

Monthly Policy Review

August 2013

Highlights of this Issue

[GDP growth slows to 4.4%; RBI/government take steps to stabilise currency markets \(p. 2\)](#)

India's GDP growth slowed to 4.4% in the April-June quarter. As the Rupee depreciated 11.5% during August, steps were taken to reduce the current account deficit and attract capital inflows.

[National Food Security Bill passed by Lok Sabha \(p. 3\)](#)

The Bill was passed with some amendments that include changes to foodgrain allocations to states, the establishment of a State Food Commission in each state, and the definition of meals.

[Key legislation on land introduced and passed by Parliament \(p. 4 and 5\)](#)

The Land Acquisition Bill was passed by Lok Sabha. Two Bills related to the regulation of real estate and the registration of land were introduced in Rajya Sabha.

[Standing Committees submit reports on key issues \(p. 5, 18, 19, 18, and 8\)](#)

These included the GST Constitution (Amendment) Bill, an evaluation of the MGNREGA, the economic impact of gas pricing, the functioning of the CGHS, and electoral reforms.

[Parliament amends laws on political parties and candidates \(p. 6 and 7\)](#)

These laws keep political parties outside the ambit of the RTI Act, permit persons in custody to contest elections, and allow three months for a convicted legislator to appeal.

[Bill to change the system of appointment of judges introduced \(p. 8\)](#)

The Bill sets up a Judicial Appointments Commission to appoint judges. It will be composed of the Chief Justice of India, two judges of the Supreme Court, the Law Minister and two eminent persons.

[High level Committee appointed to assess socio-economic status of tribals \(p. 14\)](#)

The Committee is tasked with preparing a report on the socio-economic status of Scheduled Tribes as well as making legislative and policy recommendations to improve their development indicators.

[Civil Aviation Authority of India Bill, 2013 introduced in Lok Sabha \(p. 22\)](#)

The Bill proposes to establish the Civil Aviation Authority of India to replace the Directorate General of Civil Aviations as the civil aviation safety regulator.

[Marriage Laws \(Amendment\) Bill, 2010 passed by Rajya Sabha \(p. 10\)](#)

The Bill introduces irretrievable breakdown of marriage as a new ground for divorce, gives women a share in property of the husband as compensation and makes changes to the process for divorce by mutual consent.

[Mental Health Care Bill, 2013 introduced in Rajya Sabha \(p. 16\)](#)

The Bill seeks to adequately protect the rights of persons with mental illness and promote their access to mental health care.

September 2, 2013

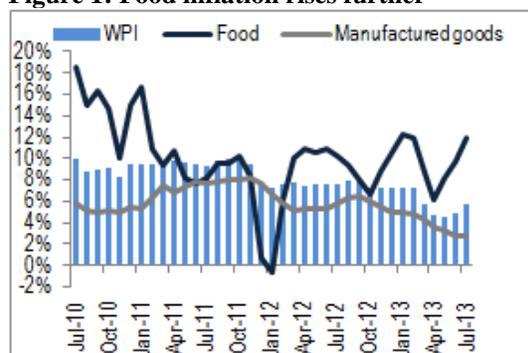
Macroeconomic Developments

Alok Rawat (*alok@prsindia.org*)

IIP remains weak while inflation rises; GDP growth slows to 4.4%

The Index of Industrial Production (IIP) declined 2.2% during July 2013 compared to last year.¹ The decline was led by a sharp slowdown in production of consumer durables and continued weakness in mining and capital goods output. Industrial production – particularly mining and capital goods output – has declined for most of the last year-and-a-half, with a brief exception of marginal growth during early 2013.

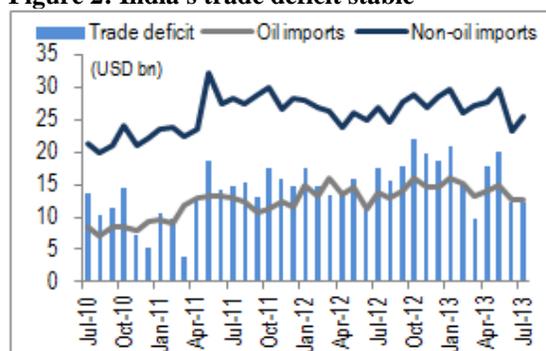
Figure 1: Food inflation rises further



Source: Office of the Economic Adviser, Ministry of Commerce and Industry; PRS.

The Wholesale Price Index (WPI) inflation increased to 5.8% in July 2013 from 4.9% in June.² Manufactured goods inflation in July remained unchanged from the June level of 2.8%. Primary goods inflation climbed yet again to 9.0% (versus 8.1% in June) as food inflation rose to 11.9% (from 9.7% in June). Fuel and power inflation also increased to 11.3% from 7.1% in June, driven by a rise in price inflation for petrol, diesel, naphtha and furnace oil.

Figure 2: India's trade deficit stable

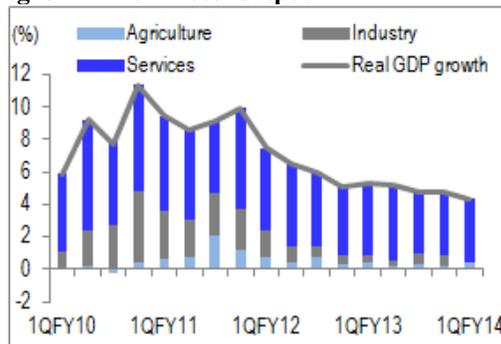


Source: Ministry of Commerce and Industry; PRS.

India's trade deficit declined to USD 12.3 billion during July 2013 from USD 17.5 billion in July

2012, but remained stable in comparison to last month's level of USD 12.2 billion.³ Compared to last year, imports declined 6.2% to USD 38.1 billion while exports grew 11.6% to USD 25.8 billion. Oil imports declined 8.0% to USD 12.7 billion over the same period, while non-oil imports declined 5.3% to USD 25.4 billion.

Figure 3: GDP growth remains dependent on growth in services' output



Source: Ministry of Statistics and Programme Implementation; PRS.

India's real GDP growth rate declined further to 4.4% during the first quarter (April to June) of 2013-14, from 4.8% in the previous quarter.⁴ Compared to first quarter of 2012-13, agricultural output grew 2.7%, industrial output grew 0.2% while services' output expanded 6.6%. Agriculture, industry and services contributed 0.4 percentage points (ppts), 0.1 ppts and 3.9 ppts to the GDP growth. During the quarter, private consumption grew 1.6% while government spending grew 10.5%. Investment declined 1.2% and net imports grew 6.0%.

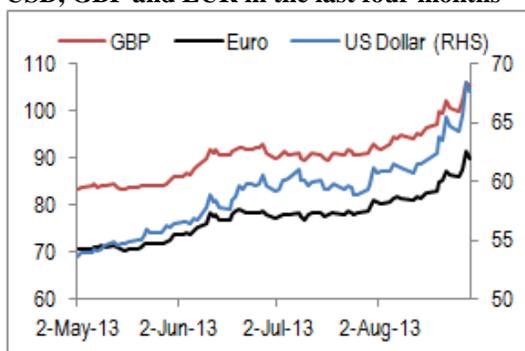
As the Rupee falls, RBI takes steps to contain CAD, encourage capital inflows

Saumya Vaishnava (*saumya@prsindia.org*)

The USD/INR exchange rate depreciated 11.5%, falling from 60.74 at the beginning of the month to 66.57 on August 30, having touched 68.36, on August 28. The current account, which includes net exports of goods and services, remittances (i.e., money sent from overseas residents to India), and net dividend payments, has been running a deficit for the last eight years. This deficit has increased due to falling growth rate of the Indian exports, coupled with a sharp rise in imports, especially of crude oil and gold. The capital account, which is the net flow of funds through equity investments and borrowings, had funded the current account deficit over the last few years. This flow has also reduced as the improving economic situation in the United States and other developed countries led

investors to withdraw from developing markets like India.

Figure 4: The Rupee has fallen against the USD, GBP and EUR in the last four months



Source: Reserve Bank of India; PRS.

Since the United States Federal Reserve hinted at exiting from Quantitative Easing (QE) on May 22, 2013, the currencies of several emerging markets have been affected. Since May 22, the Indian Rupee has depreciated 22% against the US dollar, while the Brazilian Real fell 15%, the South African Rand fell 9%, and the Russian Rouble dropped 6%. The Indonesian Rupiah dropped 12%, and the Turkish Lira fell 10%.

The RBI and the government have taken the following steps to reduce the current account deficit and enhance capital inflows:

- **Restriction on imports:** Customs duty and additional duty on customs were raised for gold, platinum and silver.⁵ Import of gold in the form of coins and medallions was prohibited. At least 20% of every lot of gold imported is now to be made available for export.⁶
- **Limiting capital outflows:** The limit of total Overseas Direct Investment for an Indian entity has been lowered from 400% to 100% of its net worth for all fresh investment.⁷ The RBI also limited the amount of remittances that can be made by an individual under the Liberalised Remittance Scheme from USD 200,000 to USD 75,000 per financial year.⁸
- **Attracting capital inflow:** The RBI relaxed regulation on banks for administering the Portfolio Investment Scheme for NRIs.⁹ Banks are now also allowed to set interest rates for Non-Resident (External) Rupee deposit accounts without a ceiling.¹⁰

The Finance Minister said that the CAD will be contained for the financial year at USD 70 billion and will be fully and safely financed. The

government expects these steps to limit the exchange rate volatility.¹¹

The Ministry of Commerce and Industry has set up a Task Force under the Department of Commerce to consider currency swap arrangements for trade on August 27, 2013.¹² It will include the EXIM Bank, Export Credit Guarantee Corporation and SBI, and explore the possibility of by-passing payment in dollars for trade and paying instead in rupees or the trading country's currency. This swap of national currency for trade is distinct from the typical currency swap agreements of Central Banks. The Task Force has to submit its report to the Department in four weeks.

Consumer Affairs, Food and Public Distribution

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National Food Security Bill, 2013 passed in Lok Sabha

The National Food Security Bill, 2013 was passed by Lok Sabha on August 26, 2013.¹³ The Bill replaces the National Food Security Ordinance, 2013 that was promulgated by the government on July 5, 2013. It seeks to make the right to food and nutritional security a legal right by providing specific entitlements to certain groups. Key features of the Ordinance have been discussed in the July Monthly Policy Review (see [here](#)). Some changes to the Bill were made when the Bill was passed by Lok Sabha. These are:

- The Bill specifies that a state will be allocated foodgrain according to the higher of two quantities: (i) its allocation specified under the Act or (ii) its average annual offtake (lifting) of foodgrain over the last three years under the existing TPDS. A new Schedule has been added to the Bill that specifies the quantity of foodgrain to be allocated to each state. Earlier, an allocation to the state would not take into account the state's previous offtake.
- State governments will be required to identify eligible households within one year of the Act. In the Ordinance, the time limit for this process was 180 days.
- Every state government shall have to constitute a State Food Commission for the

purpose of monitoring and reviewing implementation. This was optional for states in the previous version.

- The centre may consult states while making rules to carry out provisions of the Act.
- The Second Schedule of the Bill specifies minimum standards for meals for special categories. The definition of ‘meals’ under the Act has been changed to refer to: (i) a hot cooked meal or (ii) a meal that has been pre-cooked and heated before serving, or (ii) a take home ration. Earlier, the definition included a ready to eat meal.

For more documents related to food security, see [here](#).

Land

Land Acquisition, Rehabilitation and Resettlement Bill passed by Lok Sabha

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The Land Acquisition, Rehabilitation and Resettlement Bill, 2011 was passed by Lok Sabha on August 29, 2013.¹⁴ The Bill was passed with the following amendments:

- **Public purpose:** The definition of public purpose has been expanded. It now includes land acquisition for infrastructure projects such as agro-processing, industrial corridors or mining activities; and water harvesting and conservation structures. Public purpose in the Bill includes, apart from defence projects, “land for railways, highways, ports, power, and irrigation purposes for use by the government and public sector companies”.
- **Consent:** The consent of at least 70% of land owners will be needed for public private partnership projects, while 80% of consent will be needed for private projects. An earlier version of the Bill required consent from 80% of *project-affected people* (i.e., landowners as well as labourers and artisans whose livelihoods are affected).
- **Leasing of land:** The Bill inserts a new provision allowing the government to lease land instead of acquiring it, wherever possible.
- **Purchase of land:** Provisions relating to rehabilitation and resettlement (R&R) will apply to purchases of land by a private company. This will apply to purchases where the size of the land is equal to or more than the area specified by the state government.
- **Acquisition for recently purchased land:** The Bill inserts a new provision for land purchased on or after September 5, 2011, that is greater than the limit specified by the respective state government. It specifies that if such land is acquired under the provisions of this law, then 40 percent of the compensation paid for acquisition of the land will be shared with the original land owners.
- **Compensation:** The market value is based on (i) price of land sales in the vicinity, (ii) circle rate and (iii) price paid for any piece of land for the same project. The amendments clarify that the compensation paid in an earlier acquisition will not be considered while computing (i). This amount will then be multiplied by a factor of one in urban areas and a factor between one and two in rural areas depending on the distance from the urban area. The amount thus obtained will then be doubled.
- **Multiple displacement:** Any family getting displaced again from an acquisition shall be paid double the compensation paid to other families.
- **Environmental Impact Study:** Any Environmental Impact Study required before acquiring land can be carried out simultaneously with the Social Impact Assessment.
- **Retrospective application:** Provisions relating to compensation and R&R will apply to all ongoing land acquisitions where no award has been made under the existing Land Acquisition Act, 1894. The Bill allows for retrospective application of the law in cases in which acquisition has not been completed.
- A recent amendment to the Bill specifies that in cases where an award has been made under the Land Acquisition Act, 1894 and compensation has not been accepted, beneficiaries will be entitled to compensation in accordance with this Act.

For more documents related to land acquisition, see [here](#).

Real Estate Bill, 2013 introduced in Rajya Sabha

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The Real Estate (Regulation and Development) Bill, 2013 was introduced in the Rajya Sabha on August 14, 2013 by the government.¹⁵

The Bill seeks to establish a mechanism for the regulation and development of the real estate sector and to ensure consumer protection. In addition, it seeks to ensure standardisation in business practices and transactions in the real estate sector.

Key institutions proposed in the Bill include:

- **Real Estate Regulatory Authorities (RERAs)** at the state level to render advice to the government on the development of the real estate sector, to maintain and publish records relating to real estate projects on its website, and to regulate the payment of fees to promoters;
- **Central Advisory Council** to advise the central government on matters concerning the implementation of the Act, especially relating to consumer protection; and
- **Real Estate Appellate Tribunal** to settle disputes related to the provisions in the Act with the powers of a civil court.

The Bill mandates registration of real estate projects with the RERA if the area of the land to be developed exceeds one thousand square meters or involves the construction on more than twelve apartments. In addition, it also makes registration with the RERA compulsory for real estate agents.

The Bill outlines various penalties for non-compliance with the provisions of the Act by promoters, allottees and real estate agents. Penalties for a promoter are up to 10% of the total cost of the real estate project and penalties for allottees are up to 10% of the total cost of the building, plot or apartment, for various offences.

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

Registration (Amendment) Bill, 2013 introduced in Rajya Sabha

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The government introduced the Registration (Amendment) Bill, 2013 in the Rajya Sabha on

August 8, 2013.¹⁶ The Bill seeks to amend the Registration Act, 1908, which deals with registration of immovable property.

Under the principal Act, it is not compulsory to register immovable property that is leased for less than one year. The amendment makes registration compulsory, irrespective of the term of the lease of the immovable property, that is, even property that is leased for less than one year must be registered.

The amendment prohibits registration in certain cases, such as: (i) transactions which are prohibited by any central or state act; (ii) transfer of property owned by the central and state governments or by any person who is not statutorily empowered to do so; (iii) transfer of property which is attached permanently by a competent authority; and (iv) transactions which may adversely affect accrued interest in immovable properties of the central, state and local governments and educational, cultural, religious and charitable institutions.

The amendment specifies that immovable property can only be registered in the state within which it is located.

The amendment makes new provisions relating to recovery of inadequate payment of registration fee and refund to the applicant in case the fee paid is in excess of what is legally payable.

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

Taxation

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Standing Committee report on the Goods and Services Tax (GST) Bill

The Standing Committee on Finance submitted its report on the Constitution (115th amendment) Bill (Goods and Services Tax), 2011 on August 7, 2013.¹⁷ The Bill seeks to introduce the Goods and Services Tax.

In the Indian Constitution, taxation falls under the purview of both the centre and the state. The Bill seeks to make the required amendments to enable both Parliament and state legislatures to frame laws with respect to GST without providing for Parliamentary supremacy. It envisages the harmonisation of the indirect tax regime by subsuming a number of taxes currently levied by the centre and state (such as

service tax, state VAT, etc). The existing Central Sales Tax (CST) will be replaced by an Integrated GST (IGST), and the centre will have exclusive authority to levy this tax on inter-state trade and imports. Further, the Bill proposes the establishment of a GST Council which will recommend harmonised tax rates, and a GST Dispute Settlement Authority which will look into disputes regarding these rates.

The Committee made the following observations and recommendations:

- **Compensation mechanism:** A GST Compensation Fund to be set up to ensure that states do not suffer revenue losses. This fund would be under the administrative control of the GST Council.
- **Integrated Goods and Services Tax (IGST):** Positive proceeds of the IGST transactions should be distributed to states. Instead of the proposed IGST model, the centre and states could jointly identify a nodal bank to receive the collection of the state and central GST and work as a clearing house. The centre should ensure that the IGST model does not act as a disincentive for manufacturing states.
- **Declared Goods:** In order to ensure that no unilateral decision is taken by the centre with respect to goods exempted from the GST, the Bill should be amended so that Parliament can specify restrictions and conditions of taxes “on the recommendation of the GST Council”.
- **Flexibility in raising taxes:** Parliament and state legislatures should be given more flexibility in raising taxes in exceptional circumstances, and the centre to levy surcharges and cess when required.
- **Floor rate:** States should be allowed to increase their GST rate within a narrow band with a pre-determined floor rate.
- **Special category states:** Exceptions with regards to Jammu and Kashmir, North-eastern states and other special category states, etc should be included in the Bill.
- **GST Dispute Settlement Authority:** The proposed GST Dispute Settlement Authority should not be created, and instead the GST Council should handle the disputes.
- **Consensus:** The Bill specifies that decisions of the proposed GST Council will be made by consensus of all members. The

Committee felt that a consensus is unlikely due to different socio-economic interests of states and recommended adopting voting instead.

- **Entry tax:** Octroi, entertainment tax, should be subsumed in the GST.
- **Delegated legislation:** The Committee was of the opinion that specific aspects related to rates, exemptions, thresholds, etc should not ideally be included in a Constitution (Amendment) Bill. It should be included in the by-laws and rules.

For a PRS Legislative Brief on the Bill and a PRS summary of the Standing Committee report, see [here](#) and [here](#).

Government sets up Tax Administration Reform Commission

The Government set up a seven member Tax Administration Reform Commission (TARC) under the chairmanship of Dr. Parthasarathy Shome.¹⁸ The TARC was proposed in the Union Budget, 2013-14.¹⁹ The term of the Commission will be 18 months and it will review the application of tax laws and tax policies, and will make recommendations to strengthen the capacity of the Indian tax system.

The TARC will review the existing mechanism of tax laws regarding: (i) the organisational structure and business processes of tax governance, (ii) dispute resolution, (iii) enforcement of better tax compliance, (iv) deepening and widening of tax base and taxpayer base, (v) improving taxpayer services and taxpayers education programme, (vi) strengthening of database and inter-agency information sharing, and (vii) forecasting, analysis and monitoring of revenue targets.

Law and Justice

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Amendment to exempt political parties from the RTI Act introduced

The Right to Information (Amendment) Bill, 2013 was introduced in the Lok Sabha on August 12, 2013.²⁰ The Bill amends the Right to Information Act, 2005 (RTI Act).

In June 2013, the Central Information Commission held six political parties to be

public authorities under the RTI Act and hence subject to the transparency and information requirements under the Act.

The amendment Bill removes political parties from the ambit of the definition of public authorities and hence from the purview of the RTI Act. The amendment will apply retrospectively, with effect from June 3, 2013.

The Statement of Objects and Reasons of the Bill states that there are already provisions in the Representation of People Act, 1951 as well as in the Income Tax Act, 1961 which deal with transparency in the financial aspects of political parties and their candidates. It also adds that declaring a political party as public authority under the RTI Act would hamper its internal functioning and political rivals could misuse the provisions of the RTI Act, thus affecting the functioning of political parties.

Bill to permit persons in custody to contest elections introduced

The Representation of the People (Amendment and Validation) Bill, 2013 was introduced in the Rajya Sabha on August 23, 2013.²¹ It was passed by the Rajya Sabha on the same day. The Bill seeks to amend the Representation of People Act, 1951 (RPA, 1951).

On July 10, 2013, the Supreme Court ruled that a person, who is in jail or in police custody, cannot contest elections to legislative bodies. The RPA, 1951 states that any contestant to an election to legislative bodies has to be an “elector”, i.e., his name should be on the electoral roll and he is not subject to any of the disqualifications mentioned in Section 16 of the Representation of People Act, 1950. Among other things, that section disqualifies anyone from being on the electoral roll if he is disqualified from voting under the provisions of any law relating to corrupt practices and other offences in relation to elections. Another provision in the RPA, 1951 says that anyone in prison or on the lawful custody of the police (other than preventive detention) is not entitled to vote.

The Supreme Court concluded that a person in jail or police custody is not entitled to vote, and therefore, is not an elector, and thus, cannot contest elections.

The amendment Bill seeks to address the situation arising out of the Supreme Court’s judgment. The key changes brought about by the Bill are:

- Even if a person is prohibited from voting due to being in police custody or in jail, as long as his name is entered on the electoral roll he shall not cease to be an elector. This implies that he can file nomination for an election.
- The definition of “disqualified” in the Act has been amended. Currently, the definition of disqualified means disqualified for either being chosen as or being a Member of Parliament or a State Legislature. The amendment adds a ground to the definition that the disqualification has to be due to conviction for certain specified offences and can be on no other ground. Conviction for one of these offences would result in the person’s name being removed from the electoral roll and he would cease to be an elector.²²

Bill to give three months time to convicted legislators for appeal introduced

The Representation of People (Second Amendment and Validation) Bill, 2013 was introduced in the Rajya Sabha on August 30, 2013.²³ The Bill seeks to amend the Representation of People Act, 1951.

The amendment allows a legislator to retain membership of the legislature even after conviction, if an appeal against the conviction is filed before a court (within 90 days) and the sentence is stayed by the court. This reinstates the position that was created by section 8(4) of the Representation of People Act, 1951.

The Bill states that the legislator can continue to take part in proceedings of the legislature. However, the legislators will neither be entitled to vote nor draw salary or allowances until the appeal or revision is finally decided in court. If a stay is not obtained by the legislator within three months against the conviction, the legislator would stand disqualified.

On July 10, 2013, the Supreme Court ruled that section 8(4) of the Representation of People Act, 1951 (RPA) violates the Constitution. Section 8(4) states that a sitting legislator cannot be disqualified from Parliament or State Legislatures on conviction in a criminal case if he files an appeal in the appropriate court. The Court has ruled that Parliament had exceeded its legislative competence in enacting this provision.

For a detailed discussion on the Supreme Court’s judgement refer to the July 2013 Monthly Policy Review [here](#).

Standing Committee report on electoral reforms and anti-defection law

The Standing Committee on Law and Justice submitted its report on “Electoral Reforms-Code of Conduct for Political Parties and Anti Defection Law” on August 26, 2013.²⁴ Key observations and recommendations of the Committee were:

- **Election expenditure ceiling limit:** There is a ceiling limit of election expenditure for candidates in different states for Parliament/Assembly seats. The actual expenditure on elections has been more than the ceiling fixed by the ECI and it is alleged that candidates have been concealing election expenditure. The Committee recommended that election expenditure needs to be substantially enhanced and periodically reviewed.
- **Statutory backing to Model Code of Conduct:** It is expedient to give statutory backing to the Model Code of Conduct leaving no vacuum for the Election Commission of India (ECI) to exercise its residuary power to enforce the Model Code of Conduct.
- **Power to derecognise political parties:** The power of the ECI to derecognise political parties on account of violation of the Model Code of Conduct may be incorporated in the Representation of People Act, 1951.
- **Interference of the judiciary in the working of House related to anti-defection law:** The anti-defection law (Tenth Schedule of the Constitution) states that the Speaker/Chairman of the legislature is the final authority to decide on the disqualification of a legislator, and that this decision is not subject to judicial review. However, in 1993, the Supreme Court ruled that such a provision would be contrary to the basic structure of the Constitution. It struck down this provision and stated that the decision of the Speaker/Chairman regarding disqualification is subject to judicial review by the High Courts and the Supreme Court.²⁵

The Supreme Court has in a recent case held that any person interested in the matter of disqualification of a legislator would be entitled to bring to the notice of Speaker/Chairman that a legislator had incurred disqualification under the Tenth Schedule.²⁶ As per the rules framed by the

Speaker/Chairman this is not available to any outsider other than a member of that House.

The Committee observed that the interference of the judiciary into the domain and power of Speaker/Chairman on the issue of disqualification of Members of that House has impinged upon the power of the Presiding Officer. It affects the supremacy of the legislature and violates the long standing theory of separation of powers.

The Committee was of the view that the government should get these judgements of the Supreme Court reviewed.

- **Appeal from rejection of nomination papers:** Currently, the decision of the Returning Officer in the case of rejection of nomination papers of the candidate is final. This can only be challenged in the High Court, as an election petition, after the election results are declared. Due to judicial delay, by the time the appeal is disposed off, the political prospects of contesting candidates is adversely affected. Fast Track Courts may be setup to dispose of election disputes under the Representation of People Act, 1951, within a period of twelve months.

Bills to change the system of appointment of judges introduced in Rajya Sabha

The Judicial Appointments Commission Bill, 2013 was introduced in the Rajya Sabha on August 29, 2013. The Constitution (120th Amendment) Bill was also introduced to enable the functioning of the Judicial Appointments Commission (JAC).²⁷

The Bill seeks to change the manner of appointment of Supreme Court and High Court judges.²⁸ The Bill sets up a JAC to appoint and transfer judges of the Supreme Court and High Court. The JAC would be headed by the Chief Justice of India. In addition, the JAC would be composed of two judges of the Supreme Court, the Law and Justice Minister and two eminent persons. The law secretary would be the convenor of the JAC.

A committee would be set up to nominate the two eminent persons. This would be composed of the Chief Justice of India, the Prime Minister and the Leader of the Opposition.

At present, under the collegium system of appointing judges, the Chief Justice and a few of the senior judges of the court make the

appointments. This system was evolved through three Supreme Court judgements.²⁹

Government circulates amendments to the Lokpal and Lokayuktas Bill

The Lokpal and Lokayuktas Bill, 2011 was passed by the Lok Sabha on December 27, 2011. The Rajya Sabha referred the Bill to a Select Committee. The Committee submitted its report on November 23, 2012. The government circulated amendments to the Bill on August 2, 2013.³⁰ Some of the key changes are:

- **Jurisdiction of the Lokpal:** Under the Bill, the Lokpal has jurisdiction over societies, association of persons and trusts that collect public money or receive funding from foreign sources and have an income level above a certain threshold. The amendments circulated to the Bill seek to exclude bodies creating endowments for or performing religious or charitable functions or bodies from the purview of the Lokpal.
- **Process for investigation:** The amendment adds that before ordering an investigation against a public servant, the Lokpal has to call for an explanation from the public servant to determine whether a prima facie case for investigation exists.
- **Sanction for prosecution:** The Lokpal will grant sanction for prosecution of the public servant and authorise its Prosecution Wing or the investigating agency to file a charge sheet before the Special Court against the public servant.

Government circulates amendments to the Whistle Blower Protection Bill

The Whistle Blowers Protection Bill, 2011 was passed by the Lok Sabha on December 27, 2011. The government has circulated amendments to the Bill on August 5, 2013.³¹ Some of the key changes are:

- **What can be disclosed:** Under the Bill, in spite of the provisions of the Official Secrets Act, 1923, any public servant or any other person, may make a public interest disclosure before the competent authority. The amendments circulated to the Bill modify this provision. As per the amendment, a public interest disclosure cannot be made for matters covered by the Official Secrets Act. In addition, now a public interest disclosure cannot be made if (a) it will prejudicially affect the sovereignty and integrity of India,

various interests of the State, relations with foreign states, etc., and (b) it involves the disclosure of Cabinet papers, except as allowed under the Right to Information Act, 2005.

- **Procedure on receipt of disclosure:** The Bill provides that the Competent Authority will accept and inquire into disclosures. The proposed amendments add that a competent authority shall not inquire into a public interest disclosure, which involves any of the above mentioned information. [The Competent Authority is defined as the Prime Minister/Chief Minister for ministers; Speaker/Chairman for MPs, MLAs and MLCs; High Court for the subordinate judiciary; and the central/state vigilance commission for employees of the government and its undertakings.]

As per the amendment, on receipt of a public interest disclosure, the competent authority shall refer the disclosure to a specified authority to ascertain whether the disclosure can be made. The views of the specified authority will be binding on the competent authority.
- **What information can be furnished during inquiry:** Under the Bill, no person shall be authorised to furnish any information if: (i) it is likely to prejudicially affect the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence, *and* (ii) it involves the disclosure of proceedings of the state/union cabinet.

As per the amendments circulated, under this Bill *or any other law* no person shall be authorised to furnish any information if: (i) it is likely to prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relations with foreign States or lead to the incitement of an offence, *or* (ii) involves the disclosure of cabinet papers except as provided under the Right to Information Act, 2005.

Amendment to Prevention of Corruption Act introduced

The Prevention of Corruption (Amendment) Bill, 2013 was introduced in the Rajya Sabha on August 19, 2013.³² It amends the Prevention of

Corruption Act, 1988. The ratification by India of the United Nations Convention against Corruption, the international practice on treatment of the offence of bribery and corruption, necessitated the amendment of the Act to bring it in line with the obligations under the Convention. Key features of the Bill are:

- The Act at present covers the offence of a public servant taking gratification other than legal remuneration in respect of an official act under a number of sections. The amendment subsumes these into one provision that covers all aspects of bribery, including definitions of the various elements of bribery.
- The Act does not directly cover the act of giving a bribe. The person can be punished by charging him with the abetment of the offence. However, a statement made by a bribe-giver in any proceeding against a public servant for an offence shall exempt the bribe-giver from prosecution. The Bill makes the act of giving a bribe a criminal offence.
- A separate offence has been created for bribing a public servant by a commercial organisation.
- Property and money believed to have been procured through the offence of bribery can be attached and disposed off at the termination of the criminal proceedings.
- The Act provides for prior sanction of the government or competent authority before prosecution can begin. The Bill seeks to extend this protection to persons who have ceased to be public servants.

Marriage Laws (Amendment) Bill passed by Rajya Sabha

The Marriage Laws (Amendment) Bill, 2010 was passed by the Rajya Sabha on August 26, 2013.³³ This incorporated amendments to the Bill circulated by the government on August 2, 2013. The Bill amends the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954. The key provisions of the Bill are:

- **Irretrievable breakdown of marriage:** The Bill introduces irretrievable breakdown of marriage as a ground for divorce. Either party can file for divorce on this ground and has to show that both parties to the marriage have lived apart continuously for three years before filing for divorce. The wife has the right to oppose such a petition for divorce on

the ground of grave financial hardship and that it would in all circumstances be wrong to dissolve the marriage. A court will not pass a decree for divorce on this ground unless it is certain that adequate provision has been made for the children.

- **Share in property as compensation for wife:** At the time of passing of the decree for divorce on the ground of irretrievable breakdown of marriage, on a petition made by the wife, the court may order that the husband give her and the children, certain compensation. This compensation shall include a share in his: (i) immovable property (other than inherited or inheritable immovable property), and (ii) movable property, towards the settlement of her claim, as the court may deem just and equitable. While determining such compensation the court shall take into account the value of inherited or inheritable property of the husband.
- **Process for divorce by mutual consent:** At present, after filing the first petition for divorce by mutual consent, the couple is required to file a joint application to the court between six to 18 months of the petition from the divorce being filed. The Bill makes certain changes to this process. On an application made by both the parties, the court can reduce the six to 18 month period to a lesser period and waive the requirement for moving the motion by both the parties. To do so the court has to be satisfied that the parties to the marriage are not in a position to reconcile their differences.

Further, if one of the parties fails to appear before the court within a period of three years from the date of presentation of the petition for divorce, the court may, on an application made by the other party, waive the requirement of moving the motion by both the parties.

For a PRS comparison of the current law and the Bill as passed by the Rajya Sabha, see [here](#).

Readjustment of constituencies for SCs/STs Bill introduced

The Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013 was promulgated on January 30, 2013 and again on June 5, 2013. The Readjustment of Representation of Scheduled

Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill (Second), 2013 was introduced in Parliament on August 7, 2013, to replace the Ordinance.³⁴

Readjustment is the increase or decrease in the number of Parliamentary and state legislative assembly seats reserved for SCs/STs. The number of seats in each state reserved for SCs and STs is proportional to their population share in the state. The constituencies where the SCs/STs have the highest share of the population are reserved for these groups. Constituency boundaries were redrawn and reserved seats identified in the Delimitation Order, 2008 based on the 2001 census. However, since the census of 2001, several castes and tribes were included and excluded from the list of SCs/STs by eleven Acts passed by Parliament. Consequently, the share of the population of SCs/STs in a state has changed. Hence, a readjustment exercise needed to be carried out to reflect this change. The Bill lays down the process by which the readjustment exercise has to be undertaken.

- **Role of the Census Commissioner:** The Census Commissioner shall estimate the population of SCs/STs in a state according to the 2001 census data taking into account the change in the list of castes and tribes since then. He shall then compute their proportion to the total population of the state, as per that census.
- **Role of the Election Commission:** The Bill empowers the Election Commission to readjust parliamentary and Legislative Assembly constituencies to reflect these changes in the population. Based on this readjustment, the Commission will make amendments to the Delimitation Order, 2008. The Schedules of the Representation of People Act, 1950 will be deemed to have been amended as well. The Schedules reflect allocation of seats in the Lok Sabha and Legislative Assemblies.
- **Application of this Bill:** The Bill will apply to every election to the Lok Sabha or State Legislative Assembly (on the dissolution of the Lok Sabha or State Legislative Assembly) held after the Bill's enactment. Steps taken before the commencement of this Bill, by the Census Commissioner or the Election Commission to implement the objectives of this Bill, will be considered to have been taken as though the Bill has been enacted.

The Standing Committee agreed in principle with the provisions of the Bill and recommended that the Bill be passed.

For a PRS summary of the Bill and the Standing Committee's observations and recommendations, see [here](#) and [here](#).

Bill to amend the office of profit list passed by Rajya Sabha

The Parliament (Prevention of Disqualification) Amendment Bill, 2013 was introduced in the Rajya Sabha on August 8, 2013.³⁵ It was passed by the Rajya Sabha on August 22, 2013.

The Bill seeks to amend the Parliament (Prevention of Disqualification) Act, 1959. The amendment will exclude the Chairperson of the National Commission for the Scheduled Castes and the Chairperson of the National Commission for the Scheduled Tribes from incurring any disqualification from being a Member of Parliament (MP).

Article 102 of the Constitution provides that a person shall be disqualified from being chosen as an MP if he holds an office of profit under the government of India or the government of a state. However, Parliament can declare by law that the holding of certain offices will not incur this disqualification. The Parliament (Prevention of Disqualification) Act, 1959 lists certain offices of profit under the central and state governments, which do not disqualify the holders from being an MP. The Chairperson of the National Commission for Scheduled Castes and Scheduled Tribes was exempted from disqualification as per this list. The 89th constitutional amendment bifurcated the National Commission for the Scheduled Castes and Scheduled Tribes into two independent Commissions: the National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes. Hence, the amendment to the 1959 Act was necessary to exclude the Chairperson of these two Commissions from incurring any disqualification from being an MP.

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

Bill to establish Rajasthan Legislative Council introduced

The Rajasthan Legislative Council Bill, 2013 was introduced in the Rajya Sabha on August 6, 2013.³⁶ The Bill provides for the creation of the Legislative Council for the state of Rajasthan.

Article 169(1) of the Constitution provides that Parliament may abolish or create a Legislative Council in a state. For Parliament to do so, the Legislative Assembly of the state has to pass a resolution to that effect by a majority of the total membership of the Assembly.

On April 18, 2012, the Rajasthan Legislative Assembly passed a resolution to create a Legislative Council for the state of Rajasthan with 66 members.

The Bill has been referred to the Standing Committee on Law and Justice. The Committee has invited public comments. The last date for submission of comments is September 9, 2013.

FDI

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Cabinet approves changes to the policy on FDI in multi-brand retail

The Cabinet has approved the following changes in existing Foreign Direct Investment (FDI) policy in multi-brand retail on August 1, 2013:³⁷

- **Sourcing from small industries:** The FDI policy previously mandated sourcing at least 30% of total procurement from ‘small industries’ – i.e. units whose total investment in plant and machinery was below USD 1 million. A unit was considered as ‘small industry’ only as long as the investment limit was adhered to.

The revised policy replaces the term ‘small industries’ with ‘Micro, Small and Medium Enterprises’ and raises the investment limit to USD 2 million. Further, the condition of continued adherence to the investment limit has been removed. Sourcing from agricultural and farmers’ co-operatives has also been included towards the fulfilment of the 30% mandatory sourcing requirement.

- **Investment in back-end infrastructure:** The FDI policy previously mandated: i) a minimum investment of USD 100 million and ii) investing at least 50% of FDI in back-end infrastructure. This condition was open to interpretation that the required investment in back-end infrastructure could be met over several tranches, with no minimum requirements in each tranche.

The revised policy clarifies that at least 50% of the first tranche of investment needs to be invested in back-end infrastructure.

Subsequent investments in back-end infrastructure could be made by retailers as per their requirements.

- **Outlets in small cities:** The FDI policy previously stated that in states/union territories not having cities with population above 10 lakh (as per 2011 census), foreign retailers may set up outlets in and around cities of ‘their choice’, without clarifying the term ‘their choice’, i.e., whether it would be the choice of the retailer or that of the government.

The revised policy clarifies that outlets may be set-up only in and around cities as decided by the respective state governments.

Standing Committee report: Impact of FDI in multi-brand retail on MSMEs

The Standing Committee on Industry presented its report on the impact of Foreign Direct Investment (FDI) in multi-brand retail on Micro, Small and Medium Enterprises (MSMEs) on August 6, 2013.³⁸ The Committee was apprehensive of the impact of the FDI policy on MSMEs and called for adequate safeguards to protect their interests.

Key observations and recommendations made by the Committee are:

- The government should commission a survey to assess the impact of previous FDI policies, especially FDI in single brand retail and wholesale, on the MSME sector.
- The Committee recommended an increase in budgetary allocations to assist MSMEs in adoption and up-gradation of existing practices in areas like designing, packaging, bar coding, quality management.
- The Committee raised the issue of confining the 30% sourcing benefit only to units where investment in plant and machinery is below USD 1.0 million. The Cabinet decision on this issue is discussed [here](#).
- The FDI policy previously stated that in states or union territories which do not have cities with population of more than 10 lakh (as per the 2011 census), foreign retailer outlets may be set up in the cities of ‘their choice’. The Committee felt that this provision was ambiguous and may allow foreign retailers to set up outlets even in or

around smaller cities. The cabinet decision on this issue is discussed [here](#).

- The provision mandating 30% procurement from small industries should specifically be certified by the retailer's auditor and should be applicable item-wise instead of basing it on total annual procurement.
- Taking note of recent media reports that foreign retail companies are demanding a dilution of sourcing norms, the Committee cautioned against any such dilution.
- The Committee emphasised the need for setting up a Retail Regulatory Authority to prevent abuse of dominant position by foreign retailers.

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

TRAI recommends raising FDI caps in broadcasting

The Telecom Regulatory Authority of India (TRAI) released its recommendations on Foreign Direct Investment (FDI) in the broadcasting sector on August 22, 2013.³⁹ The Ministry of Information and Broadcasting (MoIB) had asked TRAI to re-examine the FDI limits for the broadcasting sector. Key recommendations are:

- **Broadcast carriage services:** TRAI has recommended enhancing the FDI limit in broadcast carriage services including cable TV, Direct-To-Home (DTH), Headend-In-The-Sky (HITS) and Internet Protocol (IPTV) to 100% (currently 74%). It added that FDI up to 49% should be allowed under the automatic route and beyond 49% should be allowed only after approval from the Foreign Investment Promotion Board (FIPB).
- **TV channels excluding news/Current Affairs:** TRAI has recommended the continuation of 100% FDI limit for up-linking of all TV channels other than news and current affairs after approval of the FIPB.
- **News/current affairs TV channels and FM radio services:** TRAI recommended enhancing the FDI limit for both these segments to 49% (currently 26%) after approval of the FIPB.

Standing Committee report on FDI in pharma sector

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The Standing Committee on Commerce presented its report on Foreign Direct Investment (FDI) in the pharmaceutical sector on August 13, 2013.⁴⁰

Some of the observations and recommendations made by the Committee are as follows:

- **Acquisition of domestic pharmaceutical companies and subsequent pricing:** In India, domestic firms are given the right to produce and market drugs as generics after the expiration of the patent of the original branded drug. The low price of generics makes them affordable for the public.

The Committee expressed the concern that the recent spate of acquisitions of domestic pharmaceutical companies by foreign multi nationals could result in the proliferation of costly branded medicines at the expense of affordable generics. It therefore, advised the Government to keep a vigil on any such price increases.

- **Green field versus brown field investment:** The Committee noted that out of 67 FDI investments in 2011, only one has been in a green field project (involving construction of operational facilities from ground-up) while all the remaining have been in brown field projects (involving purchase or lease of existing production facilities).
The Committee noted that these brown field projects have not added fresh capacity in terms of production, distribution network, asset creation or job creation. Therefore, the Committee suggested that a suitable mechanism be established to keep track of the nature of FDIs.
- **Lack of investment in Research & Development (R&D):** The Committee noted that of the total investment in the pharmaceutical sector received through FDI in the last three years, less than 3% was in R&D. The Committee suggested that the Government take concrete steps to ensure substantial investment in the R&D sector, with a special thrust on tropical diseases.
- **Effective procurement of cheap medicines:** The Committee noted that the Tamil Nadu Medical Services Corporation (TNMSC) and the Rajasthan Medical Services Corporation

(RMSC) procured medicines at considerably lesser prices than those of market leaders. The Committee recommended that the Government suggest a model procurement scheme covering the whole country. It also recommended that the Government bring in legislation making it legally binding on all doctors to prescribe generic equivalents of branded medicines.

- **Regulation of pharmaceutical companies:** The Committee opined that the Competition Commission of India (CCI) ought to play a more active role to check the behaviour of the pharmaceutical companies to ensure that medicines continue to be affordable. It also suggested that the Department of Pharmaceuticals be subsumed within the Ministry of Health and Family welfare.

Tribal Affairs

High Level Committee on socio-economic status of tribal communities

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The government has constituted a High Level Committee, chaired by Professor Virginius Xaxa, to prepare a position paper on the present socio-economic, health and educational status of scheduled tribes (STs) and make policy recommendations to improve development indicators of ST communities.⁴¹ The Committee is expected to collect data and conduct a literature review to examine the following areas of concern:

- Geographic spread of tribal communities in India and changes because of involuntary displacement and enforced migration.
- Key areas of economic activity, especially livelihood, of tribal communities and the impact of rapid urbanisation.
- Ownership of assets and income levels of tribal communities relative to other groups and changes in patterns of ownership.
- Performance on key socio-economic indicators such as literacy rate, dropout rate, maternal mortality rate etc and comparison with other communities.
- Relative share of public and private sector employment in tribal communities, inter-state variations and steps that have been taken to improve employability of STs.
- Level of social infrastructure (schools, health centres etc) in areas with a large tribal population, comparison with the general level of infrastructure and causes of disparity, if any.
- Existence of structures for the implementation of legislations such as the Prevention of Atrocities Act, Panchayats (Extension to Scheduled Areas) Act and Forest Rights Act etc and steps that are needed to strengthen these structures.

The Committee, under the aegis of the Ministry of Tribal Affairs, is expected to identify areas of intervention by the government relating to the socio-economic, health and educational status of the tribal communities by June 2014.

Cabinet approves scheme for marketing of minor forest produce through MSP

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The Cabinet approved a centrally sponsored scheme for the marketing of non-nationalised/non-monopolised Minor Forest Produce (MFP) and the development of a value chain for MFP through the Minimum Support Price (MSP).⁴² According to the government, the scheme is expected to ensure social safety for MFP gatherers, who are primarily members of the Scheduled Tribes (STs) in left wing extremism (LWE) areas. The details of the scheme are:

- The scheme seeks to provide a remunerative price for the produce collected by tribal populations from the forest and provide alternative employment avenues to them. An estimated 100 million forest dwellers depend on the MFP for food, shelter, medicines, cash income, etc.
- The centre will contribute about Rs 967 crore and states will contribute about Rs 250 crore.
- The scheme will cover 12 MFPs, which are not nationalised in states having Scheduled Areas and Scheduled Tribes in accordance with the Fifth Schedule of Constitution. The states to be included are Andhra Pradesh, Chhattisgarh, Gujarat, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Jharkhand. The 12 MFPs are tendu, bamboo, karanj, mahuwa seed, sal leaf, sal seed, lac, chironjee, wild honey, myrobalan, tamarind, and gums.

- State designated agencies will be responsible for purchasing MFP at the Minimum Support Price.
- The Ministry of Tribal Affairs will be the nodal Ministry for the implementation and monitoring of the scheme. The Minimum Support Price will be determined by the Ministry with technical help of the Tribal Cooperative Marketing Development Federation of India Limited.

Education

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Committee established to recommend roadmap for Universities for Research and Innovation

The Government has set up a committee (HRD committee) to recommend changes to the Universities for Research and Innovation Bill, 2012 and suggest a roadmap for the establishment of such universities.⁴³ The Bill was introduced in Parliament by the Ministry of Human Resource and Development (MHRD) in May 2012 and the Parliamentary Standing Committee on Human Resource Development submitted its report on the Bill in February 2013.

The Bill allows the central government to set up universities for research and innovation as well as give this status to existing universities. Every such university shall be deemed to be an institution of national importance. The Bill states that the objective of these universities is to: (i) achieve excellence in knowledge; (ii) conduct research to address societal problems; (iii) be transparent in admission, appointment and academic evaluation; and (iv) build linkages with research institutions and industry.

The Bill gives universities for research and innovation the autonomy to determine their own standards, decide on matters related to award of degrees, recruitment and salary of faculty, course curriculum, fees, and standards of education. These provisions differ from the current regulatory system where all universities have to follow the regulations of the University Grants Commission (UGC) with regard to award of degrees, faculty qualification, admission procedure, and fees.

For a more detailed analysis of the Universities for Research and Innovation Bill, 2012 see the PRS Legislative Brief [here](#).

The Standing Committee examining the Bill had made several recommendations on the provisions of the Bill. A PRS Summary of the recommendation of the standing committee on the Bill can be found [here](#). The HRD committee has been set up by the Ministry to examine the recommendations made by the Standing Committee, recommend changes to the Bill and suggest a roadmap to establish universities for research and innovation.

The Committee is headed by the Vice Chancellor of the University of Hyderabad and consists of 10 members. The members represent the Indian Institute of Human Settlements, Azim Premji Foundation, Indian School of Business, BITS, Pilani, O.P.Jindal University, Public Health Foundation of India, Rajiv Gandhi Institute of Contemporary Studies, UGC, and the Department of Higher Education in the MHRD. The Committee has to submit its report within three months from the date of its first meeting.

Standing Committee Report on National Institute of Design Bill, 2013

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The Standing Committee on Commerce submitted its report on the National Institute of Design (NID) Bill, 2013 on August 26, 2013.⁴⁴

The Bill was introduced in the Rajya Sabha on March 13, 2013 and seeks to declare NID, Ahmedabad as an ‘institution of national importance’. Presently, NID, Ahmedabad functions as an autonomous institution under the Ministry of Commerce and Industry offering graduate and post-graduate diploma programmes.⁴⁵ The Bill proposes to make NID, Ahmedabad a body corporate with the legal status of an institute. Authorities established for the governance and management of NID are the Governing Council, Senate, Chairperson, Director, Dean and Registrar.

The Committee made the following observations and recommendations:

- **Definition of ‘institutes of national importance’:** In spite of the fact that 40 higher education institutes have been declared as ‘institutes of national importance’, the term has never been defined. The Committee strongly recommended that

the term be defined in the Bill, before the same is enacted for NID.

- **New NIDs:** The Committee desired that the four new NIDs that are to be set up under the National Design Policy, 2007 also be conferred the same status as NID, Ahmedabad, by way of an amendment to the NID Bill. It also suggested that one NID each may be opened for every proposed National Investment and Manufacturing Zone (NIMZs).
- **Narrow range of consultation:** It was noted that stakeholders such as design academicians, design professions, alumni of NID, etc were not invited to give suggestions on the Bill. The Committee feels that this reflects negatively on the formulation of the Bill.
- **Appointment of senior management:** The eligibility conditions for the appointment and removal of the Director of the Institute, and the selection process for Senior Professors to be members of the Senate of the Institution have not been laid down in the Bill. These should be included in the Bill. It should also be explicitly stated that the Chairperson of the Governing Council of the Institute should be an academician from the field of design.

For PRS summary of the Bill and Standing Committee recommendations, see [here](#) and [here](#).

The Indira Gandhi National University for Women Bill, 2013 introduced in Parliament

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The Indira Gandhi National University for Women Bill, 2013 was introduced in the Lok Sabha on August 20, 2013.⁴⁶ The Bill seeks establish and incorporate a central university in the district of Raebareli, Uttar Pradesh and makes the following provisions:

- The objectives of the University will include providing: (i) higher education and research opportunities for women, (ii) courses in various disciplines including humanities, sciences, engineering, technology, vocational education, and (iii) opportunities for the intellectual and academic development of women.
- Details of the manner of: (i) the constitution, powers, and functions of authorities within the University and appointments of their members, (ii) the

appointment, emoluments and conditions of service of teachers, academic staff and other employees of the University, (iii) management of Colleges and Institutions established by the University, and (iv) composition of the University Fund.

- The Bill specifies authorities of the university that will prescribe the manner of admissions, courses of study, grant of degrees, diplomas and certificates, establishment and management of faculty, departments, and centres, co-operation and collaboration with other Universities, fees to be charged and grievance redressal mechanisms for employees.

Health

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Mental Health Care Bill, 2013 introduced in Parliament

The Mental Health Care Bill, 2013 was introduced in the Rajya Sabha on August 19, 2013.⁴⁷ The Bill repeals the Mental Health Act, 1987.

The Bill has been introduced to meet India's obligations to the United Nations Convention on the Rights of Persons with Disabilities. The new Bill seeks to adequately protect the rights of persons with mental illness and promote their access to mental health care. The key features of the Bill are:

- **Rights of persons with mental illness:** Every person shall have the right to access mental health care and treatment from services run or funded by the Government. The right includes affordable, good quality and accessible mental health services.
- **Advance Directive:** A mentally-ill person shall have the right to make an advance directive that states how he wants to be treated for the illness during a mental health situation and who his nominated representative shall be. If a mental health professional/relative/care-giver does not wish to follow the directive while treating the person, he can make an application to the Mental Health Board to review/alter/cancel the advance directive.
- **Central and State Mental Health Authority:** These administrative bodies are

required to: (i) register, supervise and maintain a register of all mental health establishments, (ii) develop quality and service provision norms for such establishments, (iii) maintain a register of mental health professionals, (iv) receive complaints about deficiencies in provision of services and, (v) advise the government on matters relating to mental health.

- **Mental Health Establishments:** Every mental health establishment has to be registered with the relevant Central or State Mental Health Authority. The Bill also specifies the process and procedures to be followed for admission, treatment and discharge of mentally ill individuals. A person with mental illness shall make an independent decision to be admitted in a mental health establishment unless he is unable to make an independent decision or conditions exist to make a supported admission unavoidable.
- **Mental Health Review Commission and Board:** The Mental Health Review Commission will be a quasi-judicial body that will periodically review the use of and the procedure for making advance directives and advise the government on protection of rights of mentally ill persons. The Commission shall with the concurrence of the state governments, constitute Mental Health Review Boards in the districts of a state.
- **Decriminalising suicide and regulating electro-convulsive therapy:** A person who attempts suicide shall be presumed to be suffering from mental illness at that time and will not be punished under the Indian Penal Code. Electro-convulsive therapy is allowed only with the use of muscle relaxants and anaesthesia. The therapy is prohibited for minors.

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

Indian Medical Council (Amendment) Bill, 2013 introduced in Parliament

On August 19, 2013 the Indian Medical Council (Amendment) Bill, 2013 was introduced in the Rajya Sabha.⁴⁸ Earlier, on May 23, 2013, the government notified this Bill as an Ordinance to amend the Indian Medical Council Act 1956.⁴⁹

The Act provides for the constitution of the Medical Council of India (MCI) to: (i) maintain standards of medical education, (ii) give

permission to start colleges, courses or increase the number of seats, (iii) recommend the recognition of medical qualifications, (iv) register doctors and maintain the All India Medical Register, and (v) regulate the profession of medical practitioners.

According to the Act, the MCI can be superseded by a Board of Governors, constituted by the central government. Due to issues in the functioning of the MCI, in May 2010, the MCI was superseded by a Board of Governors whose term expired on May 14, 2013.

The key features of the Bill are:

- The Board of Governors has been given an extension of 180 days so that it can exercise the functions of the MCI.
- Within this time period the central government has to reconstitute the MCI.
- The composition of the MCI is changed to include more representation from the Union Territories.
- The term of the MCI is for four years and the President and Vice President cannot hold office for more than two terms.
- The functions of the MCI include taking measures to: (i) determine, coordinate and maintain the standards of medical education and practice in medicine; (ii) grant or withdraw permission for establishment of medical college and course of study in medical education; (iii) maintain the Indian Medical Register (in electronic form as well), and (iv) ensure adequate availability of doctors to all States.
- The conditions under which the central government can remove the President and Vice-President of the MCI are specified. These include among others, abusing his position in performance of the duties specified under this Act or willfully or without sufficient cause failing to comply with directions issued by the central government and in public interest.
- The power of the central government to direct the MCI on policy matters including amending and revoking regulations made by the Council is final.
- Overseas Citizens of India are allowed to practice medicine in India.

Standing Committee observations on the functioning of the Central Government Health Scheme

On August 6, 2013 the Standing Committee on Health and Family welfare presented a report on the Functioning of Central Government Health Scheme (CGHS).⁵⁰

Launched in 1954, the CGHS provides comprehensive health care facilities to existing and former employees of the central government, sitting and former Members of Parliament and freedom fighters. The beneficiaries of the scheme access basic medical facilities like Out Patient Care at CGHS wellness centres and In-Patient Care and diagnostic facilities through government hospitals, and other CGHS empanelled hospitals/ diagnostic centres in 25 cities of the country.

The Committee identified areas affecting the functioning of the scheme and made recommendations to address these. The key observations and recommendations of the Committee are:

- **Shortage of doctors and staff:** The Committee observed a shortage of medical personnel at CGHS wellness centres and recommended that efforts be made to fill vacancies of medical officers, specialists and other paramedical staff.
- **Inadequate infrastructure:** The Committee recommended that better facilities be deployed at the CGHS wellness centres in terms of medical equipment, water, electricity, and cleaning staff.
- **Emergency services:** The Committee recommended that CGHS wellness centres be equipped with 24 hour emergency services. The Ministry should pilot the introduction of these services and then extend them to the rest of the country.
- **Preventive Health Check-ups and Diagnostic Services:** The Committee acknowledged the importance of the preventive health check-ups initiated under the scheme and recommended that these services be made available to all the CGHS beneficiaries and not limited to specific CGHS centres. The CGHS wellness centres should be equipped with advanced technology for diagnostic tests.

Rural Development

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Standing Committee report on MGNREGA

The Standing Committee on Rural Development submitted its report on the implementation of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA) on August 14, 2013.⁵¹

Achievements: The Committee highlighted several achievements of the MGNREGA in the seven years of its implementation. Key achievements include (a) ensuring livelihoods for people in rural areas, (b) large scale participation of women, SCs/STs and other traditionally marginalised sections of society, (c) increasing the wage rate in rural areas and (d) strengthening Panchayati Raj Institutions (PRIs) by involving them in planning and monitoring of the scheme.

Challenges: The Committee found several issues with the implementation of the scheme. Key issues that the Committee raised include: (i) fabrication of job cards, (ii) delay in payment of wages, (iii) non payment of unemployment allowances, (iv) a large number of incomplete works and (v) poor grievance redressal mechanisms.

The Committee made the following major recommendations based on its findings:

- Making offences such as missing entries in job cards and unlawful possession of job cards a punishable offence under the Act.
- Identification of special works in accordance with the needs of disabled persons, issuance of special job cards, and appointment of officers to increase the participation of persons with disabilities.
- Flexibility to state governments / UTs to undertake works suitable to the local context under MGNREGA.
- Recruitment of necessary manpower and creation of adequate infrastructure at various levels to ensure timely payment of wages to workers.
- Mandatory holding of social audits at a regular interval of six months. A nodal officer should be identified in each district to ensure this.

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

Defence

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CAG submits report on the acquisition of helicopters for VVIPs

The Comptroller and Auditor General (CAG) submitted a report on the acquisition of helicopters for VVIPs on August 13, 2013.⁵² The aim of the audit was to examine the process of acquisition of VVIP helicopters and its compliance with the Defence Procurement Procedure (DPP), the prescribed procedure for procurement in the defence services.

The CAG found that the entire process of acquisition from framing of Services Qualitative Requirements (SQRs) (the systems and procedures for capital acquisitions) to the conclusion of the contract differed from established procedures.

Key findings of the CAG are detailed below:

- The initial Request for Proposal (RFP) issued in 2002 mandated an altitude requirement of 6000 metres. The EH-101 helicopter (later renamed AW-101) of AgustaWestland did not meet this requirement. However, the first RFP was cancelled due to the emergence of a single vendor situation. In the revised RFP in 2006, the altitude requirement was reduced to 4500 metres, making the AW-101 eligible. The CAG report points out that the lowering of the altitude requirement was against the operational requirements of the procured helicopters, especially in many areas of the north and north east of India. In addition, the single vendor situation remained even after lowering the altitude requirement, because of which the AW-101 of AgustaWestland was selected.
- The revised RFP in 2006 made competition more restrictive instead of making the procurement procedures more broad based to increase competition.
- The Field Evaluation Trial of the AW-101 was conducted on representative helicopters and not the actual helicopter.
- There were several instances of deviation from the DPP, 2006 which outlines the prescribed procedure for procurement in the defence services
- Given the low utilisation levels of the existing fleet, the Ministry was not justified in procuring four additional helicopters.

- The IAF continued to face operational difficulties on existing helicopters as the acquisition of the new helicopters took more than 10 years.
- The cost benchmarked by the Contract Negotiation Committee was much higher than the offered price, allowing no room for negotiation.

The CAG report concludes that the entire process of acquisition was characterised by a lack of accountability and transparency in the finalisation of contract, which needs to be addressed.

Oil and Gas

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Standing Committee report on economic impact of revision of natural gas price

The Standing Committee on Finance submitted its report on the economic impact of revision of natural gas price on August 7, 2013.⁵³

Since the adoption of the New Exploration and Licensing Policy (NELP) in 1999, the prices for natural gas have been market-determined. The producer needs to propose a pricing formula and have the same approved by the Government.

In June this year, the government approved a new pricing formula based on the recommendations of a committee headed by Dr. C. Rangarajan (Rangarajan Committee) applicable from April 1, 2014.

Some of the observations and recommendations made by the Standing Committee on Finance are as follows:

- Gas production in the Krishna Godavari basin (KG basin) fell drastically in the last couple of years prompting pro-rata supply cuts by the Government between July 2010 and March 2011. While there were no cuts to the fertiliser sector, the supply to the power sector became zero in March 2013.
- The Ministry of Petroleum and Natural Gas estimated that the cost of urea production will increase by Rs 1384/Metric Tonne with every increase of USD 1 per million british thermal unit (MMBTU) in gas prices.
- The Standing Committee suggested that the Government re-think elements in the pricing

formula suggested by the Rangarajan Committee and impose a cap on the suggested price under the formula.

- The Standing Committee expressed the view that the Government needs to do a thorough impact study of gas pricing on the core sectors of power, fertilizer, steel and small scale industry.
- It felt that since gas pricing will have implications for power tariffs as well, state governments need to be consulted on the matter.
- It opined that the contractor responsible for supplying gas from the KG-D6 gas field should deliver the shortfall in supply at the original price and not be allowed to take advantage of an upward price revision.

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

Finance

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The Securities Laws (Amendment) Bill, 2013 introduced in Lok Sabha

The government introduced the Securities Laws (Amendment) Bill, 2013⁵⁴ in the Lok Sabha on August 12, 2013 to replace the Securities Laws (Amendment) Ordinance 2013. The Bill amends the Securities and Exchange Board of India Act, 1992 (the SEBI Act, 1992), the Securities Contract (Regulation) Act, 1956 (SCRA, 1956) and the Depositories Act, 1996. Some of the significant provisions of the Bill are as below:

- **Definition of collective investment schemes (CIS):** The SEBI Act, 1992 defines a collective investment scheme (CIS) as a scheme which meets four conditions: funds of investors are pooled, yields profits or income, is managed on behalf of investors and investors do not have operational or managerial control. The Bill widens the existing definition of a CIS by introducing a proviso which deems any scheme or arrangement to be a CIS if it meets three conditions: (a) funds are pooled, (b) it is not registered with SEBI, or it is not exempted by SEBI Act, 1992 and (c) it has a corpus of Rs 100 crore or more. In this case, due to the lack of clarity of the term ‘pooling’, some large investment schemes could be termed as

CISs even though they may not have the usual features of CISs.

Furthermore, the Securities and Exchange Board of India (SEBI) is delegated the power to specify the conditions under which any scheme or arrangement can be defined as a CIS.

- **Disgorgement (repayment) of unfair gains/averted losses:** The Bill deems SEBI to have always had the power to direct a market participant to disgorge unfair gains/losses averted, without approaching a court.

Also, the Bill specifies that the disgorged amount shall be credited to the Investor Education and Protection Fund (IEPF), and shall be used in accordance with SEBI regulations.

- **Investigation and prosecution:** The SEBI Act, 1992 allowed SEBI to conduct search and seizure operations on a suspect’s premises after obtaining permission from a First Class Judicial Magistrate. The Bill empowers the SEBI chairman to authorise search and seizure operations on a suspect’s premises, doing away with the requirement of permission from a Judicial Magistrate. This provision is different from the usual safeguards put in place by several existing laws including the Code of Criminal Procedure, 1973, the Companies Bill, 2013 and the draft Indian Financial Code.

The Bill also empowers an authorised SEBI officer to, without approaching a court, attach a person’s bank accounts and property and even arrest and detain the person in prison for non-compliance of a disgorgement order or penalty order. Most regulators and authorities, with the exception of the Department of Income Tax, do not have such overarching powers.

- **Other provisions:** The Bill retrospectively validates consent guidelines issued by SEBI in 2007 under which SEBI can settle non-criminal cases through consent orders where parties can make out-of-court settlements through payment of fine/compensation.

The Bill retrospectively validates the exchange of information between SEBI and foreign securities regulators.

The Bill lays down a provision for the setting up of special courts to try cases relating to offences under the SEBI Act, 1992.

For a PRS summary of this bill, see [here](#).

Chemicals and Fertilisers

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Standing Committee submits report on production and availability of pesticides

The Standing Committee on Chemicals and Fertilisers submitted its report on the production and availability of pesticides on August 6, 2013.⁵⁵ The Committee examined the availability of safe and effective pesticides and their judicious use by the farming community in order to ensure a sustained increase in agricultural production. It made the following recommendations:

- **Need for legislation on pesticides:** The Pesticides Management Bill replacing the Insecticides Act, 1968 has been pending in the Rajya Sabha since October 2008. The Committee was concerned about the long delay in considering the Bill. It recommended that the Departments of Chemicals and Petrochemicals (DCPC) and Agriculture (DAC) coordinate with the concerned authorities to bring out a comprehensive legislation to govern all issues relating to pesticides. For a PRS Legislative Brief of the Bill, see [here](#).
- **Mechanism to assess demand and availability of pesticides:** The Committee noted changing trends with respect to the type of fertilisers consumed in the country as well as inter-state disparities in the consumption of fertilisers. It noted a positive trend in that the consumption of chemical pesticides has declined by a third from 75,033 metric tonnes (MT) in 1990-91 to 50,583 MT in 2011-12, while the use of bio-pesticides has increased manifold from 123 MT in 1994-95 to 8,110 MT in 2011-12.
- The Committee also noted wide inter-state disparities in the consumption of pesticides. While states like Andhra Pradesh and Maharashtra recorded high consumption during 2011-12, states like Jharkhand and Odisha recorded very low consumption during the same period. It recommended

devising an effective mechanism to assess the demand and availability of pesticides in states to ensure that accurate and complete data is available with both departments.

- **Mechanism to regulate prices of pesticides:** The Committee noted that the Insecticides Act contains significant provisions which facilitate the registration of a large number of pesticides manufacturers and formulators, thereby enhancing competition in production and prices. However, there is no Act or legal provision for controlling the price of pesticides. DCPC should put in place a mechanism to regulate and monitor the prices of pesticides to enable them to supply the same to farmers at affordable prices.
- **Pesticide testing laboratories:** DCPC admitted that a large scale usage of spurious pesticides is an issue of concern, which is a result of an inadequate number of accredited pesticides testing laboratories. The Committee found that there are a total of 71 laboratories in the country, with some states like Jharkhand and Meghalaya having no facility at all. It recommended that the Department initiate appropriate action to establish well equipped pesticides testing laboratories in adequate numbers in each state across the country.
- **Mandatory requirement for checking spurious pesticides:** The Committee observed that it was not mandatory to check pesticides for spurious content at the factory level. This has resulted in large samples of spurious pesticides found in the market when farmers complained about them. The Committee recommended that the government create a mechanism to make testing of pesticides mandatory at every level right from the factory till the farmers. Adequate funds should also be provided to create an adequate number of testing laboratories and train inspectors. An authority similar to the Drug Controller General of India should also be constituted to monitor the manufacturing practices of pesticides across the country including in the private sector.

Environment

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Amendments to the Wild Life Protection Act introduced

The Wild Life (Protection) Amendment Bill, 2013 was introduced in the Rajya Sabha on August 5, 2013.⁵⁶ The Bill has been referred to the Standing Committee on Environment and Forests. The Bill seeks to amend the Wild Life (Protection) Act, 1972. This Act provides for the protection and conservation of wild animals, birds and plants. It also covers the management of their habitats and regulation and control of trade or commerce linked to wild life.

According to the government, India is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and amendments to the Act are necessary for India to fulfil its obligations under the CITES.

The key amendments made by the Bill are:

- The manufacture, sale, transport or use of animal traps except for educational and scientific purposes (with permission) is prohibited.
- Under the Act, destruction, exploitation or removal of any wildlife including forest produce from a sanctuary is not permitted, except with a permit. The amendment allows certain activities such as grazing or movement of livestock, bona fide use of drinking and household water by local communities, and hunting under a permit.
- Provisions to regulate international trade in endangered species of wild fauna and flora as per the CITES have been inserted. A schedule listing out flora and fauna for purposes of regulation of international trade under CITES has been added.
- The Tiger and Other Endangered Species Crime Control Bureau has been changed to the Wild life Crime Control Bureau.
- The term of punishment and fines for commission of offences under the Act have been increased.
- The Bill protects the hunting rights of Scheduled Tribes in the Andaman and Nicobar Islands.

Civil Aviation

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Civil Aviation Authority of India Bill, 2013 introduced in Lok Sabha

The government has introduced the Civil Aviation Authority of India Bill, 2013 in the Lok Sabha on August 20, 2013.⁵⁷ The Bill proposes to establish the Civil Aviation Authority of India (CAA), to replace the Directorate General of Civil Aviation (DGCA) as the civil aviation safety regulator.

According to the Statement of Objects and Reasons of the Bill, audits by the International Civil Aviation Organisation and the Federal Aviation Administration of the United States of America had pointed out shortcomings in the set-up and functioning of the DGCA. Both audits emphasised the need for restructuring the DGCA and providing it with administrative and financial flexibility. Hence, the government decided to establish the CAA as a separate legal entity, granting it adequate administrative and financial flexibility.

Key features of the Bill are:

- The Authority shall consist of a chairperson, a director-general and seven to nine other members including at least five whole-time members. The chairperson, director-general and other members shall be appointed by the government on the recommendation of a selection committee.
- The CAA shall be responsible for implementation of the Aircraft Act, 1934 and shall discharge all the duties currently assigned to the DGCA under that Act. It shall be responsible for safety oversight of air transport operators, airport operators, air navigation service operators and other civil aviation service providers.
- The Authority shall also be responsible for environmental regulations for airports, airlines and other civil aviation activities and protection of consumer interests.
- All properties and other assets, debt, obligations and other liabilities and suits and other legal proceedings related to the DGCA shall vest with the CAA. All employees of the DGCA shall be absorbed by the Authority unless intimated otherwise by the employee.
- CAA may collect fees and charges being collected by the DGCA under the Aircraft

Act, 1934. It may also make regulations to levy fees or charges for safety oversight and surveillance functions and use of its facilities from air navigation service providers, passengers and air transport operators.

- The Authority shall maintain an independent fund to meet its expenses and credit the receipts including grants, fees and charges. Its accounts shall be audited by the Comptroller and Auditor-General of India.

Industry

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Standing Committee report on implementation of MSMED Act, 2006

The Standing Committee on Industry presented its report on the implementation of Micro, Small and Medium Enterprises Development Act, 2006 on August 6, 2013.⁵⁸ Key observations and recommendations made by the Committee are:

- The definition of Micro, Small and Medium Enterprises (MSMEs) as provided in the Act should be revised every five years.
- All central government organisations should be included under the ambit of the Purchase Preference Policy that mandates sourcing at least 20% of the annual requirement of goods and services from micro and small enterprises (MSEs). State governments and the private sector should also adopt similar purchase preference policies.
- Grievance redressal forums like Industrial Facilitation Councils and Micro and Small Enterprises Facilitation Councils should be provided with sufficient powers to execute their award. Appeals against a Council's award should only be allowed in the respective High Court.
- The Ministry of Finance should fix an upper limit on the rate of interest charged by banks to MSMEs.
- The Reserve Bank of India should consider extending the repayment period for MSME loans to 15 years and relaxing the Non-Performing Asset (NPA) classification norms for these loans.

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

Renewable Energy

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Government to set-up National Offshore Wind Energy Authority

The government plans to set up National Offshore Wind Energy Authority (NOWA) as the nodal agency for offshore wind power projects.⁵⁹ The Authority shall be responsible for assessment of offshore wind power potential and awarding of projects. It is also envisaged to act as facilitator and coordinator for receiving the necessary project clearances from the relevant ministry/department.

Shipping

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Government announces new tariff determination guidelines for major ports

The government has announced new tariff guidelines for future projects at major (i.e. central-government owned) ports.⁶⁰ The guidelines shall apply to projects owned by the port trust as well those awarded under Public Private Partnership (PPP) mode.

The tariffs for major ports are fixed by the Tariff Authority for Major Ports (TAMP), while other ports are free to fix their tariffs. The government expects guidelines to align major ports' tariffs with market forces and encourage private sector investments in ports.

Key provisions of the guidelines are:

- TAMP will set a reference tariff for each commodity at every major port, along with relevant performance standards.
- Reference tariffs will be based on prevailing rates under current guidelines. They shall be applicable for five years and will be indexed to the Wholesale Price Index.
- All project bid documents shall specify performance standards and will be evaluated on the basis of reference tariff.
- The indexed reference tariff shall serve as the tariff ceiling for the first year of operations.
- For subsequent years, a port trust/PPP project operator can propose higher tariffs on

achievement of performance standards. TAMP shall not approve tariff hikes if the performance standards are not achieved.

- Such performance linked tariffs shall not be more 15% above than the indexed reference tariffs. Upward revision of tariffs will be allowed only once in a financial year.
- A stakeholder can approach TAMP for non-compliance with performance standards by the port trust/PPP operator. TAMP shall conduct an inquiry and issue relevant directions to the port trust/PPP operator.
- For purpose of revenue sharing by the PPP operator, the higher of indexed reference tariff/performance linked tariff or actual tariff shall be applicable.

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