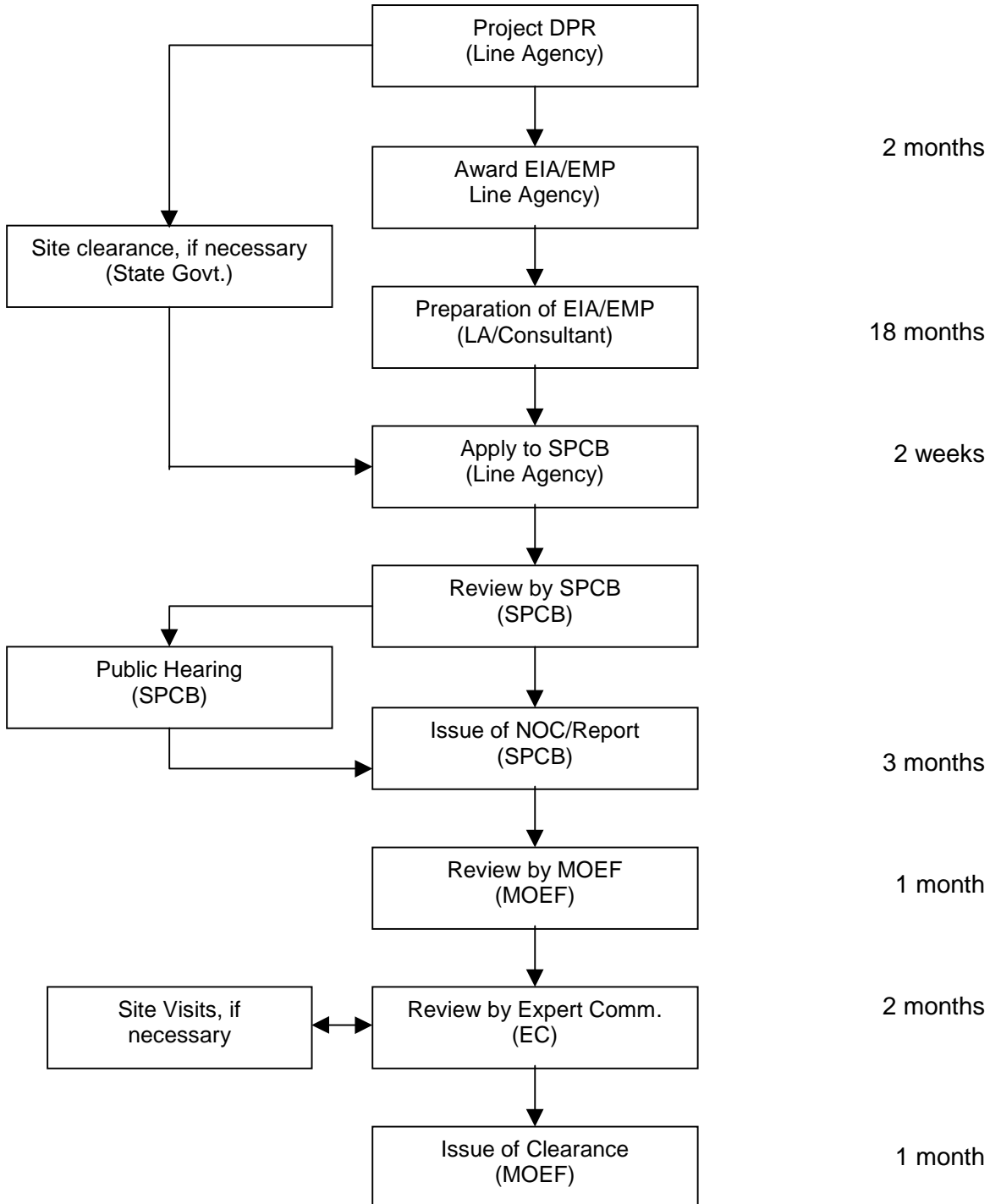
S.N.	Component	Estimated amount
a.	Preparation of training package and training of trainers	US\$ 200,000
b.	Training of the personnel – Central and State level	US\$ 400,000
c.	Re-engineering of regulatory processes at central level	US\$ 240,000
d.	Re-engineering of regulatory processes at State level	US\$ 400,000
	Total	US\$ 1,240,000

10. The expenditure on actual re-engineering of the regulatory processes in the Ministries/Departments of the Government of India will be met by the concerned Ministry/Department from their plan provisions as the Ministries/Departments are required to earmark 3% of their plan funds for IT. Government of India may provide assistance to the States under technical assistance for actual re-engineering of the regulatory processes at the State level. The Government of India could meet the expenditure on the preparation of training material and training of personnel at the Central and State level.

**STEPS TO LAND ACQUISITION**



**STEPS TO ENVIRONMENTAL CLEARANCE**



**STEPS TO FOREST CLEARANCE**

