

# Monthly Policy Review

April 2013

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## Highlights of this Issue

### [Review of the economy: growth projected at 6.4% in 2013-14 \(p. 2\)](#)

In their 2012-13 review, the Economic Advisory Council highlight the need to increase investment and savings; improve net energy availability; manage the current account deficit; and contain inflation.

### [Standing Committee presents report on allotment and performance of coal blocks \(p. 8\)](#)

The Committee dealt with the functioning of the Screening Committee, guidelines on allocation of coal blocks, the monitoring mechanism and the review of the coal blocks by the Inter Ministerial Group.

### [CERC allows power tariff hike \(p. 3\)](#)

The Central Electricity Regulatory Commission allowed Tata Power and Adani Power to raise tariffs in their Power Purchase Agreements because of rising imported coal costs.

### [CCEA approves partial decontrol of sugar sector \(p. 3\)](#)

Deregulations pertain to the regulated release of sugar and levy sugar. Mills can now sell sugar as per open market prices and cash flow needs, and no longer have to provide subsidised sugar for PDS.

### [CAG submits audit report on MGNREGA \(p. 4\)](#)

The audit found a 20 per cent decline in per rural household employment, a release of additional funds in contravention of financial rules of the scheme, and poor utilisation of central funds in three states.

### [Supreme Court judgment on Vedanta mining project in Orissa \(p. 5\)](#)

Gram sabhas have a role to safeguard the customs of forest dwellers under various Acts. The MoEF will decide on the clearance for the Vedanta mining project based on the recommendation of the gram sabha.

### [Supreme Court rejects the Novartis patent \(p. 5\)](#)

The patent was rejected as it did not satisfy the standard of inventiveness. However, the Court cautioned that this is not a bar for all patents for incremental inventions of chemical and pharmaceutical substances.

### [Cabinet approves the National Policy for Children, 2012 \(p.7\)](#)

The Policy recognises every individual below the age of 18 years as a child and lays down broad rights and principles that should guide policies and programmes on children framed by governments.

### [Biotechnology Regulatory Authority of India Bill, 2013 introduced \(p. 7\)](#)

The Bill aims to promote the safe use of modern biotechnology by enhancing the effectiveness and efficiency of regulatory procedures and establishes the Biotechnology Regulatory Authority of India.

### [Changes in Defence Procurement Procedure \(p. 10\)](#)

Changes include a preference for indigenous procurement and the release of a roadmap for the industry to direct its R&D investments for 2012-2027.

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May 1, 2013

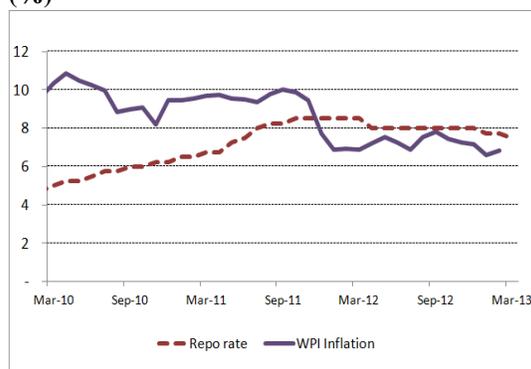
## Macroeconomic Developments

Vishnu Padmanabhan (*vishnu@prsindia.org*)

### WPI Inflation falls to 6% in March

The wholesale price inflation declined to 6.0% in March 2013 from 6.8% in the previous month, a three year low.<sup>1</sup> Average inflation for 2012-13 was 7.2%, a decrease from 9.0% in 2011-12. Non manufactured goods inflation also fell to a three year low of 4.1% (from 4.7% in February) while fuel and power inflation decreased marginally to 10.2% (from 10.5%). But the major driver for the slowdown has been weakening food inflation which reduced to 8.8% in March from 11.4% in February. Last month the RBI had cut the policy repo rate by 0.25% but stressed that food inflation remains a concern.

**Figure 1: Repo rate and WPI inflation rate (%)**



Source: RBI; PRS.

### Review of the economy in 2012-13

The Economic Advisory Council (EAC) has released their ‘Review of the Economy 2012-13’. Growth is expected to accelerate to 6.4% in 2013-14 after ‘bottoming out’ in 2012-13 (5%).<sup>2</sup> Declining investment and savings are highlighted as structural factors for the recent slowdown. The EAC expects the increased growth in 2013-14 to be driven by improved agriculture growth (3.5% from 1.8%) and industry growth (4.9% from 3.1%). In addition, the EAC projects WPI inflation at 6.0% in 2013-14. The EAC’s projections for key economic indicators are given in Table 1.

The EAC also highlights issues that need to be addressed:

- Project clearances for key infrastructure sectors like coal, power, roads and railways.

- Reducing the current account deficit and managing the capital account to encourage capital inflows.
- Improving net energy availability and reducing dependency on imports of oil and natural gas.
- Containing inflation through supply side management like reforming the Agricultural Produce Marketing Committee Act (APMC).
- Increase savings options especially for smaller investors.

**Table 1: Key indicators and forecasts**

Indicators	2011-12	2012-13	2013-14
Growth (%)	6.2	5.0	6.4
GDP/capita (Rs)	74,667	82,400	92,290
Current account deficit (% of GDP)	4.2	5.1	4.7
Fiscal deficit (% of GDP)	5.7	5.2	4.8

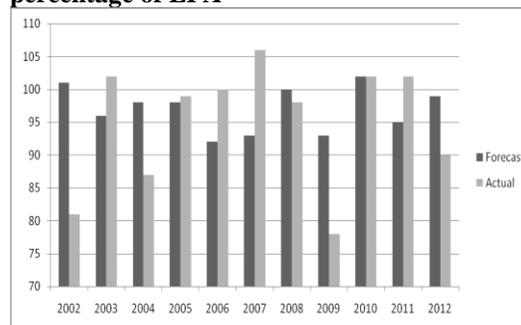
Source: EAC; RBI; PRS.

### IMD predicts “normal” monsoon

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The India Meteorological Department (IMD) came out with its first Monsoon (June-September) forecast for 2013.<sup>3</sup> The IMD predicted a “normal” monsoon, which means that between 96 and 104 per cent of the average rainfall is expected. Average rainfall during the monsoon (known as the Long Period Average or LPA) is 89 cm. According to the IMD, rainfall is likely to be 98% of the LPA. The forecast for last year was 99% of the LPA<sup>4</sup> with a final forecast in August of deficient rainfall (less than 90 per cent of LPA).<sup>5</sup> The figure below shows the forecast for each of the last ten years compared with the actual rainfall, as a percentage of the LPA.

**Figure 2: Forecast and actual rainfall as percentage of LPA**



Source: India Meteorological Department; PRS.

## Finance

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### Regional Rural Banks (Amendment) Bill introduced

The Ministry of Finance has introduced the Regional Rural Banks (Amendment) Bill, 2013 in the Lok Sabha. The Bill amends the Regional Rural Banks Act, 1976 to strengthen the capital base and overall capabilities of Regional Rural Banks (RRBs). The authorised capital has been increased from Rs 5 crore to Rs 500 crore and RRBs can now raise capital from sources other than the central government, the state government, and the sponsor bank (the bank aiding and assisting the RRBs), as long as the combined shareholding of the central government and sponsor bank is maintained above 50%. In addition, the Bill makes some operational changes to RRBs like introducing private shareholder directors, fixing the term for Directors of RRBs and new accounting standards.

RRBs were established to provide credit and other facilities for the development of agriculture, trade, commerce and industry in rural areas; there are currently 64 RRBs across the country.<sup>6</sup>

## Energy

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### CCI clears 31 blocks for exploration and production of oil and gas

The Cabinet Committee on Investment (CCI) has cleared 25 blocks for continued exploration and production (E&P) of oil and gas, following six clearances last month.<sup>7</sup> The clearances for these 31 blocks are expected to utilise an investment of US\$13.4 bn and bring in additional investment of US\$ 2.5 billion over the next three to five years. The Ministry of Defence (39 blocks) and Ministry of Commerce (1 block) had earlier withheld clearances for 40 blocks covering 3.3 lakh sq km. With the restrictions lifted for 31 blocks, around 2.7 lakh sq km is now available to contractors for E&P activities. The Cabinet has not provided details about which blocks have been granted clearances. However, the 39 blocks originally restricted by the Ministry of Defence are listed in Table 2.<sup>8</sup>

**Table 2: Ministry of Defence Restricted Blocks**

	Location	No of Blocks
Krishna-Godavari	Eastern Offshore	22
Mahanadi- North-East Coast	Eastern Offshore	9
Cauvery	Eastern Offshore	3
Pranhita-Godavari	Eastern Offshore	2
Gujarat –Saurashtra	Western Offshore	2
Andaman	Andaman Offshore	1

Source: PIB; PRS.

## Power

Vishnu Padmanabhan ([vishnu@prsindia.org](mailto:vishnu@prsindia.org))

### CERC permits power tariff hike

The Central Electricity Regulatory Commission (CERC) has allowed Tata Power and Adani Power to raise tariffs in their Power Purchase Agreements (PPA).<sup>9</sup> The CERC permitted the power companies to charge ‘compensatory tariffs for electricity’ because of the rising cost of imported coal from Indonesia and a shortage of domestic supply. According to CERC, rising costs of coal from Indonesia (the biggest exporter of coal to India), acts as a *force majeure* event allowing compensatory tariff to be provided. Both Tata and Adani operate power plants in Mundra, Gujarat and have entered into PPAs with state discoms (Tata: Gujarat, Maharashtra, Punjab, Haryana and Rajasthan; Adani: Gujarat and Haryana). The CERC will set up a panel to finalise details for the compensatory tariffs. The panel, with representation from state discoms, will examine the impact of price escalation in Indonesia before deciding an appropriate hike.

However, reports suggest that the state governments are going to challenge the ruling.<sup>10</sup>

## Consumer Affairs, Food and Public Distribution

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### Cabinet approves partial decontrol of sugar

The Cabinet approved the partial decontrol of sugar on April 5, 2013.<sup>11</sup> The sector was regulated with respect to: (i) cane reservation

area and bonding, (ii) the minimum distance criterion, (iii) the pricing of sugarcane, (iv) levy sugar, (v) regulated release on non-levy sugar, (vi) trade policy, (vii) by products, and (viii) the packaging of sugar in jute bags. Of these regulations, controls on levy (Public Distribution System or PDS) sugar and regulated release have been removed although other restrictions still remain. Mills will no longer be obligated to sell part of their sugar production at subsidised rates to the centre to distribute through the PDS. Further, the release of sugar from mills into the open market will no longer be regulated. Details of these deregulations are provided below:

- **Levy or PDS sugar:** Every sugar mill mandatorily surrenders 10% of its production to the central government at a pre-determined price. This enables the centre to get access to low cost sugar stocks for distribution through the PDS. According to an expert group report headed by C. Rangarajan, Chairman of the Economic Advisory Council to the Prime Minister, the centre saves about Rs 3,000 crore on account of this policy at present prices– the burden for which is borne by the sugar sector.<sup>12</sup>

As per the deregulation, this obligation has been done away with for sugar produced after September 2012. State governments will now procure their requirement of sugar for the PDS from the open market. The present sugar quota of states will be protected and states will be mandated to continue with the current retail issue price of Rs 13.5 per kg under PDS. The centre will provide a subsidy to states for the difference between the retail issue price and the current ex-mill price calculated provisionally at Rs 32 per kg. The subsidy burden on PDS sugar supply was estimated at Rs 2,556 crore for 2011-12. Post decontrol, the additional burden for a supply of about 27 lakh tonnes of sugar would be about Rs 3,120 crore.

- **Regulated release of sugar:** The centre regulates the release of non-levy sugar and levy (PDS) sugar into the market through a controlled release mechanism. Currently, the release orders are on a quarterly basis. Sugar produced over the four-to-six month sugar season is, thus, sold throughout the year by distributing the release of stock throughout the year. The regulation was intended to match supply with anticipated demand.

This regulation has been removed. Thus, the centre will no longer give orders or regulate the release of sugar by mills into the market. According to the Rangarajan report, the mechanism of regulated release of non-levy sugar imposed costs directly on mills (and hence indirectly on farmers).<sup>12</sup> As a result, mills could neither take advantage of high prices to sell the maximum possible stock nor dispose of their stock to raise cash for meeting various obligations. This adversely impacted the financial health of mills and their ability to pay sugarcane farmers in time.

Other regulations continue to persist. For a summary of the Rangarajan report's recommendations on deregulating the sugar sector, see [here](#).

## Rural Development

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### CAG submits audit report on MGNREGA

The Comptroller and Auditor General (CAG) submitted its audit report on the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) on April 23, 2013.<sup>13</sup> It audited the implementation of the scheme in 3,848 gram panchayats in 28 states and four union territories (UTs). The findings revealed certain shortcomings in the implementation of the scheme. The CAG's key findings and recommendations in the audit report are:

- **Rural household employment generation:** Analysis of data related to the performance of the scheme showed a significant decline in per rural household employment generation in the last two years. Employment per rural household, declined by 20 per cent from 54 days in 2009-10 to 43 days in 2011-12. Further, it was observed that Bihar, Maharashtra and Uttar Pradesh, which together account for 46 per cent of the rural poor, utilised only about 20 per cent of the central scheme funds. According to the audit, this data indicated a low correlation between poverty levels and implementation of the scheme.
- **Planned works completed:** The audit revealed that only 30 per cent of planned works were completed in 14 states and one UT during the audit period. Although 1.29

crore works amounting to Rs 1.26 lakh crore were approved in the annual plans, only 39 lakh works (30 per cent of planned works) amounting to Rs 27,792 crore were completed. According to the CAG, this indicated significant inefficiencies in the implementation of annual plans.

- **Release of central funds to states:** The audit found that the Ministry relaxed all conditionalities and released a sum of Rs 1,960 crore in March 2011 to states, contravening norms of financial accountability. Further, from 2008 to 2012, the Ministry released a total sum of Rs 4,073 crore to states, in contravention of budgetary provisions and General Financial rules. Additionally, excess funds to the tune of Rs 2,375 crore were released to six states, either due to wrong calculation or without taking note of the balances available with the states.

The release of additional funds was found inappropriate because: (i) the release of central funds under the scheme was to be based only on states' proposals rather than on pre-determined allocations, (ii) the utilisation of previous funds was not ensured, and (iii) states' absorptive capacity was not considered.

- **Recommendations:** The CAG recommended that the Ministry ensure compliance with required rules and prescribe guidelines for transparency in the release of funds. Further, the Central Employment Guarantee Council (established to monitor the scheme at the centre) and the Ministry should ensure intensive monitoring of the scheme for its proper implementation. They should consider undertaking a national level, independent evaluation of the scheme.

## Pharmaceuticals

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### Supreme Court decision on the Novartis patent

The Supreme Court upheld the rejection of the patent application filed by Novartis for Glivec in 1998.<sup>14</sup> Novartis' patent claim was for the beta crystalline form of Imatinib Mesylate (Glivec), a modified version of an existing drug (non crystalline version of Imatinib Mesylate). Some of the key aspects of the Court's judgment are:

- Section 3(d) of the Indian Patents Act, 1970 curbs ever-greening, i.e., preventing the grant of a patent for new forms of known substances, unless the applicant can establish increased efficacy of the substance in its new form. In case of a medicine to cure a disease, the Court held that the test of efficacy is therapeutic efficacy. However, the exact scope of therapeutic efficacy was not defined.
- The Supreme Court followed the sequence of innovation leading to the claimed invention and held that Imatinib Mesylate (non-crystalline) was: (i) the substance immediately preceding the beta crystalline form of Imatinib Mesylate, and (ii) a known substance in existing scientific literature.
- Novartis had claimed that while there were no new medicinal benefits, the new drug stored better and was easier to process. The Court held that since there was no increase in the therapeutic efficacy of the medicine, the drug did not satisfy the test of increased efficacy.

Hence, the Court rejected the patent filed by Novartis stating that it did not satisfy the standard of inventiveness required under Indian patent law. However, the Court cautioned that this judgment should not be interpreted to bar patent protection for all incremental inventions of chemical and pharmaceutical substances.

## Environment

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### Supreme Court judgment on Vedanta mining project

The Supreme Court's judgment on the Vedanta mining project in Orissa was delivered on April

18, 2013.<sup>15</sup> The Court was of the view that the gram sabha has a role to safeguard the Scheduled Tribes and other forest dwellers traditions and customs under the Forest Rights Act (FRA) and the Panchayat (Extension to Scheduled Areas) Act (PESA). The Court held that the gram sabha is to decide on the clearance for Vedanta's bauxite mining project within three months and communicate the same to the Ministry of Environment and Forests (MoEF), based on which the MoEF will take a final decision. In arriving at this decision, some of the key observations of the Court were:

- The Court noted that the FRA confers powers on the gram sabha to protect the community resources, individual, cultural and religious rights of forest dwellers.
- The state government has the power to reserve any area for bauxite mining for a public sector corporation. The FRA does not interfere with the right of the State over mines or minerals lying underneath the forest land. No such right is vested by the FRA in Scheduled Tribes and the traditional forest dwellers either. However, the PESA states that the recommendation of the gram sabha is mandatory prior to the grant of an exploration licence or a mining lease for minor minerals in Scheduled Areas.
- Religious freedom is guaranteed to Scheduled Tribes and the traditional forest dwellers under Article 25 and 26 of the Constitution. This guarantees them the right to practice and propagate not only matters of faith, but also those rituals and observations which are regarded as an integral part of their religion. The gram sabha has a role to safeguard their traditions and customs under the FRA and the PESA. The gram sabha has to consider whether forest dwellers such as the Dongaria Kondh and Kutia Kandha have any religious rights over the Niyamgiri hills (their deity Niyam-Raja is situated on a hill top in the Niyamgiri hills) and whether the proposed mining area will affect their rights.
- The Court observed that this aspect of the matter has not been placed before the gram sabha for their consideration. Only the individual and community claims received have been dealt with by the gram sabha.
- The gram sabha is free to consider all the community, individual, cultural and religious claims, over and above the claims that have already been received from Rayagada and

Kalahandi districts. Any fresh claims should be filed before the gram sabha within six weeks from the date of the judgment.

- The Court directed the state of Orissa to place these issues before the gram sabha. A decision should be taken by them within three months and communicated to the MoEF. The proceedings of the gram sabha shall be attended by a judicial officer of the rank of the District Judge, nominated by the Chief Justice of the High Court of Orissa. He shall sign the minutes of the proceedings, certifying that the proceedings of the gram sabha took place independently and was uninfluenced by the project proponents or the central or state government.
- In light of the decisions of the gram sabha the MoEF should, within two months, take a final decision on the grant of final clearance for the Vedanta bauxite mining project. They should take note of any corrective measures taken by Vedanta for rectifying the alleged violations of the terms of the environmental clearance granted in its favour by the MoEF.

### Environment clearance for mining projects

A recent notification of the Ministry of Environment and Forests (MoEF) states that a fresh environment clearance will not be required for a mining project or activity, at the time of renewal of a mining lease. Only those mining projects will be exempt which have already obtained environmental clearances under the Environment Impact Assessment Notification, 2006.<sup>16</sup>

The 2006 notification had specified certain processes by which the MoEF will examine the potential environmental impact of new projects or expansion of existing projects.<sup>17</sup> It empowers the Expert Appraisal Committees to review the environmental impact of projects and submit their recommendations to the MoEF.

### High Level Working Group Report on Western Ghats

The High Level Working Group (HLWG) was constituted to advise the government on the recommendations of the Western Ghats Ecology Expert Panel (WGEEP).<sup>18</sup> It submitted its report on April 15, 2013. The WGEEP had recommended that the Western Ghats be declared an ecologically sensitive area. They had suggested three levels of protection for

various areas of the Western Ghats and had recommended the establishment of the Western Ghats Ecology Authority for management.

The HLWG report draws upon the basic framework suggested by WGEEP of using remote sensing technologies to demarcate the ecologically sensitive areas of the Western Ghats.

The key recommendations of the HLWG are:

- Prohibit activities that have a destructive impact on the environment in over 60,000 sq km, spread over the states of Gujarat, Maharashtra, Goa, Karnataka, Kerala and Tamil Nadu. The WGEEP Report consisted of guidelines for sector-wise activities to be permitted in the ecologically sensitive zones. The HLWG Report stresses finding sustainable livelihood practices.
- Instituting mechanisms such as: (a) managing forests and improving their productivity to ensure inclusive growth and economic benefits for local communities; (b) integrating forest accounts into state and national economic assessments; (c) initiating an ecosystem service fund to help villages around the forests; (d) promoting sustainable agriculture; and (e) encouraging ecotourism for local benefits.
- Setting up a Decision Support and Monitoring Centre for Geospatial Analysis and Policy Support in the Western Ghats. This will monitor changes and advise state government on policy reform. Public participation in decision making is highlighted.

## Women and Child Development

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### Cabinet approves the National Policy for Children, 2012

On April 18, 2013 the Cabinet approved the National Policy for Children, 2012.<sup>19</sup> The 2012 policy replaces and expands the National Policy on Children, 1974 with a focus on rights of a child. According to the Ministry, the 1974 policy needed to be reviewed and aligned with the current and projected needs of children in India and with International Conventions such as the United Nations Convention on the Rights of the Child (UNCRC).<sup>20</sup>

The 2012 policy lays down the principles that should guide policies and programmes on children framed by national, state and local governments. The Policy recognises every individual below the age of 18 years as a child.

The key features of the Policy are:

- Every child will have the undeniable right to life, survival, health, nutrition, education, development, protection and participation. All children will have equal rights without discrimination.
- The Policy aims at: (i) coordination across different sectors and levels of governance; (ii) active engagement and partnerships with all stakeholders; (iii) setting up of a comprehensive and reliable knowledge base; (iv) provision of adequate resources; (v) and sensitisation and capacity development of all those who work for and with children.
- A National Plan of Action will be developed to give effect to the policy and a National Coordination and Action Group (NCAG) will be constituted to monitor the progress of implementation of the Plan of Action. Similar plans and groups for coordination and action will be constituted at the state and district levels.
- The National and State Commissions for Protection of Child Rights will ensure that the principles of the Policy are respected across all sectors and levels of government.
- The Ministry of Women and Child Development will be the nodal ministry for overseeing, coordinating and reviewing the implementation of the Policy. The Policy will be reviewed every five years.

## Science and Technology

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### Biotechnology Regulatory Authority of India Bill, 2013 introduced

The Bill was introduced in the Lok Sabha on April 23, 2013.<sup>21</sup> It aims to promote the safe use of modern biotechnology by enhancing the effectiveness and efficiency of regulatory procedures.

Some of the key features of the Bill are:

- The Bill establishes the Biotechnology Regulatory Authority of India (Authority).

The functions of the Authority shall include regulating the research, transport, import, manufacture and use of organisms and products of modern biotechnology. A Biotechnology Regulatory Appellate Tribunal will hear appeals against the decisions of the Authority.

- Field trials for certain organisms or products cannot be conducted unless the Authority permits them as aiding the development of modern biotechnology such as genetically engineered plants, animals used in food or any animal clones that can be applied in agriculture, fisheries or food products. The Bill will not apply to the clinical trials of drugs, under the Drugs and Cosmetics Act, 1940, and food or food additives or any material under the Food Safety and Standards Act, 2006.
- An Inter-Ministerial Governance Board will oversee the performance of the Authority. A Biotechnology Advisory Council will render strategic advice to the Authority regarding developments in modern biotechnology and their implications in India.
- Regulatory divisions of the Authority have been created to deal with agriculture, forest and fisheries, human health and veterinary products, etc. A Risk Assessment Unit will appraise applications before final approval is granted for proposed research, transport or import of an organism or product.

For a PRS summary of the Bill, see [here](#).

## Mining

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### Standing Committee presents report on allotment, development and performance of coal blocks

The Standing Committee on Coal and Steel submitted its 31<sup>st</sup> report on the “Review of Allotment, Development and Performance of Coal/Lignite Blocks” on April 23, 2013. The Committee dealt with the functioning of the Screening Committee, guidelines on allocation of coal blocks, the monitoring mechanism and the review of the coal blocks by the Inter Ministerial Group. Some of the key observations of the Committee are:

- Coal India Ltd (CIL) was acquiring mining assets abroad even though it could not undertake coal production within India and was leasing out coal mines to private companies. The Committee asked for a detailed action plan of CIL for acquiring mining concessions abroad.
- Coal should be available throughout India at a uniform price and they should be based on the calorific value of the coal. A policy mechanism should be evolved by the states for the use of domestic and imported coal.
- Domestic coal can be used in states where coal mines are available while those along the coast, with infrastructure for coal handling, can use a certain quantum of imported coal. A mechanism of pooling coal price for domestic and imported coal would make this possible. (To make imports viable, CIL planned to mix domestic and international coal. They would sell this at a pooled price to power producers, which are mostly private firms.)
- During 1993 and 2010, natural resources were distributed without following any transparent system and without generating any revenue for the central government. The Committee recommended that the central government frame a policy for allocating coal blocks to private parties. Public Sector Undertakings should get priority in allotment.
- Coal block allottees, approved by the Screening Committee, have failed to start production, which indicates that they were allotted without taking into account the techno-economic feasibility of the end use projects, past track record of the developers in execution of the projects and their technical and financial capabilities. The Committee recommended that the government review all the allocations and report on the action taken on the defaulter allottees.

For a PRS summary of the Standing Committee Report, see [here](#).

## Health

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### Public comments invited on the Draft Transplantation of Human Organs & Tissues Rules 2013

The Ministry of Health and Family Welfare published the Draft Transplantation of Human Organs & Tissues Rules, 2013 on April 21, 2013. The Ministry has invited public comments on the Rules within a period of 45 days.<sup>22</sup> The Draft Rules address provisions of the Transplantation of Human Organs Act, 1994 and Transplantation of Human Organs (Amendment) Act 2011.

The Transplantation of Human Organs Act, 1994 regulates the removal, storage and transplantation of human organs for therapeutic purposes and prohibits commercial trade in human organs. The Act was amended in 2011 to include donation of tissues, enhancing penalties for commercial trade, allowing organ swapping and making it mandatory for a doctor in Intensive Care Unit (ICU) facilities to ask every patient or his near relative if he is willing to donate his body in case of death. Organ swapping is allowed to the extent that a pair of donor and recipient who are near relatives but whose organs do not medically match for transplantation may swap with another such pair with approval from an Authorisation committee.

The Draft Rules detail the procedure to be followed for some of the provisions of the Act.<sup>23</sup> These include the procedure to be followed for living donors, donation from a brain stem dead donor, details in a national/state register of donors, and procedures to be followed for organ donation between non relatives (to ensure that the donation is not a commercial transaction).

## Law and Justice

### Government issues guidelines for proactive disclosure of information under the Right to Information Act

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On April 15, 2013, the Ministry of Personnel, Public Grievances & Pensions issued guidelines on the implementation of Section 4 of the Right to Information Act, 2005.<sup>24</sup> Section 4 of the Act details the kind of information that public authorities have to proactively disclose in the

public domain and the method by which such information should be disseminated.

In 2011, the government constituted a Task Force on strengthening proactive disclosure provisions under the RTI Act. Based on the recommendations of the Task Force, the government has issued guidelines requiring public authorities to proactively disclose information. All public authorities have to follow and implement these guidelines within a period of six months. The guidelines are:

- In addition to the current items under Section 4 of the Act, public authorities shall also have to disclose details regarding: (i) the procurement of goods and services; (ii) public private partnerships if public services are being provided through PPPs; (iii) transfer policy and transfer orders of employees serving in a public authority; (iv) RTI applications, appeals received and their responses; (v) CAG and PAC findings and Action Taken Reports; (vi) citizens' charter and all discretionary and non-discretionary grants made by Ministries and; (vii) details of foreign and domestic travel of public officials above the level of joint secretary.
- Details regarding the procedure and chain of decision making within a public authority should be disclosed. These should also specify the exceptional circumstances under which the standard decision making procedure can be overridden and the individual who can do so.
- Digital publication of information on Acts, Rules, Orders, and details of delivery of entitlements and services provided by public authorities.
- Compliance of these RTI guidelines by public authorities would be reviewed and should include a yearly audit by a third party of the proactive disclosure made by the Ministry/Department. The Central Information Commission shall examine the audit reports and offer recommendations to the concerned Ministry or Department or Authority.

### Supreme Court on the appointment of Information Commissioners

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In September 2012, the Supreme Court had directed that only sitting or retired chief justices

of High Courts or a Supreme Court judge can head the Central and State Information Commissions, among other things.<sup>25</sup> On April 16, 2013, in a review petition of the earlier judgment of the Court, the Court stayed the application of the following portions of the judgment:<sup>26</sup>

- Information Commissions shall work in benches of two members, comprising one judicial member and one expert member.
- Appointment of judicial members as Information Commissioners by the government should be done in consultation with the Chief Justice of India and Chief Justices of the High Courts.
- The Chief Information Commissioner at the central or state level shall only be a person who is or has been a Chief Justice of the High Court or a Judge of the Supreme Court.

In addition, the Court directed that wherever the Chief Information Commissioner is of the opinion that intricate questions of law are to be decided, he will ensure that the matter is heard by a bench in which at least one member has knowledge and experience in the field of law.

The Court clarified that until the final order is passed in the review petition, the competent authority shall continue to fill the vacant posts of Information Commissioners in accordance with the Act and the earlier judgment of the Court, subject to the portions that have now been stayed. Functioning Chief Commissioners will continue to stay in their posts until the final order of the review petition.

## Civil Aviation

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### Fees for unbundled services permitted

The Ministry of Civil Aviation has allowed airlines to charge fees for unbundled services separately.<sup>27</sup> Airlines can now charge a fee for each of the unbundled services as long as safety, schedule and reliability are not compromised.

The list of unbundled services is:

- Preferential seating,
- Meal/snack/drink charges (except drinking water),
- Charge for using airlines' lounges,

- Check in baggage charges,
- Sports equipment carriage,
- Musical instrument carriage,
- Fee for special declaration of valuable baggage,

The decision will allow airlines to offer a low base fare for passengers while offering choice at a price and is expected to help airlines develop more sustainable operations.

### India enters into MoUs with UAE and Singapore increasing seat capacity

India has signed a Memorandum of Understanding on Air Services increasing the weekly seat capacity on flights between the two countries.<sup>28</sup> Currently, carriers from both sides are entitled to 13,330 seats per week; the new agreement allocates an additional entitlement of 36,670 seats over the next three years. In 2013, 11,000 seats are to be added. In addition, the UAE have changed the gauge facility to provide operational and commercial flexibility to airlines.

India also entered a MoU with Singapore to enhance capacity entitlements by 10 per cent between the two nations.<sup>29</sup> Designated airlines from India can now operate 29,400 weekly passenger seats from India to Singapore while designated airlines of Singapore are entitled 28,700 weekly passenger seats from Singapore to India.

## Defence

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### Changes in Defence Procurement Procedure

The Defence Acquisition Council (DAC) amended the Defence Procurement Procedure.<sup>30</sup> Some of the key changes are:

- Preference for indigenous procurement, with global cases being a choice of last resort. The order of preference, in decreasing order, shall be: (i) Buy - Indian; (ii) Buy & Make - Indian; (iii) Make; (iv) Buy & Make with Transfer of Technology; and (v) Buy - Global. The procedure for these acquisitions has been simplified.
- The DAC has approved the release of a public version of its 15-year perspective

document, outlining the roadmap to guide the industry for directing its R&D investments.

- The Indian defence industry was opened up in May 2001 for 100% private sector participation subject to licensing. Since then, Indian companies have been eligible to apply for licenses to manufacture all types of defence equipment. The Defence Items List has been finalised by the Ministry and will be notified, which will bring clarity in the licensing process.
- Dual-use items (defence and civil) will not require licensing.
- ‘Indigenous content’ has been redefined to remove ambiguities.
- Transfer of Technology for maintenance of equipment by manufacturers has been reserved largely for Defence PSUs through the nomination process. An amendment has been approved that does away with a nomination by the Department of Defence Production and facilitates selection of the Maintenance Transfer of Technology partners through bidding by Indian companies.
- The financial powers of Service Chiefs/ DG Coast Guard have been enhanced from Rs 50 crore to Rs 150 crore for capital acquisition cases.

## Labour

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### **The Building and Other Construction Workers Related Laws (Amendment) Bill, 2013 introduced in Parliament**

The Building and Other Construction Workers Related Laws (Amendment) Bill, 2013 was introduced in the Rajya Sabha by the Minister of Labour and Employment on March 18, 2013. The Bill has been referred to the Parliamentary Standing Committee on Labour for examination and report within three months.

The Bill amends two laws i.e. the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (RECS Act) and the Building and Other Construction Workers' Welfare Cess Act, 1996 (WC Act).

The RECS Act regulates the employment, service conditions, health, safety and welfare measures of building and other construction workers. The WC Act provides for the levy and collection of a cess on the employer, at the rate of one to two percent of the cost of construction incurred by him. The cess collecting authority (local authority or state government) deducts upto one percent of the amount collected towards the cost of collecting such cess. The cess is paid to the Building and Construction Workers' Welfare Board constituted under RECS Act.

The key features of the Bill are:

- The RECS Act is being amended to remove the upper limit of Rs 10 lakh as the total cost of construction. The Bill allows the central government to notify the maximum cost of construction.
- Under the RECS Act, every building worker between the ages of 18 to 60 years who engaged in any building or construction work for at least 90 days (during the past one year) is eligible to register as a beneficiary. The amendments remove the: (i) 90 day requirement for registration of workers and, (ii) the upper age limit of 60 years.
- Till the state governments constitute their State Welfare Boards, the amendments provide for the constitution of a Board that will perform such functions. The Board will consist of a chairperson, i.e. Secretary of the Department of Labour, and Secretaries of the Department of Finance, Planning and Social Welfare as members.
- As per the RECS Act, the Welfare Board can incur expenses for salaries, allowances and other administrative requirements upto five per cent of its total expenses during that financial year. The amendment removes this limit and allows the central government to notify the percentage.
- The amendments in the RECS Act allow the central government to appoint and coordinate with Director Generals (not exceeding 10) in laying down the standards of inspection and they shall exercise powers of an inspector in the respective area.
- The WC Act is amended to prescribe a time limit of 30 days for cess collecting authorities to deposit cess to the Welfare Board.

- The Bill allows state governments to file complaints for contravention of provisions of the Act.

## Telecom

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### TRAI release consultation paper on TV rating agencies

TRAI has released a consultation paper on “Guidelines/Accreditation Mechanism for Television Rating Agencies in India” after the Ministry of Information and Broadcasting had sought recommendations on ensuring transparency and accountability in the rating system for television.<sup>31</sup> Television Rating Points (TRP) measures the popularity of programmes and channels allowing advertisers, broadcasters and advertisers to make business decisions.

According to the Ministry of Communication and Information Technology, a credible, transparent and representative television audience measurement system is crucial for the growth of the TV industry. Currently, television rating in India is performed by one agency, TAM Media Research, and certain stakeholders have raised issues relating to the credibility and transparency of the existing system.

In the consultation paper, TRAI discuss and call for comments on various issues in television rating like accreditation mechanism, audience measurement, sample size and sale of ratings.

### Committee for filming in India set up

The Ministry of Information and Broadcasting has constituted an Inter-Ministerial Committee on Promotion and Facilitation of Film Production in India to facilitate filming in India.<sup>32</sup> The Committee would act as a ‘single window’ for filmmakers seeking permission to film in India. In the past, permission from up to 30 agencies was required for film producers’ to film in India. The committee is expected to coordinate this process of granting permissions, monitoring progress and issuing directions for fast track clearances from time to time. The Committee would be chaired by a Secretary from the Ministry of Information and Broadcasting.

<sup>1</sup> Index Numbers of Wholesale Prices in India (Base: 2004-05=100),” Office of the Economic Advisor, April 14, 2013.

<sup>2</sup> “Review of the Economy 2012-13,” Economic Advisory Council to the Prime Minister, April 23, 2013, <http://pib.nic.in/newsite/pdfdisplay.aspx?docid=226>.

<sup>3</sup> “Long Range Forecast for 2013 South-west Monsoon Season Rainfall”, IMD, April 26, 2013. [www.imd.gov.in/section/nhac/dynamic/pressrelease.pdf](http://www.imd.gov.in/section/nhac/dynamic/pressrelease.pdf).

<sup>4</sup> “Long range forecast for 2012 Southwest Monsoon Rainfall”, India Meteorological Department, April 26, 2012. [http://www.imdpune.gov.in/research/ncc/longrange/pressent\\_lrf.pdf](http://www.imdpune.gov.in/research/ncc/longrange/pressent_lrf.pdf).

<sup>5</sup> “Long Range Forecast Outlook for the Rainfall During the Second Half (August –September) of 2012 Southwest Monsoon “, IMD, August 2, 2012. [http://www.imd.gov.in/section/nhac/dynamic/pressrelease\\_secondhalf.doc](http://www.imd.gov.in/section/nhac/dynamic/pressrelease_secondhalf.doc).

<sup>6</sup> Unstarred question No 4197, Ministry of Finance, Lok Sabha, 22 March, 2013.

<sup>7</sup> “Clearances for carrying out E&P activities in 31 NELP Oil & Gas Blocks,” Press Information Bureau, Ministry of Petroleum and Natural Gas, April 22, 2013.

<sup>8</sup> Unstarred question No 3154, Ministry of Petroleum and Natural Gas, Lok Sabha, 15 March, 2013.

<sup>9</sup> Petition No: 155/MP/2012, CERC, April 02, 2013.

<sup>10</sup> “Haryana to challenge Adani Power tariff ruling: minister”, Mint, April 4, 2013.

<sup>11</sup> “CCEA approves sugar decontrol”, Cabinet Committee on Economic Affairs, April 5, 2013.

<sup>12</sup> “Report of the Committee on the Regulation of Sugar Sector in India: the Way Forward”, Chairman: C. Rangarajan, Economic Advisory Council, October 5, 2012. [http://eac.gov.in/reports/rep\\_sugar1210.pdf](http://eac.gov.in/reports/rep_sugar1210.pdf).

<sup>13</sup> “Performance Audit of the Mahatma Gandhi National Rural Employment Guarantee Scheme”, Comptroller and Auditor General of India, April 23, 2013. [http://saiindia.gov.in/english/home/Our\\_Products/Audit\\_Report/Government\\_Wise/union\\_audit/recent\\_report/union\\_performance/2013/Civil/Report\\_6/Report\\_6.html](http://saiindia.gov.in/english/home/Our_Products/Audit_Report/Government_Wise/union_audit/recent_report/union_performance/2013/Civil/Report_6/Report_6.html).

<sup>14</sup> Novartis Ag vs. Union of India, Supreme Court, April 1, 2013.

<sup>15</sup> Orissa Mining Corporation vs. Union of India and Others, Supreme Court, April 18, 2013.

<sup>16</sup> S.O. 674 (E), Ministry of Environment and Forests, March 13, 2013, <http://envfor.nic.in/assets/ia-01042013.pdf>.

<sup>17</sup> S.O. 1533, Ministry of Environment and Forests, September 14, 2006, <http://envfor.nic.in/legis/eia/so1533.pdf>.

<sup>18</sup> “High Level Working Group Presents Report on Western Ghats to MoEF; Proposes Protecting 90 Per Cent of the Region’s ‘Natural Landscape’ as Ecological Sensitive Area”, Press Information Bureau, Ministry of Environment and Forests, April 17, 2013.

<sup>19</sup> “The National Policy for Children, 2012”, Ministry of Women and Child Development, April 18, 2013. <http://pib.nic.in/newsite/erelease.aspx?relid=94792>.

<sup>20</sup> Five-year Strategic Plan (2011-16), Ministry of Women and Child Development, [http://wcd.nic.in/MWCD\\_Strategic\\_Plan\\_10-02-2011.pdf](http://wcd.nic.in/MWCD_Strategic_Plan_10-02-2011.pdf).

<sup>21</sup> The Biotechnology Regulatory Authority of India Bill, 2013, Ministry of Science and Technology, April 23, 2013. <http://www.prsindia.org/billtrack/the-biotechnology-regulatory-authority-of-india-bill-2013-2709/>.

<sup>22</sup> Suggestions and public comments invited on the Draft Transplantation of Human Organs and Tissues Rules, 2013 <http://mohfw.nic.in/WriteReadData/1892s/Public%20Notice-98889178.pdf>.

<sup>23</sup> Draft Transplantation of Human Organs and Tissues Rules, 2013, Ministry of Health and Family Welfare. <http://mohfw.nic.in/WriteReadData/1892s/Draft%20Transplantation%20of%20Human%20Organs%20and%20Tissues%20Rules%202013-98530297.pdf>.

<sup>24</sup> Implementation of suo motu disclosure under Section 4 of RTI Act, 2005 – Issue of guidelines, April 15, 2013, Ministry of Personnel, Public Grievances & Pensions.

[http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/Suo\\_motu\\_disclosure-15042013.pdf](http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02rti/Suo_motu_disclosure-15042013.pdf).

<sup>25</sup> Namit Sharma vs. Union of India, Supreme Court, September 13, 2012.

<sup>26</sup> Union of India vs. Namit Sharma, Supreme Court, April 16, 2013.

<sup>27</sup> “Civil Aviation Ministry Permits Scheduled Airlines to Charge Fees for Certain Unbundles Services Separately,” Press Information Bureau, Ministry of Civil Aviation, April 29, 2013.

<sup>28</sup> “India and UAE Sign MoU on Air Services,” Press Information Bureau, Ministry of Civil Aviation, April 24, 2013.

<sup>29</sup> “India and Singapore Sign MoU on Air Services,” Press Information Bureau, Ministry of Civil Aviation, April 5, 2013.

<sup>30</sup> “DAC Approves Major Changes in DPP to Encourage Indian Defence Industry,” Press Information Bureau, Ministry of Defence, April 20, 2013.

<sup>31</sup> “TRAI releases consultation paper on ‘Guidelines/Accreditation Mechanism for Television Rating Agencies in India’”, Press Information Bureau, Ministry of Communications & Information Technology, April 17, 2013.

<sup>32</sup> “I & B Ministry constitutes an Inter-Ministerial Committee on Promotion and Facilitation of Film Production in India,” Press Information Bureau, Ministry of Information & Broadcasting April 15, 2013.

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