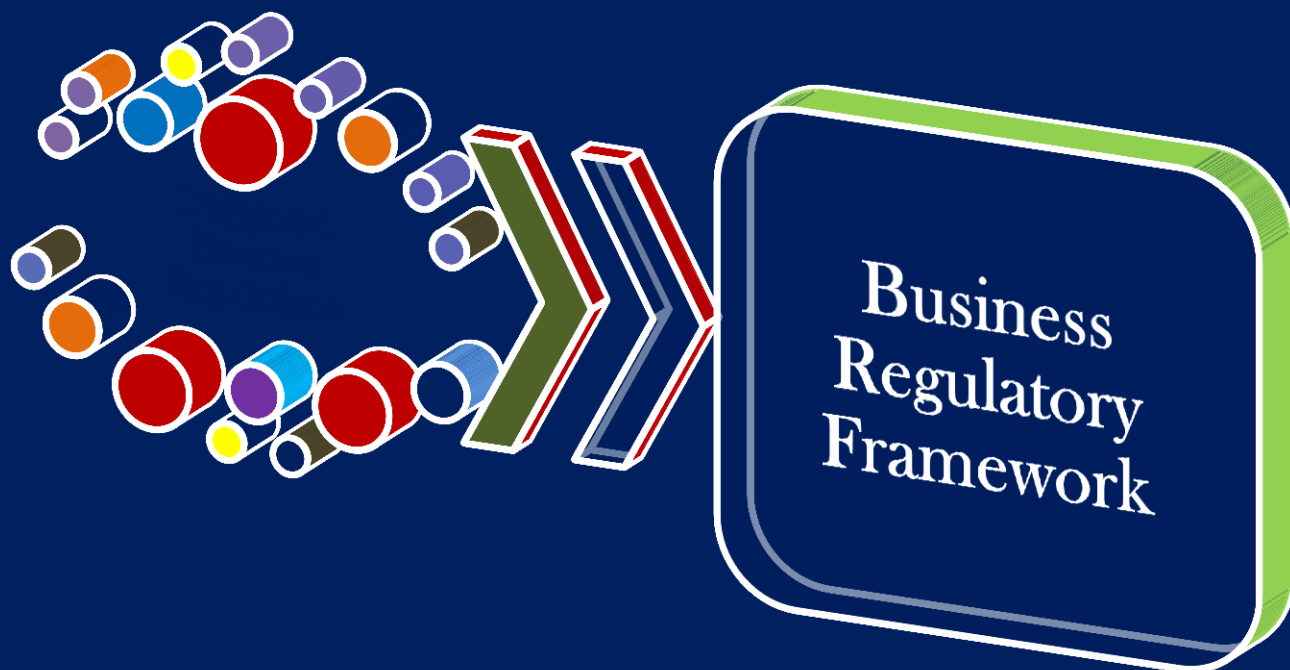


TOWARDS OPTIMAL BUSINESS REGULATORY GOVERNANCE IN INDIA



Report of the Working Group on Business Regulatory Framework

2011

Steering Committee on Industry



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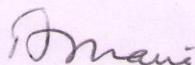
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FOREWORD

Planning plays an important role in determining optimal utilisation of resources, both human and material, for realising the desired growth and development trajectory of any country. Since its independence, India has resorted to a robust government lead planning process that engages scholars, development practitioners, businesses and various stakeholders to evolve a collective approach accompanied with specific actions and targets for the ensuing years. At this juncture, the Planning Commission of India is in the process of developing the Twelfth Five Year Plan (XII FYP) for the country. It has formed a Steering Committee on Industry to deliberate upon the ways and means of creating an enabling business ecosystem for sustainable and inclusive business development in the country. In this endeavour, such alternatives are being explored that could boost industrial performance in general and manufacturing sector performance in particular. The Steering Committee divided its work into cross-cutting as well as sectoral Working Groups. This report deals with the proceedings of the Working Group on Business Regulatory Framework (WG BRF) – a cross-cutting Working Group.

The report is divided into eleven sections with each section further sub-divided into different sub-sections. After elaborating upon the different aspects relating to business regulations in the country, the report has come up with recommendations and specific actions that can enable us, as country, to move together in the direction of optimal business regulatory governance. We thank all the Members of WG BRF and the Steering Committee on Industry for their much valued advice during different stages of report drafting. We thank the Chairpersons of the four Task Forces constituted under the WG BRF for their active leadership. Our special thanks also go to CUTS which served as Knowledge Partner for the WG BRF for its coordinated team effort and facilitation in producing this report.

It is expected that this report will serve as guiding frame not just for the XII FYP but also for designing innovative business regulatory governance solutions in future.



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EXECUTIVE SUMMARY

This Report deals with the proceedings and findings of the Working Group on Business Regulatory Framework (WG BRF) – a cross-cutting Working Group that was constituted under the Steering Committee on Industry by the Planning Commission of India. The mandate of the WG BRF was to inquire into the current status of business regulatory regime in the country and to suggest actions thereof for enhancing business performance in general and manufacturing sector competitiveness in particular. The inputs of the WG BRF, along with those of the other Working Groups, will be utilised towards the formulation of the National Manufacturing Plan (NMP) as well as the Twelfth Five Year Plan (XII FYP) for the country.

The Report is divided into eleven sections with each section divided into various sub-sections and additional components as per the need.

Section 1 presents introductory remarks and signified the role of planning in ascertaining the optimal utilisation of national resources and speaks about the role played by different stakeholders in the process. A brief mention is made of the priorities set for the XII FYP.

Section 2 speaks about the methodology adopted by the WG BRF for identifying the bottlenecks with business regulatory regime in the country and for exploring the solutions to such problems through a consultative and collective process.

Sections 3 presents the overview of the manufacturing sector competitiveness in India and justifies the rationale for giving so much thrust to the manufacturing sector in the Indian context. It has captured select data and information relating to domestic as well as global performance of the Indian manufacturing sector while indicating some of the major constraints.

Section 4 details out the major findings of the WG BRF with regard to the overall business regulatory system of India. Such findings are divided into ten broad categories and presented as the following sub-sections:

- Significance of Business Ecosystem for Economic Growth and Development
- Ambiguous Nature and Vast Scope of Business Regulations
- Absence of National Repository of Business Regulations
- Prevalence of Low Levels of Coherence in Business Regulatory Governance
- Inherent Limitations with Business Regulatory System of the Country
- Constraints with Delivery System of Regulatory Reforms
- Weak Institutional Architecture for Business Regulatory Governance
- Effective Competition Regime in India
- Mainstreaming Business Responsibilities: The Quest Ahead
- Indian Business Performance vis-à-vis other Countries

Section 5 recommends the different ways through which the existing limitations with the business regulatory system of India can be overcome. It does so by detailing out ten recommendations with each recommendation getting further divided into specific actions. The recommendations and specific actions are substantiated with the help of related initiatives taken up in the other parts of the world. A detailed analysis of regulatory institutions and mechanisms of various countries like US, Canada, UK, Ireland, Germany, The Netherlands, Australia and so on. Such analysis is the first of its kind in the country and was specifically undertaken to understand how such countries are able to perform well in regulatory governance. The finds of the analysis are presented in a simple and reader friendly manner so as to enable larger understanding. Moving further, the section describes the nature of responsibilities involved and identifies the suitable government entities that can take up such responsibilities in an effective way. A break-up of such recommendations and specific actions is given below:

- Establishing an Effective Competition Regime in India
 - Adoption and Operationalisation of National Competition Policy (NCP)
 - Establishing National Competition Policy Council (NCPC)
 - Institutionalisation of Incentive-Disincentive Mechanism for Implementation of National Competition Policy (NCP)
- Operationalisation of National Voluntary Guidelines (NVG) on Social, Environmental and Economic Responsibilities of Business
 - Inclusion of Business Responsibility as distinct subject under the Government of India (Allocation of Business) Rules 1961
 - Mandating the Disclosure Framework for Adoption of National Voluntary Guidelines (NVG) Principles
 - Establishing National Foundation for Business Responsibility (NFBR)
 - Mandating the Alignment of Public Private Partnership Projects with National Voluntary Guidelines (NVG) Principles
- Enhancing Manufacturing Sector Competitiveness of India
 - Adoption and Operationalisation of National Manufacturing Policy (NMP)
 - Developing State Manufacturing Action Plans (SMAPs)
 - Establishing State Councils on Manufacturing Competitiveness and Competition Reforms
- Policy and Legislative Framework for Business Development and Regulation
 - Developing National Policy on Business Development and Regulation
 - Drafting and Enacting National Business Development and Regulation Bill
 - Enacting National (Infrastructure) Regulatory Reforms Bill
- Building Institutional Architecture for Business Regulatory Governance
 - Establishing National Business Development and Regulation Commission
 - Establishing State Business Development and Regulation Commissions

- Systematisation of Business Regulatory Governance
 - Mapping and Classification of Business Regulations and Procedures
 - Developing National Business Facilitation Grid (NBFG)
 - Developing a Business Regulatory Governance Catalogue to Choose Appropriate Regulatory Alternative among Self-Regulation, Co-Regulation and Public Regulation
 - Promoting Standardisation with Operationalisation of Single Window Systems
- Adoption of Regulatory Impact Analysis (RIA)
 - Developing Appropriate Methodology for RIA to be employed in the Indian Context
 - Adoption of RIA by Union and State Governments
- Paradigm Shift towards 'Optimal' Business Regulatory Governance
 - Benchmarking for Optimal Business Regulatory Governance
 - Adoption of Benchmarked Model on Optimal Business Regulatory Governance
- Capacity Building Framework for Business Regulatory Governance
 - Developing Capacity Building Framework for Business Regulatory Governance
- Follow-up over Previous Administrative and Regulatory Reform Endeavours
 - Follow up over Previous Administrative and Regulatory Reform Endeavours

Section 6 classifies the aforementioned recommendations and specific actions into a high-low impact feasibility matrix so as to prioritise the different actions on relative terms.

Section 7 presents a timeline for undertaking the given recommendations and specific actions during the years 2012 till 2017 – the timeframe for the execution of XII FYP.

Section 8 attempts at allocating the responsibilities for uptake of various recommendations and specific actions to the government entities as well as the different knowledge partners (business community, stakeholders and subject experts etc).

Section 9 constructs the envisaged business regulatory framework for the country and draws its inter-relatedness with the overarching business ecosystem and national ecosystem.

Section 10 lays down the foundation for the government-stakeholder-business BRIDGE – a bridge that has to be built together and crossed together. It recognises certain virtues that are expected of the three partners to (collectively) reach the thought about destination.

Section 11 charts out a future roadmap for converting the contents of this Report into visible actions and emphasises the collective spirit and role that have to be displayed and played, respectively, by the different partners in this endeavour. The report concludes with an important observation that amidst celebrating two decades of economic liberalisation reforms, this is an opportune time to undertake such systemic examination and unleash a new wave of reforms.

1. Introduction

Planning plays an important role in determining optimal utilisation of resources, both human and material, for realising the desired growth and development trajectory of any country. Across the world, planning is relied upon by governments for laying down the roadmap for future actions on the basis of past and present performance. Since independence, India has resorted to a robust government lead planning process that engages scholars, development practitioners, businesses and various stakeholders to evolve a collective approach accompanied with specific actions and targets for the ensuing years. Such approach also exhibits the elements of indicative planning for building a long term strategic vision of the future. Over the years, the Indian planning process has become more decentralised to achieve raised levels of inclusiveness and invite people's participation. The planning process of the country involves Planning Commission of India, State Planning Boards and District Planning Committees at the Union, State and Local levels respectively.

At this juncture, the Planning Commission of India is in the process of developing the Twelfth Five Year Plan (XII FYP) for the country. It has formed a Steering Committee on Industry to deliberate upon the ways and means of creating an enabling business ecosystem for sustainable and inclusive business development in the country. In this endeavour, such alternatives are being explored that could boost industrial performance in general and manufacturing sector performance in particular for yielding the desired growth trajectory for the country. Thus, due recognition has been given to the role of business in growth and development of the country and within that, special emphasis has been placed over the manufacturing sector. The 'Approach Paper on Industry' for the XII FYP that has been prepared by the Steering Committee, has kept the following as suggested targets:

- Achieving manufacturing sector growth to the tune of 2-4 percent more than the GDP growth so as to make it the engine of growth for the economy;
- Increase share of manufacturing sector to about 25 percent of the overall GDP by the year 2025 from the existing 15.5 percent;
- To create about 100 million additional jobs in manufacturing sector by the year 2025;
- Increasing 'depth' in sector with a focus on the level of domestic value addition;
- Enhancing global competitiveness of Indian manufacturing through appropriate policy support; and
- To ensure sustainability of growth particularly with regard to the environment.

2. Methodology and Process

For making in-depth enquiry into various subjects, the Steering Committee divided its work into cross-cutting as well as sectoral Working Groups. This report deals with the proceedings of the Working Group on Business Regulatory Framework (WG BRF) – a cross-cutting Working Group. The composition of WG BRF is presented in Annexure 1. CUTS International served as the Knowledge Partner for the WG BRF for facilitating its various deliberations. The first meeting of the WG-BRF was held on 24th May 2011 at Planning Commission in New Delhi. In this meeting, five presentations were made and four discussion papers were circulated for delving into five sub-themes. The meeting culminated into the constitution of four Task Forces to undertake detailed enquiry into specific sub-themes. Annexures 2, 3, 4 and 5 encompass the findings and composition of the four Task Forces titled as follows:

1. Task Force on National Competition Policy
2. Task Force on Business Regulations
3. Task Force on Simplification on Business Procedures
4. Task Force on Business Responsibilities

After the WG BRF was formed and the four Task Forces were constituted, their meetings were convened during the months of May-September 2011. In these meetings, major discussions use to revolve around the ways and means of conceptualising and formulating the envisaged Business Regulatory Framework (BRF) for the country. It was duly debated during these deliberations whether the scope of BRF should be restricted to manufacturing sector or should it also cover services sector. It was recognized that as the two sectors are interdependent, with the passage of time, the envisaged BRF will carry wider implications on the desired performance of all the sectors. It was also clarified and agreed during these deliberations that the focus of the BRF should be over systemic reforms without losing sight from the feasibility considerations of the emerging solutions.

Annexure 6 presents different meetings organised under the purview of WG BRF. Whereas the progress and emerging recommendations of the Task Forces were discussed in the WG BRF meetings, those of the latter were discussed during the Steering Committee meetings. The proceedings of all such meetings were minuted and circulated among the members. The inputs received during such meetings were followed up during the report drafting stage. Each of the four Task Forces presented their Reports and their findings and recommendations have been synthesized into this Report.

3. Manufacturing Sector Competitiveness in India

Indian economy is at a juncture where a dominant share of youth population necessitates employment creation across high, medium and low levels of skill intensities. Notably, India has witnessed a decreasing share of agriculture and rising share of services during the last forty years or so. Many emerging economies in recent decades have relied on a development strategy focused on promoting the manufacturing sector and the export of manufactured goods. India, too, hoped for a dynamic manufacturing sector when it introduced substantial product market reforms in its manufacturing sector starting in the mid-1980s. But the sector never took off as it did in other countries. Clearly, the possibility of success or failure in such endeavours relies upon competitiveness.¹

Over the last decade, the Indian manufacturing sector has grown at an average rate of 6.8 percent. The share of manufacturing sector in Indian GDP is not significant and remains around 15 percent. The sector engages around 64 million people i.e., around 12 percent of total Indian workforce (BCG and CII 2010).

According to a recent study (RBI 2011), Maharashtra, Tamil Nadu and Gujarat are the states which consistently rank as the top three manufacturing states in terms of both output and employment generation in the organised manufacturing sector. The unorganised sector accounts for about 80 percent of employment and only about 33 percent of income of the manufacturing sector. The study further says that Metal and Machinery and Transport Equipment industries accounted (each of them) for almost one-fifth of gross value added (GVA) of the organised manufacturing sector. These industries are followed by the chemical industry which accounted for about 13 percent of GVA of the organised manufacturing sector. However, in terms of job provision, these are not the topmost industries. Textiles and Food (including beverages and tobacco) industries together account for about 41 percent of jobs in the organised manufacturing sector.

Another study (PWC and FICCI 2009) correlates direct and indirect costs with competitiveness and found that in India, 55-80 percent and 5-12 percent of cost of production in manufacturing sector is impacted by the cost of raw materials and labour respectively. The

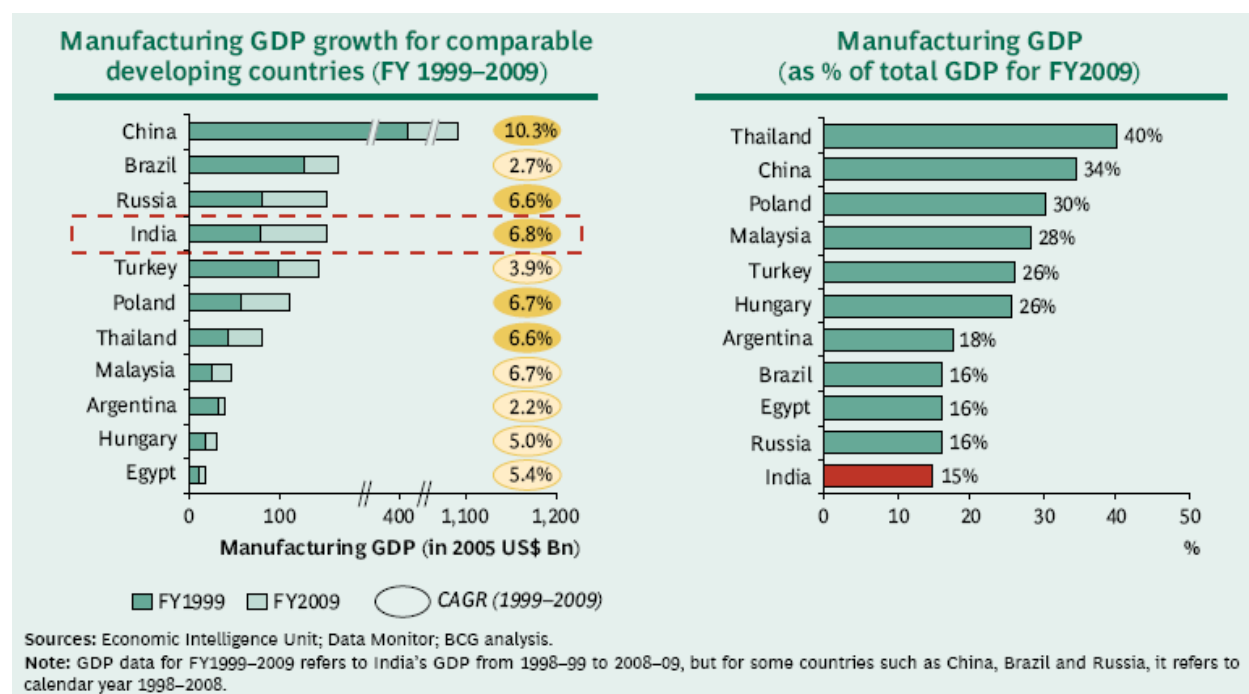
¹ Competitiveness is a multi-dimensional concept that embraces the ability to export, efficient use of factors of production and natural resources, and increasing productivity that ensures rising living standards of a nation. It depends on basically three sets of factors all taken together, viz. (i) the macroeconomic environment; (ii) the ability to absorb, use, and develop technology to reduce production costs, improve product quality, and innovate new products; and (iii) marketing strategy and arrangements covering such diverse factors as packaging, sales networks, and after-sales service. See NMCC (2006)

study also found that Import duties have as high as 31.7 percent impact on the manufacturing costs. These findings further necessitate an economy-wide policy response to unshackle the systemic barriers which adversely impact the manufacturing competitiveness.

A peculiar and dominant characteristic of India's manufacturing sector is the extraordinarily small scale establishments in terms of employment and output. As per Dougherty et al (2009), about 87 percent of manufacturing employment is in micro-enterprises of less than ten employees. The study also found that while there is a fairly high share of very large companies making for a bimodal distribution, there are few enterprises of intermediate size. Further, although small firms' share in manufacturing employment is almost 90 percent, they produce only about a third of manufacturing output.

At the global stage, India is placed as one of the top 10 manufacturer countries of the world (UNIDO 2011). Though manufacturing sector constitutes 50 percent of Indian exports, its global share in manufacturing is very dismal at around 2 percent when compared to China, USA, Japan and Germany. Figure 1 compares India with some other countries in manufacturing sector.

Figure 1: Manufacturing sector growth from 1999-2009 and contribution into GDP



Source: BCG and CII (2010)

It is true that the liberal policy reforms have, thus far, favourably impacted India's manufacturing sector. However, a host of policy and/or law induced impediments and distortions continue to exist and adversely impact manufacturing sector competitiveness of India. Such competition distortions yield sub-optimal outcomes in terms of access to raw materials and intermediate goods and services, access to markets, entry and exit, access to technology and technology absorption, access to credit, exports and so on. Presence of competition distortions in all sectors such as power, transport, telecom etc. fundamentally thwarts the ability of a manufacturing unit. Similarly, competition distortions in services sectors also affect manufacturing competitiveness.

Faced with declining competitiveness, the European Union published a white paper in 1993, which highlighted *ensuring fair competition* to be one of the four areas for priority action, recognising it as an essential ingredient for enhancement and maintenance of competitiveness in the economy.² These prescriptions apply to India as well. Recognising the need for state action, the Government of India had created the National Manufacturing Competitiveness Council, but its work is yet to yield the desired results.

Thus, there are determinants of firms' competitiveness that get influenced by various external factors outside the control of the firms. Focus should not just be on the internal efficiency improvement of enterprises, but also on the accompanying policy framework and the overarching business ecosystem.

4. Major Findings

4.1 Significance of Business Ecosystem for Economic Growth and Development

- There are overlapping relationships among business regulations, business procedures, dispute resolution mechanisms, investment facilitation measures, taxation instruments, policy environment, trade commitments, infrastructure development, competition promotion, responsibility inculcation, competitiveness, interface among formal-informal sector and the likewise. All these, together with a host of other elements constitute the larger business ecosystem of the country.

² Growth Competitiveness, Employment : The Challenges and Way Forward into the 21st Century (1993)
http://aei.pitt.edu/1139/01/growth_wp_COM_93_700_Parts_A_B.pdf

- Business plays an important role in economic growth and development of any country. It deploys capital, engages labour, produce goods and generate profit that is re-invested for further expansion at domestic and international fronts. Across the world, the inter-linkages among business regulations, business procedures, market returns, growth and development have been established. The countries that have performed better than the others in terms of thriving business have, to a great extent, done so on account of the quality of business regulatory environment that they have been able to maintain. The locational preferences of capital are also determined after assessing relative ease of doing business and the return rate predictability of investments in any country.

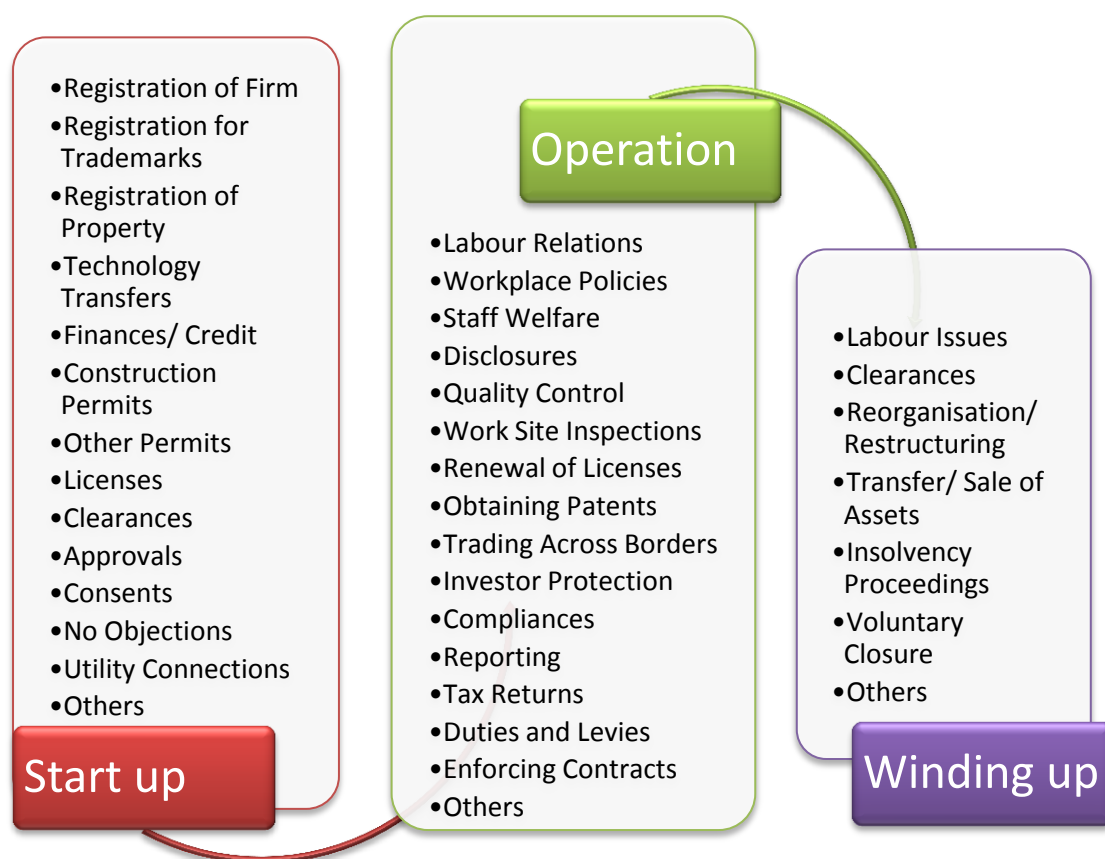
4.2 Ambiguous Nature and Vast Scope of Business Regulations

- The scope of business regulations is both ambiguous as well as vast. In a broad sense, it covers all the legislations, subordinate legislations, by-laws, rules, policies, procedures and praxis that have been adopted and practiced by the Union, State and Local governments for regulating different aspects of business and have a bearing on the performance of business in general as well as particular terms. There are vast numbers of business regulations at different levels of government that are in existence in the country and only a guesswork could be done while arriving at their exact number. So far, there has been no comprehensive effort to consolidate business regulations and procedures at pan-India level. Nor have these been classified sectorally, for instance, those relating to manufacturing sector, and those relating to services sector.
- Talking about country as a whole, there is much difficulty in tracing the current status of regulations in the light of various amendments made in the original regulations as a result of legislative actions or through departmental notifications/circulars etc. that are constantly getting issued to give shape to such regulations by different administering bodies of the Union, State, and Local governments.
- There are instances of contradictory as well as overlapping business regulations on account of these being administered by the different tiers as well as layers of government. From the efficiency point of view, there should be single points of interactions between business and government. But the reality is far from this principle and in practice; businesses are required to spend valuable resources in interacting with

the multiple points of contact located at Union, State and Local levels. This signifies inadequate levels of coherence among different government bodies.

- According to the discussion paper on Draft National Manufacturing Policy, on an average, a manufacturing unit in India has to comply with 70 odd legislations (DIPP 2010). Another study undertaken in Rajasthan on improving its business environment pointed that businesses in Rajasthan are required to obtain 136 licenses of which 40 licenses relate to Union government, 66 licenses relate to State government and 24 licenses relate to Local government. The study also found that an average medium sized business enterprise will require at least 28 licenses to start operating its business in the state.³ The case of Rajasthan is for illustration purpose and it is reckoned that the scenario with other states of India would not be much different.

Figure 2: Stages of Business and Indicative Regulatory Compliances



Source: WG BRF SBP (2011)

³ See IFC (2010)

4.3 Absence of National Repository of Business Regulations

- Acknowledging that there are thousands of business regulations in the country and to give effect to all these regulations (as applicable); there are higher numbers of procedures in place. As has been pointed out, such business regulations and procedures vary from one state to the other. There are no single stop-shops at Union and State levels that are reflective of the *updated status* of the existing regulations in the light of amendments made, if any. Nor are the change making entities obliged to share revisions or any actions relating to the State-specific regulations within a stipulated time frame. It does not mean that there are no inter-governmental or intra-governmental exchanges of such nature. The government departments might be fulfilling the requirement of sharing such information with one another on periodic basis. The problem lies with how the target constituencies of business regulation will get to know about all such changes in the absence of such single stop-shops!
- Despite the advancements in Information and Communication Technology (ICT) and its ever-growing applications and usage, there is no dedicated online repository to keep all the business regulations and procedures. Before coming across these findings, a detailed review was made over the content of various ICT initiatives that have been taken up in the country *at the national level* to guide investors and businesses.⁴ It was difficult to locate any initiative that fulfils the requirements of the following target constituencies at once: emerging entrepreneurs; existing business; and potential investors, interested in knowing everything about doing business in India. The following ICT initiatives were looked at:

Table 1: ICT Initiatives towards Business Promotion and E-Governance in India

No.	Title	Web Portal
1.	Government of India Business Portal	http://business.gov.in/
2.	DIPP-FICCI Investment Promotion Portal	http://www.investindia.gov.in/
3.	MCA 21 Initiative (under the NeGP)	http://www.mca.gov.in/MCA21/
4.	eBiz Project (under the NeGP)	(Website under development)
5.	eGov Reach Initiative of NASSCOM ⁵	http://www.egovreach.in/

⁴ It is duly recognised here that there might have been certain state-specific ICT initiatives undertaken on these lines, but the subject matter of this enquiry is India as a whole. The concern here is about the rule, not the exception!

⁵ Though, its mandate is not to guide business but to promote eGov through ICT solution providers.

4.4 Prevalence of Low Levels of Coherence in Business Regulatory Governance

- Recognising that business could serve as a great vehicle for enhancing the growth and development trajectory; various state governments have established dedicated agencies to invite investment flows and encourage entrepreneurship. Across the country, there have been attempts to streamline industrial development. Business facilitation is very much in the agenda at the national as well as state levels. But there is lack of coherence in all such efforts and as a result, such efforts fail to sufficiently reflect the aspirations of target constituencies, namely – existing businesses, emerging entrepreneurs, and potential investors.
- There are wide variations in government-business transactions taking place in different locations of the country. It has also been found that there is a lack of predictability and standardisation in terms of timelines as well as process adopted by different state governments when it comes to facilitating business. This results into subjectivity on the part of the corresponding government personnel. This is partly on account of the federal nature of India, its vast size and the involvement of different agencies belonging to the Union, State and Local governments. But there has to be due justification for so much of variation, keeping in mind the implications of such variations on the overall business ecosystem of the country. To capture such variations, it is relevant to present some of the highlights from the *Doing Business* Report of the World Bank and International Finance Corporation (WB and IFC 2009)⁶:
 - Obtaining construction permits require 37 procedures in Mumbai, whereas the same formality requires 15 procedures in Ahmadabad, Bengaluru and Chennai.
 - It takes 258 days to get construction permits in Kolkata, as against Bengaluru, where the same work gets done in 97 days to get these in Bengaluru.
 - It takes 126 days to register property in Bhubaneswar and 24 days in Jaipur
 - In Bengaluru, a firm has to bear 32.5 percent cost of claim in enforcing contracts, whereas in Patna such cost is 17 percent of the claim
 - It requires 10.8 years to close a business in Kolkata, whereas in Ahmadabad, the time spent for such formalities is 6.8 years.
- The Working Group duly acknowledges and respects that the responsibility for industrial promotion lies with State governments but such responsibility should be seen as innovation beyond a minimal level of uniformity in regulatory governance.

⁶ A mere quotation of such findings does not mean that the WG BRF is endorsing the correctness of the findings.

- The interface between government and the industry is also not well defined. There are definitely periodic consultations among various industry collectives and specific government departments located at different levels, but such consultations are not structured enough to be guided by a well-defined and outcome oriented process steered through an agency dedicated for the purpose. There are multiple channels of submission and acceptance among the industry and the government respectively and instead of the process being institutionally driven, much unsolicited reliance has to be over the priorities set by the individuals making such representations.

4.5 Inherent Limitations with Business Regulatory System of the Country

- Regulations in India lack 'Periodic Review Clauses' which means that there is no review requirements embedded into these. Once a regulation has come into effect, it is not necessary that it has to be reviewed. Though, regulations, in general, keep getting reviewed in the light of the complaints or/and feedback received from the target groups of the particular regulations, such review is not systematic or comprehensive in scope. In practice, a thorough review of regulatory instruments is undertaken only then when there is a clamour against that particular instrument. This is not a healthy practice as it lacks the elements of proactivity. Such reviews are not of structured nature and do not follow any concrete methodology of consulting the stakeholders. The terms of such reviews are very loosely defined and the exercise is not predictable enough.
- Indian system of regulations lacks 'Regulatory Impact Analysis (RIA)'. RIA has been globally acknowledged as a promising tool to analyse the need and relevance of existing as well as new regulations on the basis of set criteria, developed through a consultative process, and matching with the context of the particular country.
- Regulations in India lack 'Sunset Clauses' which means that once a regulation has come into being, it will remain in the statute books till it is not formally repelled. With 'Sunset Clause' in place, the regulations will cease to remain functional after a stipulated time unless there are fresh actions for their continuance. As a result of the absence of 'Sunset Clauses', many archaic regulations that had been enacted during the pre-independence times by the British Raj continue to exist. There have been specific actions as a result of the recommendations of various departmental committees,

empowered committees, reform commissions, law commissions etc. to repeal such regulations, but the scope of such actions has been limited.

- There has been a general recognition in the country over burdens associated with business regulations. This also gets reflected in the findings of various reports that rank different countries on the basis of government regulations and the resulting business environment or investment climate. It is apparent that India has burdensome regulations that act as obstacles to business development in the country. Such burdens and irrelevances could be measured in monetary terms, thereby assessing the costs involved with the administration of the regulations borne by the government as well as borne by the businesses. But such measurement exercise has not been undertaken in the country so far. As a result of this, it cannot be said as to what quantum of government and business resources are getting wasted in administering business regulations. It is well recognised here that in order to arrive at denominations of regulatory burden costs, a comprehensive methodology will be required.

4.6 Constraints with Delivery System of Regulatory Reforms

- In the past, there have been several efforts undertaken by the government, industry and other agencies to identify the bottlenecks with business regulations, business facilitation, investment promotion and the likewise. Such efforts resulted into detailed recommendations and action points. But the extent to which such recommendations were considered and applied by the respective governments is seldom measured.
- While exploring these reform endeavours, it emerged that most of the recommendations given by the expert bodies are of advisory nature only and on their own, have no authoritative bearing on the targeted regulations and procedures. The follow-up over reform recommendations is not structured and the corresponding government departments are not expected to necessarily comply with these. One of the reasons for such constraints with uptake of reforms is that the regulations are passed by Union or State Legislatures, and until the recommendations towards making amendments into the corresponding regulations are not backed by appropriate legislation, reform outcomes would continue to remain negligible. Because, in such a scenario, the fate of regulatory reform endeavours is bound to be determined on the basis of the discretion of political and administrative leadership at the national and state levels.

- Some of the administrative and governance reform endeavours that have been taken up (and are being taken up) in the country since independence are presented below:

Table 2: Select Governance and Administrative Reform Endeavours in India

Duration	Governance and Administrative Reform Endeavours
1951-Ongoing	Finance Commission of India
1955-Ongoing	Law Commission of India
1966-1970	First Administrative Reforms Commission of India
1966-1969	First National Commission on Labour
1983	Economic Administrative Reforms Commission of India
1991-Ongoing	Economic Liberalisation Reforms
1996-1997	National Debate and Action Plan on Effective and Responsive Administration and Government
1998	Commission on Review of Administrative Laws
1999-2002	Second National Commission on Labour
2001-2002	Committee to Examine the Extant Procedures for Investment Approvals and Implementation of Projects and Suggest Measures to Simplify and Expedite the Process for both Public and Private Investment
2000-2002	National Commission to Review the Working of Constitution of India
2005	Committee on Streamlining of Inspections
2005-2008	National Knowledge Commission
2005-2009	Second Administrative Reforms Commission of India
2006-Ongoing	National e Governance Plan
2005-2010	Commission on Centre State Relations
2011-Ongoing	Financial Sector Legislative Reforms Commission

Source: Table compiled for the purpose of this Report

- There is no single dedicated agency for keeping track of the extent to which the previously given recommendations related to regulatory reforms got implemented. Similarly, there are no repositories for periodic gathering and classification of the outcome documents of various such implementation efforts. As a result, every time there is a new group constituted to reflect upon the problems and suggest solutions, it has to start with the consolidation exercise by randomly searching for the relevant pieces of information relating to the implementation status of previous recommendations.

4.7 Weak Institutional Architecture for Business Regulatory Governance

- Unlike the case with various countries that are faring well in business regulatory reforms agenda, India lacks dedicated institutions to look into business regulatory governance at pan-India level. Business facilitation and investment promotion entities have been set-up at the national as well as state levels. Efforts have also been made to create dedicated investment and export promotion zones. Still, as highlighted in the previous pages, such efforts have not been concerted and are not being undertaken in adequately planned and monitored way, especially, when it comes to reforming the business regulatory environment across the country.
- Despite that the business regulatory reform agenda is high in the country, there is no dedicated authority that could guide the whole process of reform in a structured, planned, cogent and systematic manner, thereby mandating the respective departments of the Union, State and Local governments to comply in a timely, result oriented and predictable way. Such finding does not entail that there are no efforts for coordinated actions among various such departments. What is missing is the authorised entity that has specifically been given the mandate of pushing for such reforms in a dedicated and coherent way.

4.8 Effective Competition Regime in India?

- The competition regime in India is in its nascent stage. Despite the bold steps undertaken by the country through economic liberalisation reforms; a dedicated legislation dealing with competition promotion in the markets was adopted only in the new Millennium, in the form of the Competition Act 2002. This legislation was passed to overcome the limitations with the Monopolistic and Restrictive Trade Practices Act of 1969 (which got repealed very recently, in the year 2009). Even though the Competition Act was passed in the year 2003, it actually came into effect in the recent past. The nature of the shift from the previous competition regime to the current competition regime was from structure to conduct, and from rule of law to rule of reason. Such shift exhibits at least three prominent characteristics: enhanced authority; penalising provisions, and a dedicated appellate authority.

- In the Indian context, the competition legislation, it itself, is not sufficient to establish a well-functioning competition regime and it has to be complemented with a dedicated competition policy, which India is yet to have. Whereas the former deals with the anti-competitive practices undertaken by enterprises operating in the market, the latter deals with the policies, regulations and praxis that cause competition distortions in the market on account of their faulty design and resultant implications. Logically speaking, policy should precede the law, but on account of a multitude of factors and exigencies, such logical sequence does not always get followed – not just in India, but also elsewhere.
- India lacks any dedicated body to systematically identify competition distorting policies, regulation and praxis and demand suitable rectifications there in. The country does have Competition Commission of India but it is vested with the responsibility of looking into anti-competitive practices undertaken by firms. There is a lack of institutional arrangement for building demand and supply side capacity on competition issues.
- Such need for dealing with the existing lacunas with competition regime has been recognised in the last decade or so and efforts have been made at the national level to enquire into the ways through which an effective competition regime could be developed in the country. A snapshot of such efforts is presented below:
 - Raghavan Committee (1999) dealt with the issues pertaining to regulation of competition abuses and suggested a new competition law to replace the archaic Monopolies and Restrictive Trade Practices Act. This process resulted in the adoption of the Competition Act, 2002. The Committee also emphasized the need for a separate competition policy.
 - During the mid-term appraisal of the Ninth Five Year Plan, an urgent need to enunciate a National Competition Policy (NCP) was recognised as an instrument to accelerate nation's economic growth, improve both the quality of life of the people, national image and self-esteem.
 - During the Tenth Plan period, the government announced the need of buttressing competition through its policy statements.
 - Planning Commission set a Working Group on Competition Policy during the formulation of the Eleventh Five Year Plan. The Working Group recommended a framework comprising competition principles, government measures and institutional arrangement to implement NCP.⁷ Recommendations of the Working Group were incorporated in Chapter

⁷ Planning Commission (2007), “*Report of the Working Group on Competition Policy*”. Electronically accessed on 01 August, 2011, at: http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_cpolicy.pdf

11 on Consumer Protection of the Eleventh Plan document, which was approved by the National Development Council in December, 2007.⁸

- An advisory committee, set-up by Competition Commission of India in 2006 simultaneously to draft a consultation paper did the task, but adopted report of the Planning Commission Working Group as its consultation paper on competition policy.
- In 2007, the Second Administrative Reforms Commission (ARC, 2007) also recognised the need to temper the existing ‘monopoly of functions’ with competition.⁹ The ARC highlighted the need to identify areas where competition was either missing or limited at central and state levels.
- In May 2011, the Planning Commission, through its Steering Committee on Industry and the constituent Working Group on Business Regulatory Framework identified NCP to be one of the crucial areas for detailed enquiry. A Task Force on NCP was set up for the purpose and its findings and recommendations have been incorporate in this report itself.
- In June 2011, the Ministry of Corporate Affairs, Government of India set-up a Committee on National Competition Policy and related matters. The committee has been entrusted with the responsibility of drafting National Competition Policy and a few other tasks.

4.9 Mainstreaming Business Responsibilities: The Quest Ahead

- There has been a growing recognition of the role to be played by businesses in India for achieving national goal of wholesome growth and inclusive development. Alongside, there is a demand for creating and enunciating appropriate policy and regulatory environment that could encourage the adoption and implementation of measures for businesses to emerge as socially, environmentally and economically responsible entities.
- Influenced by all these, and partly by their own initiatives, Indian companies have started creating dedicated wings to look after corporate reporting and disclosures, corporate social responsibility initiatives, fair trade agreements, labour welfare norms, credibility charters, integrity codes, embodiment of green business practices, accountability initiatives, proactive disclosures, stakeholder engagements etc.

⁸ Planning Commission (2008), “*Eleventh Five Year Plan Document (2007-12)*” Electronically accessed on 27 July, 2011, at: http://planningcommission.nic.in/plans/planrel/fiveyr/11th/11_v1/11v1_ch11.pdf

⁹ ARC (2007), “*Fourth Report – Ethics and Governance*”. Electronically accessed on 15 July, 2011, at: <http://arc.gov.in/4threport.pdf>

- Such developments are not confined only to India but mirror a global trend in this regard. Some of the global as well as national endeavours and guiding notions that have explicitly recognise business responsibilities in the contemporary times are presented below in Table 3:

Table 3: Select Initiatives for Encouraging Business Responsibilities

Global	National
<ul style="list-style-type: none"> • 1948 – Universal Declaration on Human Rights • 1997 – SA 8000 (by Social Accountability International) • 1998-2006 – Global Reporting Initiative (G3) • 2000 – Millennium Declaration • 2000 – United Nations Global Compact • 2001 – OECD Guidelines for Multinational Enterprises • 2003 – UN Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with regard to Human Rights • 2010 – Guidance on Social Responsibility, ISO 26000 • 2011 - Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework” 	<ul style="list-style-type: none"> • Mahatma Gandhi’s notion of large Businesses as ‘Trusts’ • 1950-60 – Nehruvian mixed economy model entrusting private sector with shared responsibility in development • Individual Codes of Conducts and Responsibility Charters • 1991 Liberalisation reforms and raised expectations • 2007 – Guidelines on Corporate Governance for Central Public Sector Enterprises, Ministry of Heavy Industries and Public Enterprises, GoI • 2009 – Voluntary Guidelines on Corporate Governance and Corporate Social Responsibility by Ministry of Corporate Affairs, GoI • 2010 - Guidelines on Corporate Social Responsibility for Central Public Sector Enterprises, Ministry of Heavy Industries and Public Enterprises, GoI • 2011 – National Voluntary Guideline on Social, Environmental and Economic Responsibilities of Business

Source: WG BRF BRCC (2011)

- But despite all such developments, it is observed that the terrain of business responsibility is unexplored by a large majority of business enterprises and most of the initiatives of this nature have been taken up by the large companies whose activities are more visible. In other words, the notion of business responsibilities has not been mainstreamed and India, as a country, has a long way to go in this journey.

- Mainstreaming of business responsibilities entails that there has to be a better clarity over difference between compliance with legal requirements and assumption of the role as partners in growth and development of the country.
- Despite the enhanced impetus given to business responsibility and the role that could be played by businesses in inclusive growth and development of the country, there is a dearth of institutions that can spread awareness among all factions of business community in a systematic and structured way. Also, there is a dearth of literature, case studies, and suggestive models related to the subject.
- Some concrete actions have definitely been taken up in these regards but looking at the size of the country, their size is small with low levels of penetration.

4.10 Indian Business Performance vis-à-vis other Countries

- Though the Working Group does not endorse the rankings given by renowned international bodies over their business regulatory and responsibility environment, it is imperative to take stock of India as favourable and responsible business destination on a global scale.¹⁰ Table 1 presents India's rankings/ positioning on different criterion like ease of doing business; competitiveness; business responsibilities and extent of economic freedom business performance by:
 - 'Doing Business 2012' by the World Bank and International Finance Corporation;
 - 'Global Competitiveness Index 2011' by World Economic Forum;
 - 'Best Countries for Business 2010' by Forbes;
 - 'World Competitiveness Scoreboard 2010' by International Institute for Management Development;
 - 'Economic Freedom of the World Index 2008' by Fraser Institute;
 - '2010 Global Manufacturing Competitiveness Index 2010' by Deloitte and US Council on Competitiveness; and
 - 'State of Responsible Competitiveness 2007' by AccountAbility and FDC

¹⁰ The choice of these indices/rankings was not made through any robust methodology and the selection of the countries for comparison is also not guided by any specific consideration. The given rankings are commonly talked about and so is the rationale for choosing the countries for comparison.

Table 4: Ranking of Select Countries on Business Regulation and Performance¹¹

Country	WB IFC Doing Business 2012	WEF Global Competitiveness Index 2011 ¹²	Forbes Best Countries for Business 2010	IMD World Competitiveness Scoreboard 2010	Fraser Institute's Economic Freedom of the World Index 2008	Deloitte & US Council on Competitiveness Global Manufacturing Competitiveness Index 2010	AccountAbility and FDC Status of Responsible Competitiveness 2007
Brazil	126	Stage 2	62	38	102	5	56
China	91	Stage 2	90	18	82	1	87
Egypt	110	Transition 1	84	—	80	-	67
France	29	Stage 3	21	24	35	23	17
Germany	19	Stage 3	20	16	24	8	11
India	132	Stage 1	77	31	87	2	70
Indonesia	129	Transition 1	74	35	90	-	48
Japan	20	Stage 3	27	27	24	6	19
Korea	8	Stage 3	30	23	37	3	27
Malaysia	18	Stage 2	31	10	77	-	25
Russia	120	Stage 2	97	51	84	20	83
South Africa	35	Stage 2	34	44	82	22	28
Thailand	17	Stage 2	56	26	58	12	37
Turkey	71	Stage 2	46	48	74	-	51
UK	7	Stage 3	10	22	10	17	5
USA	4	Stage 3	9	3	6	4	18

¹¹ World Bank and IFC (2012); WEF GCR (2010); Forbes (2010); IMD (2010); EFI (2010); Deloitte (2010); and AccountAbility (2007)

¹² WEF GCR (2011) does not rank countries but places these in different stages of development – Stage 1 (factor driven) --- Transition 1 --- Stage 2 (Efficiency Driven) --- Transition 2 --- Stage 3 (Innovation Driven).

5. Specific Recommendations

This section presents ten recommendations of the WG BRF. These ten recommendations have been agreed upon through a duly consultative process undertaken during the proceedings of the Working Group as well as its constituent Task Forces. After a brief description of the given recommendation, its implications on the envisaged Business Regulatory Framework are elaborated upon with the help of specific actions. Overall, there are 25 such action points.

5.1 Establishing an Effective Competition Regime in India

On the basis of the findings with regard to the inherent weaknesses with the existing competition regime in the country, immediate action is recommended over the following:

Specific Actions

5.1.1 Adoption and Operationalisation of National Competition Policy (NCP)

- There is a strong case for adoption and operationalisation of National Competition Policy (NCP) to complement the Competition Act. As highlighted previously, the Ministry of Corporate Affairs is currently in the process of drafting the NCP through a widely consultative process. It is hoped that the NCP shall be adopted before the advent of the XII FYP. Given the importance of manufacturing sector and the development projections of the Indian economy, it is imperative that NCP should be adopted and operationalised by the Union and State government(s) in its entirety. The competition policy principles enunciated under the Eleventh Five Year Plan and the Draft National Competition Policy are fully endorsed here and their application is recommended across all sectors of the economy along with over the policies and regulations that govern them.
- Operationalisation of NCP and its principles will ensure that the existing policies and regulations will cease to cause competition distortions in the market. Also, it will make sure that the new policies and regulations will be drafted in compliance with the provisions of NCP so as to prevent policy led competition distortions in future. This will, in turn, leverage manufacturing sector competitiveness on fair price and terms, in respect of: (a) access to a single national market; (b) access to government procurement markets in India and abroad; (c) access to technology, (d) access to capital, (d) access to raw materials and intermediary good and services etc.

5.1.2 Establishing National Competition Policy Council (NCPC)

- As on date, there is no institution at the country level that can deal with the competition distorting policies and regulations in a comprehensive manner. It is therefore recommended that the National Competition Policy Council (NCPC) should be established as an independent entity to steer the agenda of the proposed National Competition Policy. Ministry of Corporate Affairs is expected to render the necessary administrative support to it so that it gets resourced adequately.
- In order that the NCPC should be able to function in an authoritative manner, it will be imperative to make necessary amendment in the Competition Act 2002 for elaborating upon the structure, composition, responsibilities and authorities of NCPC.
- NCPC will steer the implementation of NCP at the Union and State levels in consultation with the other regulators and the government departments to promote competition culture in the country. It will serve as a research and advisory organ that will rely upon a robust methodology for identification of the instances of competition distortions by various regulatory instruments like legislations, policies and praxis being employed by the Union and State governments. When required, it will engage experts (organisations as well as individuals) on specific subjects of competition reforms in a structured way so as to develop and implement detailed action plans in association with the government departments and other regulators. It is envisaged that establishment and resourcing of NCPC will work as a great leap forward in promoting competitive market in the country. It will complement the work being undertaken by the Competition Commission of India.

Box 1: Functioning of National Competition Council of Australia

The National Competition Council (NCC) was established in the year 1995 by agreement of the Council of Australian Governments (COAG). It was set up through adoption of the National Competition Policy (NCP). It serves as a research and advisory body for all Australian Governments. As a statutory body, it is independent of the executive and promotes its agenda through widespread consultations and reporting. The NCC reports to the Australian Parliament on annual basis. During the years 1995-2005, NCC was vested with the responsibility of assessing the reform initiatives undertaken by the different Australian governments for implementation of NCP. It produced six editions of legislative review compendiums to capture various such reform initiatives. Since the year 2006, the main function of the NCC has been to recommend on the regulation of third party access to services provided by monopoly infrastructure.

Source: <http://www.ncc.gov.au/>

5.1.3 Institutionalisation of Incentive-Disincentive Mechanism for Implementation of National Competition Policy (NCP)

- It is recommended that an institutional mechanism should be evolved for incentivising the competition reform measures and dis-incentivising the inactions towards such measures by Union and State government departments. This has to be a collective effort on the part of the proposed NCP, Ministry of Corporate Affairs and Planning authorities and the Ministries of Finance at the Union and State levels. It should also be made a part of the Results Framework Document (RFD).¹³
- At the country level, after a thorough consultative process, Planning Commission should institutionalise a financial incentive-disincentive mechanism linked with resource allocation to States to carry out the reforms. This entails transfer of a stipulated amount of incentive grant from the Union government to the State governments after ascertaining that the latter have complied with the agreed targets. On the contrary, if it is found that certain State government has not adopted the agreed upon reform measures, its sanctioned grant would not be released. Alongside, if national consensus evolves, there could be imposed certain disincentive to the corresponding State government.
- At the State level, the State Planning Boards and the Finance Ministries could take the lead in building the capacity of respective departments chosen for implementation of the agreed competition reform measures.
- Such schemes will promote adoption of pro-competition regulatory measures by the Union and State government departments, thereby boosting efficiency and overall competitiveness of the Indian economy. As has been highlighted in the previous sections, manufacturing sector competitiveness, to a great extent, depends upon the robustness of the competition regime in the country. Such incentive-disincentive based mechanisms will go a long way in ascertaining that India, as a country, moves in the right direction with due pace.
- NCP, Planning Commission and other such national entities may popularise the incentive-disincentive mechanism further by public reporting of the progress made by various State governments on this front. This will also enable the stakeholders of the particular state to challenge unjustified inertia and demand requisite actions.

¹³ <http://performance.gov.in/RFD.html>

Box 2: Functioning of NCP led Incentive System of Australia

Australia adopted the National Competition Policy (NCP) and constituted the National Competition Council (NCC) in the year 1995. For giving effect to the provisions of the NCP, agreement was made among different Australian governments to uptake what was termed as Legislative Review Programme (LRP) for all jurisdictions to review their regulation in regard to the impact it had on competition. The NCP LRP resulted in the identification of around 1800 laws regulating areas of economic activity for review under the NCP. In aggregate, governments reviewed and, where appropriate, reformed around 85 percent of their nominated legislation. For priority legislation, the rate of compliance was around 78 percent (NCC 2010).

The National Competition Council was given the mandate to periodically ascertain if the different Australian governments have adopted the agreed upon measures or not. NCC did so on the basis of a set methodology and recommended the release of 'Competition Payments' by the Commonwealth government to the respective State governments in three tranches – 1997-1998, 1999-2000, and 2001-2002. For each tranche mentioned above, different sets of activities were to be undertaken by all the governments. If certain state failed to undertake the required reform actions, its share from the per capita component of the Federal Assistance Grants (FAGs) as well as Competition Payments was held back by the Commonwealth. The Competition Payments were quarantined from assessments by the Commonwealth Grants Commission.

The success of Australia's NCP reforms saw them hailed internationally as a successful example of nationally coordinated reform. NCP was completed in 2005. It was succeeded by Australia's National Reform Agenda, which included a stream of work on achieving a Seamless National Economy (SNE). The competition principle still remains an important part of Australian regulatory policy, and is applied as part of the assessment of new regulation in all Australian jurisdictions.

Source: APC (2011) – Identifying and Evaluating Regulation Reforms

5.2 Operationalisation of National Voluntary Guidelines (NVG) on Social, Environmental and Economic Responsibilities on Business

The National Voluntary Guidelines (NVG) on Social, Environmental and Economic Responsibilities on Business¹⁴ are a big leap in the journey towards making Indian businesses responsible on a national benchmark. The NVG have been developed after undertaking detailed analysis of various global and national initiatives and adopted through a multi-stakeholder consultation process involving the government, business, civil society and various other stakeholders. It is recommended that these should be operationalised across the country.

¹⁴ http://www.mca.gov.in/Ministry/latestnews/National_Voluntary_Guidelines_2011_12jul2011.pdf

Specific Actions

5.2.1 Inclusion of Business Responsibility as distinct subject under the Government of India (Allocation of Business) Rules 1961

- The government should include Business Responsibility (BR) as a distinct subject under the *Government of India (Allocation of Business) Rules 1961*, in order to develop a holistic governmental perspective on the subject. The Ministry of Corporate Affairs (MCA) should be entrusted with the responsibility to pursue the agenda of Business Responsibility, through appropriate amendments in the *Government of India (Allocation of Business) Rules 1961*. A process of inter-ministerial cooperation between relevant Ministries involved in developing and implementing policies and rules having implications for businesses should be established and operationalised. Mechanisms for coordination with other sections of the government should be developed simultaneously.
- Business Responsibilities is a complex subject and involves integration of a number of areas (from the perspective of the NVG, these are social, economic and environmental issues, predominantly). The Ministry of Corporate Affairs has already been given the responsibility to lead the government's agenda on this subject; this Ministry should be formally assigned the role of being the custodian of related processes at the national level. Experience from countries that have made considerable progress on business responsibility (and/or CSR) issues, indicate that specific Ministries were assigned the specific role of driving the agenda.
- Such agenda includes formulation of suitable accounting systems and standards which would aid and enable a true and fair disclosure of business performance (vis-à-vis an uptake of NVG principles). It includes devising of such mechanisms through which businesses (including individuals and aggregates, in case of small and medium enterprises) that imbibe the NVGs, are able to access priority lending by banks and financial institutions. Such actions on the part of the respective government department will also encourage (and if necessitates, mandate) the financial institutions to develop instruments that can incorporate the inherent value responsible businesses in their risk assessment and investment decisions. In the long run, the market itself would reward companies whose business models show a continuous and deepening commitment to the NVG principles.

5.2.2 Mandating the Disclosure Framework for Adoption of National Voluntary Guidelines (NVG) Principles

- The government should make the disclosures (on the adoption of NVG principles) by businesses mandatory. The disclosure framework should be freely up-loadable on the MCA portal (simple, electronically enabled form on the MCA-21). All such reports should furthermore, be available in the public domain. This framework should be designed to incorporate disclosures at the collective or aggregated level, specifically for the small and medium enterprises. The guidelines would continue to remain voluntary and businesses would have the freedom to adopt them at their own pace.
- It is essential to make the process of reporting easy, and therefore a simple (yet comprehensive) and electronically enabled Form should be made available for businesses to report and upload their alignment and actions with regard to the NVG principles (in a specific format). In case they are unable to work by these principles, they should also explain the reasons for such inability. Such a transparent and uncomplicated process would be critical in ensuring the popularisation of the NVG guidelines among businesses operating in India.

5.2.3 Establishing National Foundation for Business Responsibility (NFBR)

- The government should establish National Foundation for Business Responsibility (NFBR) to serve as a platform that can facilitate the adoption of the NVG principles by undertaking various initiatives including awareness, training and capacity building of relevant stakeholders. Such a platform would also recognise good performance in the area of BR and support other institutions that help in mainstreaming the NVG principles. The responsibility to institute and operate such a national platform should be entrusted to the MCA. The NFBR could be housed in the Indian Institute of Corporate Affairs.
- It is critical to bring together government, businesses, civil society and other stakeholders together on a national platform which is given the responsibility to drive the agenda of BR. This platform is also needed so that relevant stakeholders develop a common understanding of the NVG principles and work jointly in this area.

5.2.4 Mandating the Alignment of Public Private Partnership Projects with National Voluntary Guidelines (NVG) Principles

- The government should take necessary steps in mainstreaming NVG principles by making it mandatory for all PPP projects to align with them. Suitable reforms in the public procurement regime should be done, so that appropriate weightage is given to suppliers who incorporate NVG principles, rather than depending solely on the 'lowest bidder wins' (or the L1) principle for evaluating bids. MCA can facilitate a Cabinet decision on this so as to enable all the Ministries of the Union government to take the lead in this, followed by the State governments. The PPP Policy should address this.
- Public Private Partnership has emerged as a popular method for governments to secure investment, especially for the infrastructure sector in the country. Often the method of negotiating contracts between the private parties and the government creates challenges for implementing these programmes. Private players should therefore be more responsible in negotiating and executing these contracts. The national government can develop a framework for integrating NVG principles in the public procurement process, and then assess how states are performing in promoting business responsibilities in them. The Public Procurement Bill should address this action point.

5.3 Enhancing Manufacturing Sector Competitiveness of India

In order to realise the priorities of the XII FYP and beyond, there has to be comprehensive strategy for enhancing manufacturing sector competitiveness of the country. It is acknowledged that manufacturing sector can serve as a pivot around which various other sectors can revolve and by boosting manufacturing sector, spillovers to other sectors could be created. In simpler terms, expansion of certain manufacturing activities can boost specific service industries (incorporating these into their value chain), demand infrastructure, mobilise finance flows, generate employment (enhances requirement of skilled labourers) and the likewise. The Planning Commission of India, Department of Industrial Policy and Promotion (DIPP) and the National Manufacturing Competitiveness Council (NMCC) have been pursuing this agenda. Planning Commission is in the process of developing the National Manufacturing Plan. DIPP is taking lead in the National Manufacturing Policy and the NMCC has laid down a National

Strategy for Manufacturing. All such efforts are being endorsed here and specific actions are presented for enhancing manufacturing sector competitiveness of the country.

Specific Actions

5.3.1 Adoption and Operationalisation of National Manufacturing Policy (NMP)

- The Department of Industrial Policy and Promotion (DIPP) is already in the process of finalising the National Manufacturing Policy (NMP) through widespread consultations. As per the latest media briefings, the cabinet also has given the in principle nod to NMP. This development is welcomed and it is expected that the adoption and operationalisation of NMP will take place before the advent of the XII FYP.
- It needs to be emphasised here is that the operationalisation of NMP will require a great part to be played by different tiers of the government. There are a number of actions proposed under the draft discussion paper pertaining to the NMP to simplify the regulations and procedures that are getting administered by different departments. The Task Force on Simplification of Business Procedures that was constituted under this Working Group has endorsed all such reform propositions.
- Such propositions are considered to be in the right direction and it is expected that higher levels of agreement and larger commitments on the part of political and administrative leadership will be crucial in actually aligning all such changes with NMP. There must be many state specific policies and regulations that would be required to be aligned with the provisions of NMP. It is recommended that DIPP and the corresponding Ministries of Industries at the State level should chalk out and address conflicts, if any.

Box 3: National Manufacturing Promotion Initiatives in Select Countries

US – *National Manufacturing Strategy Act* (2010) (passed in the House of Representatives, but it is yet to become law); *A Framework for Revitalising American Manufacturing* (2009)

UK - *Growth Review Framework for Advanced Manufacturing* (2010); *The Government's Manufacturing Strategy* (2002)

Multiple Sources: Weblinks mentioned in the References

5.3.2 Developing State Manufacturing Action Plans (SMAPs)

- Every state has specific plans, policies, and regulations to promote industrial development. Manufacturing constitutes a larger chunk of such industrial development initiatives. Still, it is considered necessary to develop state manufacturing action plans (SMAPs) in alignment with the national manufacturing plan (and vice versa). The rationale for proposing such action is not to trigger a new set of activity or cause unnecessary burden on the governments and other actors involved with the planning process. Instead, the idea here is to be realistic when it comes to make national plan targets. Unless the States are not included in the process of projecting their (anticipated) contributions towards the national targets, it will not be possible for the country to actually realise the same.
- In the current times, decentralised planning has been given much emphasis. Essentially, the process is focussed on participation and inclusion. Interestingly, most of the work force that form part of the manufacturing sector hail from such rural and urban settings that are generally administered by the institutions of local self-governance set up under the 73rd and 74th Constitutional Amendment Acts. The action related to developing state manufacturing plans also derives its rationale from the notion of decentralised planning. It is expected that such process will enable the state governments to undertake a Strength, Limitations, Opportunities and Threats (SLOT) analysis of their manufacturing competitiveness vis-à-vis national manufacturing priorities. The whole process is expected to be participatory and inclusive, thereby providing ample opportunities to the different factions of business community (including the SMEs) to articulate their concerns and suggestions in regard of the manufacturing sector.
- It is imperative to note here that to develop a manufacturing action plans do not entail compromising the growth opportunities of the other sectors, for instance, service sector that has been faring relatively better at the national level. It is duly recognised here that all sectors are important for overall growth of any state and, for that matter, the country. The exercise related to the state manufacturing action plan will enable the policy makers and the manufacturers to undertake a combined reality check. As mentioned before, both the National Manufacturing Plan (proposed) and the National Manufacturing Policy (proposed) are looking at not just the XII FYP but beyond - the year 2025 to be precise, for realising the envisaged manufacturing potential. But unless state specific reality

checks are undertaken and the requisite environment for manufacturing sector performance is created therein, it will not be realistic to eye at such long term targets.

Box 4: Sub-National Manufacturing Promotion Initiatives in Select Countries

East of England (UK) – *Regional Strategic Framework for Manufacturing (2007-12)*

North West (UK) – *Manufacturing Strategy and Action Plan for North West (2009)*

Québec (Canada) – *Action Plan to Support the Québec Manufacturing Sector (2007-12)*

Queensland (Australia) – *Queensland Advanced Manufacturing Sector Action Plan (2008)*

Victoria (Australia) – *Building Our Industries for the Future: Action Plans for Victorian Industry and Manufacturing (2008)*

Multiple Sources: Weblinks mentioned in the References

5.3.3 Establishing State Councils on Manufacturing Competitiveness and Competition Reforms

- Having recommended that the NMP should be implemented across the country in both letter and spirit and emphasising the creation of SMAPs, it is considered imperative to establish State Councils on Manufacturing Competitiveness and Competition Reforms. It is strongly recommended that thorough consultation should be made over the composition and mandate of the new institution before moving ahead in this direction. NMCC and the proposed NCPC will be expected to suggest the appropriate set-up of these Councils on the basis of their own experiences. It is expected that once these Councils are established, the issues of competitiveness as well as competition will get mainstreamed not only at the national level but also at the state levels. Such a scenario will be conducive to the attainment of the national goal. It is also expected that the Councils will serve the role of state level think tanks advising and guiding government side as well as business side to carve out State specific manufacturing action plans.
- Tamil Nadu and Andhra Pradesh have already established their State Manufacturing Competitiveness Councils in response to the demands articulated by their industries.

Their experiences should be looked into in details and widespread consultations should be held before moving ahead in this direction.

Box 5: Sub-National Manufacturing Promotion Institutions in Select Countries

Ontario (Canada) – Ontario Manufacturing Council

Great Lakes (Canada) – Great Lakes Manufacturing Council

South Australia (Australia) – South Australia Manufacturing Consultative Council

Victoria (Australia) – Victorian Industry Manufacturing Council

UK – Manufacturing Advisory Service (MAS) – Nine MAS in England and One for Scotland

Multiple Sources: Weblinks mentioned in the References

5.4 Policy and Legislative Framework for Business Development and Regulation

In order to lay down the foundation of optimal business regulatory governance system in the country, the creation of requisite policy and legislative framework is strongly recommended.

Specific Actions

5.4.1 Developing National Policy on Business Development and Regulation

- The National Policy on Business Development and Regulation should be adopted and implemented. India lacks any such forward looking Policy that can serve as a guiding framework for business regulatory governance. The starting point for this could be the release of a Policy Statement by the Union government, and followed by a full-fledged Policy, elaborating the need for concerted actions on the part of Union and State government(s). It will also enable target constituencies to understand and appreciate the envisaged cost savings and revenue gains. The Policy should clearly articulate the rationale behind and mechanism for constructing the Business Regulatory Framework through the enactment of appropriate legislation(s), establishment of corresponding institutions, and adherence to such governance mechanisms that can give effect to the Policy provisions in a structured manner. The proposed Policy should also be able to prescribe a set of Principles for optimal business regulatory governance that should be

adhered to by the Union, State and Local governments before enacting certain regulation. Following eight principles have been identified for this purpose:

1. Justification – The choice of regulatory instrument should be justified on fixed criteria.
2. Predictability – The regulatory instrument should be predictable and not discretionary.
3. Effectiveness – The regulatory instrument should serve the purpose effectively.
4. Simplicity – The regulatory instrument should be simple to comprehend and administer.
5. Responsiveness – The regulatory instrument should be responsive to change and needs.
6. Coherence – The regulatory instrument should be aligned to overall governance frame.
7. Transparency – The regulatory instrument should exhibit due standards of transparency.
8. Accountability – The regulatory instrument should hold administering bodies accountable.

Box 6: Principles of Better Regulation in Select Countries

Ireland – Necessity, Effectiveness, Proportionality, Transparency, Accountability, Consistency

UK – Proportionality, Accountability, Consistency, Transparency, Targeting

- It is recognised that there will be a special role of Prime Minister and Chief Ministers in the aforementioned policy making process because in the final analysis, the actual adoption of the policy will entirely be dependent on the political leadership.¹⁵ Otherwise, the Policy as well as the enshrined Principles will remain as paper manifestos. The administrative responsibility for the Policy will be with Union Ministry of Finance. The other actors in the process will be Planning Commission of India, DIPP, and MCA.

Box 7: Regulatory Reform Policy Initiatives in Select Countries

UK – White Paper – *Lifting the Burden* (1985) and *Building Business – Not Barriers* (1986); Coalition Government Strategy Statement – *Reducing Regulation Made Simple* (2010)

Canada – Government of Canada Regulatory Policy (1999); Cabinet Directive on Streamlining Regulation (2007)

Ireland – White Paper – *Regulating Better* (2004)

European Commission – Communication – *Better Regulation for Growth and Jobs in the European Union* (2005) and *Smart Regulation in the European Union* (2010)

¹⁵ The Policy drafting process will also assess the relevance of embedding *sunset clauses* into business regulations of the country, touching upon the promises, practical limitations, possible misuse and corresponding remedies.

5.4.2 Drafting and Enacting National Business Development and Regulation Bill

- It is recommended that National Business Development and Regulation Bill should be drafted and enacted by the Parliament of India. Such framework legislation will be imperative as the subject matter of this enquiry is 'regulations' – that include legislations receiving sanctity from the Parliament of India and the State Legislatures. The proposed legislation will enable the employment of a robust methodology to measure and reduce the burdens associated with policies, regulations and praxis that (adversely) affect business performance. Such burdens could be of purely economic nature (like excess administrative cost or incidence of undue cost over doing business) or take the form of competition distortions.
- The proposed legislation will enable the employment of innovative regulatory governance tools like Regulatory Impact Analysis (RIA) and facilitate amendments in the light of gathered evidence. In the absence of such legislation, the scope of such innovative regulatory governance tools will be confined to research purpose only.
- The Working Group has carefully considered the necessity of such legislation and it is not considered as 'super-regulation' of any kind. Nor does it create duplication of any kind as the country does not possess any such legislation that could be compared with the proposed Act or could be amended for incorporating the provisions of the proposed Act. On the contrary, the proposed legislation would fill the void that has been in existence for all along the journey of business regulatory governance in India.
- The Working Group also carefully considered if enactment of the proposed legislation entails any kind of 'encroachment' of Union government over the 'jurisdictions' of State governments. No such grounds were found. Instead, it was found that the proposed Act will serve as a vehicle for collective action on the part of Union and State governments, very much in letter and spirit of the Constitution of India.
- While referring to the Seventh Schedule of the Constitution of India, it was observed that the word 'business' is not mentioned in any of the three lists – Union list, Concurrent list and the State list. Of course, it is implicit at a number of occasions in these lists that it is the combined responsibility of Union and State governments to promote industrial development and regulate the corporations engaged therein for overall growth and development of the country. The Act will advance such cause by providing due impetus

to regulatory reform endeavours through creation of dedicated institutions and mandating compliance with well-defined governance mechanisms for the purpose.

- It is further recommended that the initiative for such legislation should be taken by the Ministry of Finance at the Union government level under the overall guidance of the Prime Minister, who, in turn, should take all the Chief Ministers into confidence during a special NDC meeting. It is expected that such deliberations among Union and State governments as well as within the various Ministries located under these governments will be undertaken throughout the Policy drafting stage and will culminate into enactment of this legislation.

Box 8: RIA Enabling Regulations in Select Countries

USA – President Ford Executive Order 11821 – *Inflation Impact Statements* (1974); President Carter Executive Order 12044 – *Improving Government Regulations* (1978); *Paperwork Reduction Act* (1980); President Reagan Executive Order 12291 – *Federal Regulation* (1981); President Reagan Executive Order 12498 – *Regulatory Planning Process* (1985); President Clinton Executive Order 12866 – *Regulatory Planning and Review* (1993); *Regulatory Flexibility Act* (1980); *Unfunded Mandates Reform Act* (1995); *Small Business Regulatory Enforcement Fairness Act* (1996); *Congressional Review Act* (1996); President Obama Executive Order 13563 – *Improving Regulation and Regulatory Review* (2011); President Obama Executive Order 13579 – *Regulation and Independent Regulatory Agencies* (2011)

Canada – *Statutory Instruments Act* (1985)

Germany – Act on the Establishment of the National Regulatory Control Council (2006)

UK – *Regulatory Reform Act* (2001); *Legislative and Regulatory Reform Act* (2006); *Regulatory Enforcement and Sanctions Act* (2008)

Australia – *Legislative Instruments Act* (2003)

Korea – *Basic Law on Administrative Regulations and Application* (1994); *Administrative Procedures Act* (1996); *Basic Act on Administrative Regulations* (1997)

Multiple Sources: Box compiled for the purpose of this Report

5.4.3 Enacting National (Infrastructure) Regulatory Reforms Bill

- Over the last few years, a need has been felt in the country to systematise the manner in which regulatory bodies get constituted and function in the country. After a series of wide ranging consultations with experts and stakeholders, the Union government published a paper titled “Approach to Regulation of Infrastructure”.¹⁶ It analyses the current state of economic regulation and suggests an overarching framework with a view to addressing the divergent mandates and practices prevailing in different sectors. It recommends sound regulatory principles and practices where monopoly services are to be regulated. The Approach Paper identifies some general principles which are critical to the institutional design of regulation in the context of values enshrined in the Constitution.¹⁷
- The Approach Paper also emphasises that the adoption of an agreed philosophy of regulation would require legislative action with a view to addressing the diverse provisions in sector-specific enactments. It therefore suggests an overarching law for giving effect to the agreed principles of regulation and for guiding the next stage of regulatory development. To facilitate an informed debate, a draft Bill titled as ‘Draft Regulatory Reforms Bill’ has been prepared to give effect to the recommendations contained in the Approach Paper and for promoting consistent approach to regulation across sectors.¹⁸
- The Working Group has taken a detailed look at the said Approach Paper and the Draft Bill. It is recommended that the Bill should be converted into Act through the initiative from the Union Ministry of Finance. Though, one significant change is proposed here – the title of the draft bill should be changed from ‘Regulatory Reforms Bill’ to National Infrastructure Regulatory Reforms Bill. The proposed change connotes a more appropriate title and will remove confusion over the implications of the legislation.
- It is also recognised here that before moving ahead with the passage of the Bill, it will be imperative to agree upon the definition of ‘Infrastructure’. At this juncture, no common definition of ‘Infrastructure’ has been adopted at the country level.
- Table 5 presents a comparison among three different bills that will work towards enhancing the quality of regulatory governance and public services.

¹⁶ http://infrastructure.gov.in/event_Regulation_Law_and_Policy_final.pdf

¹⁷ See <http://infrastructure.gov.in/pdf/Regulatory%20Bill%202020.pdf>

¹⁸ (*Ibid*)

Table 5: Comparison of Select Legislations

(Recommended) National Business Development and Regulation Bill	Draft Regulatory Reforms Bill	Draft National Public Grievance Redress Bill 2011
<p>The National Business Development and Regulation Bill will <u>systematise business regulatory governance</u> at the country level by ensuring that the governments at the Union, State and Local levels will adhere to certain agreed standards for facilitating and regulation business. It will institutionalise innovative governance mechanisms like the Regulatory Impact Analysis for reducing regulatory and procedural burdens. It shall promote institutional coordination and coherent governance for business development through structured multi-stakeholder partnerships.</p>	<p>The Draft Regulatory Reforms Bill will govern the constitution, powers and functioning of the regulatory commissions for <u>infrastructure development and public utilities</u> by taking measures like determination of tariff, enforcement of performance standards, promoting investment and competition and for protecting the interests of consumers. The sectors to which the Draft Bill applies include electricity, oil, gas and coal, highways, ports and inland waterways, airports, railways, Mass Rapid Transportation Systems, telecom, internet, broadcasting and cable T.V., water supply and sanitation.</p>	<p>The Draft National Public Grievance Redress Bill will ensure effective and time-bound <u>redress of grievances of citizens</u> towards defaults in public service delivery. It aims at creating a system whereby common citizens can make the government answerable in terms of its functions, specifically with relation to its duties, commitments and obligations towards citizens. The Bill will develop clear and tangible statement of obligations for all public authorities, offices and public servants.</p>

Source: Table compiled for the purpose of this Report

5.5 Building Institutional Architecture for Business Regulatory Governance

To address the institutional deficits with business regulatory governance in the country, it is recommended to create dedicated institutions to take forward the agenda of regulatory reforms forward in a systematic manner. These institutions will derive their authority from the aforementioned Policy and Act. Acknowledging the complexity of business regulatory governance, interplays among multiple-stakeholders and its implications on growth and development trajectory of the country, it is strongly felt that new institutions will have to be established for spearheading the business regulatory reforms agenda. Before elaborating upon these, it must be noted that a rationale behind creation of new institutions was well debated during the proceedings of the Working Group and its constituent Task Forces and the suitability of existing institutions was well assessed for taking up the portfolio. Also, a peripheral analysis

was made over the types of institutions prevailing in select developed economies and such analysis gave further fillip to the decision of the Working Group for recommending the creation of new dedicated institutions at the Union and State levels.

Specific Actions

5.5.1 Establishing National Business Development and Regulation Commission

- It is recommended that National Business Development and Regulation Commission be established at the National level, deriving its powers and responsibilities from the aforementioned Business Development and Regulation Act. The Commission will steer the provisions of Business Development and Regulation Policy in order to impact the different policies, regulations and praxis in a continuous and duly authorised manner, while leveraging upon the strengths and jurisdictions of the existing institutions.
- Though working independently, the administrative responsibility of resourcing the Commission will remain with Ministry of Finance at the Union level.

Box 9: National Regulatory Reform Institutions in Select Countries

USA – Office of Information and Regulatory Affairs (since 1980)

Mexico – Federal Commission for Regulatory Improvement (since 2000)

The Netherlands – Regulatory Reform Group (since 2007); Dutch Advisory Board on Administrative Burden (since 2000)

Germany – National Regulatory Control Council (since 2006)

UK – Better Regulation Executive (since 2005) (earlier Regulatory Impact Unit); Regulatory Policy Committee (since 2009); Risk and Regulatory Advisory Council (2008-09); Better Regulation Commission (2005-2008) (earlier Better Regulation Task Force)

Ireland – Better Regulation Unit (since 2007)

Sweden – Better Regulation Council (since 2008)

Australia – Council of Australian Government's Reform Council (since 2010) with the support from the Office of Best Practice Regulation

Korea – Regulatory Reform Committee (since 1998); Regulatory Reform Promotion Committee (1997); Administrative Reform Committee (1993)

Multiple Sources: Box compiled for the purpose of this Report

5.5.2 Establishing State Business Development and Regulation Commissions

- To steer the agenda of business regulatory reforms at the State and local levels, the State Business Development and Regulation Commissions should be established in all the States. These will work in consultation with the various other institutions operating at the State level and steer the reform agenda in consultation with and under the advice from National Business Development and Regulation Commission. Like the case of National Commission, the State Commissions will also work independently with their administrative requirements met by State Ministries of Finance.

Box 10: Sub-National Regulatory Reform Institutions in Select Countries

Florida (USA) – Office of Fiscal Responsibility and Regulatory Reform

Michigan (USA) – Office of Regulatory Reinvention

Newfoundland and Labrador (Canada) – Regulatory Reforms Division

British Columbia (Canada) – Regulatory Reforms Office

UK – Local Better Regulation Office

New South Wales (Australia) – Better Regulation Office

Queensland (Australia) – Office for Regulatory Reform

Multiple Sources: Box compiled for the purpose of this Report

- Though the National and State Commissions will have different jurisdictions, it is expected that the priority areas for their work will be reflective of the national plan priorities. For instance, one of the foci the Twelfth Five Year Plan is on boosting the manufacturing sector. Accordingly, the National and State Commissions will initially target such policies, regulations and praxis that are hampering envisioned growth of the sector.

5.6 Systematisation of Business Regulatory Governance

There is a strong case for systematising the manner in which businesses across the country are governed and regulated. This calls for making a detailed enquiry into the subject, followed with larger sharing of the results of such enquiry through ICT enabled platforms.

Specific Actions

5.6.1 Mapping and Classification of Business Regulations and Procedures

- There is an urgent need to map business regulations and procedures at pan-India level. At present, there is no authoritative account of the type and number of business regulations and procedures that exist in the country. It has been recognised that Business Regulatory Framework (BRF) includes policy, legislative and procedural instruments administered by various levels of the government for controlling the different types of business activities being undertaken.
- Once such mapping is undertaken, it will serve as a baseline for all future attempts at enhancing the quality of the BRF. The most important advantage of such exercise will be that a country-wide repository of all business regulations and procedures would be produced – something that does not exist at present. The mapped regulations and procedures should then be classified as per the following parameters:
 - As per impact on business: High; Intermediate; Low etc.
 - As per jurisdiction: Union; State; Local
 - As per the stage of business: Start-up; Operational; Closure
 - As per the sector: Manufacturing; Services etc.
 - As per the size of business: Large; Medium; Small; Micro etc.
 - As per the type of business: Formal; Informal; Seasonal etc.
 - As per the scale of operations: Foreign, Domestic etc.
- The exercise will also enable prioritisation of certain sets of business regulations and procedures over the others in accordance with the XII FYP which has given major thrust to the manufacturing sector and efforts are underway to streamline the business regulations and procedures that have a bearing upon its performance. But without having a specific account of business regulations and procedures that are hampering the manufacturing sector performance, it is difficult to locate the problems lying there in and suggest remedies. The other option is to randomly pick such regulations that are talked about the most. But such exercise will not serve the purpose in its entirety.

- Such consolidation should also be followed up by instituting a system of automatic updation with the help of ICT as well as conventional communication channels whereby every time an agency is undertaking research or enquiry into areas related to Business Regulatory Framework, it will be obligatory on its part to share its work (or its abstract details if there are copyright constraints) on the common repository.

5.6.2 Developing National Business Facilitation Grid (NBFG)

- It is recommended to develop the National Business Facilitation Grid (NBFG) to serve as an online One-Stop-Shop for all the information relation to business regulation and procedures in India. It will be built upon appropriate Information and Communication Technology (ICT) platform.
- Apart from having detailed listing of all the business regulations and procedures, this web portal will possess interactivity, suiting the requirements of at least three types of target constituencies: existing businesses; emerging entrepreneurs; and potential investors. It is expected that the web portal will also provide drop down menus for the visitors enabling them to extrapolate their business and investment plans by changing the denominations, time periods and destinations, thereby facilitating them to make informed decisions. The NBFG will also do away with the need for intermediaries, thereby saving the costs and curtailing the avenues for rent seeking activities.
- The NBFG will be linked to the other business facilitation portals. It is expected that the design of the NBFG will also take into account the detailed recommendations given by NMCC and NASSCOM in their detailed document on the subject.¹⁹ Furthermore, the establishment of NBFG is expected to be in consonance with the efforts underway through the eBiz Project initiated by the DIPP, the MCA21 Project executed by MCA and the overall priorities of the National e Governance Plan.
- It is expected that every time there is a change with certain regulation or procedure, the corresponding change making authority shall ascertain the communication of such change within a week's time to the NBFG. Alternatively, it could be made mandatory on the part of the change making authorities to first communicate and upload the altered

¹⁹ See NASSCOM (2010) – ‘A Roadmap to Enhance ICT application in Indian Manufacturing Sector’ prepared by NASSCOM for NMCC: The document gives comprehensive description of how ICT could be leveraged for boosting the India manufacturing sector. Specifically, it talks about developing ICT enabled process guidelines across various manufacturing verticals under the facilitation from the NMCC.

document to the NBFG before releasing the paper edition of such document. Taking this suggestion at the next level, modalities of such nature should be worked out that once the document has been successfully uploaded on NBFG, it would generate an electronic receipt number that has to be necessarily quoted on the paper edition of the document before it gets released into the public domain. Initially such inter-linkage between electronic and paper versions of the documents might appear quite difficult, but considering its long term implications, such mechanism is strongly recommended.

Box 11: Ireland - Electronic Statutory Instruments System (eSIS)

In Ireland, the new electronic SI System (eSIS) has been developed to allow for faster and more accurate production of Statutory Instruments (SIs) in both final printed format and in electronic format that is suitable for placing SIs on the online Irish Statute Book: www.irishstatutebook.ie. The key element of the revised system is that SIs will be converted to the required print and web-ready formats before the SI is signed into law. In this way, the SI will be ready for publication, both in hard copy and electronically, within 4 working days of signature. Accordingly, all proofreading will be completed in advance of signature. Once the SI is signed, Departments will still go through the usual procedures of obtaining a SI number and presentation number from GSA as well as laying copies before the Houses of the Oireachtas (the Irish Parliament).

Source: <http://www.betterregulation.ie/eng/>

- It is also recommended that during the brainstorming over the conceptualisation and operationalisation of NBFG, due consultations should be held with the experts engaged with materialising the National Knowledge Network (NKN).²⁰ Technical feasibility studies should be done over taking use of the NKN Point of Presence (PoP), for transferring the information, data, resources and documents related to business regulatory governance.
- The interactivity of the website will also encourage the visitors to suggest improvements in the electronic interface of the web portal on the one hand and that relating to specific regulations on the other hand. The former will aid enhancing the web portal interactivity as per the follow-up action from the ICT Team. The latter will involve regulatory decision-makers at large because the crux in such instances will be over reducing regulatory burdens and promoting procedural simplification. The interface as well as the content of

²⁰ NKN acts as a super highway for integrating e- Governance infrastructure such as government data centres and networks. NKN provides bulk data transfer facility required for e-Governance applications. See <http://www.nkn.in>

the web portal will thus be getting improved continuously. It is also possible that after the initial experimentation and success with the operationalisation of one web portal; need will be felt for developing additional inter-linked web portals.

Box 12: ICT Initiatives for Enhancing the Quality of Regulatory Governance

US – Regulatory Review Dashboard <http://www.reginfo.gov/public>

UK – Business Link - <http://www.businesslink.gov.uk>

Red Tape Challenge - <http://www.redtapechallenge.cabinetoffice.gov.uk/home/index>

Belgium – Simplifying Government Procedures (Kafka Initiative) - <http://www.kafka.be>

France – Lets Simplify Together (Ensemble Simplifions)- <http://www.ensemble-simplifions.fr>

Australia – Business Cost Calculator - <https://bcc.obpr.gov.au>

European Commission – Smart Regulation: Administrative Burdens Reduction – Online Consultation - http://ec.europa.eu/enterprise/policies/smart-regulation/administrative-burdens/online-consultation/index_en.htm

Multiple Sources: Box compiled for the purpose of this Report

5.6.3 Developing a Business Regulatory Governance Catalogue to Choose Appropriate Regulatory Alternative among Self-Regulation, Co-Regulation and Public Regulation

- It is recommended that a catalogue should be developed over different ways in which business could be regulated. There has been recognition at the global level to explore various alternatives to conventional command and control type (public) regulations like:
 - Free Market Mechanisms
 - Specifying the Outcome
 - Economic Instruments – Taxes and Subsidies
 - Information and Education
- It is not that such alternatives are not known or practiced in India. The finding is that there is no structured modality of exploring various alternatives for achieving regulatory objectives. Keeping in mind the wide arena of regulatory governance, it is recommended that a detailed analysis should be undertaken to determine which alternatives to regulations are feasible as well as beneficial for Indian context. Because, it will be

important to constantly keep the rationale of such replacement exercise in mind – reducing regulatory burden without compromising the regulatory objectives.

- Having set out the alternatives to regulations, the proposed catalogue will classify the existing modes of regulations into at least three broad categories:
 - **Self-regulation** – Such regulations that are initiated by the individual business entities either as a result of their internal decision making or through certain external drivers like sub-set of co-regulation or public regulation. As a corollary, such self-regulatory practices might or might not get recognised by the public authorities, but even so offer great scope for realising the regulatory objectives, alongside greatly reducing the regulatory burdens.
 - **Co-regulation** – Such regulations that are getting administered through the involvement of public authorities, businesses and stakeholders in a collective manner with varying degrees of role assumption by these;
 - **Public Regulation** – Such regulations that are completely getting administered by the public authorities;
- It is duly recognised that some of the regulations will be getting placed under all the three categories. Each broad category could further be divided into relevant sub-categories. Furthermore, such classification will be a forward looking exercise carrying the potential to guide and address the ‘sovereignty considerations’ that get raised on any measure to deregulate or substitute public regulation with co-regulation or self-regulation or both. The rationale behind such classification will be to necessitate due justification for containing certain regulation within a particular category.
- It is expected that such catalogue will serve as a ready reference One-Stop-Shop for the policy makers as well as the business community while arriving at the choice of appropriate mode of regulation. The Working Group has not looked into the ways in which the contents of the catalogue could be applied into practice but as it has been recommended about the other recommendations, there could be three ways: mandatory adoption; incentive-linked adoption; and voluntary adoption.

5.6.4 Promoting Standardisation with Operationalisation of Single Window Systems

- Despite a number of State governments having established Single Window Systems (SWS) or One-Stop-Shops (OSS) on the lines of the initiatives undertaken in many other countries of the world, there is wide variation in the manner of setting up and operationalisation of Single Window Systems across the country. Some SWS are created through policy; whereas some are created through legislations. At a time when the considerations are for developing the Business Regulatory Framework of India, there has to be a common minimum standard that all SWS should adhere to.
- It is duly noted here that the common minimum standard does not mean that the State governments should stop innovating or competing with one another for attracting investments. There is a clear difference between following a common minimum standard and innovation. As the Working Group was unable to devote adequate attention to the SWS, it is not possible to provide the details of such common minimum standards in this report. But it is recommended that a detailed enquiry should be made over the manner in which SWS are designed and implemented at present in the country. On the basis of the findings of the enquiry, the standard should be developed and then State governments should be encouraged to adopt the same. Once the common minimum standards are established country-wide, the State governments are free to *innovate* beyond those.
- It is expected that this issue could be considered during the NDC meeting and accordingly, the political and administrative leadership at the Union and State government levels could consider the extent to which the standard could be adopted. Such scenario will be good also from the efficiency point of view where businesses as well as investors will find a minimum assured level of predictability, while considering their options for setting up of their business or investments, respectively in different locations of the country.

5.7 Adoption of Regulatory Impact Analysis (RIA)

It is recommended that Regulatory Impact Analysis (RIA) has to be adopted for improving the quality of business regulatory governance in India. RIA will help with the identification of unreasonable burdens on business and in devising ways through which such burdens are kept to a minimum, if not eliminated altogether. Because RIA includes consultation with a wide range of stakeholders, it also provides ample opportunity to bring up unforeseen consequences or real

life experiences for consideration while weighing and measuring the impact of any regulation or policy. It thus increases the accountability of the whole regulatory governance process.

Ex ante, RIA helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on the individual citizen or business. It also helps to clarify the costs of enforcement for the State. RIA will also identify potentially anti-competitive or protectionist regulations before these are enacted.

Ex post, RIA could enable regulatory and policy reviews on periodic basis so as to ensure that the regulations and policies are reflective of the changing environment related to business competitiveness, growth and development. Acknowledging the huge volumes of regulations in the country – most of which are from the time of British Raj, it is recommended to develop an action plan for application of RIA for Union as well as State administered regulatory instruments, in accordance with the mapping and classification exercise.

Box 13: Employing RIA – A Comparative Perspective

Most OECD countries require RIA for primary laws and subordinate regulations. Denmark requires RIA only for primary laws. The Czech Republic and Ireland require RIAs for primary laws and major secondary legislation, the Netherlands for major laws and major secondary legislation, Portugal for selected laws and secondary legislation, and Sweden for primary laws and secondary legislation that might have an effect on small business. Until a recent review of its Better Regulation agenda, Canada applied RIAs (Regulatory Impact Analysis Statement) only to secondary legislation. The United Kingdom requires RIAs in primary laws and secondary legislation which have a non-negligible impact on business, charities and the voluntary sector. Australia requires Regulatory Impact Statements (RIS) for primary laws, subordinate regulations, international treaties and quasi-regulations that have an impact on business or competition.

Source: <http://www.oecd.org/dataoecd/22/9/35258430.pdf>

Specific Actions

5.7.1 Developing Appropriate Methodology for RIA to be employed in the Indian Context

- There is no single generic model of RIA used internationally. Thus, Tool of RIA should be developed for Indian context through a consultative process and due research reflecting upon global experiences with its adoption and usage.²¹ The Working Group recommends following eight elements that should necessarily constitute RIA for Indian context: policy coherence; cost of doing business; competition; innovation; SMEs;

²¹ Tools like **Regulatory Guillotine**™ should also be studied. See <http://www.regulatoryreform.com/Guillotine.htm>

consumers; labour; environment and commons. A brief description of each element is presented below:

- **Policy Coherence** – This element will enquire over whether the existing or proposed regulatory instruments are in alignment with the other regulatory instruments operative at the national, state, and local levels. Such test will induce better levels of coherence among different regulatory instruments and suggest measures for improvements.
- **Cost of Doing Business** – There are different types of costs (tangible, intangible, direct, indirect, real, pecuniary, substantive, administrative and the likewise) borne by either or all of the government, business and stakeholders. Such burden-measurement will also contribute towards prioritising action upon certain business regulations over the others. The factors causing the burdens would also be identified alongside. It is proposed to develop a dedicated methodology on the lines of the globally adopted models like:
 - Standard Cost Model
 - Business Cost Calculation
 - Cost Benefit Analysis
 - Cost Effectiveness Analysis
- **Competition** – This element of RIA will ascertain whether the existing or proposed policies and regulations will lead to competition distortions in the market or not and will suggest appropriate measure to address and overcome the causal clauses/ provisions.
- **Innovation** – RIA will decipher regulation-innovation interplays by checking if regulatory instruments are innovation promoting; innovation neutral; or innovation impeding.²²
- **SMEs** – This element will enable the employment of RIA to diagnose the specific problems faced by the Small and Medium Enterprises (SMEs) in realising their full potential. The methodology will essentially rely upon direct feedback receipts from the SMEs and after undertaking analysis of the causal factors, appropriate rectifications in the policies, regulations and praxis will be proposed.
- **Consumers** – RIA will also ascertain the consumer interests are not getting compromised on account of the prevailing government-business interplays.
- **Labour** – RIA will take a look at the manner in which regulatory instruments address various labour related concerns. For instance, labour law flexibility, the means of

²² UK has produced a checklist for policy makers to assess the impact of regulation on innovation (See BERR 2008)

verifying workplace standards and policies, the substitutability of inspections, uptake of recommendations of National Labour Commission etc.

- **Environment and Commons** – Duly recognising the significance of the considerations of sustainable development in growth trajectory of the country, RIA will be equipped to diagnose regulatory deficits as well as impediments related to environment and commons. Deviations, if any will thus be diagnosed and addressed.

5.7.2 Adoption of RIA by Union and State Governments

- RIA has to be mandated in the country in *ex ante* as well as *ex post* manner. Whereas the former will enable the choice of appropriate regulatory instrument (including substitution of the same with regulatory alternatives) on the basis of their impact assessment, the latter will enable impact analysis of the existing regulations as per their performance and impact. The former is prospective and the latter is retrospective. Considering the large volumes of business regulatory instruments that are in place at the Union, State, and Local levels, there is a need to be selective in applying RIA. As discussed previously, the mapping and classification exercise will enable the decision makers to prioritise the specific sets of regulatory instruments. In accordance with the XII FYP priorities, the ones having most impact on manufacturing sector could be picked in the initial phases, followed with the other having a bearing on some other sector.
- There are going to be at least three modalities for countrywide adoption of RIA: voluntary adoption; incentive-linked adoption; and mandatory adoption. Either or a combination of these could be taken up as per the agreement and feasibility considerations.

5.8 Paradigm Shift towards ‘Optimal’ Business Regulatory Governance

The Working Group takes this opportunity to call upon a paradigm shift in approaching and addressing the special requirements of businesses and recommends due acknowledgement of such requirements. The requirements of citizens are definitely important but those of businesses are no less important. An argument could be put over here that by fulfilling the requirements of citizens; those of businesses are automatically getting fulfilled (as businesses are also managed by citizens of the country). But the point of consideration here is that if breakthroughs are proposed to be made in the way business performs in the country and if the strings of

development and responsibility are attached with it, there is corresponding responsibility on the part of governments to adopt a different approach in meeting the requirements of businesses. This also entails cultivating appropriate mind-set of government officials and functionaries while spearheading the Business Regulatory Framework. It is important that government officials and functionaries should be able to differentiate between general citizens and businesspersons. Unless they are not adequately sensitised over the promising role played by business in growth and development of the country, they will not be in a position to assume the role of facilitators.

Specific Actions

5.8.1 Benchmarking for Optimal Business Regulatory Governance

- Recognising the wide variations with business procedures at the country level, it is recommended to Benchmark the execution timelines and processes that are undertaken by different government entities to facilitate business requirements. Such benchmarking drive will also undertake enquiry into the reform propositions like consolidation of multiple returns, legitimisation of third party certification/self-certification etc.
- Benchmarking is not a new concept and is already in place in a number of government entities whereby the predictability of public services have been benchmarked, keeping in mind the interests of the citizens.²³ A recent development in regard of benchmarking of public services at the national level is the *Sevottam* Model.²⁴ It is recommended that either the *Sevottam* Model itself be modified or another model on its lines be developed to bring about predictability and standardisation in all government-business transactions. Such *Benchmarked Model* has not been named at this juncture but it is expected that an appropriate name will be chosen to connote the future implications of the whole drive.
- The proposed benchmarking should be done against clearly defined dimensions like time, volume, cost, frequency, jurisdiction, quality of interface, consistency, predictability and so on. For each dimension, a stipulated timeline and procedure could be prescribed. Appropriate checklists could also be developed for enabling the administrators as well as the target constituencies to keep monitoring the adherence of the practice with the set standard. Table 6 elaborates upon the given dimensions, as follows:

²³ For instance, public service accountability legislations have recently been passed in the States of Madhya Pradesh, Rajasthan, and Bihar to ensure that select public services are delivered within stipulated timeframe. The Union government has also drafted the Public Grievances Redressal Bill 2011 to advance governance accountability. The other states are also in the process of adopting such legislations.

²⁴ http://darp.gov.in/darpgwebsite/cms/Document/file/Sevottam_Model.pdf

Table 6 : Dimensions of Business Regulations and Illustrative Elements

Dimension	Illustrative Elements
Time	<ul style="list-style-type: none"> • Time Required to Complete Application/ Forms • Time Required for Application processing • Time Required for filing of Taxes/ Duties/ Fees/ Levies
Volume	<ul style="list-style-type: none"> • Number of Applications/ Forms • Number and Types of Clearances • Length of Applications/ Forms • Number of documents to be submitted with Application • Types and Number of Registers to be maintained • Types and Number of Disclosures to be made • Types of Certifications/ Approvals to be obtained
Cost	<ul style="list-style-type: none"> • Cost with obtaining, filling and submitting Application Forms • Cost/ Fees/ associated with Application Processing • Rates of Taxation, Duties, other Levies and Cost of filing Returns
Frequency	<ul style="list-style-type: none"> • Frequency of Inspections • Frequency of Reporting • Frequency of Submitting Returns (Tax, Duties, Levies) • Periodicity of Audits • Frequency of Renewals
Jurisdiction	<ul style="list-style-type: none"> • Number, Levels and Locations of Government Entities • Manner of inter-agency coordination • Clarity over roles, responsibilities, and authorities • Single Window Clearance or Multiple Authorities
Quality of Interface	<ul style="list-style-type: none"> • Attitude of the person in charge • Knowledge level of the person in charge • Availability and Accessibility of the Applications/ Forms • Manner and Ease of Submission – Online/ Offline • Manner of Tracking the Progress/ Status of Application • Manner of sharing Compliance Reports
Consistency	<ul style="list-style-type: none"> • Uniformity at various levels of governments • Uniformity over number of documents for submission for the same work in different locations/ authorities • Submission electronically as well as physically • Adherence to given procedures and instructions
Predictability	<ul style="list-style-type: none"> • Defined Timelines and Respect for such Timelines • Tracking the Status of Application/ Request • Clarity on Steps involved with Application Processing • Communication on Inspections/ Audits

Source: WG BRF SBP (2011)

5.8.2 Adoption of Benchmarked Model on Optimal Business Regulatory Governance

After the timelines and procedures related to all government-business transactions have been benchmarked, there could be at least three modalities for adoption of the aforementioned Benchmarked Model: voluntary adoption; incentive-linked adoption; and mandatory adoption.

- **Voluntary Adoption** – in this case, the government will introduce and publicise the Benchmarked Model just like any other certification or quality standard (for instance, ISO 9000), and the respective governments will find it lucrative to comply with the standard in order to gain mileage over the other governments in attracting investments – both foreign and domestic.
- **Incentive-linked Adoption** - The governments taking up the model shall receive incentives in accordance with a stipulated formula that could be worked out by Planning Commission, Planning Boards and Finance Ministries at the Union and State levels.
- **Mandatory Adoption** – This could be done with the support of the National Business Development and Regulation Bill that has already been elaborated upon in the previous recommendations. If consensus is built, such legislation *can* have penalising clause as well, which means that any deliberate case of default will result in imposition of certain pre-determined penalty on the individual or organisation held responsible for the proven case of default. Alternatively, the penalty for default could be imposed in such a way that after the expiry of the given period for accomplishment of the particular transaction for which the business entity had to approach the government entity, the particular transaction shall be deemed to have been completed.
- It is to be recalled here that an incentive-disincentive mechanism has been recommended for adoption of the NCP by Union and State governments on the lines of the incentive mechanism of Australia. Similar modalities were recommended for the adoption of RIA at the country level. It could also be considered if a whole regulatory reform package could be devised and agreed upon by the Union and State governments. Such package will have different sets of commitments (for instance, one set will comprise competition promotion measures, the other set will relate to regulatory burdens reduction targets through RIA, and another set will include the adoption of aforementioned *Benchmarked Model*) and certain incentives will be linked to each set. It will allow flexibility. On account of any reason if certain State or department fails to achieve all the agreed targets, it will still qualify for getting the incentive for those targets that have been achieved.

- On the lines on *Citizen Charters*, the governments could introduce *Business Facilitation Charters*. Also, on the line of the *Public Information Officers (PIOs)* that have been designated under the Right to Information Act 2005, each government entity could designate *Business Facilitation Officers (BFOs)* to serve as focal points for the businesses in that particular department.²⁵ Like the PIOs are held accountable by the Information Commissions over any complaints/ appeals arising out of dissatisfaction of the information seekers, the BFOs will be held accountable for the cases of defaults and deviations that are making transactions burdensome, thereby causing inconvenience to businesses. The accountability establishing authority could either be the (recommended) Business Development and Regulation Commission(s) or the grievance redressal authorities proposed under the Draft National Grievances Redressal Bill 2011, or both depending upon the case. It is recognised that there will be a need for extensive discussions on this so as not create confusion or dilution of the accountability of corresponding officers and functionaries. It should also be carefully considered that the proposed BFOs should not become the scapegoats for the acts of actions (and inactions) on the part of the other officers and functionaries of the department.

5.9 Capacity Building Framework for Business Regulatory Governance

Considering that a number of actions proposed in this report will be new for the country, our final recommendation is towards developing a dedicated capacity building framework for envisaged business regulatory governance in the country. Such framework will also be imperative from the point of creating awareness and generating ownership among the implementers as well as target constituencies.

Specific Actions

5.9.1 Developing Capacity Building Framework for Business Regulatory Governance

- As the whole approach towards business regulation in the country will undergo a sea change with the construction of Business Regulatory Framework, there will be a need for developing such resources that could facilitate capacity building of the supply side and well as demand side. Such resources will take the form of modules, guidelines,

²⁵ In Ohio State of US, Regulatory Ombudsmen have been appointed to serve as focal points between departments and business. See <http://business.ohio.gov/reform/ombudspeople>

methodologies, reference manuals, checklists, case studies etc. on at least the following themes:

- National Competition Policy and its Principles
 - National Voluntary Guidelines and its Principles
 - Regulatory Impact Analysis
 - Stakeholder Consultations
 - Consensus Building
 - Adoption and Implementation of Benchmarked Model
- After developing all these resources, it will be imperative to build an online knowledge portal and all such resources could then be uploaded on the same.²⁶ The portal will have an interactive window that will enable the regulatory reform administrators, master trainers, regulators and other stakeholders to correspond with experts over any problems that they are facing in implementing the new reforms agenda. The portal will serve as One-Stop-Shop with all relevant resources and success stories.
 - Having developed the resources for capacity building, a comprehensive programme on capacity building of government, business and stakeholders will be required to be rolled out. Such programme will also provide a platform for experience sharing and mutual learning. As the proposed tools and actions are new to the country, it will be imperative to invite international experts on the subjects (individual as well as organisations) to contribute in building indigenous capacity. Such indigenous capacity will be through creation of a pool of Master Trainers on specific themes. Thus, the capacity building programmes will initially be for the Master Trainers and thereafter for the different implementers mentioned above.

²⁶ The Governance Knowledge Centre is a good example in this regard. It has been promoted by the Department of Administrative Reforms and Public Grievances. See <http://indiagovernance.gov.in/>

5.10 Follow-up over Previous Administrative and Regulatory Reform Endeavours

It is recommended that there should be a comprehensive and all-encompassing follow-up over the actions taken on the basis of previous administrative and regulatory reform endeavours.

Specific Actions

5.10.1 Follow up over Previous Administrative and Regulatory Reform Endeavours

- Since independence, a large number of administrative reform propositions have been given by expert bodies set up for the purpose. A significant part of such endeavours have direct as well as indirect bearing on the envisaged Business Regulatory Framework. Such efforts have resulted into a plethora of recommendations that are generally confined to the produced documents. There is a need to undertake a comprehensive analysis of the implementation status of such efforts.
- The first step in this direction could be to consolidate all the recommendations that have been given in various such documents and soliciting information (and if required, holding consultations with government departments and business entities) over: charting the recommendations that have been implemented and that have not been implemented. For those recommendations which have been implemented, assessing the extent of implementation. For recommendations those have not been implemented, identifying the reasons for non-implementation and assessing the feasibility of their implementation now with requisite modifications. If there emerge certain shortcomings with such recommendations; recognizing those areas for which fresh enquiry has to be undertaken and new sets of recommendations are required.
- Following from the above exercise, a dedicated single repository has to be created for storing all such documents and the consolidated recommendations than have to be classified into such categories that could address specific regulations and procedures. Such exercise will do justice to the existing recommendations and will be followed up with an enquiry over the extent to which such recommendations have been taken up or not taken up by the respective public authorities and departments.
- This also calls for institutionalising the system of responding to the given recommendations. In most of the developed economies it was found that once certain expert group of commission of enquiry has submitted its report, the respective departments are required to prepare a response. That response is put up in the public

domain along with the original recommendations. It makes easier for various stakeholders to understand the extent to which the recommendations have been accepted along with the reasons for non-acceptance, if any. Such system is very much visible in India as well but it is somewhat ad hoc. It needs to be strengthened and made more predictable at the country level. Two instances of good practices related to follow-up over the recommendations of Second Administrative Reforms Commissions: Department of Administrative Reforms and Public Grievances website²⁷; and the website of Core Committee of Andhra Pradesh.²⁸

- The consolidation and classification exercise will require information and knowledge sharing on the part of various government and non-government entities. It is recognised that prima facie, such exercise will appear quite cumbersome and of great magnitude. But it is expected that once a systematic consolidation and classification of all the existing recommendations has been done, it will enable the future efforts to be guided by better information base. Also, this will reduce duplication by communicating what has already been done, thereby focussing only upon the gaps and emerging areas.

²⁷ <http://darpg.gov.in/ArticleContent.aspx?category=108>

²⁸ <http://corecommittee.cgg.gov.in/>

6. Impact-Feasibility Analysis of Recommendation and Specific Actions

HIGH IMPACT	FEASIBILITY	
	High	Low
	5.1.1 Adoption and Operationalisation of National Competition Policy (NCP) 5.1.2 Establishing National Competition Policy Council (NCPC) 5.1.3 Institutionalisation of Incentive-Disincentive Mechanism for Implementation of National Competition Policy (NCP) 5.2.1 Inclusion of Business Responsibility as distinct subject under the Government of India (Allocation of Business) Rules 1961 5.2.2 Mandating the Disclosure Framework for Adoption of National Voluntary Guidelines (NVG) Principles 5.2.3 Establishing National Foundation for Business Responsibility (NFBR) 5.2.4 Mandating the Alignment of Public Private Partnership Projects with National Voluntary Guidelines (NVG) Principles 5.3.1 Adoption and Operationalisation of National Manufacturing Policy (NMP) 5.4.1 Developing National Policy on Business Development and Regulation 5.4.2 Drafting and Enactment of National Business Development and Regulation Bill 5.4.3 Enactment of National (Infrastructure) Regulatory Reforms Bill 5.5.1 Establishing National Business Development and Regulation Commission 5.5.2 Establishing State Business Development and Regulation Commissions 5.6.4 Promoting Standardisation with Operationalisation of Single Window Systems 5.7.1 Developing Appropriate Methodology for RIA to be employed in Indian Context 5.7.2 Adoption of RIA by Union and State Governments 5.8.1 Benchmarking for Optimal Business Regulatory Governance 5.9.1 Developing Capacity Building Resources for Business Regulatory Governance	5.3.2 Developing State Manufacturing Action Plans (MAPs) 5.3.3 Establishing State Manufacturing Competitiveness and Competition Reforms Councils 5.6.1 Mapping and Classification of Business Regulations and Procedures 5.6.2 Developing National Business Facilitation Grid 5.6.3 Developing a Business Regulatory Governance Catalogue to Choose Appropriate Regulatory Alternative among Self-Regulation, Co-Regulation and Public Regulation 5.8.2 Adoption of Benchmarked Model on Optimal Business Regulatory Governance 5.10.1 Follow-up over Previous Administrative and Regulatory Reform Endeavours

7. Timeline for Uptake of Specific Actions

Action No.	Specific Actions	Implementation Years for XII FYP				
		2012	2013	2014	2015	2016
5.1.1	Adoption and Operationalisation of National Competition Policy (NCP)	√	→	→	→	→
5.1.2	Establishing National Competition Policy Council (NCPC)	√	→	→	→	→
5.1.3	Institutionalisation of Incentive-Disincentive Mechanism for Implementation of National Competition Policy (NCP)	√	√	√	→	→
5.2.1	Inclusion of Business Responsibility as distinct subject under the Government of India (Allocation of Business) Rules 1961	√	→	→	→	→
5.2.2	Mandating the Disclosure Framework for Adoption of NVG Principles	√	√	→	→	→
5.2.3	Establishing National Foundation for Business Responsibility (NFBR)	√	→	→	→	→
5.2.4	Mandating the Alignment of Public Private Partnership Projects with NVG Principles	√	√	√	√	→
5.3.1	Adoption and Operationalisation of National Manufacturing Policy (NMP)	√	√	√	→	→
5.3.2	Developing State Manufacturing Action Plans (MAPs)	√	√	√	→	→
5.3.3	Establishing State Councils on Manufacturing Competitiveness and Competition Reforms		√	√	√	→
5.4.1	Developing National Policy on Business Development and Regulation	√	√	→	→	→
5.4.2	Drafting and Enacting National Business Development and Regulation Bill	√	√	→	→	→
5.4.3	Enactment of National (Infrastructure) Regulatory Reforms Bill	√	√	→	→	→
Legends:		√ Action Accomplishment			→ Action Impact	

Action No.	Specific Actions	Implementation Years for XII FYP				
		2012	2013	2014	2015	2016
5.5.1	Establishing National Business Development and Regulation Commission		√	√	→	→
5.5.2	Establishing State Business Development and Regulation Commissions		√	√	→	→
5.6.1	Mapping and Classification of Business Regulations and Procedures	√	√	√	√	→
5.6.2	Developing National Business Facilitation Grid	√	√	√	→	→
5.6.3	Developing a Business Regulatory Governance Catalogue to Choose Appropriate Regulatory Alternative among Self-Regulation, Co-Regulation and Public Regulation	√	√	√	→	→
5.6.4	Promoting Standardisation with Operationalisation of Single Window Systems	√	√	→	→	→
5.7.1	Developing Appropriate Methodology for RIA to be employed in Indian Context	√	√	→	→	→
5.7.2	Adoption of RIA by Union and State Governments		√	√	√	→
5.8.1	Benchmarking for Optimal Business Regulatory Governance	√	√	→	→	→
5.8.2	Adoption of Benchmarked Model on Optimal Business Regulatory Governance		√	√	√	→
5.9.1	Developing Capacity Building Framework for Business Regulatory Governance	√	√	→	→	→
5.10.1	Follow-up over Previous Administrative and Regulatory Reform Endeavours	√	√	√	√	→
Legends: √ Action Accomplishment → Action Impact						

8. Responsibility Allocation for Recommended Specific Actions ²⁹

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.1	Operationalisation of National Competition Policy			
5.1.1	Adoption and Operationalisation of National Competition Policy (NCP)	<ul style="list-style-type: none"> Union Ministry of Corporate Affairs 	<ul style="list-style-type: none"> Planning Commission of India Union Ministry of Finance State Planning Boards State Ministries of Finance 	<ul style="list-style-type: none"> Facilitating consultations and consensus building Awareness Generation
5.1.2	Establishing National Competition Policy Council (NCPC)	<ul style="list-style-type: none"> Union Ministry of Corporate Affairs 	<ul style="list-style-type: none"> Planning Commission of India State Planning Boards 	<ul style="list-style-type: none"> Evidence gathering for identifying competition impediments Outreach Activities Capacity Building
5.1.3	Institutionalisation of Incentive-Disincentive Mechanism for Implementation of National Competition Policy (NCP)	<ul style="list-style-type: none"> Union Ministry of Finance Planning Commission of India 	<ul style="list-style-type: none"> State Planning Boards State Ministries of Finance 	<ul style="list-style-type: none"> Verification of the claims of Union and State governments in implementing NCP and reform measures

²⁹ Knowledge Partners include Subject Experts, Consultants, Business Collectives, Stakeholder Collectives, Think Tanks, United Nations bodies and the likewise

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.2	Operationalisation of National Voluntary Guidelines on Social, Environmental and Economic Responsibilities on Business			
5.2.1	Inclusion of Business Responsibility as distinct subject under Government of India (Allocation of Business) Rules 1961	<ul style="list-style-type: none"> • Union Cabinet Secretariat • Union Ministry of Corporate Affairs 	<ul style="list-style-type: none"> • State Departments managing State government (Allocation of Business Rules) • State Ministries of Finance 	<ul style="list-style-type: none"> • Outreach and Advocacy for incorporating 'business responsibility' as specific domain to be promoted through government actions • Identification of appropriate departments at State level to uptake this subject
5.2.2	Mandating the Disclosure Framework for Adoption of National Voluntary Guidelines (NVG) Principles	<ul style="list-style-type: none"> • Union Ministry of Corporate Affairs 	<ul style="list-style-type: none"> • Union Ministry of Communications and Information Technology • MCA-21 and NeGP Team 	<ul style="list-style-type: none"> • Extending support for suitable design of the Disclosure Framework • Developing 'model disclosures' to help first timers in the exercise
5.2.3	Establishing National Foundation for Business Responsibility (NFBR)	<ul style="list-style-type: none"> • Union Ministry of Corporate Affairs 	<ul style="list-style-type: none"> • Indian Institute of Corporate Affairs 	<ul style="list-style-type: none"> • Offering their expertise for action plan of NFBR • Awareness Generation over NFBR and unearthing the promise of Responsible Competitiveness™

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.2.4	Mandating the Alignment of Public Private Partnership Projects with National Voluntary Guidelines (NVG) Principles	<ul style="list-style-type: none"> Union Ministry of Finance Planning Commission of India State Ministries of Finance 	<ul style="list-style-type: none"> All Union and State Nodal Ministries engaged with Procurement and Public Private Partnerships 	<ul style="list-style-type: none"> Awareness Generation towards NVG Principles and their operationalisation after the PPP Projects have been launched. Model building
5.3	Enhancing Manufacturing Sector Competitiveness of India			
5.3.1	Adoption and Operationalisation of National Manufacturing Policy (NMP)	<ul style="list-style-type: none"> Union Ministry of Commerce and Industry 	<ul style="list-style-type: none"> Union Ministries of Environment and Labour State Ministries of Industries 	<ul style="list-style-type: none"> Awareness Generation and Capacity Building over the provisions of NMP Brainstorming over country-wide implementation of NMP

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.3.2	Developing State Manufacturing Action Plans (MAPs)	<ul style="list-style-type: none"> Planning Commission of India State Planning Boards State Ministries of Industry 	<ul style="list-style-type: none"> Union Ministry of Commerce and Industry National Manufacturing Competitiveness Council 	<ul style="list-style-type: none"> Ascertaining widespread participation of stakeholders Regional Business Collectives to play major role in articulating their needs and mobilising investments Analysis of sub-national manufacturing plans developed and implemented in other countries
5.3.3	Establishing State Councils on Manufacturing Competitiveness and Competition	<ul style="list-style-type: none"> Planning Commission of India State Ministries of Industries State Planning Boards 	<ul style="list-style-type: none"> National Manufacturing Competitiveness Council Union Ministry of Commerce and industry 	<ul style="list-style-type: none"> Contribution towards preparing the action plan of SMCCs Organising Government-Business-Stakeholder consultations for strengthening the work of SMCCs Articulation of manufacturers' needs and suggesting workable solutions

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.4	Policy and Legislative Framework for Business Development and Regulation			
5.4.1	Developing National Policy on Business Development and Regulation	<ul style="list-style-type: none"> • Union Ministry of Commerce and Industry • Union Ministry of Corporate Affairs • Union Ministry of Finance 	<ul style="list-style-type: none"> • National Development Council • Planning Commission of India • State Planning Boards • State Ministries of Industry • State Ministries of Finance 	<ul style="list-style-type: none"> • Presenting global examples of related policies, strategies, frameworks, resolutions • Inputs into the draft of the Policy • Organising country-wide consultations and outreach • Advocacy for operationalisation of the Policy
5.4.2	Enactment of National Business Development and Regulation Bill	<ul style="list-style-type: none"> • Union Ministry of Finance • Union Ministry of Commerce and Industry • Union Ministry of Corporate Affairs 	<ul style="list-style-type: none"> • National Development Council • Planning Commission of India • State Ministries of Finance • State Planning Boards • State Ministries of Industry 	<ul style="list-style-type: none"> • Analysis of comparable global examples of passing related legislations – their provisions, compliance, promises and pitfalls as inputs into the draft • Organising country-wide consultations and outreach for explaining the need for enacting such legislation • Advocacy towards operationalisation

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.4.3	Enactment of National (Infrastructure) Regulatory Reform Act	<ul style="list-style-type: none"> Union Ministry of Finance Planning Commission of India 	<ul style="list-style-type: none"> State Ministries of Finance 	<ul style="list-style-type: none"> To create awareness and generate understanding over the rationale behind the Act and its distinctiveness from the other legislations Nationwide consensus building Feedback over compliance with the provisions of the Act
5.5	Building Institutional Architecture for Business Regulatory Governance			
5.5.1	Establishing National Business Development and Regulation Commission	<ul style="list-style-type: none"> Union Ministry of Finance 	<ul style="list-style-type: none"> Union Ministry of Commerce and Industry Union Ministry of Corporate Affairs 	<ul style="list-style-type: none"> Identification of Regulatory Instruments under Union jurisdictions that require attention of the Commission Offering Advice for preparing the Action Plan of the Commission and if applicable, to the functioning of the Commission

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.5.2	Establishing State Business Development and Regulation Commissions	<ul style="list-style-type: none"> State Ministry of Finance 	<ul style="list-style-type: none"> Union Ministry of Finance Union Ministry of Commerce and Industry Union Ministry of Corporate Affairs State Ministries of Industry 	<ul style="list-style-type: none"> Identification of Regulatory Instruments under the State and Local jurisdictions that require attention of the Commissions Offering Advice for preparing the Action Plan of the Commissions and if applicable, to the functioning of the Commissions
5.6	Systematisation of Business Regulatory Governance			
5.6.1	Mapping and Classification of Business Regulations and Procedures	<ul style="list-style-type: none"> Planning Commission of India State Planning Boards 	<ul style="list-style-type: none"> Union Ministry of Commerce and Industry Union Ministry of Corporate Affairs State Ministries of Industry 	<ul style="list-style-type: none"> Feedback over which business regulations and procedures are difficult to be identified Extending advice over classifying the mapped regulations and procedures into appropriate categories

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.6.2	Developing National Business Facilitation Grid (NBFG)	<ul style="list-style-type: none"> Union Ministry of Commerce and Industry Union Ministry of Communications and Information Technology 	<ul style="list-style-type: none"> Union Ministry of Corporate Affairs National Knowledge Network Team National e Governance Plan Team eBiz Project Team National Institute for Smart Governance State Ministries of Industry 	<ul style="list-style-type: none"> Indian ITES firms could extend their expertise over optimal design of the Grid by analysing similar models in other countries. Or alternatively, they could innovate and create optimal design for Indian setting Feasibility could be done for making the website available in different regional languages of the country so as to ensure maximal outreach.

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.6.3	Developing a Business Regulatory Governance Catalogue to Choose Appropriate Regulatory Alternative among Self-Regulation, Co-Regulation and Public Regulation	<ul style="list-style-type: none"> Planning Commission of India Union Ministry of Commerce and Industry 	<ul style="list-style-type: none"> Union Ministry of Environment and Forests Union Ministry of Labour State Ministries of Industry 	<ul style="list-style-type: none"> Business Collectives could mobilise their member organisations to undertake self-assessment of their preparedness for assuming self-regulatory responsibilities. Widespread consultations and consensus building would be required for this purpose as the catalogue is expected to be a dynamic document. Global experiences of similar nature have to be looked at, understood and considered for Indian settings.
5.6.4	Promoting Standardisation with Operationalisation of Single Window Systems	<ul style="list-style-type: none"> Union Ministry of Commerce and Industry 	<ul style="list-style-type: none"> State Ministries of Industry Union Ministry of Finance State Ministries of Finance 	<ul style="list-style-type: none"> Contribution towards standardisation of SWSs through good practice documentation and information dissemination about the national standardisation drive.

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.7	Adoption of Regulatory Impact Analysis (RIA)			
5.7.1	Developing Appropriate Methodology for Regulatory Impact Analysis (RIA) to be employed in Indian Context	<ul style="list-style-type: none"> Union Ministry of Finance 	<ul style="list-style-type: none"> Planning Commission of India 	<ul style="list-style-type: none"> Comprehensive Research over the content and experience of all existing models of RIA in different countries Widespread consultations for developing the Tool Box for suiting the Indian context
5.7.2	Adoption of Regulatory Impact Analysis (RIA) by Union and State Governments	<ul style="list-style-type: none"> Union Ministry of Finance State Ministries of Finance 	<ul style="list-style-type: none"> All or Select Ministries of Union and State Governments 	<ul style="list-style-type: none"> Extensive handholding and feedback in the process of applying RIA to generate desired improvements in the quality of regulatory governance

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.8	Paradigm Shift towards 'Optimal' Business Regulatory Governance			
5.8.1	Benchmarking for Optimal Business Regulatory Governance	<ul style="list-style-type: none"> • Union Ministry of Finance • Department of Administrative Reforms and Public Grievances, Union Ministry of Personnel, Public Grievances and Pensions 	<ul style="list-style-type: none"> • Union Ministry of Commerce and Industry • Union Ministry of Corporate Affairs • State Ministries of Industry • State Ministries of Finance 	<ul style="list-style-type: none"> • Inputs for devising the indigenous methodology for Benchmarking • Researching over the factors causing inordinate delays in transactions and suggesting workable solutions • Comprehensive research over globally acclaimed practices and their feasibility for incorporation in India
5.8.2	Adoption of Benchmarked Model on Optimal Business Regulatory Governance	<ul style="list-style-type: none"> • Union Ministry of Commerce and Industry • Union Ministry of Corporate Affairs • State Ministries of Industry 	<ul style="list-style-type: none"> • Planning Commission of India • State Planning Boards • Union Ministry of Finance • State Ministries of Finance 	<ul style="list-style-type: none"> • Popularisation of Benchmarked Model • 'Branding' of the Benchmarked Model for uptake by governments • Capacity Building of government administrators • Feedback for compliance

Action No.	Specific Actions	Primary Responsibility (Government)	Secondary Responsibility (Government)	Role of Knowledge Partners (Business and Stakeholders)
5.9	Capacity Building Framework for Business Regulatory Governance			
5.9.1	Developing Capacity Building Resources for Business Regulatory Governance	<ul style="list-style-type: none"> • Union Ministry of Finance • Union Ministry of Corporate Affairs • Union Ministry of Commerce and Industry 	<ul style="list-style-type: none"> • State Ministries of Finance • State Ministries of Industry 	<ul style="list-style-type: none"> • Developing capacity building resources • Delivering capacity Building Programmes • Pooling in experts for the purpose
5.10	Follow-up over Previous Administrative and Regulatory Reform Endeavours			
5.10.1	Follow-up over Previous Administrative and Regulatory Reform Endeavours	<ul style="list-style-type: none"> • Department of Admn Reforms and Public Grievances, Union Ministry of Personnel, Public Grievances and Pensions • Planning Commission of India 	<ul style="list-style-type: none"> • Corresponding State Ministries dealing with Administrative and Governance Reforms • Specialised government entities dealing with application of reform measures at the national and state levels 	<ul style="list-style-type: none"> • To share information with regard to the implementation or non-implementation status of the previous recommendations • To analysis the reform systems of other countries for maintaining continuity of reform efforts • Researching over good practices taken up by Indian states on this

9. Envisaging the Business Regulatory Framework of India

This section envisages the Business Regulatory Framework (BRF) that should be constructed in India for creating the desired business ecosystem in the country. BRF will initially impact the manufacturing and service sector and simultaneously the service sector. Gradually, it will start impacting all other sectors of the economy by spearheading the tenets of 'Responsible Competitiveness TM'. ³⁰

9.1 Construction of Business Regulatory Framework

Figure 3 demonstrates the construction of Business Regulatory Framework. On the left hand side are seen 'disjointed business regulations' that include various policies, regulations, and praxis administered by Union, State and Local governments in accordance with their jurisdictions for regulating business and thus, determining its performance. One small clarification should be given here – by referring to the existing set up as being 'disjointed', the existing inter-governmental and intra-governmental communications are not undermined. What is implied here is that the vigour of such communications fails to match the requisite levels of cogency expected of India. Also, it is duly recognised that there are various institutions and mechanisms already in place to promote investments, adjudicate business claims, promote infrastructure development, and facilitate entrepreneurship development. Still, much more is required to be done for making India a preferred destination for doing business and enabling Indian businesses to comprehend in clear term what is meant by responsible business and what are the implications of business performance in realising various national goals and priorities. In this backdrop, the word 'disjointed' is justified.

On the right hand side is seen the BRF. The inside view of the box (i.e., design of the BRF) has been present on the next page. Though, presented as a box, BRF is not rigid and will be duly reflective of the changes taking place in the overall business ecosystem (detailed out later) of the country, that in turn get influenced by the changes taking place in the external environment of the country. The two arrows connote a dynamic flow of different business regulatory instruments spread across the country getting immersed into the BRF. Such flow also entails that BRF will be able to benefit from innovative practices undertaken in any part of India for enhancing the overall quality of business regulatory governance in the country.

³⁰ Promoted by AccountAbility <http://www.accountability.org/research/responsible-competitiveness/index.html>

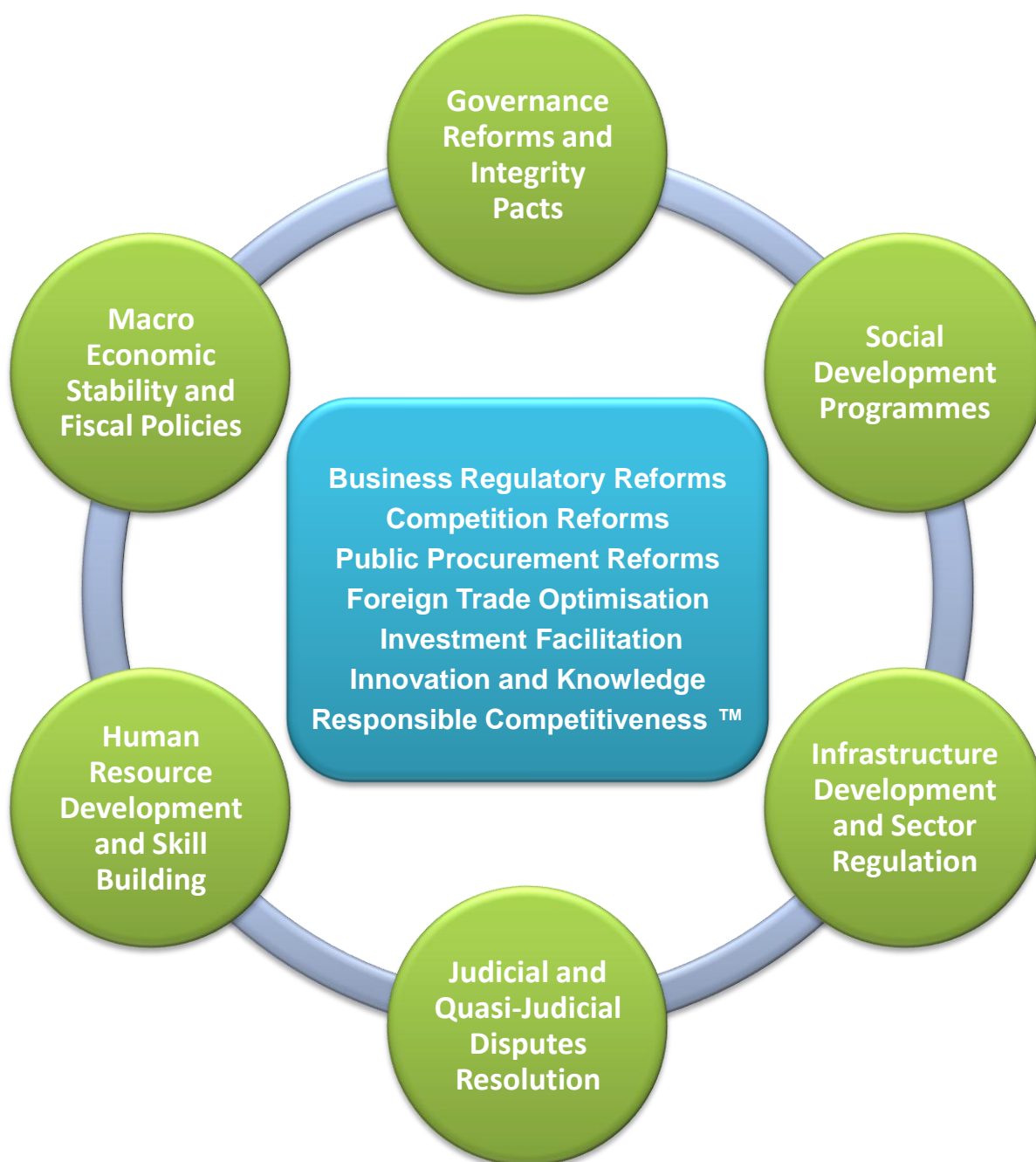
Figure 3: Construction of Business Regulatory Framework

Source: Figure developed for the purpose of this Report

9.2 External Interplays of Business Regulatory Framework

BRF alone will not achieve successes on all fronts that contribute to thriving business performance. One has to be candid in admitting that BRF will certainly play a big role in charting out the journey in that direction but it will not be sufficient on its own to bring out about the desired outcome. In this report, mention has been made of ‘business ecosystem’ at several occasions. In general terms, it means an overarching and dynamic system consisting of various drivers, determinants, catalysts and impediments that together defines or defies, as the case may be, business performance in any given setting. By such interpretation, the BRF is bound to be positioned among the different drivers, determinants and catalysts of business ecosystem of India. Figure 4 presents such interplays of BRF with some other components of business ecosystem of India. Such interplays have been described briefly on the next page.

Figure 4: External Interplays of Business Regulatory Framework



Source: Figure developed for the purpose of this Report

Table 7: Interplays of BRF with Other Components of Business Ecosystem

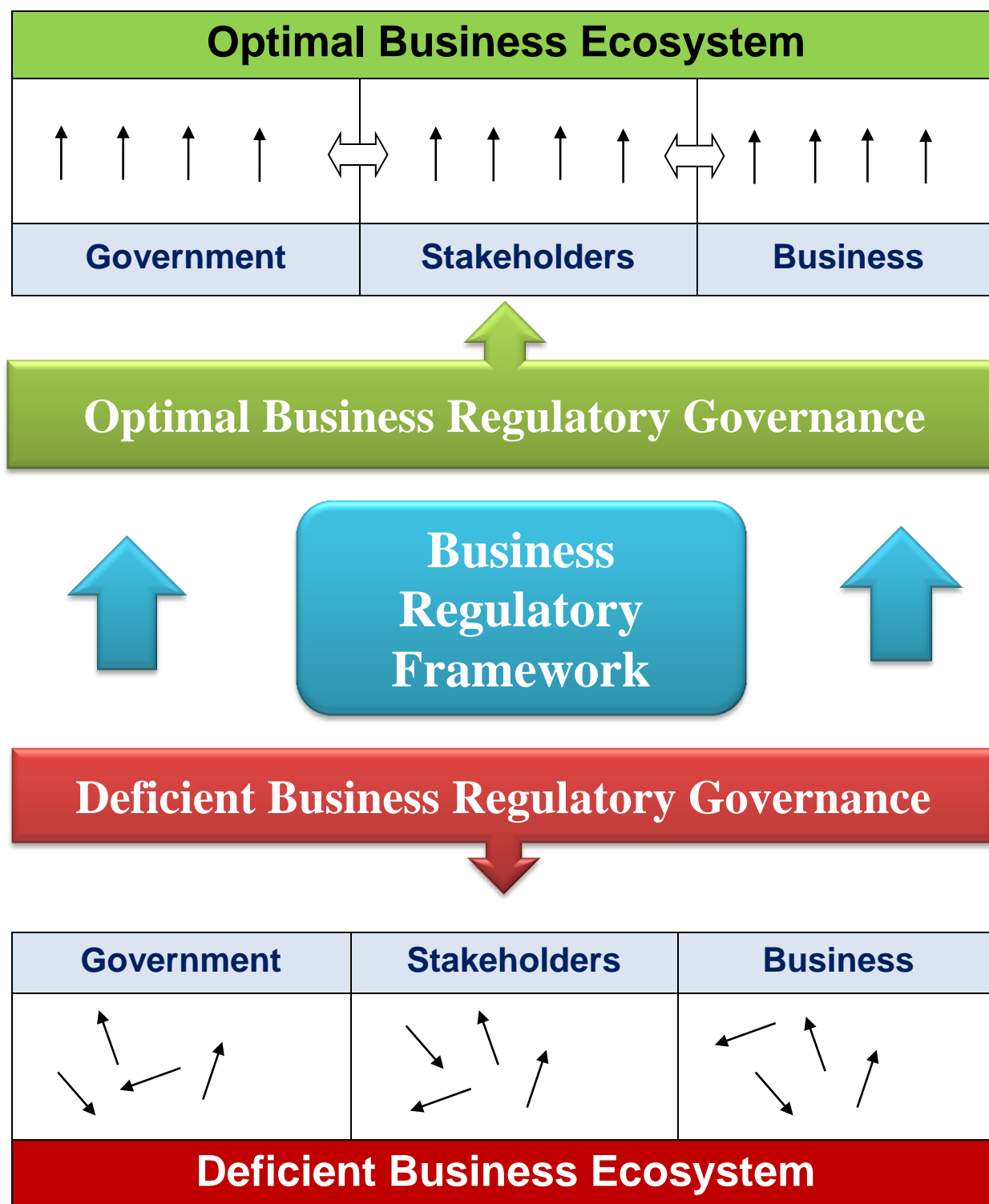
Component	Impact on BRF	Impact by BRF
Governance Reforms and Integrity Pact	If governance reforms and integrity pacts (ant-corruption measures) are not taken up in a holistic way, BRF will not be able to work towards optimal business ecosystem and business will continue to get haunted by rent seeking acts	BRF will encourage governments to take collective measures for accelerating governance reforms. It will also discourage corrupt and unethical practices on the part of businesses. It will amplify stakeholder voice on this
Social Development Programmes	Unless social and human development targets are met in an equitable manner, country would continue to remain a laboratory of vicious cycles related to poverty and under-development and its rankings as a favourable business destination would be low	BRF will promote the concept of responsible competitiveness. It will enhance livelihood certainties through employment generation and entrepreneurship development. It will place special emphasis on the organised-unorganised sector interface and social safety net.
Infrastructure Development and Sector Regulation	Infrastructure development will have a great bearing on how BRF will be able to give impetus to manufacturing sector growth. Optimal sector specific regulations will ensure equitable and predictable usage of infrastructure	BRF will link infrastructure availability with business development plans, thereby signalling deficits, if any, in advance. It will ascertain that investments should not get dissuaded due to infrastructure gaps
Judicial and Quasi-Judicial Disputes Resolution	India exhibits one of the lowest ranks in enforcing contracts with judicial and quasi-judicial bodies. This wastes a lot of resources and time that could otherwise be utilised for business expansion.	BRF will enable time analysis of different types of business disputes and will suggest alternative forms of dispute resolution in consultation with the Law Commission of India and other such institutions
Human Resource Development and Skill Building	Even if BRF comes into being and the infrastructure gaps have been bridged, unless there is availability of skilled workforce, business performance cannot improve beyond a point. HRD and skill building have already been given special impetus through National Skill Development Corporation (NSDC) and allied initiatives but still, much is required to be done.	BRF will ensure that education and skill building curriculum will be designed in accordance with the practical requirements of the work. It will provide interface to the government, business and academia to undertake such exercise jointly and contribute towards building knowledge based economy and society.
Macro-Economic Stability and Fiscal Policies	Macroeconomic stability and fiscal policies significantly affects business decision-making and influence their expansion and investment plans. Frequent fluctuations in money market, fast changing prices and high rates of inflation are only some of the symptoms of instability and unpredictability in these.	BRF will serve as a feedback mechanism through which the impact of these policies on businesses will be communicated to the decision makers. Also, it will undertake a comparative analysis of these for benchmarking the Indian system vis-à-vis the other comparable economies so as to incorporate good practices within.

Source: Table developed for the purpose of this Report

Figure 5: Design of Business Regulatory Framework of India



Figure 6: Contribution of BRF towards Optimal Business Ecosystem



Source: Figure developed for the purpose of this Report

10. Building the Government-Stakeholder-Business BRIDGE

This section lays down the foundation for the government-stakeholder-business BRIDGE – a bridge that has to be built together and crossed together. But this requires certain virtues on the part of all three partners. Some of those virtues are captured below:



Table 8: Description of Virtues of Government-Stakeholders-Business as Partners

Partner	Virtue	Description
Government	Communication	Adequate and clear communicate of agendas, policies, actions
	Accessibility	Personal as well as organisational accessibility
	Responsiveness	Receptivity to feedback and well defined responsiveness
	Transparency	Decisions as well as processes should be transparent
	Accountability	Well established accountability of individuals and organisations
	Consensus	Robust mechanisms for consensus building and follow up
	Coherence	Countrywide coherence in policies as well as actions
	Coordination	Inter-governmental as well as intra-governmental coordination
Stakeholders	Inclusivity	Sight should not be lost from including the most affected ones
	Representation	Different factions and groups should be adequately represented
	Authenticity	There has to be authenticity in the issues and concerns raised
	Collectivisation	Rather than isolated claims, collectivised efforts should be made
	Vigilance	Stakeholder should keep strict vigil over dealings and actions
	Evidencing	Evidence should be gathered and presented for prompt response
	Feedback	Feedback should be timely and relevant for concurrent redressal
	Advocacy	Constructive advocacy provides sound inputs into policy making
Business	Self-Regulation	Businesses need to adopt a proactive approach on self-regulation
	Fair Play	Business dealings and competition should be guided by fair play
	Mutualism	Considerations should not merely be individualistic, but mutual
	Convergence	Convergent approaches could be adopted towards CSR spending
	Acceptance	Businesses should accept their role in development partnerships
	Initiative	Initiatives can be taken by business community for common goals
	Innovation	Innovative solutions should be utilised for mutual gains and equity
	Compliance	Due compliance should be made with public policies and laws

Figure 7: Looking Beyond the Government-Business-Stakeholder BRIDGE



11. Future Roadmap

Like all other economies of the world, it is also recognised in India that business plays an important role in economic growth and development of the country. It deploys capital, engages labour, produce goods and generate profit that is re-invested for further expansion at domestic and international fronts. Government plays an important role in developing and maintaining an environment conducive for enhancing productivity and competitiveness of business enterprises. The society keeps articulating its expectations from businesses through various informal ways but does not (and cannot) mandate the expected performance. Like businesses, it also relies upon the government to frame such expectations through policy and legislative means. The role of government is thus, multi-pronged – as articulator, enabler, facilitator, regulator, gap-filler and buffer. For assuming such role, government is required to develop policy frameworks, pass legislations, enact rules and monitor compliance with these. As long as these actions on the part of government provide due inputs into a thriving business environment, there is no cause for concern. But when such actions (and inactions) on the part of government run counterproductive or fail to match with the exigencies of the time, thereby causing inordinate delays, information asymmetries, sub-optimal productivity and hampered competitiveness, it becomes necessary to examine these in a thorough manner. Amidst celebrating two decades of economic liberalisation reforms, this is an opportune time to undertake such systemic examination and unleash a new wave of reforms.

On such premises, this report started by capturing the state of manufacturing sector and its potential in shaping the desired growth and development trajectory of India. It then highlighted the major findings in regard of business regulatory regime in the country that also carries a significant bearing on, among others, the manufacturing sector. It then elaborated upon the recommendations with the help of specific actions points. Such action points were analysed through the impact-feasibility lenses and thereafter aligned with the timeline of the XII FYP. The report has also allocated responsibilities for the uptake of specific actions to corresponding government entities for the implementation of the given recommendations. To achieve breakthroughs in all these endeavours, the BRF has been designed and positioned within the overall business ecosystem of India. The significance of a strong and innovative partnership among government, stakeholders and business has also been recognised through a conceptual display of the elements of such partnership. This section charts out a future roadmap for giving shape to what all has been presented in the report this far:

- **Concerted Actions:** Developing an optimal business ecosystem in the country will require concerted actions on the part of all. The three tier set up of government in India at the Union, State and Local levels provides both opportunities as well as challenges for successful conduct of business. Whereas the seventh, eleventh and twelfth Schedules of the Constitution of India confer specific responsibilities on the three tiers of the government in India, the contents of this report traverses through the jurisdictions of all the three tiers.
- **Win-Win Scenario:** The report has not recommended any such action that impinges upon the 'territory' of one while giving uncalled for expansion of the 'territory' of the other. Nor has it advocated the creation of any 'super-legislations' or 'super-regulators' that will enable one entity of government to 'win' by incurring 'losses' to the other. Instead, an attempt has been made at presenting a win-win scenario for the country whereby the different actors located in the state, market and civil society realise and assume their responsibilities as partners towards their common development journey ahead.
- **Consensus Building:** It will be natural on the part of different stakeholders to undermine, oppose or reject the given recommendations on different grounds. But considering the significance of the subject matter and its national implications, it is proposed that widespread consultations should be held over the given recommendations and specific actions. Also, suitable strategy has to be developed for converting such consultations into consensus and agreements, with appropriate modifications, if any, that emerge as a result.
- **Role of National Development Council:** As a specific roadmap, it is foreseen that the National Development Council (NDC) will be required to play a major role in deliberating over the issues, concerns and breakthroughs proposed through this report. NDC is a unique platform for bringing together political and administrative leadership from national as well as state levels and carries the potential towards consensus building on the recommendations presented herein.
- **Policy Coherence Units:** As a follow up to such deliberations and agreements, it will be imperative on the part of different government departments to create policy coherence units within. Such units will be responsible for ensuring that the actions (and deliberate inactions) of the particular departments are in agreement with the overall national regulatory framework.

- **Cost Savings and Revenue Gains:** The given recommendations might initially require certain budgetary commitments, but it is emphasised that the resulting cost savings and revenue gains would grossly surpass such spending. Whereas the cost savings would occur on the part of government as well as business on account of regulatory burdens reductions, the anticipated revenue gains will occur through enhanced competitiveness of manufacturing sector as well as the other sectors.
- **Significance of Prioritisation:** Considering the size of Indian economy, the market, the constituent business entities and the magnitude of regulations, the decision makers are urged to prioritise the recommended actions through consultation and consensus building. Such prioritisation will take cognisance of feasibility considerations, thereby leaving adequate space for participation and revision of the undertaken implementation methodology.
- **Phasing and Responsibility Allocation:** Following the prioritisation exercise, it will be necessary to phase the specific actions by further sub-division of the given timelines into quarters and months, as applicable. The nature of work being complex and multi-disciplinary, it will require co-action on the part of people from different backgrounds like law, politics, public policy, economics and management. As many of the actions will be first of their kind, the implementation administrators will be required to be appropriately sensitised and capacitated to meet the targets. Their roles and responsibilities in this will have to be clearly defined in order to enable them achieve the targets.
- **Consideration for National Ecosystem:** By envisaging the Business Regulatory Framework (BRF), the purpose is not to reinvent the wheel but synthesising the existing instruments of business regulation into a definite frame so as to clearly define their scope and inter-relationships. The manner in which the BRF has been positioned within the business ecosystem, the latter, in turn, can also be placed within a larger ecosystem comprising of various other ecosystems that together will constitute the national ecosystem of India. The Working group has not gone at such levels of enquiry but it is important to note here the significance of such 'multiple-positioning exercises'. It is recommended that the policy makers should keep undertaking these for placing their actions (or decisions for inactions) in the all-encompassing national ecosystem.
- **Evidence Based Appraisal:** Research will play a major role in measuring the success of the given recommendations and associated actions. For this purpose, performance

indicators will have to be developed to measure the extent to which quality of regulatory governance got enhanced as envisaged. Once the performance indicators have been identified, consideration should be given as to how information/data on these performance indicators will be obtained. This may involve commissioning of research on periodic basis and stakeholder feedback mechanisms on concurrent basis. It should be enquired whether the methodology adopted under the Mid Term Appraisal of the XII FYP would be sufficient to do this or new frames of evaluation would be required.

- **A Shared Responsibility:** Recognition has been made of the shift from conventional to emerging forms of regulation, clearly visible across the globe, especially in most of the developed economies for the specific reason that such shift reflects enhanced trust and a sense of shared responsibility among government, business and stakeholders. Such emerging forms of regulation also offer ample opportunities for experimenting with innovative partnership models exhibiting multiple chains of accountability and feedback mechanisms. India, as a country, has to take a bold approach on this and should chart out the path ahead in this direction. Such approach will also substantiate our claims for taking up bigger roles in global decision making.
- **Indigenous Model Building:** It is important to understand that a mere mention of global examples does not mean that those are the best. These are only for reference purpose. Application of any of these into India will require their appropriate designing for suiting national, state, and local context. For arriving at the choice of appropriate mechanisms and tools, reliance has to be made over extensive consultations and research. Accordingly, the specifics of the recommended policy framework, legislative framework, institutional architecture and governance mechanisms should be detailed out.

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South Australia (Australia) – South Australia Manufacturing Consultative Council

<http://www.sa.gov.au/government/entity/969>

Victoria (Australia) – Victorian Industry Manufacturing Council

http://www.business.vic.gov.au/scripts/nc.dll?BUSVIC:STANDARD:1001:pc=PC_60452.html

UK – Manufacturing Advisory Service (MAS)

<http://www.mas.bis.gov.uk/>

Annexure 1

Composition of Working Group on Business Regulatory Framework

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6. Secretary
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19. Shri Pradeep Mehta,
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Annexure 2

Report of Task Force on National Competition Policy

1. Background

1.1 Planning Commission of India is in the process of developing the 12th Five Year Plan (2012-17). To facilitate this process, it has constituted a Steering Committee on Industry to deliberate upon the ways and means of creating an enabling environment for sustainable and inclusive business development in the country. Of the ten cross cutting Working Groups (WGs) and fourteen sectoral WGs constituted under this Steering Committee, one would deal with Business Regulatory Framework (BRF) issues.

1.2 The first meeting of the WG-BRF was held on 24th May 2011 (at the Planning Commission, New Delhi). The Meeting covered five sub-themes and it was informed that there is an existing experts group which is exploring the need for a healthy state-business relationship framework as one of themes, and decided to constitute the following four Task Forces:

- a. Task Force on National Competition Policy
- b. Task Force on Business Regulation and Corporate Conduct
- c. Task Force on Simplification on Business Procedures
- d. Task Force on Responsible Business

1.3 The Steering Committee is to prepare an ‘Approach Paper on Industry’ for the XII Five-Year Plan keeping in view an overall objective of boosting manufacturing sector growth. The following have been set as suggested targets:

- a. Achieving manufacturing sector growth to the tune of 2 -4 per cent more than the GDP growth so as to make it the engine of growth for the economy,
- b. Increase share of manufacturing sector to about 25 per cent of the overall GDP by 2025 from the existing 15.5 percent,
- c. To create about 100 million additional jobs in manufacturing sector by 2025,
- d. Increasing ‘depth’ in sector with a focus on the level of domestic value addition,
- e. Enhancing global competitiveness of Indian manufacturing through appropriate policy support and
- f. To ensure sustainability of growth particularly with regard to the environment.

Objectives and Methodology

1.4 Accordingly, the Task Force on National Competition Policy (TF-NCP)³¹ set its objectives as: to extract issues and make recommendations for addressing policy/law-induced competition distortions from the perspective of enhancing the manufacturing sector growth involving an inclusive and sustainable process. The recommendations of the TF-NCP in conjunction of the other

³¹ Like each of the other three TFs covered under the policy-area of Business Regulatory Framework (BRF)

three Task Forces will contribute towards a better business environment in India and enhancement of manufacturing sector competitiveness in India.

1.5 The Task Force, after review of the developments related to competition policy and its own objectives, agreed to select a representative sector and look at the competitiveness issues affecting the sector through competition policy lenses. Accordingly, pharmaceutical sector was chosen for its peculiar interface, in addition to the applicable regulatory burden on any manufacturing unit, with the following: (a) industry structure where large entities and SMEs exist, (b) competition and Intellectual Property Rights (IPRs), (c) innovation and R&D, (d) government procurement, (e) exports, and (f) price regulation. The case study titled as Application of Competition Principles vis-à-vis Pharmaceutical Sector in India has been placed as Annexure I to this report. Before presentation of recommendations, the next two sections review the issues relating to manufacturing sector competitiveness and the discourse on NCP in India.

1.6 It is important to recognise that competition promotes competitiveness but the reverse is not necessarily true. Competition policy has a significant role to play in promoting competitiveness and growth. The term ‘competitiveness’ appears to have aroused considerable interest and application in varied contexts in recent years. On the one hand, the word has become a kind of catch-all term for a wide-ranging set of policies. On the other hand, it evokes an analogy suggesting nations compete in the same way as firms. While nations may not always compete, they can – and should – help firms compete more effectively by following a set of macro policies that can create an enabling environment for competition. A simple example is length of time it takes to issue clearances to set up a business.

1.7 A study conducted by the World Bank³² reveals that in India, it takes 29 days to set up a business. In 2010, however, it took 30 days to start a business in India. Out of 183 countries, India is ranked 134th in 2011 in comparison to 135th in the year 2010, in terms of the ease of doing a business. With regards to starting a business, India’s rank jumped from 168 in 2010 to 165 in 2011.

1.8 There are lessons for India in how other countries deal with similar problems. Faced with declining competitiveness, the European Union published a white paper in 1993³³, which highlighted four areas for priority action:

- The promotion of investment in intangible assets;
- The development of co-operation between firms;
- *Ensuring fair competition*; and
- The modernisation of public authorities

1.9 Thus we see that the EU white paper on competitiveness emphasises the need for ensuring fair competition in the market as an essential ingredient for enhancement and maintenance of competitiveness in the economy. These prescriptions apply to India as well. The government has thus created the National Manufacturing Competitiveness Council, but its work is yet to yield the desired results.

³² “Ease of Doing Business in India”, IFC and The World Bank, available at: <http://www.doingbusiness.org/data/exploreeconomies/india>

³³ Growth Competitiveness, employment : The Challenges and Way Forward into the 21st Century (1993) http://aei.pitt.edu/1139/01/growth_wp_COM_93_700_Parts_A_B.pdf

1.10 Empirical evidence, though focusing mainly on the experience of developed countries, has confirmed that barriers to competition within an economy, whether due to governmental or private restraints, leads to losses in income and welfare. On the other hand, a well-designed and implemented competition policy promotes economic growth by ensuring a better allocation of resources, as highlighted by the following examples:

A study carried out for the Australian economy estimates the expected benefits from a package of competition promoting and deregulatory reforms (including improvements in the competition rules) to lead to an annual gain in real GDP of about 5.5 percent, or A\$23 billion, where consumers would gain by almost A\$9 billion besides seeing increases in real wages, employment and government revenue.³⁴

A report released by the McKinsey Global Institute (MGI)³⁵, based on research on the economies of 13 nations, argues that the key to reducing economic inequalities between rich and poor countries is productivity and its links to competition and consumption. MGI studied national economies from the ground up, and points out that global economic agencies underestimate the significance of a level playing field. Competition is more important than education or greater access to capital markets in lifting a country's gross domestic product. To reduce barriers to competition, policy makers must stand up to business special interests and focus more on the welfare of consumers.

1.11 Thus, it is reasonable to say that promotion of competitive markets, through a competition policy response, will address some of the competitive challenges facing the manufacturing sector, though not all.

2. Manufacturing Sector Competitiveness

2.1 A prominent effort of the Govt of India to address manufacturing competitiveness is: National Manufacturing Competitiveness Council (NMCC), which was set up as a result of Government's resolve³⁶ to ensure a growth rate of 7 to 8 per cent of GDP³⁷. The stagnancy of the share of manufacturing in GDP for over 15 years since 1990 was seen as a cause of concern. In response, the NMCC was established to suggest ways and means to boost and sustain the growth of manufacturing industries and enhance its competitiveness. It was aimed to raise the share of manufacturing to 30-35 per cent of the GDP by the year 2020.

2.2 Other than the work done under the NMCC, a large number of studies and reports have captured various aspects pertaining to competitiveness of Indian manufacturing sector. It is well recognised that competitiveness of a country's manufacturing sector is critical to its long-term economic prosperity and growth since it creates a sustainable economic ecosystem, encourages domestic and foreign investment, improves a country's balance of payments, and creates jobs along with spilling over effects into such areas as financial services, infrastructure development and

³⁴ http://www.unctad.org/en/docs/c2em_d10.en.pdf

³⁵ William W. Lewis, 'The Power of Productivity', McKinsey Global Institute, The University of Chicago Press, 2004

³⁶ Under the National Common Minimum Programme (NCMP) of India 2004

³⁷ NMCC (2006), "The National Strategy for Manufacturing", National Manufacturing Competitiveness Council, Government of India. Electronically accessed on 12, July, 2009, available at: http://nmcc.nic.in/national_menu.aspx

maintenance, customer support, logistics, information systems, healthcare, education and training, and real estate.

2.3 A recent RBI report³⁸ – “Productivity, Efficiency and Competitiveness of the Indian Manufacturing Sector, June 2011” notes that:

- a. *the average share of manufacturing sector in real GDP has marginally increased from about 13 per cent during 1970-75 to about 15.6 per cent in 2007-08, i.e., approximately by about 2.6 percentage points over a period of almost four decades. Despite the emphasis on manufacturing sector in India’s planning process, the contribution of this sector, at best, is modest. It needs to increase so as to absorb more workers and to enable people to improve their standard of living.*
- b. *Second, the employment and output generation within the manufacturing sector exhibits a major imbalance. According to the latest available data, the unorganised sector accounts for about 80% of employment and only about 33 percent of income of the manufacturing sector.*
- c. *Third, as regards the position of manufacturing sector of the various states, Maharashtra, Tamil Nadu and Gujarat are the states which consistently rank as the first three topmost states in terms of both output and employment generation in the organised manufacturing sector. Deterioration of Bihar* and West Bengal, and ascent of Haryana, Karnataka, Punjab and Rajasthan is noticeable in these regards.*
- d. *Fourth, over the period of the study, ‘Metal’ and ‘Machinery & Transport Equipment’ industries accounted (each of them) for almost one-fifth of gross value added (GVA) of the organised manufacturing sector. These industries are followed by the chemical industry which accounted for about 13 percent of GVA of the organised manufacturing sector. However, in terms of job provision, these are not the topmost industries. Textiles and Food (including beverages & tobacco) industries together account for about 41 per cent of jobs in the organised manufacturing sector.*
- e. *Fifth, during 2000-01 to 2008-09, the growth rate of exports (in US\$ terms) of Metal and Engineering goods has been highest at about 24 per cent per annum (pcpa) as against the overall growth of exports of about 17 pcpa and that of manufactured products of about 15 pcpa. Growth rates of exports of Textiles and Leather industry have been quite low ranging between 6 and 7 pcpa.*
- f. *Lastly, it is not too much to expect that, with the growth of manufacturing sector, workers would benefit in terms of rising per capita real wages. However, the worrisome feature of the organised manufacturing sector in India is stagnancy of per capita real wages of workers. The plight of workers in unorganised sector is much worse, as the wage differentials between organised and unorganised manufacturing sectors are rather sharp.*

³⁸ Reserve Bank of India (2011), “Productivity, Efficiency and Competitiveness of the Indian Manufacturing Sector”, Development Research Group, RBI, Mumbai, June 2011. Electronically accessed on 27th July, 2011 at: <http://rbidocs.rbi.org.in/rdocs/Publications/PDFs/37DRGSN0611.pdf>

2.4 The share of manufacturing in India's GDP has increased marginally, from 13 per cent in 1970-71 to about 16 per cent in 2007-08³⁹. In spite of increasing globalisation along with relatively fewer barriers to the movement of goods, services, technology and capital, India's manufacturing competitiveness still remains largely under-exploited. However, impacted by the global slowdown during 2008-09, the growth of manufacturing from 2002-03 to 2007-08 clearly indicates that a start has been made to tap the enormous potential of India's manufacturing sector⁴⁰. India's secondary sector comprises of mining and quarrying, manufacturing, electricity, gas and water supply. Amongst these, manufacturing, with a share of 79 per cent in 2007-08, is the leading industry in the secondary sector⁴¹.

2.5 A peculiar and dominant characteristic of India's manufacturing sector is the extraordinarily small scale establishments in terms of employment and output. As per Dougherty et al (2009)⁴², about 87 per cent of manufacturing employment is in micro-enterprises of less than ten employees. Dougherty et al further note that while there is a fairly high share of very large companies--making for a bimodal distribution--there are few enterprises of intermediate size. Further, although small firms' share in manufacturing employment is almost 90 per cent, they produce only about a third of manufacturing output. The share of manufacturing sector in total workforce has also witnessed an increase since 1993-94 and was 12.9 per cent in 2004-05 with 27 per cent of manufacturing sector workforce employed in the organised sector and 73 per cent in the unorganised sector⁴³. Notably, the study reports by Dougherty et al further observes that:

“In trying to understand why India's manufacturing sector has not been more dynamic, perhaps the most persuasive explanation is that anti-competitive regulations have deterred firms' expansion and the entry of new firms. A number of national and international business surveys suggest that weaknesses in India's business environment have inhibited or distorted investment, thus reducing growth and employment creation.”

2.6 According to a study conducted by Deloitte on “Global Manufacturing Competitiveness Index”⁴⁴, deals with the rise of manufacturing prowess of China, India, and the Republic of Korea (Korea) and places India at number two position with an index score of 8.5 out of 10. The study also identifies ten drivers of global manufacturing competitiveness: (a) talent-driven innovation, (b) cost of labour and materials, (c) energy cost and policies, (d) supplier network, (e) local business dynamics, (f) economic, trade, financial and tax systems, (g) quality of physical infrastructure, (h) government investments in manufacturing and innovation, (i) legal and regulatory system, and (j) quality and availability of healthcare.

³⁹ Crisil (2009), Enhancing Competitiveness of Indian Manufacturing Industry: Assistance in Policy Making Final Report March, 2009

⁴⁰ *Op cit*

⁴¹ *Op cit*

⁴² Dougherty S. M., R. Herd and T. Chalaux, “What is Holding Back Productivity Growth in India? Recent Microevidence”. OECD Journal: Economic Studies, Volume 2009.

⁴³ Crisil (2009)

⁴⁴ 2010 Global Manufacturing Competitiveness Index, Deloitte, June 2010.

2.7 Another study⁴⁵, correlates direct and indirect costs with competitiveness, and finds that: “*in order to enhance competitiveness in the manufacturing sector, it is, thus, essential to optimise the use and rationalise the feasibility of factors affecting production. For instance, in India, 55-80 per cent and 5-12 per cent of cost of production in manufacturing sector is impacted by the cost of raw materials and labour respectively*”⁴⁶. Similarly, import duties have an impact as high as 31.7 per cent on the manufacturing costs”. These findings further necessitate an economy-wide policy response to unshackle the systemic barriers which adversely impact the manufacturing competitiveness.

2.8 A study on “The State of Competition in the Indian Manufacturing”⁴⁷ also supports the idea that policy reforms that have been undertaken in the nineties did succeed in triggering dynamic forces of competition reflected in the industry restructuring toward larger scales of operation and consolidation through capacity building and mergers & acquisitions. Market structure, however, did not seem to change much. Empirical analysis in the study also suggested that there remain many policy regulations acting as barriers to competition.

2.9 India initiated a host of policy and legal reforms towards liberal economic policies. The impact of these reforms is visible in terms of GDP growth rates and other economic indicators. The RBI⁴⁸ report confirms that reforms in policies such as trade, industrial etc. have exerted favourable impact on the manufacturing sector.

2.10 The manufacturing sector is impacted by a host of policies, statutes, regulations and practices which are administered at the centre, state and sub-state level. The policy and legal framework surrounding a manufacturing unit influences its competitiveness through: access to capital, access to raw materials and intermediary goods and services, access to technology, taxation, exports, inter-state sales, marketing and distribution, storage, packaging etc.

2.11 As noted above, the liberal economic policies have thus far yielded growth and competition across several sectors such as telecom, civil aviation etc., and including manufacturing sector. However, there still remains a large number of policy or law induced distortions which hamper competitiveness of the industrial sector and necessitates a comprehensive response.

3. Evolution of the discourse on NCP in India

3.1 A National Competition Policy, distinct from a Competition Law, means a comprehensive policy response to imbibe the principles of competition across industry sectors, government endeavours keeping in view environmental, security, social and other such considerations. Notably a Competition Law typically deals with market failures and specific violations of the provisions of the law by firms whereas a Competition Policy is a proactive measure to address policy/law induced competition distortions and addresses different policies of the government with the aim of rectifying them.

⁴⁵ PWC and FICCI (2009), “Assessment of the Comparative Advantage of Various Consumer Goods Produced in India vis-à-vis their Chinese Counterparts”, sponsored by National Manufacturing Competitiveness Council (NMCC).

⁴⁶ *Op cit*

⁴⁷ Bhavani T.A and N.R. Bhanumurthy (2007), “The State of Competition in the Indian Manufacturing Sector”, March, 2007. Electronically accessed on 03, July, 2011, available at: http://www.cci.gov.in/images/media/completed/4indian_manu_20080508111330.pdf

⁴⁸ Reserve Bank of India (2011)

3.2 Since the liberalisation measures in 1991, a need for a second wave of reforms have been voiced by the Government on different occasions. Most recently Dr. Manmohan Singh, Prime Minister of India opined that:

“On this occasion when you are celebrating two decades of economic reforms and liberalisation, I affirm our commitment to a new wave of reform. I am aware of the fact that much more needs to be done to make our economy more competitive.... I sense a mood for renewal, as I did 20 years ago. We did not disappoint India in the summer of 1991. We will grasp the nettle once again. India stands at the threshold of new opportunities. It is my firm conviction that we can and we will grasp these opportunities for posterity’s sake, we will overcome⁴⁹.”

3.3 Need for an NCP has been articulated on several occasions. At the Planning Commission, during the mid-term appraisal of the Ninth Plan, an urgent need to enunciate an NCP was recognised as an instrument to accelerate nation’s economic growth, improve both the quality of life of the people, national image and self-esteem. During the 10th Plan period, the government announced the need of buttressing competition through its policy statements⁵⁰. Further a Working Group on Competition Policy was set up by the Planning Commission during the formulation of the Eleventh Plan. The Working Group recommended, in detail⁵¹, a framework comprising competition principles, government measures and institutional arrangement to implement NCP. Recommendations of the Working Group were incorporated in Chapter 11 on Consumer Protection⁵² of the Eleventh Plan document, which was approved by the National Development Council in December, 2007. An advisory committee, set-up by Competition Commission of India in 2006 simultaneously to draft a consultation paper did the task, but adopted report of the Planning Commission Working Group as its consultation paper on competition policy.

3.4 Prior to the Planning Commission discourse, Raghavan Committee (1999) also dealt with the issues pertaining to regulation of competition abuses and to suggest a new competition law to replace the archaic Monopolies & Restrictive Trade Practices Act. This process resulted in the adoption of the Competition Act, 2002. In its report, the Committee also emphasised that a separate competition policy was needed.

3.5 In 2007, the Second Administrative Reforms Commission (ARC, 2007) also recognised⁵³ the need to temper the existing ‘monopoly of functions’ with competition. The ARC highlighted the need to identify areas where competition was either missing or limited at central and state levels.

⁴⁹ PM’s speech at Business Standard Award 2011 on 26.03.2011.

⁵⁰ Ibid

⁵¹ Planning Commission (2007), “*Report of the Working Group on Competition Policy*”. Electronically accessed on 01 August, 2011, at: http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_cpolicy.pdf

⁵² Planning Commission (2008), “*Eleventh Five Year Plan Document (2007-12)*” Electronically accessed on 27 July, 2011, at: http://planningcommission.nic.in/plans/planrel/fiveyr/11th/11_v1/11v1_ch11.pdf

⁵³ ARC (2007), “*Fourth Report – Ethics and Governance*”. Electronically accessed on 15 July, 2011, at: <http://arc.gov.in/4threport.pdf>

3.6 Most recently, in June 2011, the Ministry of Corporate Affairs, Government of India set-up a Committee on National Competition Policy and related matters. The committee has been entrusted with the responsibility of drafting National Competition Policy and a few other tasks.

3.7 This Committee has finalised a Draft National Competition Policy after much deliberations. The same is available at http://www.mca.gov.in/Ministry/Draft_Policy.html and comments have been invited by 22nd August. More importantly, the Ministry has launched face to face consultations with various stakeholders during August and September to take on board wider views. It is expected that the draft Policy will be finalised at the end of these consultations to arrive at a pre-final draft Policy to be placed before the Cabinet for approval. There maybe views of other ministries to be taken on board and the process should lead to a consensus document by the end of the year or early next year. Unlike other Policies, this Policy will also include an independent institutional arrangement of a National Competition Policy Council headed by an eminent non-official and a secretariat to implement the Policy in cooperation with other ministries and state governments.

3.8 This exercise by the Government is of an operational nature, while the work being done under this Task Force is more of a conceptual nature to be incorporated as part of a new Business Regulatory Framework to enable the industry to grow and contribute to the Indian economy. This exercise is under the Steering Committee on Industry established by the Planning Commission which has taken up the task of preparing strategies to raise manufacturing share in GDP to 25 percent by the year 2025 from the current level of 15.5 percent. Such an exercise will in turn help boost the services sector as the business regulatory framework also applies to them.

4. Recommendations

Based on the objectives and above discussion, the following are the Task Force's recommendations.

Recommendation I: Adoption and implementation of National Competition Policy

4.1 Given the importance of manufacturing sector and the development projections of the Indian economy, it is imperative that policy-induced barriers are addressed through a National Competition Policy. The NCP should be adopted, implemented and operationalised by the government.

4.2 The Task Force recognises and reaffirms the competition policy principles as enunciated under the Eleventh Plan⁵⁴:

- i. there should be effective control on anticompetitive conduct which undermines competition in markets in India;
- ii. there should be competitive neutrality or a level playing field among all players, whether these be private enterprises, PSEs or government departments engaged in non-sovereign commercial activity;
- iii. the procedures should be rule bound, transparent, fair and non-discriminatory;

⁵⁴ Planning Commission (2008), "Chapter 11 of the Eleventh Plan Document" Pg 251

- iv. there should be institutional separation between policy making, operations and regulation;
- v. where a separate regulatory arrangement is set up, it should be consistent with the principles of competition;
- vi. third party access to essential facilities on fair terms should be available;
- vii. any deviation from the principles of competition should be only to meet desirable social, environmental, developmental or other national objectives which are clearly defined, transparent, non-discriminatory, rule based and having the least competition restricting effect.

The above principles of competition should be applicable across all sectors of the economy and be incorporated in policies, which govern them.

4.3 As noted above, the Ministry of Corporate Affairs is in the process of formulating a National Competition Policy and the same may be finalised at an early date, including the strategy and systems for its implementation, which is expected to leverage manufacturing sector competitiveness on fair price and terms, in respect of access to markets, capital, technology, raw materials and intermediary good and services etc. It is envisaged that the NCP will be implemented through appropriate measures such as a well-resourced institutional setup having professional skills to oversee and coordinate the implementation of NCP at the levels of central government, state governments and sub-state authorities.

Recommendation II

Regulatory Impact Assessment of all Policies, Statutes, Regulations/Rules and Praxis

4.4 It has been observed above that a manufacturing unit, including MSMEs, face onerous regulatory burden and policy induced competition distortions. However, no systemic attempt has been undertaken by the government to identify and rectify such policies, statutes, regulations/rules and praxis.

4.5 Internationally, a large number of countries (Australia, Denmark, Botswana, the US, the UK etc.) and agencies (OECD, DFID etc.) have undertaken and developed methodologies to carry out Regulatory Impact Assessment, which includes competition audits. Based on the international experiences, a suitable methodology may be developed in the Indian context, in accordance with the National Competition Policy to be finalized by the Government.

4.6 It is recommended that regulatory impact assessment (RIA) is carried out *ex ante* for each important policy or regulatory proposal. It is also recognised that given the resources and capacity, it may not be possible for a Ministry/Department to undertake RIA for each proposal. Thus a Ministry/ Department may need to prioritise and ensure that no important proposal is cleared without RIA.

4.7 It is further recommended that RIAs should be carried out *ex post* for all existing policies, laws and regulations, also taking on board various judicial advices, to bring them in line with competition policy principles.

4.8 Both RIAs will also take into consideration any necessary deviations but justify them adequately as stated under Para: 4.2 (vii) .

Recommendation III

Incentives for Competition Policy Reforms

4.9 It is recommended that the Planning Commission may institutionalise a financial incentive and a disincentive scheme linked with resource allocation (or withholding) to States to carry out the reforms.

4.10 Also, it is recommended that the Ministry of Finance, Government of India, may institutionalise an incentive and a disincentive scheme for the various central ministries to carry out competition policy reforms. This could also form a part of the Results Framework Document, recently introduced by the GOI for all union ministries.

4.11 Such schemes will promote adoption of pro-competition policies and statutes and will help in boosting efficiency and overall competitiveness of the Indian economy including that of manufacturing and services sectors.

Recommendation IV

Capacity Building of the Stakeholders on Competition Policy

4.12 Stakeholders such as government ministries, departments, regulatory authorities, PSUs etc. at centre, state and sub-state levels, research institutions, consumer organisations, Chambers of Commerce and Industry will require their capacity to be built in order to meaningfully engage with the implementation of the Competition Policy. Suitable measures and resource allocation in this regard need to be made to ensure effective implementation of NCP.

4.13 It is important to recognise that capacity of above mentioned stakeholders will need to be built to appreciate the need for competition reforms and in conducting regulatory impact analyses.

Recommendation V

Convergence with the overall report of the Business Regulatory Framework

4.14 The recommendations of this task force will need to be melded, converged and synthesised with the overall framework of a new Business Regulatory Framework which aims to assist businesses to function with the least transaction costs, and predictable and efficient regulations to enable it to function smoothly, grow and add to the wealth generating activities of the national economy.

Exhibit: Application of Eight Competition Principles in Pharmaceutical Sector

1. Introduction

1.1 Health is a crucial socio-economic asset. Considerable improvement in health outcomes are a prerequisite for a developing country like India to break out of the clutches of the vicious circle of poverty. Good health contributes to development in a number of ways such as higher productivity, improved human capital, higher rates of national savings etc. Hence, it is right to assert that investment in health is imperative to economic development. Indian pharmaceutical industry in turn plays a vital role in providing health care to billions of population in India and abroad. In India, the cost of medicines is around 72 percent of the health care costs, which is considerably high especially for the poor.

1.2 Over a period of thirty years, the Indian pharmaceutical industry has evolved from almost nonexistent to a world leader in the production of high quality generic drugs. Growing at about 8 to 9 percent annually, ranking the third largest in the world in terms of volume and 14th in terms of value⁵⁵, and upholding varied capabilities in the complex field of drug manufacture and technology, the Indian pharmaceutical industry currently is the frontrunner amongst India's science-based industries.

1.3 The "organized" sector of India's pharmaceutical industry consists of about 250 to 300 companies, which account for 70 percent of products on the market, with the top 10 firms representing 30 percent.⁵⁶ However, the total sector is estimated at nearly 20,000 businesses, some of which are extremely small. There are about 8000 Small Scale Units, which form the core of the pharmaceutical industry in India (including 5 Central Public Sector Units)⁵⁷.

1.4 When India joined the WTO in 1995, its pharmaceutical exports were valued at less than \$600 million. By 2005, its exports had grown to \$3.7 billion and accounted for more than 61 percent of industry turnover⁵⁸. The Indian Pharmaceutical Industry is among top five producers of bulk drugs in the world. Pharmaceuticals market can be roughly classified into Bulk drugs (20 percent of the market) registering growth rates of 20 percent and formulations (80 percent of the market) with an annual growth rate of 15 percent⁵⁹.

1.5 However, a number of activities and issues may adversely impact industry's competitiveness. For instance, medicines are promoted by all means, fair and foul. Misleading information, incentives

⁵⁵ A BRIEF REPORT PHARMACEUTICAL INDUSTRY IN INDIA. January, 2011. Electronically accessed on: 5, July, 2011, available at: www.cci.in/pdf/surveys_reports/indian-pharmaceuticals-industry.pdf

⁵⁶ Indian Pharmaceutical Industry: Collaboration for Growth, KPMG Pharmaceutical Practice. Electronically accesses on 15, July, 2011, available at: <http://www.in.kpmg.com/pdf/Indian%20pharma%20outlook.pdf>

⁵⁷ Report India's Pharmaceuticals Industry. Electronically accessed on, 7, July, 2011, available at: http://www.cci.in/pdf/surveys_reports/indias_pharmaceutical_industry.pdf

⁵⁸ G. William, "The Emergence of India's Pharmaceutical Industry and Implications for the U.S. Generic Drug Market", OFFICE OF ECONOMICS WORKING PAPER, U.S. INTERNATIONAL TRADE COMMISSION

⁵⁹ Dr. Geeta Gouri, "Competition Issues in the Generic Pharmaceuticals Industry in India". Electronically accessed on 01, August, 2011, available at: http://www.cci.gov.in/images/media/presentations/ComIssGenPharmIndusIndia_20100401142346.pdf

and unethical trade practices are reported⁶⁰ to be widespread to increase the sale of prescription drugs. The malpractice of cartel formation accompanied by collusive bidding and bid rigging has evidently⁶¹ been a serious public procurement problem in India. In between, corrupt practices in drug and medical supplies have been found⁶² to emanate due to misuse of procuring power that rests with the authorised agencies.

1.6 Certain government policies, even though unintentionally, may turn out to be counterproductive. Policies like price controls⁶³ and tax concessions⁶⁴ undertaken from the point of

⁶⁰ K.Anita, Libby Levison, “Price components and access to medicines in Delhi, India” available at: <http://www.scribd.com/doc/35879219/Price-Component-Report-Delhi-India-MeTA>. The study reports that: A survey conducted in Delhi revealed that 4 of 8 medicines sold to retailers take the form of “buy 10 get 1 free” (9.09% discount) or “buy 7 get 3 free” (30% discount). R. Nobhojit, Neha Madhiwalla, Sanjay A Pai, “Drug promotional practices in Mumbai: a qualitative study”, available at: <http://www.issuesinmedicalethics.org/152oa57.html>. The study reports that: A survey which was conducted in Mumbai revealed that medical representatives offered various gifts to doctors which served as inducements and hence, persuaded them to prescribe the related company’s drugs.

⁶¹ S. Ramesh, “Haryana govt ignores DoP advisory on turnover criterion for participating in tenders”, Mumbai, Saturday, 7 May, 2011, available at: <http://www.pharmabiz.com/PrintArticle.aspx?aid=62762&sid=1>. The pharma portal reports: Haryana government’s eligibility criteria for participating in drug purchase tenders for pharma companies has been fixed at annual turnover of Rs.35 crore as against Rs.3 crore earlier, rendering SMEs ineligible to participate in the tendering process.

⁶² “Karnataka Lokayukta exposes Rs 100-cr drug racket”, available at: <http://indiatoday.intoday.in/site/story/karnataka-lokayukta-exposes-rs-100-cr-drug-racket/1/132474.html>. The article reports that: The Karnataka Lokayukta exposed a racket worth Rs 100 crore in the supply of drugs to government hospitals in the state. The report highlighted nexus between pharmaceutical companies and government agencies, the Karnataka State Drug Logistics and Warehousing Society and the Karnataka Antibiotics and Pharmaceutical Limited, which bought medicines at exorbitant rates. An IV fluid, which costs Rupees 9.00 per sachet, was procured at Rupees 43.00 per sachet. Another drug, equine rabies immunoglobulin, which costs Rupees 300.00 per vial, was purchased for Rupees 5000.00 per vial.

⁶³ Joe C Mathew, “Shift from medicines to food supplements under NPPA scanner”, Business Standard, July 1, 2011, available at: <http://www.business-standard.com/india/news/shiftmedicines-to-food-supplements-under-nppa-scanner/441141/>. The article reported: In lieu of the price controls, there has been an increasing trend among pharmaceutical companies to shift their products from the drug category to the dietary supplement. Companies such as Ranbaxy, Merck, Trikkio and Indochem, etc has shifted some of the products from the medicine category and got manufacturing licences under Prevention of Food Adulteration Act. While National Pharmaceutical Pricing Authority (NPPA) fix and monitor the prices of all medicines that contain at least one of the 74 drug ingredients mentioned in the scheduled list of drugs notified under Drugs Price Control Order (DPCO), it cannot take any action if the same medicine gets re-launched as food supplement.

⁶⁴ NEW INDUSTRIAL POLICY AND OTHER CONCESSIONS FOR HIMACHAL PRADESH, available at: <http://himachal.nic.in/industry/Packages%20for%20HP.htm>. It stated that: With an objective to develop backward and hilly areas like Himachal Pradesh, Uttarakhand and Jammu and Kashmir, the central government announced tax holiday for pharmaceutical companies in the year 2003. The major attraction for investors included 100 per cent outright excise duty exemption for a period of ten years from the date of commencement of commercial production, 100 per cent income tax exemption for an initial period of five years and thereafter 30 per cent for companies for a further period of five years. Sushmi Dey, “Excise or no excise? ”. Electronically accessed on: 27, July, 2011, available at: <http://www.cipi.in/news240807epo.htm>. It stated that: The Central Government in early 2005 came up with a new excise structure, thereby increasing the disparity between excise free and non-excise free zones. According to the new excise structure, companies had to pay a 16% excise duty on the MRP instead of earlier 16% excise duty on the ex-factory price of allopathic drugs. Consequently, from 2005 onwards, a big stream of pharmaceutical units from different parts of the country like Gujarat, Maharashtra, Punjab and Delhi, changed course and flowed into these designated excise free zones.

A. Joseph, “Clash if interests reaches a flash point”, Thursday, March 25, 2010. Electronically accessed on 11 July, 2011, available at: <http://saffron.pharmabiz.com/article/detnews.asp?articleid=54695§ionid=50>. The pharma portal

view of consumer welfare and development of backward areas respectively have been found to hamper competition in the pharmaceutical industry. Likewise, The Government of India has proposed a cap on the FDI in pharmaceutical industry by bringing it down from 100 percent to 49 percent in wake of acquisitions that have taken place at an unprecedented rate in the recent past. Even though there are a large number of companies competing in this area, a fear still exists, that large scale acquisitions may drive away the domestic companies, reducing the availability of generic drugs and focus on patented drugs, thus leading to rise in the prices of lower cost drugs. However, even after 2 years of acquisition of Ranbaxy by Daiichi Sankyo, it was found⁶⁵ that Ranbaxy had a price growth of 0.4 percent in 2010 as opposed to an industry figure of 1.0 percent. It can also be recalled that the twin objectives for 100 percent FDI in pharma sector was to ensure transfer of technology and permit an easy access to long-term foreign funds for industrial sector. Also, on the face of it, this cap of 49 percent may create barriers to entry in Indian pharmaceutical sector.

1.7 Hence, it is highly essential to tap the expertise of competition authorities to assess whether a government policy or regulation is compatible with stimulating competition or not. On these lines, principles of competition policy vis-à-vis pharmaceutical sector in India have been discussed as follows:

2. Application of Competition Principles vis-à-vis pharmaceutical sector in India

2.1 Principle: Fostering Competitive Neutrality

Application: *Competitive neutrality not only means that public sector should not be unduly favoured but also that it should not be discriminated against. There are glaring instances of distortion of a level playing field in favour of private sector (reverse competitive neutrality) in the pharmaceutical sector. For example, three large vaccine manufacturing PSUs (Central Research Institute at Kasauli, the Pasteur Institute of India at Coonoor and the BCG Vaccine Laboratory at Chennai) were closed down in January 2008 on grounds of non-compliance of Good Manufacturing Practices even though the vaccines produced did comply with standards of safety.*

The government has, since the closure, been procuring vaccines required for the country's national immunization programme from the private vaccine companies at high prices thereby leading to a substantial increase in the expenditure on the universal immunisation programme. Evidence has shown that private players offered vaccines at competitive prices prior to closing down of the three PSUs after which the government has been seen to steadily pay higher prices for procuring vaccines from them to this day. This is because the closure has stifled competition in the pharmaceutical sector with only private vaccine manufacturers operating in the market and has seen a resulting increase in the price of vaccines by upto 75 percent.

reported that: Punjab was one of the worst hit states as a large number of industrial units shifted base to the neighbouring Himachal Pradesh. Its position in the industry graph slipped sharply to 15th from the 2nd position at one time. Almost 75 per cent of the small scale units moved to comparatively safer havens of excise free zones. Of 300 small pharma units in Haryana only 50-60 were left by 2010, 30-40 units in Delhi and 50 out of 500 left in Punjab.

⁶⁵H. Kewal, "Should FDI in pharma be regulated?", 08 April 2011, available at: <http://news.in.msn.com/business/article.aspx?cp-documentid=5106351>

2.2 Principle: Procedures should be rule bound, transparent, fair and non-discriminatory

Application: Under the Drug and Cosmetics Act, the regulation of manufacture, sale and distribution of drugs is primarily the concern of the State authorities while the Central Authorities are responsible for approval of new drugs, clinical trials in the country, laying down the quality standards for drugs, control over the quality of imported drugs, coordination of the activities of State Drug Control Organisations and providing expert advice with a view of bringing about uniformity in the enforcement of the Drugs and Cosmetics Act. It is essential that the Drugs Controller General, the State Drugs Controllers and the various drugs inspectors and other officers carry out these tasks as per the laws, rules and regulations laid down in a transparent and non-discriminatory manner.

Quite often it has been seen that rules are not applied in a transparent or a fair manner. Authorities also use circulars etc to define their own interpretation of the laws and policies without proper consultation with the affected parties. In *Sagar Medical Hall vs. State of Bihar*⁶⁶, a petition was filed against the order of State Government restraining the regional licensing authorities from issuing or renewing licence for the wholesale and retail sale of drugs. Rule 64 provides for conditions subject to which a licence shall be granted or renewed. The State Government's justification for its policy decision was that the ban on the issuance of wholesale and retail drug licences was a temporary measure to prevent the spurt of spurious drugs. The State Government said that there were adequate drug stores to meet public need. The High Court held that the grant and renewal of drug licence is governed by statutory rules and nowhere do such rules provide that the license can be declined or renewal refused on the ground that the State Government reckons that the number of shops are sufficient to meet demand of public. Thus, executive decisions of the State cannot override the statutory provisions. This case shows how sometimes rules are misinterpreted by the authorities in a manner, which can be, detrimental to competition.

In *Bharat Biotech International Ltd. vs. A.P. Health and Medical Housing and Infrastructure Development Corporation*⁶⁷, eligibility criterion for the tender for supply of Hepatitis-B drugs required WHO pre-qualification. This was challenged as arbitrary and with the intent to exclude competition in favour of one manufacturer. The high court evaluated the provisions of Drugs and Cosmetics Act. The court concluded that the State had failed to establish that WHO adopts standards that are higher than the standards adopted under the Indian law for assessing the quality of the product. It held that the Indian laws were stringent in ensuring a high standard of drugs but has been futile because of laxity on part of State in enforcing the law. Instead of rectifying the implementation of the Act, the State cannot seek shelter in such a manner. Accordingly, such a prequalification was set aside.

2.3 Principle: Third party access to essential facilities on reasonable fair terms will ensure effective competition and therefore, should be provided in law.

Application: TRIPs allows for certain flexibilities in its clauses to protect public health. It is correct to assert that all forms of IPRs have the potential to stifle competition since they provide exclusive rights to the person who has claimed the same for an invention etc. as the case may be. With regard to the pharmaceutical market, patents confer monopoly status to pharmaceutical companies as patent-holder are granted exclusive rights to make, use or sell a

⁶⁶ (CWJC) Patna HC dt. 7/12 /01, extracted from "Health Care Case Law in India", Centre for Enquiry into Health and Allied Themes (CEHAT) and India Centre for Human Rights & Law (ICHRL), at pg.97 available at: <http://www.cehat.org/humanrights/caselaws.pdf>

⁶⁷ "Health Care Case Law in India", Centre for Enquiry into Health and Allied Themes (CEHAT) and India Centre for Human Rights & Law (ICHRL), available at: <http://www.cehat.org/humanrights/caselaws.pdf>

product for a specified period. Access to affordable medicines can seriously be impacted in case such patented drugs are priced to extract monopoly profits.

In India, with product patent regime in place from 2005, any patented products entering the market will essentially be marketed by a monopolist or its licensees. Unlike a competitive producer, a monopolist produces in small quantity and sells it at high rates. Thus, it is highly likely that patented drugs will be greatly overpriced, depriving underprivileged people from the benefits of these drugs. At this juncture it is imperative to illustrate the manner in which Novartis exercised its exclusive marketing rights (EMR) granted in India with respect to what might be expected in the new patent regime. Novartis' Glivec is used for treatment of Chronic Myeloid Leukaemia ('CML'). There was an increase in the price of the drug from \$90 to \$2610 after the grant of EMR, which put the drug out of reach of approximately 24,000 patients in India who suffer from CML⁶⁸.

The abuse of monopoly power bestowed upon by the patent system on the patentee could be remedied by granting compulsory licence or through parallel imports. This in turn can be achieved by issuing compulsory licenses to generic producers in the pharmaceutical sector. generic substitutes enhance competition in the market and automatically check the price rise, the market would be more competitive and see a fall in prices. While these measures are necessary they are not sufficient because the purchasing power of the people remains low highlighting the need to expand the list of essential drugs under price control. To make essential medicines accessible to the masses, manufacturers and retail pharmacy stores may be provided with a variety of incentives such as lower duty, subsidy etc., to supply essential drugs.

2.4 Principle: Ensure free and fair market process

Application: *Many procurement policies of the government are seen to introduce entry barriers in the manner tenders/bids are drafted. For example, in a tender call for Ayurvedic medicines, the Directorate of Ayurveda in Government of Rajasthan, Ajmer was seen to bend the rules governing the procurement of medicines by adding conditions that manufacturers must have minimum five years of experience, a condition that did not figure in the original call for tenders. On the other hand, the purchase committee had decided to invite public sector undertakings and cooperatives, with GMP compliance for the purchase bid without the five year clause. Later, in its advertisement, it inserted a condition that the manufacturer must have a minimum five-year experience. Of the existing PSUs and co-ops that manufacture Ayurvedic medicines, only eight had an experience of five years and more. Unless an experience of minimum of five years was necessary to ensure the level of quality sought which the purchase committee failed to adequately demonstrate, such a rider acted as a deterrent for entry of new players which also stifles innovation. It is to be noted that government policies should not interfere with the free and fair market process by restricting market access to players.*

The above referred Bharat Biotech case referred to in Para: 2.2 is another illustration of procurement policy practice distortions.

⁶⁸ Archa Saran, "India: A Changing Regime - India's Tryst with January 1, 2005", 15 November 2004, available at: <http://www.mondaq.in/article.asp?articleid=29573>

2.5 Principle: Notification and Public Justification of Deviations from Principles of Competition Policy

Application: *Intervention in market process to achieve social, environmental and other goals may be entirely appropriate. One such goal may be to ensure affordability of medicines. In September 2010, the Parliamentary Standing Committee on Health & Family Welfare, in its report, suggested a series of measures like increasing the number of drugs under price control, a blanket cap on profit margins of all medicines and promoting the use of generic drugs to make it more affordable and accessible to the common man.*

Dr. Reddy's Laboratories opposed the Parliamentary Standing Committee recommendations on increasing the number of drugs under price control and cap on profit margins of all medicines. Such a move by the government has ostensibly been propelled by the public interest argument. The Indian pharmaceutical industry needs huge investments in research and development. Unfortunately, capping the prices of drugs will cut down profits and thereby reduce availability of finance and discourage investment in research. Such issues are delicate as they require more research so as to assess the net benefit of fixing the prices of medicines, by weighing its negative effects on competition against the benefits of ensuring easy affordability and consumer welfare. Regardless, it is necessary that such deviations are publicly notified, justified and implemented in a transparent manner and not just presumed in the interest of meeting national priorities.

2.6 Principle: Effective control of anticompetitive conduct through competition rules

Application: *Several anticompetitive practices occur in this sector, which can be categorised into primarily three classes: intellectual property rights related breaches, potential abuse of competition norms arising from mergers & acquisitions and collusive and other anti-competitive practices. Anti-competitive practices in the healthcare delivery system range from receiving kickbacks by doctors from pharmaceutical companies for influencing drug sales, to tied sales. With specific reference to doctors, suggesting more tests than necessary and accepting commission for referrals are practices, which may have anticompetitive implications. With particular reference to pharmacists, the anticompetitive practices most commonly engaged in are reflective of collusion. In a CUTS study, the majority of pharmaceutical companies surveyed claimed awareness with respect to the existence of collusive practices in the pharmaceutical industry and a high 32.3 per cent of respondents asserted that such practices prevail in the industry to a great extent.*

The pharma trade too engages in anticompetitive practices by demanding higher margins from manufacturers with the threat of boycott, which result in higher prices. For instance, the pharmacists, organised under the All India Organisation of Chemists and Druggists, and some of their state bodies collectively boycotted pharma companies in order to pressurise them for higher margins in 1980s. When faced with action under the MRTP Act, they cleverly changed their course of action ranging from calling for 'non-cooperation' to negotiating an MOU with particular companies on margins.

The pharmaceutical industry has witnessed increased consolidation lately. Matrix lab was acquired by US based Mylan Inc in August 2006, Dabur Pharma acquired by Singapore based Fresenius Kabi in April 2008, Ranbaxy Laboratories Limited acquired by Japan based Daiichi Sankyo in July 2009, Shantha Biotech by France based Sanofi Aventis in July 2009, Orchid Chemicals (injectible business) by US based Hospira in December 2009, Piramal Healthcare (domestic formulation) acquired by US based Abbott Laboratories in May 2010⁶⁹. As a

⁶⁹ Competition Law and Indian Pharmaceutical Industry, available at: <http://www.cci.gov.in/images/media/completed/PharmInd230611.pdf>

natural consequence of M&As, there is bound to be an increase in scale and scope of enterprise activities and reduction in the costs of the firms merged. However, given the fact⁷⁰ that companies like GSK and Abbott Labs have resorted to anti competitive practices overseas in the past, the potential of such consolidation to throttle competition and subject consumers to increase in price of medicines in India cannot be ignored.

There are multiple legal and policy options, which may be utilised to deal with anticompetitive practices in the pharmaceutical sector and the healthcare delivery system. Using competition law and compulsory licencing under the IPR law are the obvious choices of legal remedy to deal with anti-competitive practices in the pharmaceutical industry and healthcare delivery system resulting from IPRs.

2.7 Principle: Where a separate regulatory arrangement is set up the functioning of the regulator should be consistent with the principles of competition as far as possible

Application: *Department of Pharmaceuticals, established under the Ministry of Chemicals and Fertilizers, has been entrusted with the responsibility of policy, planning, development and regulation of pharmaceutical industries. Agencies like National Pharmaceutical Pricing Authority (NPPA), National Institute of Pharmaceutical Education Research (NIPER), and all five pharma PSUs (IDPL, HAL, RDPL, KAPL, and BCPL) are now under its control.*

Competition issues are complex and matters having a substantive competition content, even if comes under the jurisdiction of the Department of Pharmaceuticals, should be referred to the Competition Authority whose decision or opinion on competition related issues, for instance say excessive pricing due to abuse of monopoly by the patent holder, may be held binding.

2.8 Principle: Respect for International Obligations

Application:

Essential medicines can be classified as those medicines which cater to the priority health care needs of a population and hence should be made available in health systems round the clock in adequate amounts, in appropriate dosage forms, with assured quality, and at affordable prices. Poor medicine supply, insufficient health facilities and staff, low investment in health and the high cost of medicines are a few factors which adversely affect the availability of medicines in developing countries. The WHO Model List of Essential Medicines is a list of over 350 medicines, selected on the basis of disease prevalence, evidence of safety and efficacy, and comparative cost-effectiveness and includes treatment options for priority conditions such as malaria, HIV/AIDS, tuberculosis, reproductive health and also chronic diseases, such as cancer and diabetes, based on evaluation of the best available evidence. This list can be used by India as a guide for the development of our own national essential medicines list which in turn can help prioritize the purchasing and distribution of medicines, thereby reducing costs to the health system.

⁷⁰ Mehta, Pradeep S., “Overseeing pharma mergers through competition lens?”, The Financial Express, June 20, 2010

All Member countries of the WTO have adopted IP protections in line with the TRIPs Agreement which aims at striking a balance between the need to provide incentives for innovation and the obligation to the public of ensuring access to the benefits of the invention (in this case, of medicines). Further, the Doha Declaration on the TRIPs Agreement and Public Health (2001), aimed at improving access to medicines, especially for HIV/AIDS, malaria and tuberculosis in developing and least developed countries. It underscores the ability to use flexibilities that are built under the TRIPs Agreement, in particular compulsory licensing and parallel import.

The waiver in August 2003 allowed members to waive the requirement under Art 31(f) of TRIPS to provide for compulsory licensing (CL) only if the medicine is predominantly for domestic use. It further allowed members of Regional Trade Agreements (RTAs) to export within the region despite the territoriality principle applicable to patents. The step may have generated hope that there would be some reduction in the cost of medicines. However, majority of developing countries (DCs) have not been able to utilise the flexibility of CL under the Agreement effectively due various reasons such as lack of local industry; small markets – weak economies and economy of scale; lack of supportive laws etc. Furthermore, there is lack of awareness of their rights within the regulators, judges and enforcement agencies. Thus the unfavorable legal, economic and institutional framework makes it difficult for DCs to utilise the existing TRIPs flexibilities.

Nonetheless, it is considered vital to supplement and possibly substitute imported medicines with locally obtained products. Such an effort calls for building and strengthening the capacity to manufacture affordable, high-quality generic essential medicines within the region, which can significantly contribute in achieving public health objectives in these countries. This in turn requires a concrete policy measures backed by legislations that support the manufacturing of essential quality medicines at an affordable price and also the import of generic medicines. Thus incorporating TRIPs flexibilities in framing and implementation of supporting legal and policy measures, such as those concerning local innovation and production of pharmaceuticals is vital.

Composition of Task Force on National Competition Policy

Chairperson

1. Mr Pradeep S Mehta, Secretary General, CUTS International

Members

2. Prof S. Sundar, Distinguished Fellow, TERI
3. Dr S. L. Rao, Chairman, Former Chairman, Central Electricity Regulatory Commission
4. Dr Geeta Gauri, Member, Competition Commission of India
5. Mr NC Vasudevan, Director General, National Productivity Council
6. Ms Renuka Kumar, Joint Secretary, Ministry of Corporate Affairs
7. Mr Amitabh Kumar, Advocate, J. Sagar Associates
8. Ms Pallavi Shroff, Partner, *Amarchand & Mangaldas & Suresh A Shroff & Co* (CII Nominee)
9. Dr Ajit Ranade, Senior President, Aditya Birla Group (FICCI Nominee)
10. Dr Navneet Sharma, Director, CUTS Institute for Regulation and Competition, Member-Convener

Annexure 3

Report of Task Force on Business Regulations

1. Introduction

Planning Commission of India is in the process of developing the Twelfth Five Year Plan for the country and has formed the Steering Committee on Industry to look into various ways through which industrial performance in general and manufacturing sector performance in particular could yield desired growth trajectory for the country. The Steering Committee on Industry delved into various such issues through the sectoral as well cross-cutting Working Groups to come up with specific findings and recommendations for the purpose. One such cross-cutting Working Group has been on Business Regulatory Framework (WG BRF). The Task Force on Business Regulation is one of the four Task Forces constituted under the WG BRF and has developed this Report on the basis of the deliberations made over the last three months. The composition of Task Force is presented in the end of the Report.

2. Proceedings of Task Force

After the Task Force was constituted in the end of May 2011, the Chairperson of the Task Force, in consultation with CUTS, identified the Members of the Task Force and issued notices for convening its meetings. In all, three meetings were convened, one each in the months of June, July and August 2011. The proceedings of the said meetings were minuted and circulated to the Members of the Task Force. The enlisted action points were followed up through online and offline exchange. The agreed upon points were then incorporated into this Report.

3. Major Findings

3.1 Ambiguous Nature and Vast Scope of Business Regulations

- The scope of business regulations is both ambiguous as well as vast. It has not been defined in Indian context so far. After much discussion, the Task Force adopted the interpretation that it shall cover all the legislations, subordinate legislations, by-laws, rules, and procedures that have been passed and codified as documents by the Union and the State governments, and have a bearing on the conduct of business, as generally understood. Furthermore, the procedures

and practices that have been formulated to give effect to the provisions of the above shall also be considered under the extended ambit of business regulations.

- Following from the above, it was also found that the business regulations are getting administered by all the three tiers of government at the Union, State and Local levels. Many of these regulations have been uploaded on the websites of the respective departments and dedicated web portals have been created by the Union and State government departments for the purpose of investment promotion and business facilitation. But such web portals are not adequately linked with one another.
- There are vast numbers of regulations that are in existence, and there prevails difficulty in tracing the amendments made in the original legislations on the one hand and the notifications/circulars constantly getting issued to give shape to the legislations by different departments of the Union and State governments on the other hand.
- Also, business regulations have not been classified sectorally – for instance, those relating to the Manufacturing Sector, and those relating to the Services sector.
- So far, there has not been any comprehensive effort to define or classify business regulations at pan-India level. There are different types of regulations that directly or indirectly affect the performance of business in general and that of manufacturing sector in particular.

3.2 Issues related to Coordination and Coherence

- There are instances of contradictory as well as overlapping business regulations. For instance, land acquisition for industrial and commercial use requires business entities to deal with a number of government authorities that derive powers from multiplicity of legislations.
- Despite that a number of State governments have established Single Window Systems (SWS) or One-Stop-Shops (OSS) on the lines of the initiatives undertaken in many other countries of the world, there is multiplicity of authorities when it comes to administering various business regulations. From the efficiency point of view of businesses, there should be single points of interactions between business and government. But the reality is far from this principle and in practice; businesses are required to spend valuable resources in

interacting with the multiple points of governments located at Union, State and Local levels.

- Apart from the challenges related to coordination and coherence among the three tiers of government, there are challenges of similar nature within each level which means that the different departments falling at each level are not able to facilitate the requirements of businesses in a coherent way. Each department has been vested with specific responsibilities as per the 'Government of India (Allocation of Business) Rules 1961 and accordingly the businesses are required to deal with different departments during their various stages of business broadly divided into three categories: start-up, operations, and closure.

3.3 Unmeasured Burden of Business Regulations

- There has been a general consensus in the country over burdens associated with government and administrative oversight in general and business regulations in particular. Reflecting upon the findings from various reports that rank countries on the basis of government regulations and the resulting business environment or investment climate, it is apparent that India has burdensome regulations that act as obstacles to business development in the country.
- Such burden could be measured in monetary terms, thereby assessing the costs involved with the administration of the regulations borne by the government as well as borne by the businesses. But such measurement exercise has not been undertaken in the country so far. As a result of this, it cannot be said as to what percentage of government and business resources are getting wasted in administering/ dealing with business regulations. It is well recognized here that in order to arrive at any such measurement, the costs associated with the regulation has to be weighed against the benefits associated with its compliance. And all those activities that are required to be undertaken on account of certain regulations that cannot be justified through the resultant benefit would be classified as burdens.
- Various other advanced economies have made some educated guesses at doing this and have come out with a total cost of regulation for their economies of about 10-12% of GDP. What the Dutch have done rather successfully, is to measure the administrative or red tape costs of regulation across their economy. These came to 3.6% of GDP. Then they decided to reduce that figure by a quarter thus saving about 1% of GDP in total (Better Regulation Task Force, UK).

3.4 Inherent Limitations with Regulatory Framework of India

- Regulations in India lack 'Sunset Clauses' which means that once a regulations has come into effect, it will remain in the statute books till it is not formally repelled. With the 'Sunset Clause' in place, the regulations will cease to remain functional unless there are fresh actions for its continuance. As a result of the absence of 'Sunset Clauses', many archaic regulations that had been enacted during the pre-independence times by the British Raj, still continue to exist. Though there have been specific actions as a result of the recommendations of various departmental committees, empowered committees, reform commissions etc. to repeal such regulations, but the scope of such actions has been limited in nature.
- Regulations in India lack 'Periodic Review Clauses' which means that there are no 'regulatory review' requirements embedded into these. Once a regulation has come into effect, it is not necessary that it has to be reviewed. Though, regulations, in general, keep getting reviewed in the light of the complaints or/and feedback received from the target groups of the particular regulations, such review is not systematic or comprehensive in scope. Such reviews are not of structured nature and are without any concrete methodology of consulting the stakeholders. Also, the terms of such reviews are very loosely defined and the exercise is not predictable enough.
- Regulatory Framework of India lacks 'Regulatory Impact Analysis (RIA)'. RIA has been globally acknowledged as a promising tool to analyse the need and relevance of existing as well as new regulations on the basis of specific criteria, developed through a consultative process, and matching with the context of the particular country.

3.5 Constraints with Delivery System of Regulatory Reforms

- In the past, there have been several efforts undertaken by the government, industry and other agencies to identify the bottlenecks with business regulations, business facilitation, investment promotion and the likewise. Such efforts resulted into detailed recommendations and action points. But the extent to which such recommendations were considered and applied by the respective governments is seldom measured.
- While exploring the justification for such phenomenon, it emerged that such findings are of advisory nature only and on their own, have no authoritative

bearing on the target regulations. In other words, the regulations are passed by Union or State Legislatures, and until the recommendations towards making amendments into the regulations, and their repeal altogether, are not backed by appropriate legislation, reform outcomes will continue to remain negligible.

- There is no single dedicated agency for keeping track of the extent to which the previously given recommendations related to regulatory reforms got implemented. Similarly, there are no repositories for periodic gathering and classification of the outcome documents of various such implementation efforts. As a result, every time there is a new group constituted to reflect upon the problems and suggest solutions, it has to start with the consolidation exercise of randomly searching for the relevant information relating to the implementation status of previous recommendations.

3.6 Weak Institutional Mechanisms for Business Regulatory Reforms

- Unlike the case with various countries that are faring well in business regulatory reforms agenda, India lacks any dedicated institution to look into the matter at pan-India level. There have been business facilitation and investment promotion boards and entities set-up by various state governments of India. There have been efforts on the part of Union government to create dedicated investment and export promotion zones for the purpose. However, all such efforts have not been concerted and are not being undertaken in adequately planned and supervised way, especially, when it comes to reforming the business regulatory environment across the country.
- Despite that the issue of business regulatory reforms is high on the agenda; there is no dedicated authority at the country level that could guide the whole process of reform in a structured, planned, cogent and systematic manner, thereby mandating the respective departments of the Union and State governments to comply in a timely and predictable way. Such finding does not entail that there are no efforts for coordinated actions among various such departments. What is missing is the authorized entity that has specifically been given the mandate of pushing for such reforms in a time bound manner.
- The interface between government and the industry is also not well defined. There are definitely periodic consultations among various industry collectives and specific government departments located at Union and State levels, but such consultations are not structured enough to be guided by a well-defined and outcome oriented process steered through an agency dedicated for the purpose. There are multiple channels of submission and acceptance among the industry

and the government respectively and instead of the process being institutionally driven, much unsolicited reliance has to be over the priorities set by the individuals making such representations.

- There are no single-stop-shops at Union and State levels for obtaining information about amendments made in the existing regulations. Nor are the State Governments obliged to share revisions or any actions relating to the State-specific regulations within a stipulated time frame. It does not mean that the inter-governmental exchanges of such nature are not adequate. The government departments might be fulfilling the requirement of sharing such information with one another on periodic basis. The problem lies with how the business entities will get to know about all such changes without having adequate information about when, if at all, any change has taken place!

4. Recommendations

4.1 Mapping of Business Regulations

- There is an urgent need to map what all constitutes 'business regulations' at pan-India level. At present, there is no authoritative account of the type and number of business regulations that exist in the country. After looking into the whole gamut of instruments falling under the category of business regulations, the Task Force was only able to come up with a broad interpretation of the term. It was agreed that the regulatory framework includes policy, legislative and procedural instruments being administered by various levels of the government for controlling the different types of business activities being undertaken. The Task Force thus recommends mapping of business regulations on the basis of the following, and may be more, parameters:
 - As per impact on business: High; Intermediate; Low...
 - As per jurisdiction: Union; State; Local...
 - As per the stage of business: Start-up; Operational; Closure...
 - As per the sector: Manufacturing; Services...
 - As per the size of business: Large; Medium; Small; Micro...
 - As per the type of business: Formal; Informal...
 - As per the scale of operations: Foreign, Domestic...
- Such mapping exercise, though in part, has been attempted by the World Bank and International Financial Corporation. However, the scope of the work undertaken so far has not been comprehensive enough to cover all the given,

and may be more, parameters. Once such mapping is undertaken, it will serve as a baseline for all future attempts at enhancing the quality of business regulatory framework.

- The most important advantage of such exercise will be that a country-wide repository of all business regulations would be produced – something that does not exist at present.
- The exercise will also enable prioritization of certain sets of business regulations over the others when it comes to impacting different plan priorities. For instance, the manufacturing sector has been identified as one of the priority areas of the 12th FYP, but without having a specific account of business regulations impacting its performance, it will be difficult to locate the problems and adopt the solutions.

4.2 Business Regulatory Burdens Measurements

- Having mapped the business regulations, it will be imperative to measure the burdens associated with those in a phased manner through prioritization of those regulations that affect specific business activity or sector the most. Such burdens could be both quantitative as well as qualitative and a robust methodology, with differential values and weights as per the specific context, will have to be developed and adopted for the purpose. Such exercise has not been undertaken in India so far but there are well documented global precedents on this.
- The burdens associated with business regulations would include the different types of costs (tangible, intangible, direct, indirect, real, pecuniary, substantive, administrative and the likewise) borne by either or all of the - government, business and stakeholders. Such burden-measurement will also contribute towards prioritizing action upon certain business regulations over the others. The factors causing the burdens would also be identified alongside. The Task Force thus propose developing a dedicated methodology, like Regulatory Burdens Measurement (RBM) for the country. Some of the models being adopted at the global level for this purpose are:
 - Standard Cost Model
 - Business Cost Calculation
 - Multi-Criteria Analysis
 - Cost Benefit Analysis
 - Cost Effectiveness Analysis

4.3 Taking Stock of Existing Recommendations

- There is a need to undertake a comprehensive analysis of various efforts undertaken by the government and non-government actors for addressing the problems with existing business regulatory framework. Such efforts have resulted into a plethora of recommendations that are generally confined to the produced documents. A dedicated single repository has to be created for all such documents.
- The consolidated recommendations than have to be classified into such categories that could address specific regulations classified through the aforementioned mapping exercise. Such exercise will do justice to the existing recommendations and will be followed up with an enquiry over the extent to which such recommendations have been taken up or not taken up by the respective public authorities and departments.
- The consolidation and classification exercise will require information and knowledge sharing on the part of various government and non-government entities. The Task Force also recognizes that, prima facie, such exercise will appear to be quite cumbersome and of great magnitude, but its promising nature does not get undermined by such initial hiccups. It is expected that once a systematic consolidation and classification of all the existing recommendations has been done, it will enable the future efforts to be guided by far reaching levels of coherence. Also, this will reduce duplication by communicating what has already been done and what are the gaps and the emerging areas that require new enquiry.
- Such consolidation should also get followed up by instituting a system of automatic updation with the help of Information and Communication Technology (ICT) as well as conventional communication channels whereby every time an agency is undertaking research or enquiry into areas related to business regulatory framework, it will be obligatory on its part to share its work (or its abstract details if there prevails copyright constraints) on the common repository.

4.4 Systematizing Business Regulatory Governance

4.4.1 Exploring Alternatives to Business Regulations - There has been recognition at the global level to explore various alternatives to conventional command and control type regulations (government regulations). It is not that such alternatives are not known or practiced in India. What the Task Force found was that there is no structured modality of exploring such suitable alternatives for addressing the regulatory gaps.

Keeping in horizon the wide arena of regulatory governance, it is recommended that a detailed analysis should be undertaken on, among others, the following alternatives to regulations:

- Free Market Mechanisms
- Specifying the Outcome
- Economic Instruments
- Information and Education

Such analysis will consider the Indian context and will attempt at assessing the extent to which the adoption of alternatives to regulations are feasible as well as beneficial. Because, it will be important to constantly keep the rationale of such replacement exercise in horizon – reducing regulatory burden without compromising the regulatory objectives.

4.4.2 Classification of Business Regulations - Continuing from the above, once the business regulations have been mapped, there will be a need to classify these into the following three broad categories:

- Self-regulation – Such regulations that are initiated by the individual business entities either as a result of their internal decision making or through certain external drivers like sub-set of co-regulation or public regulation. As a corollary, such self-regulatory practices might or might not get recognized by the public authorities, but even so offer great scope for realizing the regulatory objectives, alongside greatly reducing the regulatory burdens.
- Co-regulation – Such regulations that are getting administered through the involvement of public authorities, businesses and stakeholders in a collective manner with varying degrees of role assumption by these;
- Public Regulation – Such regulations that are completely getting administered by the public authorities;

It is duly recognized that some of the regulations will be getting placed under all three categories on account of their provisions and ensuing procedures created to give effect to the regulation. Similarly, each broad category could further be divided into relevant sub-categories. Furthermore, such classification will be a forward looking exercise carrying the potential to guide and address the 'sovereignty considerations' that get raised in response to any measure to deregulate or substitute public regulation with co-regulation or/and self-regulation. The rationale behind such classification will be to necessitate due justification for containing certain regulation within a particular category.

4.5 Benchmarking for ‘Optimal’ Business Regulations

It is recommended that business regulations should be benchmarked against clearly defined tenets of optimality. Such embracing has to be done in both substantive as well as procedural aspects of regulatory governance. In other words, such essentials would get reflected in the content of the regulation as well as in the very process through which regulatory governance (regulatory planning, regulatory enforcement or regulatory review) is being undertaken at the Union, State and Local levels. The Task Force has identified the following tenets of optimality that need to be embedded into the business regulatory governance across the country. Such tenets of optimality, after due consultation and agreement among various stakeholders, should be embraced through appropriate policy and legislative framework (detailed out subsequently):

4.5.1 Adoption of Principles of Optimal Regulation – The Task Force has identified the following eight principles that could enable Indian business regulations move towards optimality:

1. Justification
2. Predictability
3. Effectiveness
4. Simplicity
5. Responsiveness
6. Coherence
7. Transparency
8. Accountability

Principles of Better Regulation in Select Countries

Ireland – Necessity, Effectiveness, Proportionality, Transparency, Accountability, Consistency

UK – Proportionality, Accountability, Consistency, Transparency, Targeting

Source: Government White Paper on Better Regulation – Regulating Better (2004), Ireland

Source: Better Regulation Task Force (2005) UK

4.5.2 Clearly Defined Guidelines for Stakeholder Consultations – Acknowledging the size of India and the diversity that prevails within on account of varied interests, information and knowledge levels and the likewise, it is imperative to clearly define the processes for stakeholder consultation during the various stages of regulatory

governance. If such processes are not defined and complied with, the aforementioned tenets of optimality will not be able to bear envisaged impact on the quality of regulatory governance in the country. It is not that in the present context, consultations are not being undertaken. The emphasis here is over establishing such essentials of consultations that could guide in ascertaining the representative and inclusive characteristic the whole process of regulatory governance.

UK – The Seven Consultation Criteria

- Criterion 1 When to consult
- Criterion 2 Duration of consultation exercises
- Criterion 3 Clarity of scope and impact
- Criterion 4 Accessibility of consultation exercises
- Criterion 5 The burden of consultation
- Criterion 6 Responsiveness of consultation exercises
- Criterion 7 Capacity to consult

Source: “Code of Practice on Consultation” (2008) UK

Ireland – Checklist for Stakeholder Consultations

1. Are you clear on the purpose and objectives of your consultation?
2. Are you clear on the questions you want to ask in your consultation?
3. Have you identified all of the stakeholder groups and individuals that should be consulted?
4. Have you chosen the most appropriate and inclusive methods of consultation, including those that meet the needs of ‘non-traditional’ stakeholders?
5. Have you allowed for sufficient resources for the consultation?
6. Have you considered all of your legal obligations?
7. Have you publicised your consultation in online and offline media?
8. Have you allowed sufficient time to give stakeholders an opportunity to consider the issues fully?
9. Have you planned how you will analyse the submissions received during your consultation?
10. Have you planned to evaluate your consultation process and to ensure any lessons learned are taken into account for the future?

Source: “Reaching Out: Guidelines on Consultation for Public Sector Bodies” (2005), Ireland

OECD Reference Checklist for Regulatory Decision-making

- Question No. 1 – Is the problem correctly defined?
- Question No. 2 – Is government action justified?
- Question No. 3 – Is regulation the best form of government action?
- Question No. 4 – Is there a legal basis for regulation?
- Question No. 5 – What is the appropriate level (or levels) of government for this action?
- Question No. 6 – Do the benefits of regulation justify the costs?
- Question No. 7 – Is the distribution of effects across society transparent?
- Question No. 8 – Is the regulation clear, consistent, comprehensible, and accessible to users?
- Question No. 9 – Have all interested parties had the opportunity to present their views?
- Question No. 10 – How will compliance be achieved?

Source: “Recommendation of the Council of The OECD on Improving The Quality Of Government Regulation” (1995) OECD

4.5.3 Mandating Regulatory Impact Analysis (RIA) – Regulatory Impact Analysis (RIA) has to be mandated in the country in *ex ante* as well as *ex post* manner. Whereas the former will enable the choice of appropriate regulatory instrument (including substitution of the same with regulatory alternatives) on the basis of their impact assessment, the latter will enable impact analysis of the existing regulations as per their performance and impact. The former is prospective and the latter is retrospective. The fundamental purpose of RIA is to improve the quality of regulation and it helps to identify unreasonable burdens on business and ensure that they are kept to a minimum. There is no single generic model of RIA used internationally. Thus, RIA should be developed for Indian context through a consultative process and due research reflecting upon global experiences with its adoption and usage.

Ex ante, RIA helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on the individual citizen or business. It also helps to clarify the costs of enforcement for the State. RIA can also identify potentially anti-competitive or protectionist regulations before these are enacted. Because it includes consultation with a wide range of stakeholders, it also provides an opportunity for those potentially affected by regulations to highlight any unforeseen consequences that may not previously have been considered. It thus increases the accountability of the regulatory process.

Ex post, RIA could enable regulatory and policy reviews on periodic basis so as to ensure that the regulations and policies are reflective of the changing environment related to business, growth and development. Acknowledging the huge volumes of regulations in the country – most of which are from the time of British Raj, the Task Force recommends development of an action plan for application of RIA for Union as well as State administered regulations and policies. Considering the large volumes, it is recommended that due prioritization for application of RIA should be done in accordance with the mapping and classification exercise, recommended previously.⁷¹

Employing RIA – A Comparative Perspective

Most OECD countries require RIA for primary laws and subordinate regulations. Denmark requires RIA only for primary laws. The Czech Republic and Ireland require RIAs for primary laws and major secondary legislation, the Netherlands for major laws and major secondary legislation, Portugal for selected laws and secondary legislation, and Sweden for primary laws and secondary legislation that might have an effect on small business. Until a recent review of its Better Regulation agenda, Canada applied RIAs (Regulatory Impact Analysis Statement) only to secondary legislation, on the grounds that the Memorandum to Cabinet required for primary legislation already encompassed most of the elements of high-quality legislation. The United Kingdom requires RIAs in primary laws and secondary legislation which have a non-negligible impact on business, charities and the voluntary sector.

⁷¹ The Task Force is not recommending any particular timeframe for repeating the process of RIA for a particular regulation or policy. But it is expected that such timeframe could be determined through multi-stakeholder consultation mechanism, while considering feasibility, relevance and expected gains.

4.5.4 Embedding Sunset Clauses – Sunset clauses have to be embedded into the regulations so as to enable automatic ceasing of these unless deliberate attempts have been undertaken by the corresponding institutions for retaining these in their original or revised form. The Task Force has not come up with a stipulated timeframe of such sunset clauses but it did agree upon creating more than one timeframe as per the category of regulation being targeted. Thus, after the mapping exercise, all the regulations could be put under different categories and accordingly, the corresponding sunset clauses could be embedded into these. Again, multi-stakeholder consultation mechanism should be relied upon for arriving at such timeframes. It is also expected that during such deliberations, the practical limitations associated with these clauses, their possible misuse and corresponding remedies should be explored.

4.6 Appropriate Policy and Legislative Framework

4.6.1 Policy Framework – In order to adopt the aforementioned tenets of ‘optimality’ into business regulations, there is urgent need for constructing appropriate policy framework at the Union and State levels. The starting point for this has to be release of a Policy Statement by the Union government, laying down the framework for implementation of the given recommendations of the Task Force as well as the WG BRF. The Policy Statement shall elaborate the need for concerted actions on the part of different tiers of government as well as the different wings of the respective governments. It will also enable target constituencies to understand and appreciate the cost savings and revenue gains envisaged through the proposed actions. Planning Commission of India should take the lead on this in consultation with the Ministry of Finance, Ministry of Commerce and Industry, and Ministry of Corporate Affairs.

Having set the stage for multi-stakeholder consultations on the issue, the next action would be the drafting, adoption, and implementation of the National Policy on Business Regulatory Governance by the Union government and that of State Policies on Business Regulatory Governance by the respective State governments. These Policies will draw upon the Policy Statement and will take into account the specific context in which these will be implemented. It is recommended that due elaboration of the envisioned Business Regulatory Framework and its constituent elements will be made in such Policies so as to reflect upon the proposed actions like the passage of requisite legislation(s) and establishment of the corresponding institutions that can give effect to the Policy provisions in an authoritative way. The Task Force recognizes the role of Prime Minister and Chief Ministers in the process and expects that the Planning Commission of India and State Planning Boards would also be actively involved in steering the endeavour. The administrative responsibility for the Policies will primarily lie with Ministry of Finance at the Union and State levels.

4.6.2 Legislative Framework – The subject matter of the investigation related to business regulations, most of which receive sanctity by the Parliament of India and the State Legislatures. It is therefore recommended that two sets of legislations should be passed: National Business Regulatory Governance Act by the Parliament of India and the State Business Regulatory Governance Act(s) by the corresponding State Legislatures. The provisions of the Act(s) will supersede the specific provisions of the different business regulations in order to give effect to the elements of the aforementioned Policies. Also, some of the provisions of the proposed Act(s) will require Amendments in the existing legislations, for instance, insertion of Sunset clause into specific legislations. These Act(s) will enable the employment of innovative regulatory governance tools like the RIA and RBM not just for research purposes, but for enhancing the overall quality of regulations by mandating Amendments on the basis of evidence gathered through a robust methodology.

The Task Force has given a careful thought to the necessity of having such legislations and does not consider these to be ‘super-regulations’ at all. On the contrary, the proposed legislations would fill the void that has been in existence for all along the journey of business regulatory governance in India. The initiatives for such legislations have to be taken by the Ministry of Finance at the Union and State levels under the overall guidance of the Prime Minister and Chief Ministers respectively

4.7 Institutional Architecture for Business Regulatory Governance

Acknowledging the complexity of business regulatory governance, interplays among multiple-stakeholders and its implications on growth and development trajectory of the country, it is recommended that new institutions will have to be established for this purpose. Before elaborating upon these, it must be noted that a rationale behind creation of yet more institutions was well debated during the proceedings of the Task Force and the suitability of existing institutions was assessed for taking up the portfolio. Also, a peripheral analysis was made over the types of institutions prevailing in select developed economies and such analysis gave further fillip to the decision of the Task Force for recommending the creation of new dedicated institutions at the Union and State levels.

It is recommended that National Business Regulatory Governance Commissions and State Business Regulatory Governance Commissions should be established, deriving their powers from the aforementioned Acts, passed by the Parliament of India and corresponding State Legislatures respectively. The Commissions will steer the provisions of Business Regulatory Governance Policies and Acts in a continuous and duly authorized manner, while leveraging upon the strengths and jurisdictions of the existing institutions, thus acting in a complementary manner. Either the Ministry under

the Prime Minister and Chief Ministers, or the Ministry of Finance should be given the responsibility for facilitating the work of these Commissions at the Union and State levels respectively. The Task Force considered the following models to arrive at the recommended modality:

- Competition Commission of India (Single entity created through Parliament of India).
- Model of Central and State Information Commissions (Non-Hierarchical and created through Parliament of India. The two types of institutions have separate jurisdictions.)
- Model of Central and State Electricity Regulatory Commissions (Non-Hierarchical and created through Acts passed by Parliament of India, followed by corresponding Acts passed by State Legislatures. The two types of institutions have separate jurisdictions but have a common Appellate Tribunal).
- Model of Supreme Court and High Courts (Hierarchical with Constitutional backing).

4.8 Building a Framework for Enforcement, Monitoring and Evaluation

It is recommended that all the recommendations of the Task Force have to be taken up in a phased manner with definite timelines. As the business regulatory burden reductions require actions from different actors, their roles and responsibilities in this will have to be clearly defined in order to enable them achieve the targets. Performance indicators will have to be developed to indicate the extent to which quality of regulatory governance got enhanced as envisaged. These might include compliance targets, levels of satisfaction amongst stakeholders or the achievement of particular goals. Once performance indicators have been identified, consideration should be given as to how information/data on these performance indicators will be obtained. This may involve the commissioning of research on periodic basis, employing stakeholder feedback mechanisms on concurrent basis, and the likewise. It should be enquired whether the methodology adopted under the Mid Term Appraisal of 12th FYP would be sufficient to do this or new frames of evaluation would be required.

5. The Way Forward

It is expected that the findings and recommendations of the Task Force will be given due consideration by the WG BRF in developing their synthesis report. We have not been able to delve into detailing out the budgetary outlays associated with the given recommendations, but it is expected that such detailing could be done at the level of the WG BRF or the Steering Committee on Industry, as the case may be. One specific point that the Task Force would like to emphasize here is that the adoption of Task Force recommendations might initially require certain budgetary commitments, but the resulting cost savings and revenue gains would grossly surpass such spending.

Whereas the cost savings would occur on the part of government as well as business on account of regulatory burdens reductions, revenue gains will occur through enhanced competitiveness of manufacturing sector as well as the other sectors. Considering the size of Indian economy, the constituent business entities and the magnitude of regulations, the Task Force has throughout stressed the need for prioritization of the recommended actions through a consultation mechanism involving government-business-stakeholders. Such prioritization will take cognizance of feasibility considerations, thereby leaving adequate space for participation and revision of undertaken implementation methodology.

During the deliberations of the Task Force, there was a recurring discussion over substituting the very notion of ‘regulation’ with ‘facilitation’, but considering the needs of the country and enormity of business activities, it was agreed that regulation cannot and should not be substituted with facilitation, rather it should be complemented with facilitation. Also, recognizing the significance of emerging modes of regulation like self-regulation and co-regulation as against the conventional mode of regulation through public authorities, the Task Force has found it imperative to develop a forward looking perspective on the subject. Such shift from conventional to emerging forms of regulation is clearly visible across the globe, especially in most of the developed economies and reflects enhanced sense of trust and notion of shared responsibility among government, business and stakeholders. The emerging forms of regulation also offer ample opportunities for experimenting with innovative partnership models exhibiting multiple chains of accountability and feedback mechanisms.

Composition of Task Force on Business Regulation

No.	Name	Designation and Affiliation	Role in TF
1.	Arvind Mayaram	AS & FA, Ministry of Rural Development, GoI	Chairperson
2.	Ajay Khanna	President, Jubilant Life Sciences Limited	Member
3.	Ashok Gupta	Corporate Legal Head, Aditya Birla Group	Member
4.	Abha Seth	Director, CII	Member
5.	Purushottam Agarwal	Commissioner, Bureau of Investment Promotion PS, Programme Implementation, Govt. of Rajasthan	Member
6.	T L Satyaprakash	Director, Department of Industries, Commerce, Mines & Geology, Govt. of Haryana	Member
7.	Manoj K Arora	Former Director, Indian Institute of Corporate Affairs	Member
8.	Renu S Parmar	Adviser (Industry & VSE), Planning Commission, GoI	Member
9.	Mukesh Kumar	MD, Industrial Extension Bureau, Govt. of Gujarat	Member
10.	Justine Yap	Senior Private Sector Development Specialist, IFC	Member
11.	Navneet Sharma	Director, CUTS Institute for Regulation & Competition	Member
12.	Chetan Bijesure	Additional Director, FICCI	Member
13.	Premila Nazareth	Independent Expert – FDI and Governance	Member
14.	Sameer Chaturvedi	Assistant Director, CUTS International	Member Convener

Annexure 4

Report of Task Force on Simplification of Business Procedures

1. Introduction

Planning Commission of India is in the process of developing the Twelfth Five Year Plan (12th FYP). It has identified manufacturing sector to be one of the key focus areas and has constituted a Steering Committee on Industry to deliberate over how the growth of this sector can be boosted. There are ten Working Groups constituted under this Steering Committee with specific mandates. The mandate for one such Working Group is to develop a Business Regulatory Framework (BRF) for the country. The Task Force on Simplification of Business Procedures is one of the four Task Forces constituted under the WG BRF and has developed this Report on the basis of the deliberations made during the months of June-September 2011. The composition of Task Force is presented at the end of this Report.

2. Methodology

After the Task Force was constituted, its Membership was firmed up by the Chairperson of the Task Force in consultation with CUTS - which served as the Knowledge Partner for the Working Group on Business Regulatory Framework (WG BRF). The Task Force met three times – during the months of June, July and September to deliberate upon the subject. The report of the Task Force is an attempt to develop a roadmap for simplification of business procedures (SBP) in India and has made special reference to the manufacturing sector. The Task Force recognizes the significance of business for growth and development of the country and find manufacturing sector to play a crucial role in advancing growth and development. This is accordance with the significance of manufacturing sector highlighted by the Planning Commission of India, the Department of Industrial Policy and Promotion and the National Manufacturing Competitiveness Council.

It is relevant to note here that manufacturing sector performance of a country gets determined by a host of policy and regulatory actions as well as inactions. The business procedures related to the manufacturing related activities play a significant role in the all-encompassing ‘business ecosystem’ of the country. When we talk about India, we must also recognize that the country is being run by governments at the Union, State and Local levels and accordingly the business procedures get administered by multiple authorities vesting their control over different aspects of business. The Task Force has looked at India’s rank as a preferred destination for doing business and its competitiveness at global scale and had done a quick scan

of inter-state variations in business performance. It has delved into the procedural complexities associated with the various stages of business. It has presented a set of recommendations and the specific actions associated with their uptake. It is expected that the Task Force recommendations will be given due weightage in the synthesis report of the WG BRF.

3. Major Findings

3.1 Significance of Simplified Business Procedures - Business plays an important role in economic growth and development of any country. It deploys capital, engages labour, produce goods and generate profit that is re-invested for further expansion at domestic and international fronts. Across the world, the inter-linkages among simplified business procedures, market returns, growth and development have been established. The countries that have performed better than the others in terms of thriving business have, to a great extent, done so on account of a multitude of factors including simplified business procedures as being important ones. The ‘locational preferences’ of capital are also determined after assessing relative ease of doing business in any country. Furthermore, A country which is able to attract investment vis-à-vis its potential absorptive capacity, achieves a better bargaining position on global strategic fronts.

3.2 Positioning of Business Procedures within Business Ecosystem - There are overlapping relationships among business regulations, business procedures, dispute resolution mechanisms, investment facilitation measures, taxation instruments, policy environment, trade commitments, infrastructure development, competition promotion, responsibility inculcation, competitiveness, interface among formal-informal sector and the likewise. All these, together with a host of other elements, constitute the larger business ecosystem of the country.

3.3 Potential of Manufacturing Sector – It is recognized that the manufacturing sector can serve as a pivot around which various other sectors can revolve and by boosting manufacturing sector, spill overs to other sectors could be created.⁷² In simpler terms, expansion of certain manufacturing activities can boost specific service industries (incorporating these into their value chain), demand infrastructure, mobilize finance flows, generate employment (enhances requirement of skilled labourers) etc. Many emerging countries in recent decades have relied on a development strategy focused on promoting the manufacturing sector and the export of manufactured goods.

3.4 Performance of Manufacturing Sector in India - Over the last decade, the Indian manufacturing sector has grown at an average rate of 6.8%. The share of manufacturing sector in Indian GDP is not significant and remains around 15%. The sector engages around 64 million

⁷² Deloitte (2010) *Global Manufacturing Competitiveness Index*

people i.e., around 12% of total Indian workforce. Despite that India comes under top 10 manufacturer countries of the world and that manufacturing sector constitutes 50% of Indian exports, its global share in manufacturing is very dismal at around 2 % when compared to China, USA, Japan and Germany.⁷³ Figure 1 compares India with some other countries in manufacturing sector.

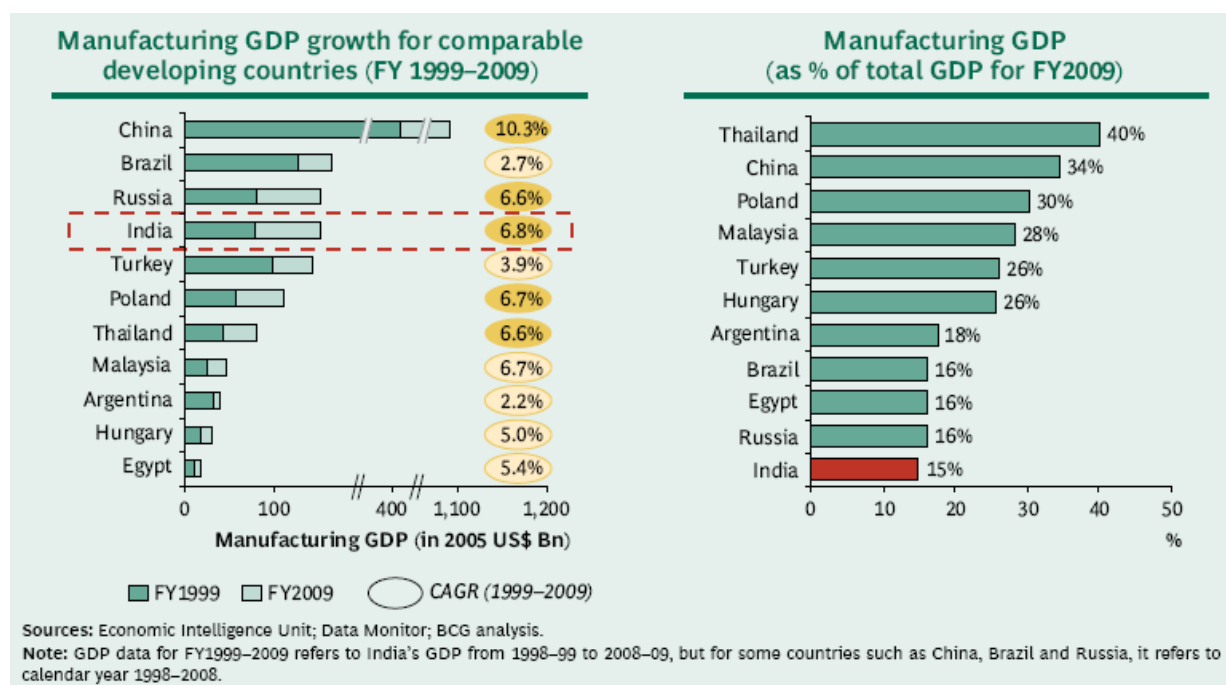


Figure 1: Manufacturing sector growth from 1999-2009 and contribution into GDP (Source: BCG CII 2010)

3.5 India's Business Performance vis-à-vis other Countries - It is imperative to take stock of India as favourable business destination on a global scale. Table 1 presents India's rankings/positioning on different criterion like ease of doing business; competitiveness; and extent of economic freedom business performance by: 1) 'Doing Business' by the World Bank and International Finance Corporation; 2) 'Global Competitiveness Index' by World Economic Forum; 3) 'Best Countries for Business' by Forbes; 4) 'World Competitiveness Yearbook' by International Institute for Management Development; 5) 'Economic Freedom of the World Index' by Fraser Institute; and '2010 Global Manufacturing Competitiveness Index' by Deloitte and US Council on Competitiveness.

⁷³ UNIDO (2011) *International Yearbook of Industrial Statistics*

Table 1: Ranking/ Positioning of Select Countries as per select Reports/ Indices⁷⁴

Country	WB IFC Doing Business 2012	WEF Global Competitiveness Index 2011⁷⁵	Forbes Best Countries for Business 2010	IMD World Competitiveness Scoreboard 2010	Fraser Institute's Economic Freedom of the World Index 2008	Deloitte & US Council on Competitiveness Global Manufacturing Competitiveness Index 2010
UK	7	Stage 3	10	22	10	17
USA	4	Stage 3	9	3	6	4
Korea	8	Stage 3	30	23	37	3
Japan	20	Stage 3	27	27	24	6
Thailand	17	Stage 2	56	26	58	12
Malaysia	18	Stage 2	31	10	77	-
Germany	19	Stage 3	20	16	24	8
France	29	Stage 3	21	24	35	23
South Africa	35	Stage 2	34	44	82	22
Turkey	71	Stage 2	46	48	74	-
China	91	Stage 2	90	18	82	1
Egypt	110	Transition 1	84	—	80	-
Indonesia	129	Transition 1	74	35	90	-
Russia	120	Stage 2	97	51	84	20
Brazil	126	Stage 2	62	38	102	5
India	132	Stage 1	77	31	87	2

⁷⁴ See WB and IFC (2012); WEF Global Competitiveness Report (2010); Forbes (2010); IMD (2010); Economic Freedom of the World (2010); Deloitte (2010) *Global Manufacturing Competitiveness Index*

⁷⁵ Global Competitiveness Index does not rank countries but places these in different stages of development – Stage 1 (factor driven) --- Transition 1 --- Stage 2 (Efficiency Driven) --- Transition 2 --- Stage 3 (Innovation Driven).

The *Doing Business Report*⁷⁶ produced annually by the World Bank compares the business procedures of different countries. *Though the Task Force does not endorse such findings*, we find it imperative to highlight some comparisons for introspection as follows:

- To start a new business, it requires 120 days in Brazil, 38 days in China, 29 days in India and 6 days in USA
- There are 37 procedures in both India and China to get the construction permits, whereas Thailand and UK both have 11 procedures
- To register property, India has 5 procedures while it takes 44 days, as against Turkey where there are 6 procedures while it takes only 6 days to get it done.
- In India, the taxes (of different types) are to be paid 56 times in a year, in China and France, only 7 payments are to be made in a year
- For enforcing contracts, 1420 days get spent in India, as compared to 406 days in China, 281 days in Russia and 230 days in Korea
- To close a business, it takes 7 years in India and 1.7 years in China
- The recovery rate of closing a business in India is 16.3% as compares to that of 36.4% in China, 81.7% in Korea and 92.7% in Japan

3.6 Variations in India on Business Performance – The Task Force found that there are wide variations in government-business transactions taking place in different locations of the country. It has also been found that there is lack of predictability and standardization in terms of timelines as well as process adopted by different state governments when it comes to facilitating business. This results into subjectivity on the part of the corresponding government personnel. This is partly on account of the federal nature of India, its vast size and the involvement of different agencies belonging to the Union, State and Local governments. But we observe that there has to be due justification for so much of variation, keeping in horizon the implications of such variations on the overall business ecosystem of the country. Some of the highlights from the *Doing Business Report*⁷⁷ of are presented below:

- Obtaining construction permits require 37 procedures in Mumbai, whereas the same formality requires 15 procedures in Ahmadabad, Bangaluru and Chennai.
- It takes 258 days to get construction permits in Kolkata, as against Bangaluru, where the same work gets done in 97 days to get these in Bangaluru.
- It takes 126 days to register property in Bhubanesvar and 24 days in Jaipur
- In Bangaluru, a firm has to bear 32.5% cost of claim in enforcing contracts, whereas in Patna such cost is 17% of the claim
- It requires 10.8 years to close a business in Kolkata, whereas in Ahmadabad, the time spent for such formalities is 6.8 years.

⁷⁶ See WB and IFC (2011) *Doing Business (Global) Report*

⁷⁷ See WB and IFC (2009) *Doing Business in India (Subnational) Report*

3.7 Multiple Complexities with Business Procedures - According to the discussion paper on the draft of National Manufacturing Policy, on an average, a manufacturing unit in India has to comply with 70 odd legislations.⁷⁸ Such claim has been re-asserted by another study undertaken in Rajasthan on improving its business environment. It found that businesses in Rajasthan are required to comply with 136 licenses of which 40 licenses related to Union government, 66 licenses relate to State government and 24 licenses relate to Local government. The study has also found that an average medium sized business enterprise will require at least 28 licenses to start operating its business in Rajasthan.⁷⁹



Figure 2: Indicative Business Procedures during Business Cycle Stages (Source: WG BRP SBP 2011)

⁷⁸ DIPP (2010) Draft Discussion Paper on National Manufacturing Policy

⁷⁹ IFC (2010) – International Finance Corporation - *Rajasthan Business Environment Project*

3.8 Lack of Adequate Levels of Coherence in Reform Efforts – Recognizing that business could serve a great purpose in enhancing the growth and development trajectory; various state governments have established dedicated agencies to invite investment flows and encourage entrepreneurship. There have been attempts to streamline industrial development. Clearly, reform agenda is very much there in the priority at the national as well as state levels. The Task Force has found that there is a lack of coherence in all such efforts. Such reform efforts are not sufficiently reflective of the aspirations of different target constituencies. The Task Force duly acknowledges and respect the fact that the responsibility for industrial promotion lies with State governments but such responsibility should be seen as innovation beyond a minimal level of uniformity in reform efforts.

3.9 No Single Repository of All Business Regulations and Procedures – Acknowledging that there are thousands of business regulations in the country and to give effect to all these regulations (as applicable); there are thousands of procedures in place. As has been pointed out, such business regulations and procedures vary from one state to the other. Despite the advancements in Information and Communication Technology (ICT) and its ever-growing applications and usage, there does not remain any single repository that encloses within all the business regulations and procedures. Before coming across these findings, the Task Force had taken a detailed look at the content of various ICT initiatives that have been taken up in the country at the national level to guide investment and business. We fail to find any initiative to fulfil the requirements of any emerging entrepreneur or potential investor interested knowing everything about doing business in India. Nor are these initiatives interlinked at their level best. These ICT initiative looked at were:

S. No.	Title	Web Portal
1.	Government of India Business Portal – (Business Knowledge Resource Online)	http://business.gov.in/
2.	DIPP-FICCI Investment Promotion Portal	http://www.investindia.gov.in/
3.	MCA 21 Initiative (under the NeGP)	http://www.mca.gov.in/MCA21/
4.	eBiz Project (under the NeGP)	Website under development
5.	eGov Reach Initiative of NASSCOM (though its mandate is not to guide business but to promote eGov in general)	http://www.egovreach.in/

4. Major Recommendations

4.1 Adoption and Implementation of National Manufacturing Policy - The Department of Industrial Policy and Promotion (DIPP) is already in the process of finalising the National Manufacturing Policy (NMP) through widespread consultations. As per the latest media briefings, the cabinet also has given *in principle* nod to NMP. This development is welcomed and it is expected that the adoption and operationalisation of NMP will take place before the advent of the 12th FYP.

It needs to be emphasised here is that the operationalisation of NMP will require a great part to be played by different tiers of the government. There are a number of actions proposed under the draft discussion paper pertaining to the NMP to simplify the regulations and procedures that are getting administered by different departments. We endorse all such reform propositions and expect that the disagreements relating to specific provisions of NMP will soon get resolved.

Such propositions are considered to be in the right direction and it is expected that higher levels of agreement and larger commitments on the part of political and administrative leadership will be crucial in actually aligning all such changes with NMP. There must be many state specific policies and regulations that would be required to be aligned with the provisions of NMP. It is recommended that DIPP and the corresponding Ministries of Industries at the State level should chalk out and address conflicts, if any.

Global Experiences with Manufacturing Promotion Initiatives

US – *National Manufacturing Strategy Act* (2010) (passed in the House of Representatives, but it is yet to become law); *A Framework for Revitalizing American Manufacturing* (2009)

UK - *Growth Review Framework for Advanced Manufacturing* (2010); The Government's *Manufacturing Strategy* (2002)

4.2 Developing State Manufacturing Action Plans (SMAPs) - Every state has specific plans, policies, and regulations to promote industrial development. Manufacturing constitutes a larger chunk of such industrial development initiatives. Still, it is considered necessary to develop state manufacturing action plans (SMAPs) in alignment with the national manufacturing plan (and vice versa). The rationale for proposing such action is not to trigger a new set of activity or cause unnecessary burden on the Union and State governments and other actors involved with the planning process. Instead, the idea here is to be realistic when it comes to make national plan targets. Unless the States are included in the process of projecting their (anticipated)

contributions towards the national targets, it will not be possible for the country to actually realise the same.

In the current times, decentralised planning has been given much emphasis. Essentially, the process is focussed on participation and inclusion. Interestingly, most of the workforce that form part of the manufacturing sector hail from such rural and urban settings that are generally administered by the institutions of local self-governance set up under the 73rd and 74th Constitutional Amendment Acts. The action related to developing state manufacturing plans also derives its rationale from the notion of decentralised planning. It is expected that such process will enable the state governments to undertake a Strength, Limitations, Opportunities and Threats (SLOT) analysis of their manufacturing competitiveness vis-à-vis national manufacturing priorities. The whole process is expected to be participatory and inclusive, thereby providing ample opportunities to the different factions of business community (including the SMEs) to articulate their concerns and suggestions in regard of the manufacturing sector.

It is imperative to note here that the development of manufacturing action plans does not entail compromising the growth opportunities of the other sectors, for instance, service sector that has been faring relatively better at the national level. It is duly recognised here that all sectors are important for overall growth of any state and, for that matter, the country. The exercise related to the state manufacturing action plan will enable the policy makers and the manufacturers to undertake a combined reality check. As mentioned before, both the National Manufacturing Plan (proposed) and the National Manufacturing Policy (proposed) are looking at not just the 12th FYP but beyond - the years 2022 and 2025, for realising the envisaged manufacturing potential. But unless state specific reality checks are undertaken and the requisite environment for manufacturing sector performance is created therein, it will not be realistic to eye at such long term targets.

Sub-National Manufacturing Promotion Initiatives in Select Countries

East of England (UK) – *Regional Strategic Framework for Manufacturing (2007-12)*

North West (UK) – *Manufacturing Strategy and Action Plan for North West (2009)*

Québec (Canada) – *Action Plan to Support the Québec Manufacturing Sector (2007-12)*

Queensland (Australia) – *Queensland Advanced Manufacturing Sector Action Plan (2008)*

Victoria (Australia) – *Building Our Industries for the Future: Action Plans for Victorian Industry and Manufacturing (2008)*

4.3 Establishing State Manufacturing Competitiveness Councils (SMCCs) - Having recommended that the NMP should be implemented across the country in both letter and spirit and emphasising the creation of SMAPs, it is considered imperative to establish State Councils on Manufacturing Competitiveness and Competition Reforms. It is strongly recommended that

thorough consultation should be made over the composition and mandate of the new institution before moving ahead in this direction. NMCC and the proposed NCPC will be expected to suggest the appropriate set-up of these Councils on the basis of their own experiences. It is expected that once these Councils are established, the issues of competitiveness as well as competition will get mainstreamed not only at the national level but also at the state levels. Such a scenario will be conducive to the attainment of the national goal. It is also expected that the Councils will serve as state level think tanks advising and guiding both the government side and the business side to carve out State specific manufacturing action plans.

Tamil Nadu and Andhra Pradesh have already established their State Manufacturing Competitiveness Councils in response to the demands articulated by their industries. Their experiences should be looked into before moving ahead in this direction.

Sub-National Manufacturing Promotion Institutions in Select Countries

Ontario (Canada) – Ontario Manufacturing Council

Great Lakes (Canada) – Great Lakes Manufacturing Council

South Australia (Australia) – South Australia Manufacturing Consultative Council

Victoria (Australia) – Victorian Industry Manufacturing Council

UK – Manufacturing Advisory Service (MAS) – Nine MAS in England and One for Scotland

4.4 Consolidation of Multiple Procedures – The Task Force recommends that the multiple business procedures should be consolidated. The Draft National Manufacturing Policy has also endorsed this. Specifically, following actions should be undertaken:

4.4.1 Combined Application Form - Instead of having different application forms, there could be combined application form. This will save time and ease the procedure.⁸⁰

4.4.2 Common Registers - Instead of maintaining separate registers, common registers could be maintained.⁸¹

4.4.3 Common Tax Returns - Instead of filing different returns and paying various fees, duties and levies separately, one simple annual return could be introduced. Such return will calculate all different dues that the firm has to make. For example:

4.4.4 Unified Certification – Instead of applying for certification to different agencies, the task of various certifications could be given to one agency.

⁸⁰ DIPP (2010) Draft Discussion Paper on National Manufacturing Policy

⁸¹ (*ibid*)

4.4.5 Consolidated Reporting – Multiple reporting requirements could be streamlined further and the feasibility of consolidated reporting options could be assessed.

4.5 Systematizing Business Monitoring – Inspection and Certification constitute two main instruments of monitoring business activities. In the current times where there is a global recognition of instruments of self-certification and third party inspections, the manner of business monitoring should be systematized by adopting these in addition to the continuance of conventional forms of inspections and certifications by the public authorities. This recommendation about self-certification and third party inspections does not imply dilution of accountability of any firm. The focus here is on relieving government of such certifications that are of routine nature.

4.6 Creation of National Business Facilitation Grid (NBFG) – It is recommended to develop the National Business Facilitation Grid (NBFG) to serve as an online One-Stop-Shop for all the information relation to business regulation and procedures in India. It will be built upon appropriate Information and Communication Technology (ICT) platform. Apart from having detailed listing of all the business regulations and procedures, this web portal will possess interactivity, suiting the requirements of at least three types of target constituencies: existing businesses; emerging entrepreneurs; and potential investors. It is expected that the web portal will also provide drop down menus for the visitors enabling them to extrapolate their business and investment plans by changing the denominations, time periods and destinations, thereby facilitating them to make informed decisions. The NBFG will also do away with the need for intermediaries, thereby saving the costs and curtailing the avenues for rent seeking activities.

The NBFG will be linked to the other business facilitation portals. It is expected that the design of the NBFG will also take into account the detailed recommendations given by NMCC and NASSCOM in their detailed document on the subject.⁸² Furthermore, the establishment of NBFG is expected to be in consonance with the efforts underway through the eBiz Project initiated by the DIPP, the MCA21 Project executed by MCA and the overall priorities of the National e Governance Plan.

It is expected that every time there is a change with certain regulation or procedure, the corresponding change making authority shall ascertain the communication of such change within a week's time to the NBFG. Alternatively, it could be made mandatory on the part of the change making authorities to first communicate and upload the altered document to the NBFG before releasing the paper edition of such document. Taking this suggestion at the next level, modalities of such nature should be worked out that once the document has been successfully

⁸² See NASSCOM (2010) – '*A Roadmap to Enhance ICT application in Indian Manufacturing Sector*' prepared by NASSCOM for NMCC: The document gives comprehensive description of how ICT could be leveraged for boosting the India manufacturing sector. Specifically, it talks about developing ICT enabled process guidelines across various manufacturing verticals under the facilitation from the NMCC.

uploaded on NBFG, it would generate an electronic receipt number that has to be necessarily quoted on the paper edition of the document before it gets released into the public domain. Initially such inter-linkages among electronic and paper versions of the documents might appear quite difficult, but considering its long term implications, such mechanism is strongly recommended.

It is also recommend that during the brainstorming over the conceptualisation and operationalisation of NBFG, due consultations should be held with the experts engaged with materialising the National Knowledge Network (NKN).⁸³ Technical feasibility studies should be done over taking use of the NKN Point of Presence (PoP), for transferring the information, data, resources and documents related to business regulatory governance.

The interactivity of the website will also encourage the visitors to suggest improvements in the electronic interface of the web portal on the one hand and that relating to specific regulations on the other hand. The former will aid in enhancing the web portal interactivity as per the follow-up action from the ICT Team. The latter will involve regulatory decision-makers at large because the crux in such instances will be over reducing regulatory burdens and promoting procedural simplification. The interface as well as the content of the web portal will thus be getting improved continuously. It is also possible that after the initial experimentation and success with the operationalisation of one web portal; need may be felt for developing additional inter-linked web portals.

4.7 Benchmarking for Standardization in Business Procedures - Recognizing the wide variations with business procedures at the country level, it is recommended to Benchmark the execution timelines and processes that are undertaken by different government entities to facilitate business requirements. This is not a new concept and is already in place in a number of government entities whereby the predictability of public services have been benchmarked, keeping in horizon the interests of the citizens.⁸⁴ The Task Force takes this opportunity to emphasise the special requirements of businesses and recommends due acknowledgement of such requirements. A recent development in regard of benchmarking of public services is the *Sevottam* Model. We recommend that either the *Sevottam* Model itself be revised or another model on its lines be developed to bring about predictability and standardization in all government-business transactions.

⁸³ NKN acts as a super highway for integrating e- Governance infrastructure such as government data centres and networks. NKN provides bulk data transfer facility required for e-Governance applications. See <http://www.nkn.in>

⁸⁴ For instance, the Madhya Pradesh government had recently passed the Public Service Accountability Act to ensure that select public services are delivered within stipulated timeframe. It also has penal clause on the lines of the previously enacted Right to Information Act. See PRS (2010)

4.8 Adoption of Benchmarked Model - Once the timelines and processes related to all government-business transactions have been benchmarked, there could be at least three modalities for uptake of the Benchmarked Model (the Task Force has not ventured out to name the model but it is expected that such name will be chosen that will connote futuristic implications of the model):

4.8.1 Mandatory Uptake – This could be done with the support of certain legislation (e.g., *Business Facilitation Accountability Act*) passed by the Parliament of India and State Legislatures through a widespread consultative process involving governments at the Union, State and Local levels, businesses and stakeholders. Such legislation *can* have penalizing clause as well, which means that any deliberate case of default will result into imposition of certain pre-determined penalty on the individual or organization held responsible for the proven case of default. Alternatively, the penalty for default could be imposed in such a way that after the expiry of the given period for accomplishment of the particular transaction for which the business entity had to approach the government entity, the particular transaction shall be deemed to have been completed;

4.8.2 Incentive-linked Uptake - The governments taking up the model shall receive incentives in accordance with a stipulated formula that could be worked out by Planning Commission, Planning Boards and Finance Ministries at the Union and State levels;

4.8.3 Voluntary Uptake – in this case, the government will introduce and publicize the Benchmarked Model just like any other certification or quality standard (for instance, ISO 9000), and the respective governments will find it lucrative to comply with the standard in order to gain mileage over the other governments in inviting investments.

4.9 Mainstreaming of Business Facilitation - It is further recommended that on the lines on *Citizen Charters*, the governments could introduce *Business Facilitation Charters*. Also, on the line of the *Public Information Officers (PIOs)*, designated under the Right to Information Act 2005, each government entity could designate *Business Facilitation Officers (BFOs)* to serve as focal points for the businesses in that particular department.

4.10 Incorporating Green Business Procedures - The green elements of business should not only get reflected in the business operations but also in business procedures. By curtailing the frequency and volume of the paper-based documents that are required to be submitted by firms, it is possible to embody such green elements. More research could be done on this to make projections of how much carbon footprint could be reduced by adopting green business procedures. The decision over leveraging upon ICT could thus also be evaluated on this front.

5. The Way Forward

Simplification of business procedures entails not only the content but also the practicalities associated these procedures. For instance, while entering into a particular government office, if the entrepreneur is unable to locate the appropriate authority or fails to comprehend the sequence or/and the phases in which the file movements take place, there will emerge an unnecessary need for certain intermediaries to ‘get the work done’. Hence it is expected that simplification of procedures will be a mainstream action that will have significant bearing on the business ecosystem in India. The public and private sector will have to work together as partners in this endeavour.

Composition of Task Force on Simplification of Business Procedures

No.	Name	Designation and Affiliation	Role in TF
1.	M C Singhi	Senior Economic Adviser, Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry, GoI	Chairperson
2.	R K Jain	Joint Secretary, National Manufacturing Competitiveness Council, GoI	Member
3.	Laveesh Bhandari	Founder Director, Indicus Analytics	
4.	S K Gupta	Director, PHDCCI	Member
5.	Abha Seth	Director, CII	Member
6.	Hiranmay Ganguly	Secretary General, FOSMI, West Bengal	Member
7.	Renu S Parmar	Adviser (Industry & VSE), Planning Commission, GoI	Member
8.	Mukesh Kumar	MD, Industrial Extension Bureau, Govt. of Gujarat	Member
9.	Rama Vedashree	Vice President, NASSCOM	Member
10.	Chetan Bijesure	Additional Director, FICCI	Member
11.	Premila Nazareth	Independent Expert – FDI and Governance	Member
12.	Sameer Chaturvedi	Assistant Director, CUTS International	Member Convener

Annexure 5

Report of the Task Force on Business Responsibilities

1. INTRODUCTION

[Highlighting the linkage of the TF-BRS with the overall goal of the WGBRF]

1.1 Under the Working Group on Business Regulatory Framework (WGBRF) established by the Planning Commission (in May 2011), one of the Task Forces was directed to focus on stimulating the widespread adoption of **Business Responsibilities** (referred to as **TF-BRS**) so that businesses would contribute to the nationally relevant goals of wholesome and inclusive development. Specifically, this Task Force (TF-BRS) was entrusted with identifying and enunciating appropriate policy and regulatory conditions, which could encourage the adoption and implementation of measures for businesses to emerge as socially, environmentally and economically responsible entities. The task force relied on the principles within the *National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVG)*⁸⁵ to determine appropriate policies and the concomitant regulatory steps. The Business Responsibility orientation of a business entity was viewed in terms of the extent to which the entity imbibed the NVG principles as a part of the conduct of business.

⁸⁵ These Guidelines, referred as the NVG in this text, are available on the website of Ministry of corporate Affairs at www.mca.gov.in

2. RECOMMENDATIONS

[Enumerating the Recommendations of the TF-BRS]

2.1 The Task Force members⁸⁶ met four times over the course of the period from June to August 2011, and had many hours of discussion through email in order to converge upon key points related to its objectives. On the basis of these detailed deliberations the following **recommendations** are being proposed for the consideration of the Working Group on Business Regulatory Framework (WGBRF):

1. Government should include Business Responsibility (BR) as a distinct subject under the *Government of India (Allocation of Business) Rules 1961*, in order to develop a holistic governmental perspective on the subject. The Ministry of Corporate Affairs (MCA) should be entrusted with the responsibility to pursue the agenda of Business Responsibility, through appropriate amendments in the *Government of India (Allocation of Business) Rules 1961*. A process of inter-ministerial cooperation between relevant Ministries involved in developing and implementing policies and rules having implications for businesses should be established and operationalized. Mechanisms for coordination with other sections of the government should be simultaneously developed.
2. Government should make the disclosures (on the adoption of NVG principles) by businesses mandatory. The disclosure framework should be freely uploadable on the MCA portal (through a simple, electronically enabled form on MCA-21). All such reports should furthermore, be available in the public domain. This framework should be designed to accommodate disclosures at the collective or aggregated level, specifically for small and medium enterprises. The guidelines would continue to remain voluntary and businesses would have the freedom to adopt them in a manner that suits their unique circumstances.
3. Government should formulate suitable accounting systems and standards, which would aid and enable a true and fair disclosure of business performance (vis-à-vis an uptake of

⁸⁶ List of Members available in Annex 1

NVG principles). The government should enable mechanisms through which businesses (including individuals and aggregates, incase of small and medium enterprises) that imbibe the NVGs, are able to access priority lending by banks and financial institutions. In due course, financial institutions as well as the financial markets will be expected to develop instruments that incorporate the inherent value of such businesses in their risk assessment and investment decisions. In the long run, the Market itself would reward companies whose business models show a continuous and deepening commitment to the NVG principles.

4. Government should establish a national platform that facilitates the adoption of the NVG principles by undertaking various initiatives including awareness, training and capacity building of relevant stakeholders. Such a platform would also recognize good performance in the area of BR and support other institutions that help in mainstreaming the NVG principles. The responsibility to institute and operate such a national platform should be entrusted to the MCA/IICA.
5. Sectors and geographical areas that are well recognized to be vulnerable from a social, environmental, economic and ethical perspective, on account of existing business activities in them, should receive special attention by the Government in time of new investments. Special initiatives and measures should be taken within them for mitigating business activities that contribute to the vulnerability of such areas or sectors.
6. Government should encourage the State Industrial Development Corporations to develop industrial estates where only NVG-aligned businesses can establish their units. Subsidy, in the form of lower land prices should also be offered. While developing such industrial estates, the locational interests of MSMEs should be taken into consideration, ensuring that they have complete access to resources, systems and tools that would guide them in aligning their business models with the requirement of the NVG principles.
7. Government should take necessary steps in mainstreaming NVG principles by making it mandatory for all PPP projects to align with them. Suitable reforms in the public

procurement regime should be made, so that appropriate weightage is given to suppliers who incorporate NVG principles, rather than depending solely on the ‘lowest bidder wins’ (or the L1) principle for evaluating bids.

8. Government should enable appropriate mechanisms through which the developmental initiatives undertaken by businesses in pursuit of their responsibilities are suitably supported – both institutionally and financially - by the programmes of the government at the local level.

3. ANALYSIS OF RECOMMENDATIONS

[Prioritizing the list of recommendations based on an impact-feasibility assessment; identifying the high impact recommendations and preparing a summary of such recommendations]

3.1 **Note:** *Feasibility* is defined as a function of the ‘ease of execution of the proposed recommendations,’ whereas *Impact* has been computed in terms of the speed of ‘uptake of the NVG principles’. All the above eight (08) recommendations were put through an impact-feasibility analysis, bearing in mind the above-mentioned elucidation of the terms. The results of this analysis have been presented in the Table 3.1 below.

Table 3.1: Feasibility v/s Impact of Proposed Recommendations

		FEASIBILITY	
		Low	High
IMPACT	High	3, 5, 8 (High, Low)	1, 2, 4, 6, 7 (High, High)
	Low	NIL (Low, Low)	NIL (Low, High)

3.2 Five of the recommendations (viz. # 1, 2, 4, 6, 7) were considered (see section 3.3 below) to be having **high feasibility** and **high impact** potential, and should accordingly be operationalized on a priority basis. Three recommendations (viz. #. 3, 5, 8) were seen to be in the low feasibility high impact category. In the present circumstances, it might therefore not be “value-effective” for these recommendations to be operationalized at the moment. However, if efforts are made to operationalize these recommendations in the long-run, they would definitely help in achieving significant impacts.

3.3 Table 3.2 below explains the rationale behind considering the recommendations (#1, 2,4,6 and 7) as *High Feasibility, High Impact*:

Table 3.2: Rationale behind Recommendations being High Feasibility, High Impact

Recommendations	Rationale (High Feasibility High Impact)
<p>#1 Government should include Business Responsibility (BR) as a distinct subject under the <i>Government of India (Allocation of Business) Rules 1961</i>, in order to develop a holistic governmental perspective on the subject. The Ministry of Corporate Affairs (MCA) should be entrusted with the responsibility to pursue the agenda of Business Responsibility, through appropriate amendments in the <i>Government of India (Allocation of Business) Rules 1961</i>. A process of inter-ministerial cooperation between relevant Ministries involved in developing and implementing policies and rules having implications for businesses should be established and operationalized. Mechanisms for coordination with other sections of the government should be simultaneously developed.</p>	<p>Business Responsibilities involve the integration of a number of areas in decision-making (from the perspective of the NVG, these are social, economic and environmental issues, predominantly). Since the Ministry of Corporate Affairs has already been given the responsibility to lead the government’s agenda on this subject, this Ministry should be formally assigned the role of being the custodian of related processes at the national level. Experience from countries that have made considerable progress on promoting business responsibility (and/or CSR) issues, indicate that specific Ministries were assigned the specific role of driving the agenda.</p>

Recommendations	Rationale (High Feasibility High Impact)
<p>#2 Government should make the disclosures (on the adoption of NVG principles) by businesses mandatory. The disclosure framework should be freely uploadable on the MCA portal (through a simple, electronically enabled form on the MCA-21). All such reports should furthermore, be available in the public domain. This framework should be designed to accommodate disclosures at the collective or aggregated level, specifically for small and medium enterprises. The guidelines would continue to remain voluntary and businesses would have the freedom to adopt them in a manner that suits their unique circumstances.</p>	<p>It is essential to make the process of reporting easy, and therefore a simple (yet comprehensive) and electronically enabled Form should be made available for businesses to report and upload their alignment and actions with regard to the NVG principles (in a specific format). In case they are unable to work by these principles, they should also explain the reasons for such inability. Such a transparent and uncomplicated process would be critical in ensuring the popularisation of the NVG guidelines among businesses operating in India.</p>
<p>#4 The government should establish a national platform that facilitates the adoption of the NVG principles by undertaking various initiatives including awareness, training and capacity building of relevant stakeholders. Such a platform would also recognize good performance in the area of BR and support other institutions that help in mainstreaming the NVG principles. The responsibility to institute and operate such a national platform should be entrusted to the MCA/IICA.</p>	<p>It is critical to bring together government, businesses, civil society and other stakeholders together on a national platform which is given the responsibility to drive the agenda of BR. This platform is also needed so that relevant stakeholders develop a common understanding of the NVG principles and work jointly in this area. Such a platform would also enable trends to be recorded, and foster collaboration.</p>
<p>#6 Government should encourage the State Industrial Development Corporations to develop industrial estates where only NVG-aligned businesses can establish their units. Subsidy in the</p>	<p>Such industrial estates would offer concessions and incentives for (responsible) businesses, and hence play a significant role in attracting investments for the states. Furthermore, clustering</p>

Recommendations	Rationale (High Feasibility High Impact)
<p>form of lower land prices should also be offered. While developing such industrial estates, the locational interests of MSMEs should be taken into consideration, ensuring that they have complete access to resources, systems and tools that would guide them in aligning their business models with the requirement of the NVG principles.</p>	<p>of MSMEs in these estates would also help them access resources, tools, and common services, easily, thereby strengthening their commitment to the NVG principles</p>
<p>#7 Government should take necessary steps in mainstreaming NVG principles by making it mandatory for all PPP projects to align with them. Suitable reforms in the public procurement regime should be done, so that appropriate weightage is given to suppliers who incorporate NVG principles, rather than depending solely on the ‘lowest bidder wins’(or the L1) principle for evaluating bids.</p>	<p>Public Private Partnership has emerged as an extremely popular method for governments to secure investment, especially for the infrastructure sector in the country. Often the method of negotiating contracts between the private parties and the government creates challenges for implementing these programmes. Private players should therefore be more responsible in negotiating and executing these contracts. The national government can develop a framework for integrating NVG principles in the public procurement process, and then assess how states are performing in promoting the responsibilities of business.</p>

4. OPERATIONALIZE HOW TO THE RECOMMENDATIONS

[Preparing an implementation agenda for the recommendations, answering the key questions around:

- a. What are the activities involved? Is there any existing action on the issue?*
- b. Who are the people / stakeholders involved in the implementation?*
- c. What are the timelines and milestones for the activities?*
- d. What are the budgetary requirements? Are there any other resource requirements?*

Table 4.1 below, enunciates broad steps on the implementation of the recommendations, and which agency can be responsible for them.

Table 4.1: Implementing the Recommendations

Recommendation	Who would be responsible and How?	What would be the timelines? What would be the budgetary requirement?
#1 Government should include Business Responsibility (BR) as a distinct subject under the <i>Government of India (Allocation of Business) Rules 1961</i> , in order to develop a holistic governmental perspective on the subject. The Ministry of Corporate Affairs (MCA) should be entrusted with the responsibility to pursue the agenda of Business Responsibility, through appropriate amendments in the <i>Government of India (Allocation of Business) Rules 1961</i> . A process of inter-ministerial cooperation between relevant Ministries involved in developing and implementing policies and rules having implications for businesses should be established and	The Cabinet Secretariat, through an amendment in the <i>Government of India (Allocation of Business) Rules 1961</i> .	- Immediate - No Budget requirements.

Recommendation	Who would be responsible and How?	What would be the timelines? What would be the budgetary requirement?
operationalized. Mechanisms for coordination with other sections of the government should be simultaneously developed.		
#2 Government should make the disclosures (on the adoption of NVG principles) by businesses mandatory. The disclosure framework should be freely uploadable on the MCA portal (simple, electronically enabled form on the MCA-21). All such reports should furthermore, be available in the public domain. This framework should be designed to accommodate disclosures at the collective or aggregated level, specifically for the small and medium enterprises. The guidelines would continue to remain voluntary and businesses would have the freedom to adopt them at their own pace.	Ministry of Corporate Affairs through a suitable clause in the Companies Bill 2011 and by allocating a section on Business Responsibilities in the MCA-21 portal.	<p>- Immediate</p> <p>- No budget requirement.</p>
#4 Government should establish a national platform that facilitates the adoption of the NVG principles by undertaking various initiatives including awareness, training and capacity building of relevant stakeholders. Such a platform would also recognize good performance in	MCA, by establishing a National Foundation for Business Responsibility, preferably housed at the Indian Institute of Corporate Affairs (IICA)	<p>- Within 6 months.</p> <p>- An annual grant-in-aid of Rs. 10 crores may be provided to IICA for this purpose.</p>

Recommendation	Who would be responsible and How?	What would be the timelines? What would be the budgetary requirement?
the area of BR and support other institutions that help in mainstreaming the NVG principles. The responsibility to institute and operate such a national platform should be entrusted to the MCA/IICA.		
#6 Government should encourage the State Industrial Development Corporations to develop industrial estates where only NVG-aligned businesses can establish their units. Subsidy in the form of lower land prices should also be offered. While developing such industrial estates, the locational interests of MSMEs should be taken into consideration, ensuring that they have complete access to systems and tools that would guide them in aligning their business models with the requirement of the NVG principles.	MCA to sensitize the state Industrial Development Corporations (IDCs), and stimulate the creation of a few model Industrial Estate in all States of India..	<p>- A few pilots to be developed during the 12th Plan period, across all States in the country.</p> <p>- No specific budget would be required for this activity at the moment as the state IDCs are already developing normal industrial estates.</p>
#7 Government should take necessary steps in mainstreaming NVG principles by making it mandatory for all PPP projects to align with them. Suitable reforms in the public procurement regime should be done, so that appropriate weightage is given	Cabinet decision, to be piloted by MCA. This cabinet decision will be applicable to all sections of the government	<p>- Within 1 (one) year.</p> <p>- No specific budgetary requirement for this activity.</p>

Recommendation	Who would be responsible and How?	What would be the timelines? What would be the budgetary requirement?
to suppliers who incorporate NVG principles, rather than depending solely on the 'lowest bidder wins'(or the L1) principle for evaluating bids.		

5. CONCLUDING REMARKS

5.1 The Members of the Task Force on Business Responsibilities (TF-BRS) were unanimous in their view that the above-mentioned **Five high feasibility, high impact recommendations** will have to be adopted, and then actioned, in their entirety, if the endeavour is to create a supportive regulatory eco-system that encourages businesses to act on the NVG. Together, these recommendations constitute key elements of the enabling ecosystem that are indispensable for stimulating the adoption of the principles of balanced decision-making and execution, , as envisaged under the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business. The Planning Commission (through the Working Group on Business Regulatory Framework, WGBRF), is therefore earnestly requested to adopt the recommendations as a composite whole, owing to the integral nature, and the strong linkages between the suggestions .

5.2 This report acknowledges with gratitude the efforts made by all Task Force members toward the preparation, and timely completion of the report. The support provided by the various Ministries and agencies that were involved in the process, is also appreciated. The guidance and support of the Planning Commission, especially Mr. Arun Maira, deserves a special mention.

Composition of Task Force on Business Responsibilities

Sl. No.	Name and Organisation	Role
1	Bharat Wakhlu Resident Director, Tata Group	Chairperson
2	Rijit Sengupta Associate Director, CUTS	Member Convener
3	Renu S Parmar Adviser (Industry), Planning Commission	Member
4	Manoj Arora Director, IICA	Member
5	Anil Bharadwaj Secretary General, FISME	Member
6	Dinesh Agrawal General Manager (CSR), NTPC	Member
7	Shankar Venkateshwaran Director, Sustainability Ltd.	Member
8	Viraf Mehta Independent Expert on CSR	Member
9	Harsh Jaitli Chief Executive Officer, VANI	Member
10	Paresh Tewary Director, FICCI	Member
11	Mukesh Gulati MSME Foundation	Member
12	Sriram Khanna Vice Chairman, VOICE	Member
13	Annapurna Vancheswaran Director, TERI	Member
14	S Sunder Distinguished Fellow, TERI	Member
15	G P Madaan ASSOCHAM	Member
16	Neha Kumar GIZ	Member
17	Vikas Goswami Director (CSR), Microsoft	Member
18	Seema Arora CII-ITC Centre of Excellence for Sustainable Development	Member
19	Abha Seth Director, CII	Member
20	Secretary, Ministry of Labour	Member
21	Secretary, Ministry of Textiles	Member

Annexure 6**Deliberations under WG BRF and Constituent Task Forces**

No.	Activity Details	Date
1.	First Meeting of Working Group on Business Regulatory Framework	24 th May 2011
2.	First Meeting of Task Force on National Competition Policy	30 th May 2011
3.	First Meeting of Task Force on Business Responsibilities	8 th June 2011
4.	First Meeting of Task Force on Business Regulation	10 th June 2011
5.	First Meeting of Task Force on Simplification of Business Procedures	14 th June 2011
6.	Second Meeting of Task Force on Business Responsibilities	17 th June 2011
7.	Second Meeting of Task Force on National Competition Policy	20 th June 2011
8.	Third Meeting of Task Force on Business Responsibilities	1 st July 2011
9.	Second Meeting of Task Force on Simplification of Business Procedures	4 th July 2011
10.	Second Meeting of Task Force on Business Regulation	5 th July 2011
11.	Second Meeting of Working Group on Business Regulatory Framework	29 th July 2011
12.	Fourth Meeting of Task Force on Business Responsibilities	10 th August 2011
13.	Third Meeting of Task Force on Business Regulation	30 th August 2011
14.	Fifth Meeting of Task Force on Business Responsibilities	1 st September 2011
15.	Third Meeting of Working Group on Business Regulatory Framework	9 th September 2011
16.	Third Meeting of Task Force on Simplification of Business Procedures	20 th September 2011

Annexure 7

Operational Strategy Note with Outcomes of National Conclave

Background

Planning plays an important role in determining optimal utilisation of resources, both human and material, for realising the desired growth and development trajectory of any country. Since independence, India has resorted to a robust government lead planning process that engages scholars, development practitioners, businesses and various stakeholders to evolve a collective approach accompanied with specific actions and targets for the ensuing years. At a juncture where the Twelfth Five Year Plan (XII FYP) is being formulated, the role of business in economic growth and development of the country has been well recognised. Under the Planning Commission of India, the Steering Committee on Industry was given the mandate to deliberate upon the ways and means of creating an enabling business ecosystem for sustainable and inclusive business development in the country.

Within the Steering Committee on Industry, the responsibility for suggesting an appropriate mechanism was given to the Working Group on Business Regulatory Framework (WG BRF). The WG BRF worked through four Task Forces to deliberate over four specific themes: National Competition Policy; Business Regulations; Simplification of Business Procedures; and Business Responsibilities. The WG BRF and its constituent Task Forces held their deliberations during the months of May-September 2011 and presented their progress during the different meetings of the Steering Committee on Industry. Finally, their findings and recommendations were tested and extensively debated upon during a National Stakeholder Conclave held on 13th October 2011 in New Delhi.

The inputs received during these meetings and the agreements made therein, have been incorporated in this Operational Strategy Note (OSN). The purpose of this note is to detail out the strategy for operationalising three most prominent recommendations (of the total ten) made by the WG BRF in its detailed report. The note is divided into two parts: 1) General Strategy; and 2) Recommendation-Specific Strategy, as elaborated out in the ensuing pages.

General Strategy

1. National Development Council (NDC) will be required to play a major role in deliberating over the issues, concerns and breakthroughs proposed through the WG BRF Report. NDC is a unique platform for bringing together political and administrative leadership from national as well as state levels and carries the potential for consensus building on the given recommendations.
2. Considering the size of Indian economy, the market, the constituent business entities and the magnitude of regulations, it will be imperative to prioritise the recommended actions through consultation and consensus building.
3. The nature of the proposed work being complex and multi-disciplinary, it will require co-action on the part of people from different backgrounds like law, politics, public policy, economics and management. As many of the actions will be first of their kind, the implementation administrators will be required to be appropriately sensitised and capacitated to meet the targets. Their roles and responsibilities in this will have to be clearly defined in order to enable them achieve the targets.
4. Evidence based research will play a major role in measuring the success of the given recommendations and associated actions. For this purpose, performance indicators will have to be developed to measure the extent to which quality of regulatory governance got enhanced as envisaged.
5. For uptake of the various reform measures proposed, mixed modalities will have to be devised through a wide consultative mechanism. Such modalities could be either or all of the following: voluntary adoption; incentive linked adoption; and mandatory adoption. In all such modalities, there will have to be strong component of capacity building - targeting specific constituencies.
6. In the process of designing the national systems and reform measures, a comparative approach should be taken up i.e., looking at various states and local governments and cherry picking winners. It is equally important that while learning from

the global reform experiences, efforts should be made to locate the drivers as well as determinants of their successes and failures. Such drivers and determinants could be individual as well as collective.

7. Adoption and application of any of the external (foreign) regulatory reform tool into India will require its *appropriate transposition* suiting national, state, and local contexts. For finalising the underlying provisions of such tools, reliance should be made on research and extensive consultations. Accordingly, the specifics of the recommended policy framework, legislative framework, institutional architecture and governance mechanisms should be detailed.

8. There is a clear case for setting up 'Optimal Regulation Commission (ORC)' to take lead in giving shape to the given recommendations. The *modus operandi* of ORC will be such that it will work through *theme specific and outcome oriented multi-stakeholder consultations*. It will be set up for a period of 3 Years and will fulfil its mandate within the first three years of the XII FYP (roughly during the years 2012-2015). Its mandate will be of two kinds: 1) Operational (actual operationalisation of specific recommendations – for instance, mapping and classification of business regulation; development of appropriate methodology of Regulatory Impact Analysis and its application in select departments) and 2) Advisory (laying down a concrete roadmap for uptake of the other recommendations in the future on a rolling basis – for instance, structure and composition of Policy Coherence Units).

Recommendation-Specific Strategies

1. Mapping and Classification of Business Regulations

There is an urgent need to map business regulations at pan-India level. At present, there is no authoritative account of the number and nature of business regulations that exist in the country. For the purpose of this exercise, business regulations include policy, legislative and procedural instruments administered at various levels of the government for regulating the different types of business activities. Once such mapping

is undertaken, it will serve as a baseline for all future attempts at enhancing the quality of the BRF. The most important advantage of such exercise will be that a country-wide repository of all business regulations and procedures would be produced – something that does not exist at present.

Operational Strategy

- Planning Commission of India to assign this task to either the Optimal Regulation Commission (ORC) or some other specialised agency, as the case may be. During the process, the scope of enquiry should be clearly defined and a working definition of ‘business regulations’ should be evolved.
- The agency will initiate desk review of the information available through online and offline sources and identify the grey areas. It will then seek information from different entities - located at the Union, State and Local levels - administering business regulations to submit the information at their behest so as to address the grey areas.
- After consolidation of the responses received from such different entities, the agency will engage with the target communities of business regulations to identify their concerns and views. Attempts will be made to analyse them with the help of the target communities themselves as well as the administering entities that will be sent with another set of requests for submitting additional information at their behest.
- Once the mapping exercise is complete and vetted by diverse stakeholders, the agency will classify the business regulations as per the following (indicative) parameters:
 - *As per impact on business: High; Intermediate; Low etc.*
 - *As per jurisdiction: Union; State; Local*
 - *As per the stage of business: Start-up; Operational; Closure*
 - *As per the sector: Manufacturing; Services etc.*
 - *As per the size of business: Large; Medium; Small; Micro etc.*
 - *As per the type of business: Formal; Informal; Seasonal etc.*
 - *As per the scale of operations: Foreign, Domestic etc.*

2. Developing and Adopting Regulatory Impact Analysis (RIA)

Regulatory Impact Analysis (RIA) has to be adopted for improving the quality of business regulatory governance in India. RIA will help with the identification of unreasonable burdens on business and in devising ways through which such burdens are kept to a minimum, if not eliminated altogether. *Ex ante*, RIA helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on business. It also helps to clarify the costs of enforcement for the State. RIA will also identify potentially anti-competitive or protectionist dangers that are posed by proposed regulations. *Ex post*, RIA enables regulatory reviews on periodic basis so that regulations are reflective of the changing environment related to business competitiveness, growth and development.

Employing RIA – A Comparative Perspective

Most OECD countries require RIA for primary laws and subordinate regulations. Denmark requires RIA only for primary laws. The Czech Republic and Ireland require RIAs for primary laws and major secondary legislation, the Netherlands for major laws and major secondary legislation, Portugal for selected laws and secondary legislation, and Sweden for primary laws and secondary legislation that might have an effect on small business. Until a recent review of its Better Regulation agenda, Canada applied RIAs (Regulatory Impact Analysis Statement) only to secondary legislation. The United Kingdom requires RIAs in primary laws and secondary legislation which have a non-negligible impact on business, charities and the voluntary sector. Australia requires Regulatory Impact Statements (RIS) for primary laws, subordinate regulations, international treaties and quasi-regulations that have an impact on business or competition (OECD 2004).

Operational Strategy

- Planning Commission of India to assign this task to either the Optimal Regulation Commission (ORC) or some other specialised agency. In either case, it should be ensured that there is adequate representation of scholars and practitioners from across different spectrum in the research team. More so, because the tool of RIA is alien to Indian setting. By failing to exhibiting prudence in the manner of developing a toolbox for Indian context, there is a danger that the international agencies and their Indian partners might attempt at serving their own vested

interests by promoting a design of the toolbox that can be managed only by them. The idea here is to develop indigenous capability and not ‘outsourcing’, especially when sovereignty considerations are very much involved in the process.

- There is no single generic model of RIA used internationally. Thus, the Toolbox of RIA should be developed for Indian context through a robust research methodology which will have at least the following components: desk research; surveys; dialogues with RIA practitioners from those countries where RIA has been successfully been employed (at this stage, various RIA Tools like Regulatory Guillotine TM should also be studied); undertaking performance benchmarking to know about the diversity of RIA models and their characteristics; designing of suitable methodology of RIA for Indian context; widespread stakeholder consultations within India for knowledge sharing and feedback; finalisation of RIA methodology.
- While developing the RIA methodology for Indian context, the following eight elements should necessarily be incorporated: policy coherence; cost of doing business; competition; innovation; SMEs; consumers; labour; environment and commons. A brief description of these elements is presented below:
 - **Policy Coherence** – *This element will enquire over whether the existing or proposed regulatory instruments are in alignment with the other regulatory instruments operative at the national, state, and local levels. Such test will induce better levels of coherence among different regulatory instruments and suggest measures for improvements.*
 - **Cost of Doing Business** – *There are different types of costs (tangible, intangible, direct, indirect, real, pecuniary, substantive, administrative and the likewise) borne by either or all of the government, business and stakeholders. Such burden-measurement will also contribute towards prioritising action upon certain business regulations over the others. The factors causing the burdens would also be identified alongside. It is*

proposed to develop a dedicated methodology on the lines of the globally adopted models like:

- *Standard Cost Model*
 - *Business Cost Calculation*
 - *Cost Benefit Analysis*
 - *Cost Effectiveness Analysis*
- **Competition** – *This element of RIA will ascertain whether the existing or proposed policies and regulations will lead to competition distortions in the market or not and will suggest appropriate measure to address and overcome the causal clauses/ provisions.*
 - **Innovation** – *RIA will decipher regulation-innovation interplays by checking if regulatory instruments are innovation promoting; innovation neutral; or innovation impeding.*
 - **SMEs** – *This element will enable the employment of RIA to diagnose the specific problems faced by the Small and Medium Enterprises (SMEs) in realising their full potential. The methodology will essentially rely upon direct feedback receipts from the SMEs and after undertaking analysis of the causal factors, appropriate rectifications in the policies, regulations and praxis will be proposed.*
 - **Consumers** – *RIA will also ascertain the consumer interests are not getting compromised on account of the prevailing government-business interplays.*
 - **Labour** – *RIA will take a look at the manner in which regulatory instruments address various labour related concerns. For instance, labour law flexibility, the means of verifying workplace standards and policies, the substitutability of inspections, uptake of recommendations of National Labour Commission etc.*
 - **Environment and Commons** – *Duly recognising the significance of the considerations of sustainable development in the growth trajectory of the country, RIA will be equipped to diagnose regulatory deficits as well as*

impediments related to environment and commons. Deviations, if any will thus be diagnosed and addressed.

- Once the RIA methodology has been developed and adopted, the next step will be to identify the agency that will be applying the same. Considering the nature of the work, it is very much foreseeable that such agency ought to possess requisite legitimacy and authority. Thus, the proposed Optimal Regulation Commission (ORC) would be the best choice for the purpose and there does not remain any other alternative. If the task is left with the respective departments administering the regulations, it will not really be effective due to the inherent element of subjectivity.
- Considering the large volumes of business regulatory instruments that are in place at the Union, State, and Local levels, it will be critically important to be selective in applying RIA. To a great extent, the mapping and classification exercise will be of significant support in this regard. There are at least three alternatives:
 - *The first alternative is that in accordance with the XII FYP priorities, those business regulations having most impact on the performance of manufacturing and services sector (and sub-sectors) could be picked in the initial phase.*
 - *The second alternative could be to start with the Union government and thereafter following up with the State and Local governments respectively.*
 - *The third alternative could be to start with the regulations that are getting administered through the Ministries of Commerce and Industry, Labour, Environment and Corporate Affairs.*

3. Creation of Policy Coherence Units (PCUs)

For mainstreaming coherence among different government departments, there is a need for creating Policy Coherence Units (PCUs) in the Cabinet Secretariat at the Union level and in Chief Ministers' Offices in the States. The PCUs will keep a constant track of the issues that have or that might create contestation among different departments. These Units will need to work proactively, rather than only in a reactive mode, and should comprise of non-officials who can bring in objective and fresh perspectives from without.

Operational Strategy

- Planning Commission of India will assign the task of undertaking a fresh enquiry into the subject to the Optimal Regulation Commission (ORC) or some other specialised agency. The agency will take a detailed look at the current models being relied upon at the domestic as well as global levels (especially in other federal countries) for achieving policy coherence.
- The overall enquiry should be undertaken within a time span of a year and its methodology should be such that aside desk research, widespread consultations should be held with different actors involved with policy coherence. The enquiry should result into the structure and composition of the PCUs and the underlying coordination mechanisms.
- NDC should review and sanctify the creation of such PCUs for their effective functioning.

Annexure 8

NMCC Preliminary Position Note on Business Regulatory Framework

To ensure fair competition, a well designed regulatory structure which is simple and transparent is of paramount importance. To ensure this, bulk of the decision making should be shifted from the Government to an independent regulator; the existing regulations should be reviewed to minimize the interface of the citizen with the Government; regulators should be selected on a bipartisan basis and bestowed with necessary freedom from executive interference.

2. Studies have indicated that India compares unfavourably with other countries relating to ease of doing business. This is due to the adverse impact of delays of complex procedures and Red-tapism. The Government has periodically setup Committees to recommend actions for simplification of procedures. However, the implementation of these recommendations by the Ministries and State Governments has been tardy and inadequate.

3. The NMCC has stressed the need for a well-designed Business Regulatory Framework which would facilitate business and production, through the National Strategy for Manufacturing (NSM 2006) as well as the Prime Minister's Group Report (PMGR), which may be taken into account while formulating the recommendations of the Working Group on Business Regulatory Framework for the 12th five Year Plan.

4. The National Strategy for Manufacturing (NSM 2006) recommended the following:

- The regulatory framework should ensure fair competition, better access to markets- both domestic and foreign, trade negotiations that ensure a level playing field for domestic manufacturers, review of existing regulations and reduction of paper work and inspector raj.
- The design and implementation of regulations need to be simplified particularly for SMEs as they are less equipped to deal with complex requirements.
- Government should identify certain special institutions or reputed firms on the lines of 'financial audit firms' to carryout certifications relating to environment and safety regulations.
- Government should transform the regulatory processes through re-engineering of procedures to reduce ambiguity.
- An Empowered Group which would prioritize and persuade the States to implement reforms in respect of specific laws and regulations should be setup to ensure that the State Governments are fully involved in implementing the procedural reforms.
- Independent Commissions should be setup both at the Central and State Government levels to follow up on the suggestions of the Empowered Group and the recommendations of these Commissions should be implemented.

5. A Group under the chairmanship of Chairman, NMCC was constituted by the Prime Minister (PMG) to look into the issues affecting the Manufacturing sector and make recommendations for its sustained growth. The recommendations of the Prime Minister's Group Report (PMGR) are:

- Review existing regulations to minimize the interface of the citizen / entrepreneur with the Government;
- Move as much of the decision making as possible on most of the activities from the Government to independent regulators;
- Put in place a statutory selection process in respect of all regulators both at the Central and State levels to ensure independence in decision making. The law must have a provision which provides a review of appointment in rare cases.

6. Besides the above, the PMGR reiterated that the recommendations contained in the NSM 2006 be implemented in a time bound manner, particularly the constitution of an Empowered Group of Ministers to persuade the States to implement reforms in respect of certain laws & regulations and the setting up of independent Commissions both at the Central and Government levels to follow up on the suggestions of the Empowered Group.

7. The NMCC commissioned NASSCOM to conduct a Study on "A Roadmap to enhance IT Adoption and Penetration in the Manufacturing sector" keeping in view that IT adoption is critical for enhancing the competitiveness in the Manufacturing Sector.

The Study revealed that Simplification of Business Procedures would involve the usage of ICT on an extensive scale. The Study recommended the following:

- The line Ministries at the Central and State Government level along with the NMCC should facilitate the development of ICT enabled process guidelines across various manufacturing verticals.
- The development of business process guidelines should be based on both a “bottom-up” approach based on cluster level intervention to measure and document current business processes and a “top-down” approach that would involve a nodal agency to develop national manufacturing process standards based on industry best practices. The nodal agency would consist of members including academia and user industry leaders.
- The business process guidelines should be developed in a time bound manner leveraging existing academic institutions of excellence and industry bodies and experts. The government should play a pivotal role in setting up a nodal agency for development of business process guidelines.

The Working Group may consider the above recommendations for appropriate inclusion in the 12th Plan exercise for simplification of Business Procedures.

