



Monthly Policy Review

December 2013

Highlights of this Issue

[RBI releases mid-quarter review of Monetary Policy and other measures \(p. 2\)](#)

RBI keeps key rates unchanged, and launches inflation-indexed securities and Interest Rate Futures.

[Interim solution for food security programmes agreed upon at WTO Conference \(p. 2\)](#)

The WTO Ministerial Conference agreed to an interim solution regarding subsidies related to public stockholding programmes. In addition, a multi-lateral agreement on trade facilitation via customs cooperation was finalised.

[Parliament passes the Lokpal and Lokayuktas Bill, 2013 \(p. 18\)](#)

The Bill was passed with certain amendments to the 2011 Bill, which include the establishment of Lokayuktas in every state, and amendments to the 1946 Act that set up the CBI.

[Supreme Court upholds constitutional validity of Section 377 \(p. 21\)](#)

By upholding the constitutional validity of Section 377 of the Indian Penal Code, the Supreme Court judgment overturns the Delhi High Court's order and also states that Parliament is free to delete or amend the section.

[Standing Committees submit reports on various Bills \(p. 6, 7, 19, 20\)](#)

Standing Committees submitted reports on the Drugs and Cosmetics (Amendment) Bill, Indian Institutes of Information Technology Bill, the RTI (Amendment) Bill, and the Judicial Appointments Commission Bill.

[CERC releases draft tariff regulations for 2014-2019 \(p. 3\)](#)

The draft regulations govern tariffs for central and inter-state electricity generation and transmission projects.

[CCEA approves financial assistance to sugar industry for cane arrears \(p. 12\)](#)

The CCEA approval provides financial assistance to sugar mills to pay cane arrears to cane farmers.

[Bill to establish Coal Regulatory Authority introduced \(p. 23\)](#)

The Authority is being established in order to regulate and conserve resources in the coal sector and protect the interests of consumers and producers of coal.

[Telecom Department issues notice for auction of spectrum \(p. 22\)](#)

The Department of Telecommunications is inviting applications for the auction of spectrum in 1800 MHz and 900 MHz bands. The auction will commence on February 3, 2014.

[SC and ST \(Prevention of Atrocities\) Amendment Bill introduced \(p. 5\)](#)

The Bill amends the SC and ST (Prevention of Atrocities) Act, 1989 to add new categories of offences against SCs and STs, establishes exclusive special courts, and further clarifies duties of public servants.

[Bill relating to India-Bangladesh Land Boundary Agreement introduced \(p. 18\)](#)

The Bill amends the Constitution to give effect to an agreement between India and Bangladesh on the acquiring and transfer of territories between the two countries.

January 2, 2014

Macroeconomic Developments

Saumya Vaishnav (saumya@prsindia.org)

RBI releases Mid-Quarter Monetary Policy

The Reserve Bank of India (RBI), in its Mid-Quarter Monetary Policy, kept the repo rate unchanged at 7.75%, and the Cash Reserve Ratio (CRR) at 4.00% of Net Deposit and Time Liabilities (roughly speaking all deposits). RBI stated that in spite of CPI inflation being very high, there was uncertainty regarding the short-term path of inflation, and it was waiting for more data on the same. It further stated that if fall in CPI inflation or in inflation excluding food and fuel did not materialise, RBI would take appropriate action to stabilise inflation expectations.¹

RBI releases inflation-indexed bonds, Exchange-Traded Interest Rate Futures

As announced in its Second Quarter Monetary Policy Review, RBI notified the following measures in December:

- **CPI Indexed National Saving Securities:** These will be open for subscription from December 23, 2013. Interest rate on these securities will comprise two parts: a fixed rate (1.5%) and the inflation rate based on the final Combined Consumer Price Index. The interest rate will be compounded on half-yearly basis and paid on maturity.² Eligible investors include individuals, Hindu Undivided Family, charitable institutions and universities. Investment can range from Rs 5,000 to Rs 5,00,000 per applicant per annum.³
- **Exchange-traded Interest Rate Futures (IRF):** RBI has allowed for the introduction of cash settled IRF on 10-year Government of India securities on December 5, 2013, and released directions regarding the same.⁴ The Securities Exchange Board of India (SEBI), which will regulate IRFs, has permitted recognised stock exchanges to introduce the same.⁵
- **Guidelines for Interest rate subvention for crop loans:** The government approved the interest subvention scheme, as announced in the Union Budget 2013-14, on August 2, 2013. The RBI has now issued guidelines regarding the same. Under the scheme, an interest subvention of 2% per annum will be

available to Public Sector Banks and Private Scheduled Commercial Banks for short-term crop loans provided to farmers at 7% per annum. An additional interest subvention at 3% per annum will be available to farmers who repay the loan promptly, i.e. they would get loans at 4% per annum.⁶

- **Revised General Credit Card (GCC) Scheme:** The GCC scheme, started in 2005, provides credit cards to individuals in rural and semi-urban areas to allow them to make purchases of goods and services on credit.⁷ Currently, GCC does not cover credit given to individuals for productive activities, and hence, the scheme has been revised to include all non-farm entrepreneurial credit extended to individuals.⁸
- **Periodicity of payment of interest on Rupee Savings/Term Deposits:** Currently banks pay interest rate at quarterly or longer intervals. RBI has now allowed them the option of paying interest at shorter intervals.^{9,10} This will apply to Rupee deposits including Ordinary Non-Resident (NRO) and Non-Resident (External) (NRE) savings and term deposits.
- **Charges levied by Banks for sending SMS alerts:** Banks currently levy uniform service charge to various categories of customers for providing SMS alerts for transaction involving usage of cards. RBI has now advised all scheduled commercial banks¹¹ and Urban Co-operative Banks¹² to levy the charge on actual usage basis.

Trade

Saumya Vaishnav (saumya@prsindia.org)

Decisions from World Trade Organisation's conference in Bali

The 9th Ministerial Conference of the World Trade Organisation (WTO) was held in Bali, Indonesia from December 3 to 7, 2013. The four important issues discussed in this conference pertained to export subsidies (including trade facilitation), food security programs of developing countries, administration of tariff quotas and general services of WTO.

Background: The Ministerial Conference is the top-most decision making body of the WTO and comprises all 159 WTO members.¹³ The

conference meets every two years, and decisions of the conference have to be agreed upon by all the members. The Bali Ministerial Conference resumed discussions on the Doha Development Agenda (DDA). The DDA was announced in the 4th Ministerial Conference in 2001 at Doha, Qatar, which also launched a round of multi-lateral trade negotiations. DDA comprises negotiations on agriculture, market access to non-agricultural products, services and trade facilitation.¹⁴

The following is a list of decisions taken by the WTO:¹⁵

- **Agreement on trade facilitation through customs cooperation:** This will be a legally binding multi-lateral deal to simplify and speed up customs procedures. It also includes provisions for goods in transit. According to the WTO, benefits to the world economy from this agreement will be between USD 400 billion and USD 1 trillion.
- **Decision on public stockholding programmes for food security:** Countries run food security programs that involve providing food to consumers at subsidised rates. However, the WTO deems it as *support to farmers* if the food procured for the purpose of such a programme is done at supported prices, and not at market prices.¹⁶ The WTO limits the support that governments can provide farmers. The government's support to farmers is computed as the amount of food procured by the government multiplied by the difference between the administered price and a fixed external reference price (1986-88 world prices). The limit to the subsidy a government can provide its farmers is referred to the *de minimis* limit. This limit is calculated as 10% of the total production of the food in the country multiplied by the administered price. This is of direct concern to developing countries such as India that procure food for their food security programs at the administered minimum support (AMS) price. An interim solution was agreed upon in Bali which protects developing members from being challenged at WTO on grounds of exceeding their AMS limit. In addition, any developing member of the WTO benefiting from this decision must:
 - (i) Inform the Committee on Agriculture that it is exceeding or at the risk of exceeding its AMS limit;

- (ii) Provide information for each public stockholding programme. This information will be monitored by the Committee on Agriculture;
 - (iii) Ensure stocks procured under such programmes do not distort trade or adversely affect food security of other members;
 - (iv) Not use this decision to increase the support above the AMS limit through new programmes other than the existing public stockholding programmes¹⁷;
 - (v) Hold consultations with other members on operation of its programmes;
 - (vi) Agree to establish a work programme to recommend a permanent solution no later than the 11th Ministerial Conference.
- **Other decisions:**
 - (i) Yemen was accepted as the newest member of the WTO;
 - (ii) Members agreed on a system for dealing with tariff quotas that are persistently under-filled. Six countries reserved the right to not apply this system after six years;
 - (iii) Apart from decisions on WTO's general working, texts remained unchanged from versions negotiated in the Geneva Ministerial Conference on development issues and agriculture.

Power

Alok Rawat (alok@prsindia.org)

CERC releases draft tariff regulations for 2014-2019

The Central Electricity Regulatory Commission (CERC) has released draft tariff regulations for the period April 1, 2014 to March 31, 2019.¹⁸ These regulations will govern tariffs for central and inter-state projects related to electricity generation (thermal and hydro-electric) and transmission. CERC has invited comments and suggestions on the draft regulations by January 8, 2014. It will also conduct a public hearing on the subject during January 15-16, 2014 in New Delhi.

Key features of the draft regulations are:

- **Return on Equity (RoE):** CERC proposes to maintain the base post-tax RoE for generation and transmission projects at 15.5%, along with the 0.5% RoE as an incentive for timely completion.
- **Tax treatment:** Unlike the previous policy of using statutory tax rate to determine tariffs, CERC has proposed using actual taxes paid.
- **Efficiency-incentives:** Currently generators earn efficiency-incentives if their Plant Availability Factor (PAF) – i.e. readiness of plant to generate – exceeds 85%. CERC has now proposed that efficiency-incentives be available only if the Plant Load Factor – i.e. actual generation by the plant vs. capacity – exceeds 85%. For transmission projects, PAF cut-off for efficiency-incentives is proposed to be raised to 99% (versus 98% currently) for AC lines and 98% (versus 92-95% currently) for DC lines.
- **Operational norms:** CERC has proposed new normative station heat rates of 2,335-2,424 kcal/KWh –2-3% lower than current norms. Normative secondary oil consumption is proposed at 0.5 ml/KWh for pit head and 1 ml/KWh for non-pit head coal-based power plants (versus 1 ml/KWh currently for all plants). Proposed normative Operation and Maintenance (O&M) expenses for sub-stations have been reduced; 2014-15 O&M expense norms are 15.7% below 2013-14 norms (as provided by current regulations). The escalation factor for O&M expense is proposed to be raised to 6.4% (versus 5.7% currently). No changes to auxiliary consumption and working capital norms have been proposed.
- **Alternative fuel source:** The draft regulations allow a power generator to use alternative fuel sources in cases of fuel shortages or for economical optimisation through blending. Such use of alternate fuel source will be allowed only if (i) prior permission from buyers is not a pre-condition, and (ii) the weighted average price of alternative fuel source does not exceed 30% of base price of fuel.
- **Sharing of incentives:** Power generators will have to share 25% of the benefits of lower-than-normative heat rate, fuel oil consumption and auxiliary consumption

with buyers. Similarly, power generators and transmission licences will have to share two-thirds of the net savings from debt refinancing with buyers.

Standing Committee report on implementation of the RGGVY

The Standing Committee on Energy (Chairman: Mr. Mulayam Singh Yadav) presented its 41st report on the implementation of the Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) on December 13, 2013.¹⁹ The government launched the RGGVY in 2005 to provide electricity access to every household through electrification of all villages.

Key observations and recommendations are:

- **Inclusion of small villages:** Since RGGVY does not cover villages with population below 100, another extension of RGGVY beyond the 12th Five Year Plan will be required to electrify these villages.
- **BPL households:** The government should ensure that no genuine Below Poverty Line (BPL) family is deprived of free connection on account of discrepancies in BPL lists prepared by state governments and the Ministry of Rural Development.
- **Transformers:** The Committee welcomed the Ministry of Power's decision to raise the capacity of transformers to be installed during the 12th plan to 63 kV and 100 kV. It recommended replacement of transformers installed in 10th and 11th plans with higher capacity ones.
- **Naxal areas:** The government should devise a tailor made plan to improve pace of implementation of RGGVY in naxal-affected areas.
- **Quality of supply:** The government should incorporate adequate provisions regarding hours and timing of electricity supply to villages while approving the projects proposed by state government/utilities.
- **Cost provisions:** The Committee desired that the ministry raise the standard cost provisions for RGGVY. It also suggested that projects costs be formulated on the basis of an actual field survey.
- **Delays:** Noting that the scheme has often missed its annual targets, the Committee recommended intense efforts to achieve the

yearly as well as overall targets to ensure no spill-over of projects to next plan.

Please see [here](#) for a PRS Summary of the Standing Committee report.

Standing Committee report on development of hydro-electric sector

The Standing Committee on Energy (Chairman: Mr. Mulayam Singh Yadav) presented its 43rd report on development of hydro-electric (hydro) sector on December 13, 2013.²⁰ Key observations and recommendations are:

- **Hydro potential:** An urgent review of the hydro potential should be undertaken to factor in the additional data generated since the last (1978-87) review. Such studies should be conducted at regular intervals.
- **North East region:** Taking note of low level of development of hydro potential in Brahmaputra Basin/North East region, the Committee recommended that projects in this region be accorded top most priority.
- **Development of hydro-power:** A realistic and holistic approach should be adopted for the growth of the sector. There is a need for system where all approving agencies like the Central Electrical Authority, Central Water Commission, Ministry of Home Affairs, Ministry of Environment and Forests and Ministry of Defence, make a uniform platform for examining the project.
- **Hydro Policy 2008:** The Hydro Policy 2008 needs to be reviewed thoroughly, and new elements to make it more meaningful and sector friendly should be introduced.
- **NHPC:** The Committee expressed concern that NHPC Ltd is being run without a regular Chairman and Managing Director (CMD) for the last three years. It censured the conduct of the Ministry of Power in the process for selection of new CMD. It also felt that the role of Central Vigilance Commission in according vigilance clearance needs review
- **Public sector undertakings:** The Committee underlined the need for review of the selection process for board level positions in Public Sector Undertakings (PSUs). It raised the question whether the administrative ministry should have any role at all in selection of officers of PSUs under their administrative control.

Please see [here](#) for a PRS Summary of the Standing Committee report.

Social Justice

Joyita Ghose (joyita@prsindia.org)

SC and ST (Prevention of Atrocities) Amendment Bill, 2013 introduced in Lok Sabha

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2013 was introduced in the Lok Sabha by the Minister of Social Justice and Empowerment, Kumari Selja on December 12, 2013.²¹

The Bill seeks to amend the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The key amendments relate to:

- **Addition of categories of atrocities:** The Act outlines actions against scheduled caste and scheduled tribe (SC/ST) individuals to be treated as offences. The Bill adds new categories of actions to be treated as offences including: (a) making an SC/ST individual do manual scavenging, (b) obstructing an SC/ST chairperson or member of a panchayat from performing their duties, (c) imposing a social or economic boycott on an SC/ST individual or preventing the individual from availing public services, and (d) preventing an SC/ST individual from using common property resources, entering places of worship, educational institutions, etc.
- **Modification and addition of definitions:** The Bill clarifies the meaning of ‘wrongful’ in the context of wrongful occupation of land of SC/STs and adds definitions of economic and social boycott, victim, witness, etc.

The Bill defines ‘consent’ in considering non-consensual actions of a sexual nature against SC/ST women. Consent is defined as an unequivocal voluntary agreement through words or non verbal communication. The Bill adds that not offering physical resistance shall not be regarded as consenting to the sexual activity. In addition, a woman’s sexual history, including with the offender shall not imply consent or mitigate the offence.
- **Establishment of Exclusive Special Courts and Exclusive Public Prosecutor:** The Act specifies that a Court of Session will be

deemed a Special Court to provide speedy trials for offences committed under the Act. A Special Public Prosecutor will be appointed to conduct cases in that Court.

The Bill specifies that state governments must establish an Exclusive Special Court for one or more districts to try offences under the Act. In districts where the number of cases is lower, a Court of Sessions may be specified as Special Court to try offences under the Act. An adequate number of courts must be established to ensure that cases under the Act are disposed of within two months.

A Public Prosecutor shall be appointed for every Special Court and an Exclusive Public Prosecutor shall be appointed for every Exclusive Special Court.

- **Rights of victims and witnesses:** The Bill adds a chapter on the rights of victims and witness. It specifies that it shall be the responsibility of the state to make arrangements for the protection of victims, their dependents and witnesses. The court may take measures such as: (a) concealing the names and addresses of witnesses in its orders, (b) taking immediate action in respect of any complaint relating to harassment of a victim, informant or witness of the same day, etc. The state government shall specify a scheme to ensure the implementation of rights of victims and witnesses such as: (a) providing a copy of the First Information Report (FIR), free of cost, (b) providing immediate relief in cash or kind to victims and their dependents, and (c) providing necessary protection to victims, etc.
- **Modifications in the role of public servants:** The Act specifies that a public servant who wilfully neglects his duties relating to SC/STs shall be punishable with imprisonment for a term of six months to one year.

The Bill specifies the duties of public servants with regard to SC/STs, including: (a) registering a complaint or FIR, (b) conducting the investigation and filing the charge sheet in the Exclusive Special Courts or Special Courts within 60 days, etc.

Three tribes added to list of scheduled tribes in Tamil Nadu and Chhattisgarh

The Constitution (Scheduled Tribes) Order (Second Amendment) Bill, 2013 was introduced

the Lok Sabha by the Minister of Tribal Affairs, Mr. V. Kishore Chandra Deo on December 17, 2013.²²

The Bill adds new communities to the list of Scheduled Tribes in Tamil Nadu and Chhattisgarh. It adds: (a) Narikovan community, grouped with Kurivikkaran community to the list of Scheduled Tribes in Tamil Nadu, and (b) the Dhanuhar and Dhanuwar communities as synonyms of Dhanwar, which is already included as a scheduled tribe in Chhattisgarh.

Health

Sakshi Balani (sakshi@prsindia.org)

Standing Committee submits report on Drugs and Cosmetics (Amendment) Bill, 2013

The Standing Committee on Health and Family Welfare (Chairperson: Mr. Brajesh Pathak) submitted its report on the Drugs and Cosmetics (Amendment) Bill, 2013 on December 18, 2013.²³ The Bill was introduced in the Rajya Sabha on August 29, 2013. It seeks to amend the Drugs and Cosmetics Act, 1940, which regulates the standards and quality of drugs and cosmetics, as well as their import, manufacture, sale and distribution in the country.

The Bill changes the name of the Act to the Drugs, Cosmetics and Medical Devices Act, 1940. It also proposes changes to the regulation of the import, export, manufacture, and distribution of drugs, cosmetics and medical devices to ensure safety, efficacy, quality and conduct of clinical trials.

Key recommendations of the Standing Committee include:

- **Remove exports from the ambit of the Bill:** The preamble of the Bill states that it seeks to regulate the import, export, manufacture, distribution, and sale of drugs, cosmetics and medical devices to ensure their safety, efficacy, and conduct of clinical trials. The Committee noted that an exporter of drugs has to ensure that his Pharma Units comply with the Good Manufacturing Practices issued by the World Health Organisation. Hence, no further regulation of exports of drugs is necessary. Thus, 'exports' should be removed from the ambit of the Bill.

- **Composition of Central Drug Authority (CDA):** The Committee recommended that CDA be headed by a Chief Drug Controller General of India (CDCGI) of the rank of Secretary/Special Secretary having requisite technical qualifications and experience in the field. There should be three sub-divisions, one each for drugs, medical devices and clinical trials, each headed by a controller with the requisite qualifications. The proposed administration should also be given adequate autonomy to discharge its functions under the Act. Therefore, the Committee recommended replacing the Central Drug Authority with a Central Drug Administration.
- **Body responsible for determining compensation:** The Committee recommended that the Principal Investigator appointed by the proposed CDGCI and the Ethics Committee be responsible for determining the cause of injury or death with respect to compensation for volunteers in clinical trials. The CDGCI should act as an appellate authority for both the ‘subject’ and the ‘sponsor’. It should refer an appeal to the Serious Adverse Event Panel of Experts, which will give the final decision.
- **Excessive delegation of powers:** The Committee found excessive delegation of legislative powers to the government. It recommended the Department avoid excessive regulation by means of subordinate legislation and review such provisions under the Bill.
- **Food supplements to be brought under Bill:** The Committee noted that various food supplements have been prescribed by doctors who claim they have medicinal and curable properties. However, the existing Central Drugs Standard Control Organisation has no control over their manufacture, sale and pricing etc., and it is unknown if clinical trials have been conducted to determine the efficacy of these products. It recommended that such food supplements be brought under the purview of the proposed Central Drug Administration.

Education

Standing Committee submits report on Indian Institutes of Information Technology Bill, 2013

Sakshi Balani (sakshi@prsindia.org)

The Standing Committee on Human Resource Development (Chairperson: Mr. Birender Singh) submitted its report on the Indian Institutes of Information Technology (IIIT) Bill, 2013 on December 13, 2013.²⁴ The Bill was introduced in the Lok Sabha on March 18, 2013. It seeks to establish twenty new IIITs and also declare the existing four IIITs as Institutions of National Importance.

The key recommendations of the Standing Committee are:

- **Provisions in case of withdrawal of industry partner or violation of MoU:** The Bill provides for the establishment of IIITs in a public-private partnership (PPP) mode. It provides for the identification of an industry partner, criteria for the proposal to set up an IIIT and the signing of a Memorandum of Understanding (MoU) by the central and state governments and the industry partner. The Committee recommended that the Bill provide for situations in case the industry partner withdraws from the joint partnership or in case of any violations of the terms and conditions of an MoU. It recommended provisions for penalties for such contraventions.
- **Establishment of centrally funded IIITs:** The Committee observed that the governance structures of centrally funded versus PPP mode IIITs cannot be uniform. With respect to PPP mode IIITs, the central and state governments are the major and the industry partner is the minor stakeholder. With centrally funded IIITs, the central government is the major and the state government, the minor stakeholder. The Committee recommended a review of related provisions to remove any ambiguity in the management of both categories of IIITs.
- **Composition of Board of Governors:** The Committee observed that the Board of Governors of an IIIT does not have a nominee either from the central or the state

government. It recommended reviewing the provisions regarding the composition of the Board so as to mandatorily provide for nominees of both central and state governments in centrally funded institutions.

- **Committee to review performance of IITs:** The Bill provides for the establishment of a committee to review the performance of the IIT within seven years of its establishment and every five years after. It shall be composed of members from relevant fields of teaching and research at the Institute. The Committee noted that an internal committee would not be able to make an objective assessment of the institute's performance and that outside experts would help balance the composition. It recommended reviewing the provision and appropriate steps to set up an independent body for this purpose.
- **Absence of grievance redressal mechanism:** The Committee observed that the Central Universities Act, 2009 and the National Institutes of Technology Act, 2007 provide a procedure for arbitration in cases of dispute between employees, students and the university as well as a procedure for appeal against the action of an officer or authority of the university. It recommended that the Bill provide for a similar grievance redressal mechanism for students and teachers.

NITSER (Amendment) Bill passed by Lok Sabha

Joyita Ghose (joyita@prsindia.org)

The National Institutes of Technology, Science Education and Research (Amendment) Bill, 2013 was passed by the Lok Sabha on December 18, 2013.

The Bill was introduced in the Lok Sabha on March 4, 2013 and referred to the Standing Committee on Human Resource Development (Chairperson: Mr Birender Singh) on May 17, 2013.²⁵ The Standing Committee submitted its report on December 9, 2013.

The National Institutes of Technology Act, 2007 (NIT Act 2007) declares certain institutions of technology as institutions of national importance and provides for research and training in these institutes. It was amended in 2012 and a number of new institutes were included within its ambit. It was also renamed the National Institutes of

Technology, Science Education and Research (Amendment) Act, 2007 (NITSER Act 2007).

The Bill amends the NITSER Act 2007 to incorporate the Bengal Engineering and Science University, Shibpur, West Bengal (BESU) under it. It repeals the Bengal Engineering and Science University, Shibpur, West Bengal Act, 2004.

Key observations and recommendations of the Committee include:

- The Committee supports the decision to upgrade BESU from a state university to an Institute of National Importance.
- The Bill seeks to establish a common Council for all institutes covered by the Act. As the Bill covers institutes with varied administrative and academic structures, the Committee recommends a separate central Council for each kind of institution covered by the Bill, instead of a common Council.
- Under the Bill, there is no provision for reservation of seats for students from the state. The Committee recommends reservation for students belonging to the state, as is given for National Institutes of Technology under the National Institutes of Technology, Science Education and Research (Amendment) Act, 2007.
- The Committee stressed that the recommendations of the Anandkrishnan Committee, constituted by the Ministry of Human Resource Development in 2005, should be implemented at the earliest. These deal with the pattern of governance, academic system, infrastructure, etc.

Please see [here](#) for a PRS Summary of the Standing Committee report.

UGC releases draft Regulations on Technical and Professional Education

Mandira Kala (mandira@prsindia.org)

On December 3, 2013, the University Grants Commission (UGC) released draft regulations on technical and professional education called the UGC (Approval of Colleges Offering Technical Education by Universities) Regulation, 2013. The UGC had invited feedback on these regulations by December 9, 2013.²⁶

These regulations follow from a Supreme Court judgment in April 2013.²⁷ The Court had interpreted the All India Council for Technical Education (AICTE) Act, 1987 to determine

whether colleges affiliated to a university require separate approval from the AICTE to run classes in technical courses. The Court ruled that colleges affiliated to a university are regulated by the UGC and do not come under the purview of the AICTE.

These regulations apply to all approved colleges offering technical education as well as those seeking approval that are affiliated to a university established under central or state Acts. The regulations state:

- No college shall offer courses or programmes in technical education without the approval of the university they are affiliated with. Every university has to maintain a list of colleges that are offering courses in technical education without approval and inform the UGC from time to time.
- The norms and procedures to be followed by a university to again approval for: (a) establishing a new college offering technical education, (b) closure of a college offering technical education, (c) increase/decrease in intake in existing courses, (d) adding courses to existing programmes etc.
- For colleges offering technical education, the regulations prescribe the norms for: (a) duration and qualifications for admission to under graduate, post graduate and degree and diploma programmes, (b) intake of students and number of courses offered, (c) faculty requirements, and (d) land requirement, building space, library facilities, computer, laboratory equipment etc.

Labour and Employment

Alok Rawat (alok@prsindia.org)

Standing Committee report on the Child Labour Amendment Bill, 2012

The Standing Committee on Labour and Employment (Chairman: Mr. Dara Singh Chauhan) presented its 40th report on the Child Labour (Prohibition and Regulation) Amendment Bill, 2012.²⁸ The Bill was introduced in the Rajya Sabha on December 4, 2012 by the Minister of Labour and Employment, Mr. Mallikarjun Kharge. It was referred to the Committee on December 12, 2012.

The Bill seeks to amend the Child Labour (Prohibition and Regulation) Act, 1986, to prohibit employment of children below 14 years in all occupations. It introduces a new category 'adolescent', aged between 14 and 18 years, and bans their employment in hazardous processes.

Key observations and recommendations are:

- **Working conditions:** The Bill contains no provisions to regulate the conditions of services of adolescents. Hence, regulation of working conditions including the criteria for their wages and settlement of disputes with regard to age of the child should be included in the Bill.
- **Hazardous processes:** The definition of hazardous processes should be widened to include all processes that jeopardise health, safety and morals of adolescents.
- **Leniency towards poor parents:** The Bill provides that parents/guardians of a child shall not be liable for punishment unless they allow him/her to work for commercial purposes. The parents and guardians of such an adolescent working in hazardous occupations shall be punished if they permit him/her to work in such occupations. The Committee recommended that the Bill be amended to take a lenient view of poor parents and those parents who were unable to take benefits from the government's initiatives to reduce parents' compulsion of putting their children to work.
- **Vigilance Committee:** A Vigilance and Monitoring Committee headed by the local MP should be tasked with reviewing the implementation of the Act instead of the District Magistrate (as provided in the Bill).

Please see [here](#) for a PRS Summary of the Standing Committee report.

Civil Aviation

Alok Rawat (alok@prsindia.org)

Standing Committee report on privatisation of services at airports

The Standing Committee on Transport, Tourism and Culture (Chairman: Mr. Sitaram Yechury) presented its 203rd report on privatization of services at airports on November 20, 2013.²⁹

An Inter-Ministerial Task Force on airports had argued in its report that the Airport Authority of India (AAI) is unable to operate and manage Chennai and Kolkata airports due to inherent constraints of the public sector. It recommended awarding these airports along with development of other airports under the Public Private Partnership (PPP) route. The government subsequently identified 11 airports, including Chennai and Kolkata, for awarding under the PPP model.

Key observations and recommendations of the Committee are:

- **Chennai and Kolkata airports:** The Committee was unconvinced by the Ministry of Civil Aviation's (MoCA) explanation regarding award of Chennai and Kolkata airports under the PPP route. It did not concur with the assertion that AAI is unable to exploit the non-aeronautical revenue potential, due to its inherent constraints.
- **Capability of AAI:** Unlike MoCA and the Task force, AAI does not consider itself incapable of managing the newly modernised airports. AAI's operational efficiency can be assessed precisely only after it is allowed to manage and operate these airports.
- **Privatisation process:** The Committee censured the government for awarding the airport concessions to private parties, instead of strengthening AAI by giving it financial and administrative autonomy. It was especially dissatisfied with the decision to privatise airports, after using public funds for their modernisation.
- **Viability of AAI:** AAI is given the task to build and manage loss-making smaller and non-metro airports. With ongoing privatisation of metro and other profit-making airports, AAI will be saddled with only economically unviable airports.
- **Legal provision for privatisation:** The Committee has sought a clear opinion from the Ministry of Law and Justice on whether the Airports Authority Act, 1994 clearly provides for allowing private sector participation in all kind of airport services.
- **AAI's role:** AAI should be allowed to manage and operate all its airports, including the loss-making ones. This permission should be contingent on time-bound delivery

of world class passenger services in an efficient and transparent manner.

Please see [here](#) for a PRS Summary of the Standing Committee report.

Defence

Saumya Vaishnava (saumya@prsindia.org)

PAC report on Adarsh Co-operative Housing Society

The Public Accounts Committee (Chairperson: Mr. Murli Manohar Joshi) submitted its 91st report on the Adarsh Co-operative Housing Society, Mumbai relating to the Ministry of Defence on December 9, 2013.³⁰

The Adarsh Co-operative Housing Society (ACHS) was floated as a residential building for the welfare defence personnel, and was allotted land in Colaba, Mumbai. The Comptroller and Auditor General (CAG) while conducting a performance audit of Defence Estate Management highlighted that: (i) land handed over to Adarsh was under a dubious No Objection Certificate (NOC), (ii) various concessions were made by different ministries to ACHS, and (iii) people involved in the decision making process became members of ACHS and benefitted from the prime property.

The Committee made the following observations and recommendations:

- **Mutation of land:** The land given to ACHS was to be transferred by the state government to the Ministry of Defence (MoD) under a 1958 agreement. While this land was under the occupation of the army, its ownership was not transferred in favour of the MoD. The Committee has sought reasons for why the land was not mutated to the MoD, and why the MoD did not seek market value of the land.
- **Estate management:** The Committee noted that the land was handed over by the military authorities to ACHS by issuing a NOC, which states that the land "falls outside the Defence Boundary". The Committee wished to be kept apprised of the outcome of MoD's remedial initiatives towards management of defence lands.
- **NOC issued by Local Military Authority:** The Committee asked how MoD issued a

NOC when the land was in physical possession of the army. MoD admitted that the case involved criminality, and thus, an enquiry by the Central Bureau of Investigation (CBI) had been ordered.

- **Expansion of Adarsh membership:** The Committee noted that welfare of ex-servicemen was used as a pretext to corner prime land by senior service officers, senior civilian public servants and private individuals, mostly relatives of politicians and public servants. Whereas the initial list of 40 members comprised of only defence personnel in 2000, only 37 members of the total 102 were defence personnel in 2010. The Committee asked the MoD to provide the list of add-on members in chronological order.
- **Violation of terms of NOC:** The Committee asked why the NOC was not rescinded when it was noted that the membership of the society continued to expand to accommodate public servants, politicians and their relatives. MoD admitted that it was probably because all decision making functionaries were beneficiaries.
- **Modification of MMRDA plan:** Land reserved for road widening under Mumbai Metropolitan Region Development Authority (MMRDA) development plan was given to ACHS.
- **Selective application of DCR:** The ACHS building was to be government by the Development Control Rules (DCR), 1967. However, ACHS was allowed to apply DCR, 1991 as height restrictions are not stipulated in DCR, 1991.
- **Environment protection:** The Ministry of Environment and Forest (MoEF) failed to prevent the construction of a building in violation of height restriction. The Committee asked the MoEF to take action against officials who failed to detect gross violation in their jurisdiction.
- **Security concerns ignored:** MoD admitted that there are security concerns due to the height of the building, and its proximity to Colaba Military Station. The Committee censured disregard of safety concerns during construction of ACHS building.
- **Slow pace of CBI investigation:** The Committee lamented the slow pace of

investigation by CBI, and exhorts it to expedite the investigation.

PAC report on Defence Estate Management

The Public Accounts Committee (Chairperson: Mr. Murlu Manohar Joshi) submitted its 89th report on Defence Estate Management based on the Comptroller and Auditor General of India's report relating to the Ministry of Defence (MoD) on December 9, 2013.³¹

The MoD is the biggest landholder in the government, holding 17 lakh acres of land across the country, some of which is prime real estate. The Comptroller and Auditor General (CAG) undertook a performance audit of Defence Estate Management covering the period from 2004-05 to 2008-09, and the report was submitted on March 25, 2011. The Committee made the following observations and recommendations:

- **Application of land norms:** The Committee noted that MoD has faltered in applying norms for proper and judicious management of lands at its disposal. It recommended that the entire ambit of defence land record keeping, mutation, sale and transfer, etc. should be bestowed upon the Directorate General of Defence Estates (DGDE). Further, the whole issue of requirement of land by defence forces needs to be revisited so that land is put to optimum use.
- **Variation in records:** The Committee expressed concern over discrepancy in land figures in the records of Local Military Authorities (LMAs) and Defence Estate Officers (DEOs). It recommended that the MoD make it mandatory for DEOs to periodically inspect the land records maintained by LMAs. Further, there should be a comprehensive survey of all defence lands.
- **Mutation of defence land:** The Committee noted that a large portion of acquired land has been awaiting mutation for a long period, sometimes even as high as 60 years. It recommended that steps be taken to expedite mutation of such land.
- **Unauthorised use of defence lands:** The Committee noted that the CAG has repeatedly objected to the use of defence lands for commercial purposes, but no action has been taken. In addition, revenue generated from such activities is not credited

to government accounts. The Committee recommended that the DGDE be supplied with all information relating to such activities and revenue generation.

- **Encroachment of defence lands:** The Committee noted that non-mutation of land records, non-utilisation of land and existence of multiple authorities has resulted in encroachment of land. It recommended that a single unified authority be created, which will look into management and protection of defence lands.
- **Dismal state of management of leases:** The Committee observed that defence land is leased out at a very low rate compared to its market value. In addition, no serious effort has been made to renew the leases, leading to loss of revenue to the government. It suggested that the government bring out a policy in this regard within six months.

Agriculture

Sakshi Balani (sakshi@prsindia.org)

CCEA approves financial assistance to sugar industry for payment of cane arrears

The Cabinet Committee on Economic Affairs (CCEA) approved the guidelines of the Scheme for Extending Financial Assistance to Sugar Undertakings, 2013 for financial assistance to the sugar industry. The financial assistance to sugar mills is to enable them to pay cane arrears to sugarcane growers.³² According to news reports, the guidelines allow sugar mills to avail loans to the tune of Rs 6,600 crore to effect timely payment to cane growers.³³

Key features of the guidelines are:

- The expenditure for the scheme, including the interest on the loans given to sugar mills, will be met fully from the Sugar Development Fund;
- The central government will provide an interest subvention up to 12 percent at a simple rate of interest, for the additional working capital loans to sugar mills. The loans would be equivalent to the excise duty, cess and surcharge of sugar paid by the mills in the last three years;

- Sugar mills with loans classified as Non Performing Assets by the banks will also be eligible for the credit, provided the concerned state governments give guarantee for their new loans;
- The interest subvention would be for a total duration of five years including a moratorium on repayment for the first two year. No interest subvention will be provided for the period of default in the principal repayments;
- The loans will be exclusively for effecting cane payments to sugarcane farmers by the sugar mills.

CCEA approves the Integrated Mission for Development of Horticulture

The Cabinet Committee on Economic Affairs (CCEA) approved the implementation of the Mission for Integrated Development of Horticulture (MIDH) for the duration of the Twelfth Plan on December 12, 2013.³⁴ Implemented as a centrally sponsored scheme, MIDH will have an outlay of Rs 16,840 crore. Of this figure, states, where the National Horticulture Mission sub-scheme is being implemented, will contribute Rs 866 crore. The implementation of MIDH is expected to facilitate a growth rate of 7.2 percent in the horticulture sector during the Twelfth Plan, and generate skilled and unskilled employment opportunities in rural and urban areas.

The scheme will cover all states and union territories of India. MIDH will subsume six ongoing schemes of the Department of Agriculture and Cooperation on horticulture development. These schemes include:

- Three centrally sponsored schemes of the National Horticulture Mission, the Horticulture Mission for North East and Himalayan States, and the National Bamboo Mission, and;
- Three central sector schemes: the National Horticulture Board, the Coconut Development Board, and the Central Institute for Horticulture, Nagaland.

Under these schemes, an additional area of 23.5 lakh hectares was brought under horticulture and a total production of 257.3 million tonnes was achieved by the end of the Eleventh Plan. Key features of MIDH include:

- Production of quality seeds and planting material;
- Production enhancement through productivity improvement measures; and
- Creation of infrastructure to reduce post harvest losses and improved marketing of produce with active participation of stakeholders such as farmer groups.

CCEA approves the central sector integrated scheme on agriculture cooperation

The Cabinet Committee on Economic Affairs (CCEA) approved the implementation of the central sector Integrated Scheme on Agriculture Cooperation for the duration of the Twelfth Plan on December 12, 2013.³⁵ The scheme has an outlay of Rs 920 crore. The scheme is a merger of two erstwhile Eleventh Plan schemes: (i) the restructured central sector scheme for assistance to the National Cooperation Development Corporation – Programmes for Development of Cooperatives, and (ii) the central sector scheme for Cooperative Education and Training.

Key objectives of the scheme include:

- Streamlining the cooperative marketing structure;
- Capacity-building of cooperatives to undertake value addition;
- Enabling cooperatives to have storage/cold storage facilities;
- Improving activities in allied areas such as dairy, poultry, fishery, coir, handloom and sericulture;
- Involving grass-roots level cooperatives in integrated area development;
- Helping cooperatives in under-developed states and those of weaker sections through special programmes and schemes.

CCEA approves continuation of the Integrated Scheme on Agriculture Census, Economics and Statistics with changes

The Cabinet Committee on Economic Affairs approved the central sector scheme Integrated Scheme on Agriculture Census, Economics and Statistics with some modifications.³⁶ The total plan outlay will be Rs 1,091 crore during the Twelfth Plan. The modifications are:

- Restructuring of studies in Agriculture Economic Policy and Development scheme by dividing it into the following three independent components, and discontinuing the component of Drought Management with effect from 2014-15:
 - i. Comprehensive scheme of Cost of Cultivation of Principal Crops in India;
 - ii. Agro Economic Research Centres; and
 - iii. Scheme of Planning, Management and Policy Formulation.
- Enhancement of the rate of honorarium to the staff from the existing rate of Rs 700 to Rs 1,000 per village for phase I and II of the Agriculture Census; and
- Second Inter-Ministerial Committee for Cost of Cultivation Scheme will be set up to address implementation and administrative issues.

CCEA approves the implementation of the Livestock Health and Disease Control scheme

The Cabinet Committee on Economic Affairs approved modifications to the centrally sponsored scheme, Livestock Health and Disease Control, for the duration of the Twelfth Plan.³⁷ Implementation of the scheme with modifications will involve an investment of Rs 3,114 crore. The scheme seeks to effectively tackle issues of livestock health and strengthen existing efforts to manage animal diseases, many of which are trans-boundary in nature with adverse effects on the economy.

Currently, the scheme has eight components including Assistance to States for Control of Animal Diseases, and the National Animal Disease Reporting System. The restructured scheme envisages certain modifications of existing components as well as the expansion of the Foot and Mouth Disease and Peste des petits Ruminants Control Programmes across all districts. A new component, the Classical Swine Fever Control Programme has also been included in the scheme.

The scheme also envisages up-gradation of State Biological Production Units and Disease Diagnostic Laboratories to make them compliant with Good Manufacturing Practices and Good Laboratory Practices respectively.

National Crop Insurance Program introduced from Rabi 2013-14

The Ministry of Agriculture introduced a new central sector scheme, the National Crop Insurance Program (NCIP) from Rabi 2013-14 on November 1, 2013.^{38, 39} NCIP merges the existing Modified National Agricultural Insurance Scheme, the Weather Based Crop Insurance Scheme, and the Coconut Palm Insurance Scheme.

NCIP seeks to provide farmers with assistance to help maintain production, employment and economic growth. Key objectives of the scheme are to:

- Provide financial support to farmers for losses in their crop yield;
- Help farmers maintain the flow of agricultural credit;
- Encourage farmers to adopt progressive farming practices and higher technology in agriculture;
- Provide farmers with coverage of indemnity to prevent against sowing/planting risk and post harvest losses (for e.g., due to cyclones in coastal areas);
- Provide a proficient basis for the calculation of threshold yield;
- Encourage state governments to implement the scheme at the village/panchayat level.

The unit area of insurance under NCIP is the village/panchayat level. Efforts have been made by the implementing agencies to create awareness about crop insurance schemes through advertisements in newspapers and telecasts, etc.

CCEA approves continuation of National Scheme of Welfare of Fishermen during the Twelfth Plan with modifications

The Cabinet Committee on Economic Affairs (CCEA) approved the continuation and modification of the central sector scheme, the National Scheme of Welfare of Fisherman during the Twelfth Plan. The scheme is under the Department of Animal Husbandry, Dairying and Fisheries.⁴⁰ The objectives of the scheme are: (i) the provision of basic amenities like drinking water and sanitation in fishermen's villages, (ii) better living standards for fishermen and their families, (iii) social security for active fishermen and their dependants, and (iv) economic security.

During the Twelfth Plan period, the following benefits have been targeted for fishermen across the four scheme components:

- **Development of modern fishermen villages:** An additional 4,600 houses per year;
- **Saving-cum Relief:** A coverage of 3.5 lakh fishermen every year;
- **Group Accident Insurance for active fishermen:** An additional coverage of 3 lakh fishermen has been set;
- **Training and extension:** A coverage of 6,400 fishermen per year.

The CCEA also approved an enhancement in the amount of assistance and compensation to fishermen as following:

Table 1: Changes in scheme from 11th to 12th Plan

Items	11 th Plan	12 th Plan
Cost of construction of house	Rs 50,000 per house	Rs 75,000 per house
Cost of construction of tube well	Rs 30,000 for all states and union territories Rs 35,000 for North Eastern states	Rs 40,000 for all states and union territories Rs 45,000 for North Eastern states
Cost of construction of community hall	Rs 1,75,000 per hall	Rs 2,00,000 per hall
Relief under Saving- cum Relief component	Rs 1,800 (Rs 600 per month for three months ban period)	Rs 2,700 (Rs 900 per month for three months ban period)
Compensation under Group Accident Personal Insurance	Rs 50,000 in case of partial/ permanent disability and Rs one lakh in case of death/total disability	Rs one lakh in case of partial/ permanent disability and Rs two lakh in case of death / total disability

Source: Press Information Bureau.

National Mission for Sustainable Agriculture being launched in the Twelfth Plan

The National Mission for Sustainable Agriculture (NMSA) has been restructured during the Twelfth Plan and was launched on December 9, 2013.⁴¹ The restructured NMSA focuses on five mission deliverables: (i) the promotion of location specific

integrated/composite farming systems; (ii) resource conservation technologies; (iii) comprehensive soil health management; (iv) efficient water management, and (v) mainstreaming rainfed technologies.

NMSA aims to promote sustainable agricultural practices by focusing on 10 key dimensions of agriculture, namely seed and culture water, pest, nutrient, farming practices, credit, insurance, market, information, and livelihood diversification.⁴² The measures undertaken in the scheme are expected to help in the absorption of improved technology and best practices, and promote suitable coping mechanisms for climatic and non-climatic stresses.

NMSA subsumes the following programmes:

- Rainfed Area Development Programme;
- National Mission on Micro Irrigation;
- National Project on Organic Farming;
- National Project on Management of Soil Health and Fertility; and
- Soil and Land Use Survey of India.

Finance

Nithin Nemani (nithin@prsindia.org)

SEBI releases draft regulations on research analysts

The Securities and Exchange Board of India (SEBI) has released draft regulations on research analysts.⁴³ These draft Regulations apply to independent research analysts as well as analysts employed by intermediaries who publish reports or make recommendations on securities. The objective of the draft regulations is to ensure impartial reporting, address conflict of interest, improve governance standards and minimise market malpractices. SEBI invited comments and suggestions from the public, to be submitted by December 21.

Currently, there is no specific regulation governing research analysts. However, there is a provision in the SEBI (Prohibition of Insider Trading) Regulations, 1992 which requires analysts to disclose shareholdings in client companies. The regulations also prohibit analysts to trade in securities of listed companies of which they have prepared a report, for a period of one month after publication of such a report. The key provisions of the draft regulations are as follows:

- **Registration of research analysts:** The provision under registration of research analysts are mentioned below:
 - i. **Exemption for certain types analysts:** No person is permitted to perform the role of an analyst unless he has obtained a certificate of registration from SEBI. Investment Advisers, Asset Management Companies, Proxy Advisory Service providers and fund managers of Alternative Investment funds do not require registration under these regulations.
 - ii. **Criteria for consideration of application:** The regulations lay down criteria for consideration of the application for registration by SEBI. These include: (a) whether the applicant is an independent analyst or a corporate body, (b) whether the applicant has necessary infrastructure, and (c) whether any disciplinary action has been taken by SEBI or any other authority.
 - iii. **Qualification of analysts:** The minimum qualification of analysts has been specified – analysts must possess a professional qualification or post-graduate degree from a recognised university as mentioned or a graduate degree with at least eight years of experience relating to securities.
 - iv. **Minimum net worth:** Research analysts which are corporate are required to have a minimum net worth of Rs 50 lakh.
- **Conflict avoidance and disclosures:** The provisions related to conflict avoidance and disclosures are as follows:
 - i. **Limitations on dealings:** Research analysts are not permitted to trade in securities that they have made recommendations 30 days before and five days after the publication of a research report containing the recommendations. No report pertaining to securities traded by analysts within the previous 30 days can be released.
 - ii. **Restrictions on compensation:** Neither the compensation nor bonus of analysts can be determined by any specific merchant/investment banking transaction. No research analyst may be supervised by any employee of the merchant/investment banking department or brokerage

activities and no such employee may be involved in the compensatory evaluation of a research analyst.

iii. **Disclosures in research reports:**

Analysts are required to disclose: (a) valuation methods used; (b) whether they have made a market in securities in respect of a subject company; and (c) whether they have a financial interest in a subject company.

iv. **Distribution of research reports:** A

research report shall not be distributed selectively to internal personnel or particular clients before other clients that are entitled to receive the same.

- **General Obligations:** Research analysts are required to maintain records of research reports prepared, recommendations provided and rationale for arriving at the recommendations for a period of five years. A research analyst that is a corporate is required to appoint a compliance officer who shall be responsible for monitoring compliance by the research analyst. Further, research analysts are required to conduct a yearly audit in respect of compliance with regulations from a practicing member of the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India.
- **Inspection:** SEBI may appoint one or more persons as an inspection authority to undertake inspection of books of accounts, records and documents related to research analysts. It may do so in order to ensure that documents are in conformity with regulations or to inspect complaints made by clients on the activities of a research analyst. Any analyst who contravenes any of the provisions under the regulations or fails to cooperate with SEBI in the investigative process shall be penalised according to the provisions of the SEBI Act, 1992.

Draft Regulations on insider trading proposed by High Level Committee

The High Level Committee (Chairperson: Justice N.K. Sodhi) constituted to review the SEBI (Prohibition of Insider Trading) Regulations, 1992 submitted its report to the chairman of Securities and Exchange Board of India (SEBI) on December 7, 2013.⁴⁴ The report contains draft regulations on insider trading called SEBI (Prohibition of Insider Trading) Regulations,

2013. The Committee has invited public comments on or before December 31, 2013.

The salient features of the proposed draft regulations are as follows:

- **Connected persons:** The definition of “connected person”, who is deemed to be an insider, has been modified. Persons who have been associated with the company in a contractual or fiduciary relationship over the past six months, including those in a statutory position that allows them access to unpublished price sensitive information are considered to be connected persons. Additionally, immediate relatives are deemed to be connected persons unless they can prove that they do not have access to unpublished price sensitive information.
- **Unpublished price sensitive information:** Insiders are prohibited to divulge or provide access to unpublished price sensitive information unless required for performance of duties or discharge of legislative obligations. Further, trading in securities while in possession of unpublished price sensitive information is prohibited unless permitted by regulations as may be specified. However, insiders are permitted to formulate pre-scheduled trading plans, which will be disclosed to stock exchanges, and have to be strictly adhered to.
- **Generally available information:** “Generally available information” has been defined as information that is accessible to the public in a non-discriminatory manner. Thus, the definition of unpublished price sensitive information, which is information that is not generally available, is clarified.
- **Due diligence:** Conducting due diligence of listed companies will be permissible in case an open offer is made, under Takeover Regulations. In other cases, unpublished price sensitive information obtained through due diligence must be made generally available prior to trading. Additionally, the board of directors of the company being subject to due diligence must opine that due diligence is in the best interests of the company.
- **Codes of fair disclosure and conduct:** Trades by promoters, employees, directors and relatives are required to be disclosed internally to the company. Trades exceeding Rs 10 lakh in a quarter, or a value as

specified, are required to be disclosed to SEBI. Every listed entity is required to formulate a code of fair disclosure governing information whose disclosure would affect the price of its securities. Every listed company and market intermediary is required to formulate a code of conduct to regulate trading in securities by its employees and other connected persons.

RBI releases draft framework for dealing with Domestic Systemically Important Banks (D-SIBs)

The Reserve Bank of India (RBI), on December 2, 2013, released a draft framework for dealing with Domestic Systemically Important Banks (D-SIBs).⁴⁵ A few banks assume systemic importance due to their size and level of activity. The disorderly failure of these banks has the propensity to cause significant disruption to the essential services provided by the banking system. Banks classified as D-SIBs will be subjected to additional reserve capital requirements. These requirements will be applicable from April 1, 2016 in a phased manner and would become fully effective from April 1, 2019.

As a response to the recent global financial crisis, the Basel Committee on Banking Supervision (BCBS) unveiled a series of reforms known as Basel III norms. In addition, in November, 2011, BCBS released a framework for identifying Global Systemically Important Banks (G-SIBs). Subsequently, BCBS finalised its framework for dealing with D-SIBs in October 2012, which was based on assessment by national authorities. The RBI methodology is largely based on the framework proposed by BCBS.

The RBI methodology involves a two step-procedure: (i) determining the sample set of potential SIBs, and (ii) computation of their systemic importance. For the first step, banks having size as a percentage of GDP beyond 2% will be selected, as will certain foreign banks that provide specialised services that cannot be easily substituted. The RBI methodology uses four indicators for computing systemic importance – size, interconnectedness, lack of substitutability and complexity. It assigns a weightage of 40% to size and 20% each to the remaining three indicators. In contrast, the BCBS framework uses a fifth indicator - cross jurisdictional activity, and assigns equal weight to all indicators. Additionally, RBI will consider

qualitative regulatory and supervisory judgements in determining D-SIBs.

Banks classified as D-SIBs will be subjected to additional Tier 1 capital requirements which vary between 0.2% and 0.8% of risk weighted assets, depending on systemic importance score. A higher score bucket, requiring additional Tier 1 capital of 1% of risk-weighted assets is also envisaged. This bucket will initially be empty and will disincentivise banks with already high scores to increase their systemic importance. The assessment will be conducted annually. The names of banks classified as D-SIBs will be disclosed every August, starting 2013. The methodology for assessment will be reviewed on a regular basis, and at least once in three years.

RBI releases guidelines on entry of banks into insurance broking business

The Reserve Bank of India (RBI), on November 29, 2013 issued a notification permitting banks to enter into insurance broking business departmentally and released guidelines governing the same.⁴⁶ The Insurance Regulatory and Development Authority (IRDA), in August, 2013, had notified the IRDA (Licensing of Banks as Insurance Brokers) Regulations, 2013. Banks interested in offering insurance broking services are required to seek specific prior approval of RBI and conform to the RBI guidelines, IRDA regulations and the code of conduct prescribed by IRDA. The key features of the RBI guidelines are:

- A comprehensive policy regarding insurance broking should be approved by the board of directors of the bank.
- The following eligibility criteria should be fulfilled – (i) net worth of the bank should not be less than Rs 500 crore, (ii) capital adequacy ratio of the bank should not be less than 10%, (iii) the level of non-performing assets should not be more than 3%, (iv) the bank should have made profits for the previous three years, (v) the track record of performance of subsidiaries/joint ventures should be satisfactory.
- All employees dealing with insurance broking are required to possess the requisite qualification prescribed by IRDA.
- A robust internal grievance redressal mechanism should be put in place.
- No incentive linked to the income received from the insurance broking business should

be paid to staff engaged in insurance broking services. The bank's staff is also not allowed to receive any incentive directly from the insurance company.

- Banks should disclose details of remuneration received from the various insurance companies to the customers.
- The deposit to be maintained by an insurance broker as mentioned in the IRDA regulations should be maintained with a scheduled commercial bank other than the bank in question.
- Violation of the guidelines will invite deterrent action which includes – (i) prohibition from undertaking insurance brokering business, (ii) raising of reserve requirements, (iii) withdrawal of facility of refinance from the RBI, and (iv) denial of access to money markets.

Law and Justice

Prianka Rao (prianka@prsindia.org)

Parliament passes the Lokpal and Lokayuktas Bill, 2013

The Lokpal and Lokayuktas Bill, 2013 was passed by Rajya Sabha on December 17, 2013, with certain amendments to the text of the Bill that was passed by Lok Sabha on December 29, 2011.⁴⁷ The amendments made by Rajya Sabha were accepted by Lok Sabha on December 18, 2013.

Some of the amendments made to the Bill include:

- **Establishment of Lokayuktas:** The detailed provisions related to state level Lokayuktas have been dropped. Instead, the amendment requires each state to establish a body to be known as the Lokayukta within a period of one year from the date of commencement of this Act.
- **Powers of the Lokpal:** a) Any officer of the CBI investigating a case referred to it by the Lokpal, shall not be transferred without the approval of the Lokpal; b) The CBI may, with the consent of the Lokpal, appoint a panel of advocates, other than government advocates, to conduct cases referred to it by the Lokpal.

- **Removal of Lokpal officials:** The Chairperson or any Member shall be removed from his office by order of the President on grounds of misbehaviour after the Supreme Court, on a reference being made to it by the President on a petition signed by at least one hundred Members of Parliament. (However, if the Chairperson or Member is rendered insolvent, holds any office of profit or suffers from an infirmity, the President may remove him from office).
- **The Bill also made the following amendments to the Delhi Special Police Establishment Act, 1946:**
 - (i) A Directorate of Prosecution will be created in the CBI headed by a Director at least of rank of Joint Secretary at the centre, for conducting prosecution of cases under this Act.
 - (ii) The central government shall appoint the Director of Prosecution on the recommendation of the Central Vigilance Commission, who will hold office for at least two years

A full text of the Bill is available [here](#).

Bill relating to India-Bangladesh Land Boundary Agreement introduced in RS

The Constitution (119th Amendment) Bill, 2013 was introduced in Rajya Sabha on December 18, 2013.⁴⁸ The Bill amends the First Schedule of the Constitution to give effect to an agreement entered into by India and Bangladesh on the acquiring and transfer of territories between the two countries on May 16, 1974. The First Schedule of the Constitution defines the area of each state and union territory which together constitute India.

The India-Bangladesh Agreement was signed in 1974, but was not ratified as it involved transfer of territory which required a Constitutional Amendment. Hence, the Bill has been introduced.

The territories involved are in the states of Assam, West Bengal, Meghalaya and Tripura. Many of these are enclaves (i.e., territory belonging to one country that is entirely surrounded by the other country), and there are even enclaves-within-enclaves. This structure makes it difficult for people residing in these areas to move to other parts of their country.

India would be transferring a total of 111 enclaves measuring 17,160.63 acres to Bangladesh, and acquiring a total of 51 enclaves measuring 7,110.2 acres.

The full text of the Bill as passed by Parliament is available [here](#).

Bill on readjustment of SC and ST representation in Parliament and state Assemblies introduced in RS

The Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Third) Bill, 2013 was introduced in Rajya Sabha on December 10, 2013.

The Bill seeks to replace an Ordinance that provided for readjustment of seats, in the Lok Sabha and in the legislative Assemblies of the states, and for the readjustment of territorial constituencies.⁴⁹

The Delimitation of Parliamentary and Assembly Constituency Order, 2008 was based on the population census of 2001. The number of seats for Scheduled Castes and Scheduled Tribes was based on their proportion in the state's population. After the 2001 census, several castes and tribes have been included in and excluded from the lists of the Scheduled Castes and the Scheduled Tribes by eleven Amendment Acts of Parliament. The Bill directs the Election Commission to make necessary amendments to the Delimitation Order to give proper representation to the SCs and STs of that state.

The amendments shall apply in relation to every election to Lok Sabha or the state assembly that takes place after the publication in the official Gazette. However, it shall not affect the representation until the dissolution of the house or state assembly existing at the time of publication of the amendments.

The full text of the Bill is available [here](#).

Assam Legislative Council Bill, 2013 introduced in Rajya Sabha

The Assam Legislative Council Bill, 2013 was introduced in Rajya Sabha on December 10, 2013. It provides for the creation of a Legislative Council in the state of Assam.

The Assam Legislative Assembly passed a resolution under Article 169 (1) of the Constitution for the creation of a Legislative Council on July 14, 2011.

The Bill provides for the following:

- Creation of a Legislative Council for the state of Assam with 42 members.
- It further specifies the number to be filled by (i) persons elected by the electorate, (ii) persons elected by members of the Legislative Assembly and (iii) persons nominated by the Governor of Assam.

The full text of the Bill is available [here](#).

Standing Committee Report on the Right to Information (Amendment) Bill, 2013 presented to RS

The Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice presented its report on the Right to Information (Amendment) Bill, 2013 before Rajya Sabha on December 17, 2013.⁵⁰

The amendment Bill removes political parties from the ambit of the definition of public authorities and hence from the purview of the RTI Act. This overturns the decision of the Chief Information Commission which 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 Committee opined that the proposed amendment to the RTI Act would resolve the issue related to political parties and the interpretation of 'public authority' and recommends for the passing of the Bill.

Key highlights of its recommendations are:

- Aspects of transparency of the financial matters of the political parties are already covered under existing laws.
- Proposed law would sustain test of judicial scrutiny since Parliament has legislative competence to override decision of the Chief Election Commission. Further, it opined that laws should not be laid down through a process of misinterpretation of clear provisions of law.

One MP, Ms. Anu Aga, gave a dissent note on the following grounds:

- Political parties receive substantial financial funding from the centre, perform a public duty, have a public function and have a legal basis.

- The Supreme Court or Central Information Commission could issue a clarification exempting a political party from voluntary disclosure on matters related to formulation of its strategies.
- It is important to ensure that finances of political parties are disclosed via the framework of RTI.

The PRS Bill Summary is available [here](#).

Bill on permitting convicted MPs to remain in office withdrawn; Standing Committee Report supports this move

The Representation of the People (Second Amendment and Validation) Bill, 2013 was withdrawn by Rajya Sabha on December 18, 2013, on the last day of the winter session of Parliament.⁵¹ The Bill permitted convicted sitting MPs and MLAs to remain in office if a stay was obtained within a 90 day period.

An Ordinance was approved by the Cabinet on September 24, 2013 in this regard. On October 2, 2013, Cabinet withdrew the Ordinance and had also decided to withdraw the Bill.

The Standing Committee submitted its report to the Rajya Sabha on December 9, 2013 and stated that it was in agreement over the notice to withdraw the Bill.⁵²

More information on the now withdrawn Bill is available [here](#).

Standing Committee Report on the Judicial Appointments Commission Bill, 2013 presented to Rajya Sabha

The Standing Committee on Personnel, Public Grievances, Law and Justice presented its report on the Judicial Appointments Commission, 2013 before Rajya Sabha on December 9, 2013.⁵³

The Bill provides for the composition, functions and procedure of the Judicial Appointments Commission (JAC). The JAC is to be established for the purpose of recommending persons for appointment to the higher judiciary, and replaces the current system of collegiums.

The Committee approved the setting up of a JAC for making appointments to the higher judiciary, and replacing the current collegial system.

Key highlights of its recommendations are:

- The structure and functions of the JAC should be mentioned in the Constitution

itself, to ensure protection of Basic Structure of the Constitution.

- The Bill specifies that the views of Governor, Chief Minister and Chief Justice of High Court of the concerned state need to be obtained separately, in writing, for the appointment of Judges to the high courts. The Committee felt that this process is time consuming and leaves no room for consultation. Also, the JAC would be overburdened as it has to manage the appointment of 800-odd Judges of 24 high courts. The Committee recommends the creation of state level Commissions consisting of the Chief Minister of the state, Chief Justice of High Court and Leader of Opposition.
- The Committee recommends the inclusion of three eminent persons in the JAC instead of two as provided for in the Bill. Further, the fields of eminence may be specified in the Bill. One out of the three members should be from SC/ST/OBC/women/minority preferably by rotation.
- The proposed JAC is required to make regulations for the procedure to initiate transfer of the judges. The Committee recommends that the judge of High Court who is in-charge of administration should be invariably from outside of the state concerned.
- The process of short listing of candidates for selection in the High Courts is to be prescribed by the JAC through regulations. The Committee recommends that the broad parameters for the procedure should be spelt out in the Bill.
- The Committee recommends that eligible members of the Bar should be given an opportunity to be considered for appointment in an objective and transparent manner through advertisement as is the practice in the United Kingdom.
- The Committee also recommends that an All India Judicial Service be created at the earliest to attract talent to the subordinate judiciary from where 33 percent of the judicial officers are elevated to the Bench of High Courts.

Further, reports indicate that Cabinet has accepted the Standing Committee's recommendations of giving constitutional status to the Judicial Appointments Commission.⁵⁴

This would ensure that the composition of the proposed JAC cannot be altered through an ordinary legislation but would require a constitutional amendment.

The PRS Bill Summary is available [here](#).

Standing Committee Report on the Rajasthan Legislative Council Bill, 2013 presented to Rajya Sabha

The Standing Committee on Personnel, Public Grievances, Law and Justice presented its report on the Rajasthan Legislative Council Bill, 2013 before Rajya Sabha on December 9, 2013.⁵⁵

The Bill provides for the creation of the Legislative Council for the state of Rajasthan.

The Committee recommended to Parliament to pass the legislation for creation of a Rajasthan Legislative Council in the larger public interest.

In addition, the Committee made some general recommendations regarding Legislative Councils:

- There is a need to evolve a national policy with regard to creation and abolition of Legislative Council. It cannot be temporary in nature depending on the mood of the government of the day.
- The composition of the Legislative Councils must be reviewed to ensure proper representation of elected representatives of both the rural and urban local self government bodies and ward Committees.

The PRS Bill Summary is available [here](#).

Supreme Court upholds constitutional validity of Section 377 of the IPC; overrules Delhi HC judgment of 2009

On December 11, 2013, the Supreme Court passed its verdict on the appeals filed against the Delhi High Court order of 2009, and upheld the constitutional validity of Section 377 of the Indian Penal Code (IPC).⁵⁶

In 2009, the Delhi High Court (Delhi HC) had held that Section 377, insofar as it criminalises adult, consensual sexual activity, was in violation of Articles 14, 15 and 21 of the Constitution. However, the Section would continue to govern non consensual sexual acts between adults and consensual sexual acts with a minor.

The Supreme Court judgment overturns the Delhi High Court's order and also states that

Parliament is free to delete or amend Section 377.

Key highlights of the judgment include:

- A 'miniscule fraction' of the country's population constitutes lesbians, gays, bisexuals or transgenders (this fact was overlooked by the Delhi HC). In the last 150 years or so, less than 200 persons have been prosecuted for committing offence under Section 377. This cannot be made a sound basis for declaring the section in violation of the provisions of Articles 14, 15 and 21 of the Constitution.
- The High Court has extensively relied upon the judgments of other jurisdictions. Though these judgments shed considerable light on the right to privacy, autonomy and dignity and the plight of sexual minorities, they cannot be applied blindfolded in deciding the constitutionality of the law enacted by the Indian legislature.
- Section 377 is not unconstitutional and the declaration made by the Division Bench of the High court is legally unsustainable.

Reports suggest that the central government has filed a review petition before Supreme Court.⁵⁷ Further, one of the respondents, NGO Naz Foundation, has also filed a separate review petition.⁵⁸

Petroleum and Natural Gas

Alok Rawat (alok@prsindia.org)

CCEA approves sale of natural gas from D1 and D3 fields at revised prices

The Cabinet Committee on Economic Affairs (CCEA) has approved the sale of natural gas from Reliance Industries Ltd's (RIL) Krishna-Godavari D1 and D3 gas fields at a revised price with effect from April 1, 2014.⁵⁹ CCEA had approved a new pricing formula for domestically produced natural gas, as suggested by the Rangarajan Committee, on June 27, 2013. It also decided against stipulating any cap or floor on gas prices under the new pricing formula. The sale would be permitted after RIL submits a bank guarantee in favour of the government.

The Standing Committee on Finance and Ministry of Finance had asked the government to ensure that RIL delivers on its earlier agreement

to supply the contracted quantity of gas as per the prevailing contract price of USD4.2/mmbtu. They had also suggested capping the gas price under the revised formula to prevent windfall gains to producers.⁶⁰

Standing Committee report on allocation and pricing of natural gas

The Standing Committee on Petroleum and Natural Gas (Chairman: Mr. Aruna Kumar Vundavalli) presented its 19th report on allocation and pricing of natural gas on December 10, 2013.⁶⁰ Key observations and recommendations are:

- **Gas production:** The Ministry of Petroleum and Natural Gas (MoPNG) should prepare a blue print to improve the production and supply of natural gas in the country. It should award more blocks for exploration, expedite international pipelines, sign long term import contracts and promote non-conventional sources like shale gas.
- **Import infrastructure:** Noting the rising import requirement, the Committee raised the concern that infrastructure may not be sufficient to meet future Liquefied Natural Gas (LNG) import needs.
- **Power:** The government should provide clarity on availability of gas for power sector in the next five to ten years.
- **City Gas Distribution:** As expansion of City Gas Distribution networks will benefit a wider section of society, they should be allocated a higher share of gas.
- **KG-D6 production:** The Committee expressed unhappiness over decline in gas production from KG-D6 block. Noting the MoPNG's assertion of the contractor's non-adherence to regulator's suggestions, it advised that the MoPNG base its remedial action on a 'default' by the contractor (instead of a 'failure').
- **Benefits to states:** At least 50% of the gas produced should be supplied to the users located in the producing state. The MoPNG should devise a policy for sharing the royalty from offshore fields with the concerned state government.
- **Rangarajan Committee:** The Committee concurred with the Ministry of Finance's concerns regarding the new pricing formula, as suggested by the Rangarajan Committee.

Since the Rangarajan Committee recommendations have wide ramifications, they need to be examined in greater detail before any decision is taken

- **Impact of price revision:** The impact on user industries like fertiliser, power etc., including their viability and government subsidies, should be considered while moving to market-linked gas prices.

Please see [here](#) for a PRS Summary of the Standing Committee report.

Telecom

Alok Rawat (alok@prsindia.org)

DoT issues notice for auction of spectrum in 1800 MHz and 900 MHz bands

The Department of Telecommunications (DoT) has issued Notice Inviting Applications (NIA) for the auction of spectrum in 1800 MHz and 900 MHz bands.⁶¹ The auction will be held online as a simultaneous, multiple round ascending auction. As per a notification dated December 28, 2013, the auction will commence on February 3, 2014.⁶² The last date for submission of applications is January 15, 2014.

The Cabinet on December 9, 2013, finalised the reserve price for the auction of the 1800 MHz band at Rs 1,765 crore per MHz for pan-India spectrum.⁶³ For the 900 MHz band, the reserve price was fixed at Rs 360 crore, Rs 328 crore and Rs 125 crore per MHz for Delhi, Mumbai and Kolkata circles.

Key features of the proposed auction are::

- The block size for the auction is 200 KHz for the 1800 MHz band and 1 MHz for the 900 MHz band.
- The auctioned spectrum will be valid for 20 years.
- The total spectrum available for the auction is 46 MHz in 900 MHz band and 403.2 MHz in 1800 MHz band.
- Using the reserve price, the total spectrum available for auction is valued at Rs 49,143 crore – Rs 36,385 crore for 1800 MHz band and Rs 12,758 crore for 900 MHz band.
- A successful bidder can opt to pay in instalments. The upfront payment will be

33% of the final price for the 1800 MHz band and 25% for the 900 MHz band. At reserve price, this translates into an upfront payment of Rs 15,197 crore.

- There will be a two year moratorium on payment of the balance amount, which shall be recovered in 10 equal annual instalments.
- A bidder who does not currently hold spectrum in a telecom circle will be treated as a new entrant.
- New entrants will have to bid for a minimum 25 blocks of 200 KHz each, i.e. 5 MHz of spectrum, in the 1800 MHz band. Existing operators will have to bid for a minimum of three blocks in this band.
- In the 900 MHz band, all bidders will have to bid for a minimum of 5 MHz of spectrum.
- No operator will be allowed to garner more than 50% of spectrum being auctioned in a circle, in each band. Further no bidder will be allowed to hold more than 25% of total spectrum assigned (across frequency bands and including previous assignments) in a particular circle.

Coal

Coal Regulatory Authority Bill, 2013 introduced in the Lok Sabha

Joyita Ghose (joyita@prsindia.org)

The Coal Regulatory Authority Bill, 2013 was introduced in the Lok Sabha by the Minister for Coal Mr. Shriprakash Jaiswal, on December 13, 2013.⁶⁴

The Bill seeks to establish a Coal Regulatory Authority (CRA) to: (a) regulate and conserve resources in the coal sector, and (b) protect the interests of consumers and producers of coal.

- **Coal Regulatory Authority:** The central government shall establish a CRA consisting of a chairperson and four members with expertise in legal, financial, technical and consumer interest domains. The Bill specifies the minimum qualifications of the chairperson and members and the method of their appointment. They shall hold office for a period of five years, or till they attain the age of 65 years, whichever is earlier.

- **Functions and powers of the CRA:** The CRA shall: (a) specify the principles and methodologies for the determination of the price of coal, (b) specify the terms and conditions for opening a coal mine, (c) specify the methods of testing the quality of coal, and (d) ensure adherence to approved mining plans, etc.
- The CRA shall advise the central government on issues such as formulation of policies in the coal sector, promotion of investment in the coal industry, etc.
- **Dispute resolution:** The CRA shall adjudicate disputes relating to grading, quality, testing, pricing, supply and sampling of coal, other than cases where arbitration is provided for in agreements between entities.
- A person aggrieved by the decision of the CRA may appeal to the Appellate Tribunal, constituted under the Bill. The appeal must be made within 45 days of the order of the CRA. The Appellate Tribunal must dispose of the appeal within 180 days.
- A person aggrieved by the decision of the Appellate Tribunal may appeal to the Supreme Court.
- **Powers of the central government:** The central government may issue policy directives to the Authority which shall be binding upon it.
- **Offences and punishment:** Failure to comply with the regulations made under the Act, or an order of the Authority shall be punishable with a fine of up to Rs 25 crore, and in case of a continuing contravention, Rs 10 lakh per day for the period that the contravention continues. Failure to comply with the order of the Appellate Tribunal shall be punishable with a fine of Rs 25 crore for the first offence, Rs 30 crore in case of a subsequent offence and in case of continuing contravention, Rs 20 lakh per day for the period that the contravention continues.

CCI imposes Rs 1,773 crore fine on Coal India for abusing dominant position

Alok Rawat (alok@prsindia.org)

The Competition Commission of India (CCI), has imposed a fine of Rs 1,773 crore on Coal India Ltd (CIL) for anti-competitive behaviour.⁶⁵ In 2012, the Maharashtra State Power Generation Company Ltd and Gujarat State Electricity

Corporation Ltd had filed three separate cases against CIL and its subsidiaries. They had alleged that CIL imposed unfair terms and conditions in its Fuel Supply Agreements (FSAs) with power producers, in contravention of Section 4 of the Competition Act, 2002. CCI had ordered its Director General to conduct an investigation into all three cases.

In its order dated December 9, 2013, CCI ruled that CIL enjoys undisputed dominance production and supply of non-coking coal in India. It found that the following terms and condition of CIL's FSAs are in contravention of the Section 4 of the Competition Act, 2002:

- Sampling and testing procedure for coal.
- Charging of transportation and other expenses from the buyers on supply of ungraded coal.
- Buyers obliged to accept the coal irrespective of the quality.
- Cap on compensation for supply of stones to new power producers.
- Review and termination provisions of the agreement.
- Discrimination between existing and new power producers with respect to review of coal's grade.
- Imposition of force majeure conditions in FSA's with new power producers.

CCI directed CIL and its subsidiaries to cease and desist from such conduct. It also ordered CIL to accordingly modify these FSAs in consultation with all stakeholders. CCI decided to base the penalty on CIL's consolidated accounts at the rate of 3% of the average turnover for the last three years (2009-10, 2010-11 and 2011-12). CIL has been asked to deposit the penalty amount within 60 days and comply with other directions within 30 days of the order.

Forwarding a copy of its order to the Ministry of Coal, CCI stressed the need for raising competition levels in the coal industry by increasing the number of players. It noted that creating an independent regulator for the sector will help only if there is enough competition.

Note that the Ministry of Coal has introduced the Coal Regulatory Authority of India Bill, 2013 in Lok Sabha on December 13, 2013. See [here](#).

Media

Alok Rawat (alok@prsindia.org)

TRAI consultation paper on migration of FM licensees to Phase-III regime

The Telecom Regulatory Authority of India (TRAI) has issued a consultation paper on migration of existing FM radio licensees to Phase-III licensing regime.⁶⁶ It had invited stakeholder comments by December 17, 2013 and counter-comments by December 24, 2013.

FM radio broadcasting was launched by the Ministry of Information and Broadcasting (MoIB) in 1999. The FM radio operators, who were granted licenses under the Phase-I regime, faced losses due to high bid amounts. In the Phase-II licensing regime introduced in 2005, the government replaced the annual license fee with a revenue share mechanism. Licensees from Phase-I regime were allowed to migrate to Phase-II after payment of a migration fee.

In July 2011, the government decided to conduct Phase-III of FM radio channel auctions. All Phase-II licensees will be allowed to migrate to Phase-III regime after signing of migration Grant of Permission Agreement. Currently there are 37 licensees operating 242 FM channels in 85 cities, including 21 channels that have migrated from Phase-I to Phase-II regime.

On April 9, 2013, the MoIB sent a reference to TRAI seeking its recommendations on the amount of migration fee to be charged from Phase-II licensees. In response to clarifications sought by TRAI, the MoIB also authorised it to recommend the date of migration from Phase-II to Phase-III.

Key issues discussed in the paper are:

- **Date of migration:** The policy guidelines for Phase-III, issued on July 25, 2011, state that the date of issuance of the guidelines would serve as the cut-off date for automatic migration to Phase-III. However, additional features of Phase-III cannot be availed by Phase-II licensees retrospectively from July 25, 2011. Hence, the paper invites suggestions on appropriate date of migration for Phase-II licenses.
- **Duration of license after migration:** The licenses awarded/migrated under Phase-II regime will expire during 2015 and 2019. The Phase-III license on the other hand shall be awarded for duration of 15 years.

Therefore, the paper invites comments on whether the period of new license for Phase-II licensees, should be 15 years from the date of migration.

- **Migration fee:** The paper invites comments on whether the migration fee should equal the difference between Non- Refundable One Time Entry Fee (as discovered in Phase-III auctions) and residual value of One Time Entry Fee (paid by licensees under Phase-II regime).

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⁶⁶ ‘Consultation Paper on Migration of FM Radio Broadcasters from Phase-II to Phase-III’, Telecom Regulatory Authority of India, December 3, 2013, http://www.trai.gov.in/WriteReaddata/ConsultationPaper/Document/C_Paper_FM%20Migration_Fee_031213%20final.pdf

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