Part 3

INDUSTRIAL POLICIES AND REGULATIONS

The industrial policies and regulations determine, to a large extent, business opportunities and threats. They also set certain limits and norms for the conduct of the business.

Government of India's policies and regulations have affected the pattern and pace of development not only of the industrial sector but also the economy in general.

Until 1991, the scope of the private sector industry was very limited because of the prominence given to the public sector in the industrial policy. Large firms, in particular, were subjected to very severe restrictions. The industrial policy announced in 1991 marked the dawn of a new business environment in India.

This *Part* presents some of the salient features of the industrial policy and regulatory environment. It reviews the industrial policy and licensing, and the changing role/scope of the public and private sectors, including privatisation. It also deals with some specific regulations, viz., the Company Law, regulations in respect of Patents and Trade Marks and Competition Law.

INDUSTRIAL POLICY UP TO 1991

The industrial policy of India prior to the liberalisation ushered in 1991 was characterised by the following features.

Reservation of Industries

1. Future development of most of the import industries was exclusively reserved for the public sector.
2. Manufacture of a large number (over 850 in 1991) of items was reserved for the small scale sector.

Dominance of Public Sector

The policy of the Government was to ensure that the public sector gained control over the *commanding heights* of the economy. The *Industrial Policy Resolution of 1948* established public sector monopoly/near monopoly in 9 industries.

The *Industrial Policy Resolution of 1956*, brought out in the light of the adoption by the Parliament of the *socialist pattern of society* as the national goal and the Second Five Year Plan model which gave emphasis to the basic and heavy industries, further expanded substantially the role of the public sector.

Future development of 17 most important industries was exclusively reserved for the public sector (Schedule A). Further, public sector was assigned priority for establisliment of new units in 12 most important of the remaining industries (Schedule B). See *Annexure 11.1* for the list of industries in Schedules A and B.

The public sector also established its monopoly or dominance in several other industries which did not belong to any of the above two categories of industries. This was done by the government by not giving licence to the private enterprises or by nationalisation.

Entry and Growth Restrictions

There were a number of entry and growth restrictions on the private sector (particularly on the large firms and foreign firms) even in respect of industries where the private sector was allowed. A licence was mandatory for establishing new units with investments above a specified limit, for manufacturing new products and for substantial expansion of existing undertakings.

Large firms (having assets, including those of interconnected undertakings, of Rs. 100 crore or more) and dominant undertakings (*i.e.,* those having a market share of 25 per cent or more) had to obtain clearance under the Monopolies and Restrictive Trade Practices (MRTP) Act, in addition to the industrial licence, for establishing new undertakings, substantial expansions and manufacture of new items. There were also restrictions on import of capital goods etc.

Restrictions on Foreign Capital and Technology

The scope of use of foreign capital and technology was limited. Even in industries where foreign capital was allowed, it was normally subject to a ceiling of 40 per cent of the total equity, although exceptions were allowed in certain cases. Operations of foreign companies in India and issue of securities abroad by Indian companies were regulated under the Foreign Exchange Regulation Act (FERA), 1973.

THE NEW INDUSTRIAL POLICY

The Industrial Policy announced on July 24, 1991, which heralded the economic reforms in India, has enormously expanded the scope of the private sector by opening up most of the industries for the private sector and substantially dismantling the entry and growth restrictions. Adjectives such as 'dramatic', 'revolutionary', 'drastic' etc. have been used to describe the nature of the change in the industrial policy.

The industrial policy reforms have reduced the industrial licensing requirements, removed restrictions on investment and expansion, and facilitated easy access to foreign technology and foreign direct investment.

The salient features of the new policy are the following.

Objectives

The major objectives of the new Industrial Policy package are:

1. To build on the gains already made.
2. To correct the distortions or weakness that may have crept in.
3. To maintain a sustained growth in productivity and gainfull employment.
4. To attain international competitiveness.

It has been stated that the pursuit of these objectives will be tempered by the need to preserve the enviornment and ensure the efficient use of available resources. All sectors of industry, whether small, medium or large, belonging to the public, private or co-operative sectors will be encouraged to grow and improve on their past performance.

Redefinition of the Role of Public Sector

The role of the public sector was redefined and the scope of the public sector has been drastically abridged.

The number of industries reserved for the public sector was reduced to eight and it was later pruned, in stages, to two (atomic energy and railway transport).

The policy also seeks selective privatisation and withdrawal of the public sector from industries which do not conform to its redefined role. See the chapter on public sector for more details.

Expansion of the Scope of Private Sector and Dismantling of Entry and Growth Restrictions

The scope of private sector has been expanded enormously by drastically reducing the number of industries reserved for the public sector and by substantially dismantling the barriers to entry and growth.

Delicensing: All but 18 industries were freed from licensing. The number was later reduced, in stages, to six. The industries subject to industrial licensing account for only a very small share of the value added in the manufacturing sector.

Removal of MRTPA Restrictions: Most of the provisions of the MRTP Act pertaining to concentration of economic power (*i.e.*, those requiring prior permission for establishment of new undertaking, substantial expansion, manufacture of new items and mergers and acquisitions) were scrapped.

The Union Budget 2001-2002 was hailed for initiating the second generation reforms. Whichever political party or combine comes to power in future, the difference will be, at the most, in its fine-tuning. In other words, the major differences between the political parties in India will no more be related to economic policies or ideologies; the differences will pertain rather to ethnic and related factors (including the issue of secularism and regional factors). The ubiquitous support to liberalisation seen now is due to the good liberalisation can do for the economic development of the country. Developments since 1991 have demonstrated the growth and competitive impulses that the liberalisation can generate. There is also a lot of lessons to be learnt from the Chinese experience of liberalisation.

SUMMARY

Until 1991, the industrial policy of India was characterized by a monopoly or dominant role for the public sector in strategic basic and heavy industries; preference for small scale units and reservation of a large number of items for the SSI sector; preference for cooperative sector and joint sector in several areas; a host of entry, growth, and operational and functional restrictions on the private sector; and a very restrictive attitude towards foreign capital and technology.

The industrial policy announced in July 1991 along with other economic policy changes and measures ushered in a process of economic reforms in India. Now there are no entry and growth restrictions on the private sector, except in a very small number of industries. The policy towards foreign capital and technology has been substantially liberalised. Imports have been very significantly liberalized; quantitative restrictions on imports, by and large, have been removed.

Table 11.1 gives a bird's eye view of the important policy changes.

TABLE 11.1 : INDUSTRIAL POLICY CHANGES

Pre-1991 Policy	Current Policy
Industrial licensing was the rule	Licensing is an exception
Public sector monopoly / dominance in strategic, basic and heavy industries	All but two industries are open to the private sector
MRTP Act restrictions on entry and growth of large companies	No such restrictions
Foreign investment allowed only in select industries, that too subject to, normally, a ceiling of 40% of total equity and prior permission	Foreign investment allowed in a large number of industries, including up to 100% of equity in many of them. Automatic route available subject to specified conditions.
Restrictive policy towards foreign technology	Very liberal policy towards foreign technology
Reservation of large number of products for small scale sector	Reservation list is being pruned

ANNEXURE 11.1

SCHEDULES TO INDUSTRIAL POLICY RESOLUTION, 1956

Schedule A

(Industries reserved for the public sector)

1. Arms and ammunition and allied items of defence equipment.
2. Atomic energy.
3. Iron and steel.
4. Heavy castings and forgings of iron and steel.
5. Heavy plant and machinery required for iron and steel production, for mining, for machine tool manufacture and for such other basic industries as may be specified by the Central Government.
6. Heavy electrical plant including large hydraulic and steam turbines.
7. Coal and lignite.
8. Mineral oils.
9. Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur, gold and diamond.
10. Mining and processing copper, lead, zinc, tin, molybdenum and wolfram.
11. Minerals specified in the Schedule to the Atomic Energy (Control of Production and Use) Order, 1953.
12. Aircraft.
13. Air transport.
14. Railway transport.
15. Shipbuilding.
16. Telephones and telephone cables, telegraph and wireless apparatus (excluding radio receiving sets).
17. Generation and distribution of electricity.

Schedule B

(Industries where public sector had priority in establishing new unit)

1. All other minerals except "minor minerals" as defined in Section 3 of the Minerals Concession Rules, 1949.
2. Aluminium and other non-ferrous metals not included in Schedule 'A'.
3. Machine tools.
4. Ferro-alloys and tool steels.
5. Basic and intermediate products required by chemical industries such as the manufacture of drugs, dye-stuffs and plastics.
6. Antibiotics and other essential drugs.
7. Fertilisers.
8. Synthetic rubber.
9. Carbonisation of coal.
10. Chemical pulp.
11. Road transport.
12. Sea transport.

12 IDRA & INDUSTRIAL LICENSING

A policy can be effectively implemented and the objectives achieved only if the Government has the power to take the measures required for this purpose. It is with this purpose that the Industries (Development and Regulation) Act was passed in 1951. Until the economic liberalization ushered in 1991, the entry into business, growth and expansion of firms were regulated by licensing exercised by the Central Government under this Act.

INDUSTRIES (DEVELOPMENT AND REGULATION) ACT

The Industries (Development and Regulation) Act, 1951, amended from time to time, is one of the most effective weapons the Government possesses to regulate the development and to control the activities of the industrial sector. It has brought under Central control the development and regulation of a number of industries the activities which affect the country as a whole and the development of which must be governed by economic factors of all-India importance.

Objectives

The main object of the Act is to provide the Central Government with the means to implement their Industrial Policy. Thus, the principal objective of the IDRA is to empower the Government:

- To take necessary steps for the development of industries.
- To regulate the pattern and direction of industrial development.
- To control the activities, performance and results of industrial undertakings in the public interest.

Main Provisions

The IDR Act contains provisions to realise the above objectives. Some of the salient features of the Act are the following.

Development Measures: The Act provides for the establishment, by the Central Government, of a *Central Advisory Council,* consisting of representatives of the owners of industrial undertakings, employees, consumers, primary suppliers, etc., for the purpose of advising the Central Government on matters concerning the development of the industries.

It also provides for the establishment, for any scheduled industry or group of scheduled industries, a *Development Council* consisting of members representing the interests of the owners,

employees, consumers, etc., and persons having special knowledge of matters relating to the technical or other aspects of the industries, for purposes such as recommending measures for improving the performance of the industries.

Regulation of Entry and Growth: The IDR Act empowers the Central Government to regulate the development of industries by means of licensing with suitable exemptions as decided by the Government. Accordingly, the entry into a business or the expansion of an existing business may be regulated by licensing.

Supervision and Control: The Government, under this Act, can make a full and complete investigation if it is of the opinion that — *(a)* in respect of any scheduled industry or undertaking, there has been or is likely to be a substantial fall in the volume of output, or a marked deterioration in the quality of output or an unjustifiable rise in the price of the output; *(b)* any industrial undertaking is managed in a manner highly detrimental to the scheduled industry concerned or to the public interest.

Consequent upon the investigation as mentioned above, the Government is empowered to issue such directions to the industrial undertaking or undertakings for all or any of the following purposes, namely,

(i) regulating the production of any article or class of articles by the industrial undertaking or undertakings and fixing the standards of production,

(ii) requiring the industrial undertaking or undertakings to take such steps as the Central Government may consider necessary to stimulate the development of the industry to which the undertaking or undertakings relates or relate.

(iii) prohibiting the industrial undertaking or undertakings from resorting to any act or practice which might reduce its or their production, capacity or economic value, and

(iv) controlling the prices, or regulating the distribution, of any article or class of articles which have been the subject-matter of investigation.

The Act also provides that any direction of the above nature may be issued by the Central Government at any time when a case relating to any industry or industrial undertaking or undertakings is under investigation. Such a direction shall have effect until it is varied or revoked by the Central Government.

For the purpose of ascertaining the position of working of any industrial undertaking or for any other purpose mentioned in the Act, or the rules made thereunder, any person authorised by the Central Government in this behalf can *(a)* enter and inspect any premises; *(b)* order the production of any document, book, register or record in the possession or power of any person having the control of or employed in connection with, any industrial undertaking; and *(c)* examine any person having the control of, or employed in connection with, any industrial undertaking.

Take over of Management: The power of control entrusted to the Central Government under the IDRA extends to that of the take over of the management of the whole or any part of an industrial undertaking which fails to comply with any of the directions mentioned above. The Government can also take over the management of an undertaking which is being managed in a manner highly detrimental to the scheduled industry concerned or to public interest.

Further, the Central Government can take over the management of industrial undertaking owned by a company under liquidation, with the permission of the High Court, if the

Government is of the opinion that the running or restarting the operations of such an undertaking is necessary for the maintaining or increasing the production, supply or distribution in the public interest.

In respect of the industrial undertaking, the management of which has been taken over by the Government, the IDRA empowers the Government to take steps, in appropriate cases, to liquidate or reconstruct the company concerned in the public interest.

Price and Distribution Controls: For securing the equitable distribution and availability at fair prices of any article or class of articles relatable to any scheduled industry, the Central Government is empowered by the Act to control its/their supply, distribution and price.

Exemptions: The Central Government is empowered to exempt any industrial undertaking or class of industrial undertakings or any scheduled industry or class of scheduled industries from all or any of the provisions of the Act in certain cases in the public interest.

INDUSTRIAL LICENSING

The Industries (Development and Regulation) Act, 1951, empowers the Central Government to regulate the establishment and certain activities of the industrial undertakings by means of licensing. The licensing provisions of the IDRA may apply to industrial undertakings set up by any person or authority including the Government.

A licence is a written permission from the Government to an industrial undertaking to manufacture specified articles included in the Schedule to the Act. If a new company has to be formed, the industrial licence in the first instance, is issued in the name of the applicant, and later when the company has been formed, the necessary endorsement to that effect will be made in the licence.

A licence contains particulars of the industrial undertaking, its location, the articles to be manufactured, its capacity on the basis of the maximum utilisation of plant and machinery, and other appropriate conditions which are enforceable under the Act. It is also subject to a validity period within which the licensed capacity should be established.

If an application for licence is approved and further clearance (such as foreign collaboration and capital goods import) are not involved and no other prior conditions have to be fulfilled, an industrial licence is issued to the applicant. In other cases, a letter of intent is issued, which will later be converted into a licence on fulfilling the conditions stipulated in the letter of intent. In other words, a letter of intent conveys the intention of the Government to grant a licence subject to the fulfillment of certain conditions. The conditions to be fulfilled relate to the approval of foreign investment proposal, import of capital goods, application to be made to the financial institutions, taking of steps to control pollution, etc. A letter of intent enables the applicant to finalise and formulate the proposals on matters relating to the terms of foreign collaboration, import of capital equipment and/or issue of capital with the assurance that if the proposals are otherwise found satisfactory an industrial licence will be issued.

Prior to the economic liberalization ushered in 1991, the licensing is a means to help achieve some of the objectives of the economic policy such as the desired pattern of industrial

dispersal, encouraging new entrepreneurs and wider dispersal of industrial ownership, prevention of concentration of economic power, protection and promotion of the small-scale sector, regulation of foreign capital and technology, use of proper technology and scale economies, achieving demand-supply balance promotion of exports and import substitution, or employment generation etc.

Before the policy liberalisation of 1991, a licence was required for the following purposes: *(i)* Establishment of new undertaking, *(ii)* Manufacture of new item, *(iii)* Substantial expansion of capacity, *(iv)* Continuation of business in certain cases (COB licence), *(v)* Change of location.

Projects involving investment up to specified limits were exempted from licensing, subject to certain conditions. The exemption limit was periodically revised upwards. Before the announcement of the new policy in July 1991, this limit was Rs. 15 crores in non-backward areas and Rs. 50 crores in backward areas.

The New Policy

The industrial policy announced in July 1991 has abolished industrial licensing, irrespective of the levels of investment, for all industries exempt 18 specified industries. There has been subsequent liberalizations.

Now all industrial undertakings are exempt from obtaining an industrial licence to manufacture, except for *(i)* industries reserved for the Public Sector, *(ii)* industries retained under compulsory licensing, *(iii)* items of manufacture reserved for the small scale sector and *(iv)* if the proposal attracts locational restriction.

Industries for which industrial licensing is compulsory now are the following.

1. Distillation and brewing of alcoholic drinks.
2. Cigars and cigarettes of tobacco and manufactured tobacco substitutes.
3. Electronic Aerospace and defence equipment: all types.
4. Industrial explosives including detonating fuses, safety fuses, gun powder, nitrocellulose and matches.
5. Hazardous chemicals.
6. Drugs and Pharmaceuticals (according to modified Drug Policy issued in September, 1994).

Note: The compulsory licensing provisions would not apply in respect of the small scale units taking up the manufacture of any of the above items reserved for exclusive manufacture in small-scale sector.

A perusal of the above list would indicate that it is due to reasons of hazardous nature of the product/production, environmental concern, and health and social concerns that some industries are still subject to licensing.

Industrial undertakings exempt from obtaining an industrial license are required to file an Industrial Entrepreneur Memoranda (IEM) with the Secretariat of Industrial Assistance (SIA), Department of Industrial Policy and Promotion, Government of India, and obtain an acknowledgement. No further approval is required.

Locational Policy

Industrial undertakings are free to select the location of a project. In the case of cities with population of more than a million (as per the 1991 census), however, the proposed

13 PUBLIC, PRIVATE, JOINT AND CO-OPERATIVE SECTORS

The mixed economy of India is characterised by the co-existence of public, private, joint and co-operative sectors. The pattern of industrial development of the country has been influenced to a very significant extent by the roles given to these sectors by the industrial policy.

PUBLIC SECTOR

The objective of accelerating the pace of economic development and the political ideology which gave the public sector a dominant role in the industrial development of the nation led to rapid growth of the state owned enterprises (SOEs) sector in India.

BOX 13.1 : IMPERATIVES OF PUBLIC SECTOR

Policy on the public sector has been guided by the Industrial Policy Resolutions 1956 & 1991 which gave the public sector a strategic role in the economy. At the time of India's independence in 1947, there were various problems confronting the country which needed to be tackled in a planned and systematic manner. India was basically an agrarian economy with a weak industrial base, low level of savings and investment and near absence of infrastructural facilities. A vast percentage of population was extremely poor. There existed considerable inequalities in income, low level of employment opportunities, serious regional imbalances in economic attainments and lack of trained man-power in various fields of management. It was, thus, obvious that if the country was to speed up its economic growth and maintain it in the long run at a steady level, a big push was required. As such, State's intervention in all the sectors of the economy, was inevitable because private sector had neither the necessary resources in terms of funds, managerial and scientific skill, nor the will to undertake risks involved in large long-gestation investments. Among the imperatives were removal of poverty, better distribution of income, expansion of employment opportunities, removal of regional, imbalances, accelerated growth of agricultural and industrial production, better utilisation of natural resources and a wider ownership of economic power to prevent its concentration in a few hands. Given the type and range of problems faced by the country on its economic, social and strategic fronts and the various imperatives, it became a pragmatic compulsion to deploy the public sector as an instrument for self-reliant economic growth so as to develop a sound agricultural and industrial base, diversify the public economy and overcome the economic and social backwardness.

The predominant considerations for continued large investments in public sector enterprises were to accelerate the growth of core sectors of economy; to serve the equipment needs of strategically important sectors like Railways, Telecommunications, Nuclear Power,

Defence, etc., to enable the Government to exert countervailing power on the operation of private monopolies and multinationals in selected areas and to provide a springboard for the economy to achieve a significant degree of self-sufficiency in the critical sectors. Another category of public enterprises concerns essentially the consumer oriented industries such as drugs, hotels, food industries, etc. The rationale for setting up such enterprises was to ensure easier availability of vital articles of mass consumption, to introduce check on prices of important products and services and to help promote emerging areas like tourism, etc. Then, again, a large number of enterprises belong to the category of 'sick units' taken over from the private sector in order to sustain production and protect employment. There are a number of public enterprises operating in national and international trade, consultancy, contract and construction services, inland and overseas communications, etc. The overall profile of public sector enterprises in India is, thus, a heterogenous conglomerate of basic and infrastructural industries, industries producing consumer goods and industries engaged in trade and services, etc.

Courtesy: Bureau of Public Enterprises, *Public Enterprises Survey, 1998-99.*

As the Bureau of Public Enterprises observes, born as the outcome of the conscious policy of the government to speed up the industrialisation of the country with a view to give added impetus to economic growth as well as to achieve certain socio-economic goals as enunciated in the Industrial Policy Resolutions of the government, these enterprises came to cover a wide spectrum of activities in basic and strategic industries like steel, coal, minerals and metals, petroleum, heavy engineering, chemicals, fertilizers and pharmaceuticals etc. on the one hand, and consumer goods, trading and marketing activities, transportation services, contracts and consultancy services, tourist services, financial services, development of small industries etc. on the other.[1]

Objectives

The public enterprises which were promoted as an instrument for implementation of the government's socio-economic policies, had a multitude of objectives set for them, *viz.,*

- To help in the rapid economic growth and industrialisation of the country and create the necessary infrastructure for economic development.
- To earn return on investment and thus generate resources for development.
- To promote redistribution of income and wealth.
- To create employment opportunities.
- To promote balanced regional development.
- To assist the development of small-scale and ancillary industries.
- To promote import substitution, save and earn foreign exchange for the economy.

Growth and Performance of Public Enterprises

There had been a phenomenal growth of the public sector since the commencement of planning. In fact, even before the commencement of planning and the adoption of the goal of the *socialistic pattern of society*, the public sector was assigned an important role in the industrialisation and economic development of the country. The *Industrial Policy Resolution of 1948* made it very clear that the manufacture of arms and ammunition, the production and control of atomic energy, and the ownership and management of railway transport would be the exclusive monopoly of the Central Government. It was resolved further that in another six industries the state alone would set up new undertakings. These six industries were: coal, iron and steel, aircraft manufacture, ship-building,

Uneconomical pricing/tariff rates signifying large cross-subsidies reduced the internal resource generation in this sector. This had direct implications for reinvestment on the one hand, and raised demand for power, on the other. These also contributed, among other things, to the heavy losses incurred by most of the State Electricity Boards which continuously failed to realise the three per cent statutory rate of return on assets.

A number of other problems including allocation of resources, delays in the filling up of top-level posts, tight regulations and procedures for investment and restrictions on functional autonomy of the enterprises (*e.g.*, in respect of labour and wage policy), etc. have for long been noticed as serious constraints on PSE operational efficiency.

The public sector is generally criticised for inadequate generation of internal resources. The Department of Public Enterprises points out that generation of internal resources by public enterprises is constrained by the following factors.

1. Public Sector Enterprises were set up not only for commercial consideration but also for factors such as generation of employment, promoting balanced regional development, etc.
2. Low return on investment on account of price constraints imposed on certain infrastructural goods and services of public enterprises.
3. A number of sick units in the private sector facing closure had to be taken over by the Government and these units form sizeable part of the Central Public Sector.
4. Number of industries promoted in the public sector with long gestation period.
5. The impact of escalation in the prices of various inputs and periodical wage revision.

The New Public Sector Policy

After the initial exuberance of the public sector entering new areas of industrial and technical competence, a number of problems have begun to manifest themselves in many of the public enterprises. Serious problems have been observed in the insufficient growth in productivity, poor project management, over-manning, lack of continuous technological upgradation and inadequate attention to R & D and human resource development. The low rate of return on capital invested has inhibited the ability of the public enterprises to regenerate themselves in terms of new investments as well as in new technology development. This resulted in many of the public enterprises becoming a burden rather than an asset to the Government.

It was, therefore, decided to redefine the role of the public sector, in tandem with the economic liberalisation. According to the industrial policy announced on 24-7-1991, the following have been set as the priority areas for growth of public enterprises.

1. Essential infrastructure goods and services.
2. Exploration and exploitation of oil and mineral resources.
3. Technology development and building of manufacturing capabilities in areas which are crucial in the long term development of the economy where private sector investment is inadequate.
4. Manufacture of products where strategic considerations predominate such as defence equipment.

Accordingly the number of industries reserved for the public sector was pruned to 8. These 8 industries were: *(i)* Arms and ammunition and allied items of defence equipment, defence aircraft

and warships. *(ii)* Atomic energy. *(iii)* Coal and lignite. *(iv)* Mineral oils. *(v)* Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur, gold and diamond, *(vi)* Mining of copper, lead, zinc, tin, molybdenum, wolfram, *(vii)* Minerals specified in the schedule to the Atomic Energy (control of production and use) Order, 1958. *(viii)* Railway transport.

The list has been further pruned subsequently and now only atomic energy and railway transport are reserved for the public sector. In May 2001, the sensitive defence production which was hitherto reserved for the public sector was thrown open to the private sector. Foreign investment up to 26 per cent has also been allowed in this sector.

The new industrial policy also indicated that the public sector would withdraw from the following cases :

1. Industries based on low technology
2. Small-scale and non-strategic areas
3. Inefficient and unproductive areas
4. Areas with low or zero social responsibility or public purpose
5. Areas where private sector has developed sufficient enterprise and resources.

The main elements of the current Government Policy towards Public Sector Undertakings (PSUs) are:

- Bringing down Government equity in all non-strategic PSUs to 26 per cent or lower, if necessary.
- Restructure and revive potentially viable PSUs.
- Close down PSUs which cannot be revived
- Fully protect the interest of workers.

In order to give thrust to the process of disinvestment in PSUs, a new Department of Disinvestment was set up. The Department is responsible for alt matters related to disinvestment of Central Government equity in Central Public Sector Undertakings, implementation of disinvestment decisions and implementation of the erstwhile Disinvestment Commission.

The new Policy also made it clear that the Government will ensure that the public sector is run on business lines as envisaged by in the Industrial Policy Resolution of 1956. It was also decided to close down unviable sick public undertakings.

The new public sector policy marks a much needed change for accelerating the pace of development by better utilisation of the national resources (including entrepreneurial resources) and for increasing competition and efficiency.

The Industrial Policy Statement of July 1991 observed that in the 1950s and 1960s, the principal instruments for controlling commanding heights of the economy was investment in key industries. Today, the State has other instruments of intervention, particularly fiscal and monetary instruments.

Public Sector Rathnas

Government in July 1997 unfolded its strategy to grant autonomy to some PSUs on an experimental basis. The objective of the new approach was to select some vanguard PSUs to support them in their drive to become global giants. The Government, after a detailed and indepth inter-ministerial discussions selected nine PSU for making them truly world class entities and it euphemistically named these as *Navaratnas*.

3. A meeting of shareholders in the case of a government company is meaningless, for the declaration of profits and the appointments to the Board are naturally reserved to the government.
4. The extent of autonomy that it provides can be materially affected or altered by the executive agencies of the government.

Mainly relying on the above considerations, most of which had emerged from a U.N. seminar held at Rangoon in 1954 (and later endorsed by another U.N. seminar held at New Delhi in December, 1959), the Estimates Committee recommended[5] that all wholly state-owned public undertakings should generally be in the form of statutory corporations, and the company form should be an exception to be resorted to only:

1. When the government may have to take over an existing enterprise in an emergency;
2. Where the state wishes to launch an enterprise in association with private capital; or
3. Where the government wishes to start an enterprise with a view eventually to transferring it to private management.

The government, however, did not accept this recommendation on the ground that the "company form was advantageous in that it allowed the flexibility and autonomy necessary for the successful operation of commercial enterprises and also provided for parliamentary control over the companies under the special provisions of the Companies Act." [6]

The decision taken by the government in 1961 on the recommendations of the Krishna Menon Committee on the form of organisation reads as follows: "Government consider that the form of management of the undertakings should be determined by the requirements of each case. Accordingly, from the point of view of flexibility of operations, the company form of management would be preferable. In some instances, it would be necessary to form statutory corporations, while in a few others, for various reasons, it would be desirable to run the undertakings as departmental organisations."[7]

From the characteristics of the government company mentioned above, it is clear that when the whole capital stock is not owned by the government, it is still generally regarded as a government company provided that the government owns not less than 51 per cent of the capital stock. Such companies are also described as "mixed" or "joint" companies. In such concerns, the government usually enjoys a substantial control of the management. Examples of such companies include Ashok Hotel and Hindustan Shipyard Ltd.

However, there were also examples of the management of the government companies being entrusted to private hands. Hindustan Machine Tools Ltd., Hindustan Shipyard Ltd., Hindustan Housing Factory Ltd., and Indian Telephone Industries Ltd., were, in the beginning, given out to foreign private firms for management.

Public Corporation

The important features of the public corporation (also known as statutory corporation) as mentioned by the Study Team on Public Sector Undertakings are given below: [8]

It is owned by the State.

1. It is created by a special law defining its objectives, powers and privileges and prescribing the form of management and its relationship with government departments.
2. It is a body corporate and can sue and be sued, enter into contracts and acquire property in its own name.

3. Except for appropriations to provide capital or to cover losses, it is usually independently financed; it obtains funds by borrowing either from the government or, in some cases, from the public and through revenues derived from the sale of goods and services, and has the authority to use and re-use its revenue.
4. It is ordinarily not subject to the budget, accounting and audit laws and procedures applicable to government departments.
5. Excluding the officers taken from government departments on deputation, the employees of public corporations are not civil servants, and are not governed by government regulations in respect of conditions of service.

As the Study Team has pointed out, in most democratic countries, the public corporation has been the common form of organisation for public enterprises. "In the United Kingdom, the USA and Canada, the form of public corporation has been adopted. In Italy, the company form has been retained for concerns brought within the public sector; but it is confined to the subholding companies and operating units. The two top management institutions that control all the operating units and sub-holding companies are the ENP [9] and IRII [10] and they are statutory corporations. Thus, it is only in India that the government seems to have adopted the method of running companies by directly holding shares in them. In Italy, the state holdings are administered by public corporations which, in turn, hold shares in a number of companies. In India, the government companies have been subjected to both. While it is sometimes claimed that the advantages of the two systems, state managements and private enterprises, have been combined in government companies in India, many witnesses who appeared before us held the view that government companies had merely succeeded in accumulating the disadvantages of both."[11]

Preferring the public corporation to the company, the Team has pointed out that though "from the government pronouncements on the subject it appears that the company form is conducive to greater autonomy, the reports of the Parliamentary Committees indicate the very opposite." [12] In support it has also quoted the following comments made by the Estimates Committee: "The Committee has noticed that in the relations between these undertakings and the Ministry, the former are treated in the same manner as departments and offices of government, controlled and supervised by the secretariat. The state undertakings have thus become adjuncts to Ministries and are treated more or less on the same lines as any subordinate organisation of office".[13] The Team, therefore, felt that "the setting up of the public corporation will ensure a measure of real autonomy for the public enterprise."[14]

Holding Company

One of the important recommendations of the Study Team has been that integral public authorities should be created for particular sectors of industry and entrusted with the task of the general development of the respective sectors, including the running of undertakings in those sectors and the setting up of new projects. The Team recommended that, to promote this integration, it was necessary to amalgamate public undertakings in such a manner that one integral corporation functioned in each major area of public enterprise, operating the existing units and setting up new projects in the field of the industry entrusted to the corporation.

According to the Study Team, the setting up of the integral public corporation in the industrial and manufacturing field would result in the following advantages.[15]

1. It will end the fragmentation of the industrial effort in the public sector and promote the integration of the efforts to develop each industry in the public sector.

can be raised by means of direct taxes. The situation may necessitate higher commodity taxation, which may turn out to be regressive and/or deficit financing. If commodity taxation and deficit financing cause a rise in prices, it is likely to make the plight of the poorest sections more miserable, for the poorest strata usually do not have the economic capacity to consume even the subsidised public utilities. The marginal cost pricing, therefore, sometimes reduces the total economic welfare even under conditions of decreasing costs.

When production is subject to the law of increasing costs (decreasing returns), the marginal cost price represents at higher price than the average cost price or no-profit, no-loss price. Hence, marginal cost pricing under conditions of increasing costs will reduce the total economic welfare, for this higher price will reduce the poor people's consumption of public utilities.

If marginal cost pricing is adopted when production is subject to the law of increasing costs, the enterprise can generate some surplus.

There are some practical difficulties in marginal cost pricing. "Where there are multiple products or services, the determination of detailed costs of each item may be a very costly and complicated affair. There may, as a result, be large economies of administration if services involving unequal costs are charged at a uniform rate. This is the reason why the post office charges the same price for carrying letters from one street to another or from one corner of the country to another.

"The marginal cost cannot be accurately assessed because the factors are indivisible and the various charges on new factor intakes are not the charges on factor use needed for additional increments of output. Marginal costs would be high at points where capacity gets exhausted and for additional production new capacities have to be created. In such cases, the costs incurred at such points are abnormally high and thus the marginal cost cannot be a basis for price fixation.

"If the price is to equal marginal cost, fluctuations in demand and supply would lead to frequent fluctuations in prices, which is not very desirable"[17]

Average Cost Pricing

Average cost pricing refers to the method of setting prices in which price is equal to the average cost of production. Under average cost pricing, the total revenue equals total cost. Average cost pricing, thus, ensures the absorption of the full cost of production into the price.

When calculating the total cost, it is usual to include normal profit in it. Hence the average cost includes also the normal profit. The average cost price is, therefore, a little higher than the no-profit, no-loss price.

It has been argued that, in the case of the railways, posts and telegraphs, multi-purpose projects, etc., the average cost can be more easily calculated than the marginal cost.

Thiemeyer considers the average cost pricing to be fair and just because of lie following reasons.[18]

1. Public undertakings are expected primarily to meet needs, that is, to provide an optimum volume of supplies cheaply without seeking any profit.
2. Every purchaser pays the entire cost of the unit or units consumed by him instead of paying only the additional cost of producing these units.
3. Since nobody is required to pay more for the goods he purchases than the amount it actually costs to produce those goods, there is no exploitation.
4. The average cost price is a reliable criterion for investment in many cases.

5. The average cost principle ensures that the entire expenditure of the undertaking is covered and thereby secures the viability and the autonomy of the undertaking.

Under conditions of decreasing costs, the average cost price is higher than the marginal cost price. Hence, the demand for goods or services will be lower if the average cost is the criterion for fixing the price. It will, it has been argued, adversely affect the interests of the consumers.

When production is subject to the law of increasing costs, the average cost is lower than the marginal cost, and hence the average cost pricing will benefit the poor.

The INRICE Theory Committee points out that "the recommendation...that price should be fixed in terms of average unit costs is in practice inapplicable. To take one example, in the transport sector " ... no satisfactory method of allocating costs according to their origin has yet been found. The problem is at present insoluble on account of practical considerations; moreover, the task of correctly allocating cost elements is fraught with theoretical difficulties of principle, which cannot be overcome by any degree of improvement of the accounting systems of individual economic units and the economy as a whole"[19]

No-Profit, No-Loss Pricing

As the name indicates, the no-profit, no-loss theory holds that the price should be fixed in such a way that there will be neither any profit nor any loss. In other words, the price should just cover all the costs of production.

The average cost price usually includes the normal profit. The no-profit, no-loss price, however, does not provide for normal profit.

Unlike the marginal cost price, the no-profit, no-loss price does not require any subsidy for in this case there is no deficit in the revenue because of the equality between the total revenue and total cost. In other words, there is no need for any "cross subsidisation".

When the price is fixed on the no-profit, no loss basis, the non-consumers of the commodity or service are not compelled, directly or indirectly, to bear a burden for the benefit of the consumers. At the same time the consumers are given a fair deal, for they bear nothing more than the actual cost of their consumption.

Like the average cost price, the no-profit, no-loss price relieves the state of the burden of mopping up resources to make good the deficit incurred when marginal cost pricing is adopted — when the production is subject to the law of decreasing costs.

Professor Arthur Lewis argues that if the corporation makes a profit or loss, it should be required to adjust its prices so as to eliminate the profit or loss. He advocates this principle on the ground that it will prevent over or under-expansion of the industries concerned and will avoid inflationary or deflationary tendencies.

Profit-Making Pricing

The theory of making profits purports that the prices should be high enough to provide some surplus after absorbing all the costs.

That the public sector enterprises should generate a surplus with which to finance future development plans has been widely accepted today.

Many developing countries have assigned a very important role to the public sector in national development plans. Since the taxable capacity is low and the scope of domestic resource mobilisation

basis of the nature of the business, public enterprises in India may be classified into the following categories.

1. Enterprises engaged in the production or provision of public utilities and services.
2. Enterprises engaged in the production of consumer goods.
3. Enterprises engaged in the production of basic and capital goods.
4. Enterprises engaged in the trading business.
5. Financial enterprises.

The determinants of the pricing policies of these different classes of enterprises, obviously, differ.

The Administrative Reforms Commission has recommended that the following principles should be kept in view in formulating the pricing policies of public enterprises.[26]

1. Public enterprises in the industrial and manufacturing field should aim at earning surpluses to make a substantial contribution to capital development out of their earnings, besides making a contribution to the national exchequer.
2. Public enterprises should in any event pay their way and should not run into losses except in pursuance of the express directive issued by the government in public interest.
3. In the case of public utilities and services, greater stress should be laid on output than on return on investment, the former being extended up to a level at which marginal costs is equal to price.
4. While determining the price structure commensurate with the surpluses expected from them, public enterprises should keep the level of output as near the rated capacity as possible, subject, of course, to the volume of demand for the product.

The Bureau of Public Enterprises is intimately concerned with the problems of pricing. Its main activity is directed towards dealing with specific cases as they arise, rather than with general industry studies. It also issues guidelines to public enterprises on pricing policies. The BPE issued the following guidelines.[27]

1. For enterprises which produce goods and services in competition with other domestic producers, the normal market forces of supply and demand will operate, and their products will be governed by the prevailing market prices.
2. For enterprises which operate under monopolistic or semi-monopolistic conditions, the landed cost of comparable imported goods would be the ceiling. Within this ceiling it would be open to the enterprises to have price negotiations and fix prices at suitable levels. If the landed cost is found or believed to be artificially low, or in other exceptional circumstances it is considered necessary to have higher prices, then the matter should be referred to the Administrative Ministry, the BPE (now DPE), and the Ministry of Finance.
3. Ministries and government departments and public sector enterprises should invariably purchase their requirements from public sector undertakings to the maximum possible extent. Quality requirements and reasonable delivery schedules should of course be enforced, subject to negotiation for agreement on price. Price preference not exceeding 10 per cent will be admissible to public sector undertakings. Where a public sector undertaking requires price preference of more than 10 per cent, the Purchasing Ministry, department or public enterprises should endeavour to reach an agreement by negotiation; where such an agreement is not possible within a reasonable time, the cases have to be submitted to

the Cabinet Committee for Economic Coordination. Price preference even up to 10 per cent cannot be permanent or taken for granted.

Every effort should be made to bring down costs and achieve competitiveness.

The pricing policies and practices are profoundly influenced by the competitive situation, the nature of the industry, the supply-purchase relationship with other public enterprises and government departments, etc. "Even a cursory examination of the market conditions under which the public enterprises produce and sell their goods and services would reveal several types of situations. Some enterprises come under a system of price control and regulation, while others operate in the open market; still others operate in international markets. For some enterprises, the Central Government is the sole buyer, others are linked to State Governments and other public enterprises which are their main customers. One can easily see that the managements of public enterprises are not entirely free to set their prices without some constraints".[28]

On the basis of the pricing criteria and practices of different kinds of enterprises, the Bureau of Public Enterprises has made the following broad classifications.[29]

1. Enterprises under a system of price control by the government.
2. Enterprises which sell their products entirely to the government.
3. Enterprises which sell their products mainly to State government enterprises or to other public sector enterprises.
4. Enterprises selling their products in the international market.
5. Enterprises operating in the open market.
6. Steel.
7. Price fixation by arbitration and award by the government.

Pricing Practices

Some examples of the pricing policies and methods followed by public enterprises are given below:

1. *Administered Prices:* In the past, prices of certain commodities like steel, coal, oil, fertilizers, etc., were fixed by the government. As a part of the economic reforms, most of the goods have been freed from the administered prices.
2. *No-Profit, No-Loss Prices:* Some undertakings like the Hindustan Antibiotics price the products on the no-profit, no-loss basis.
3. *Cost-Plus Prices:* Several enterprises fix prices on a cost-plus basis.
4. *Competitive Prices:* The liberalization has increased the relevance of this strategy.
5. *Following the Leader :* Price decisions of a few public enterprises are based on the behaviour of the leader. For instance, the Kerala Soaps and Oils followed this strategy in respect of some of their products.
6. *Parity Pricing:* For the products of some of the enterprises which had a monopoly position in the domestic market, parity with the landed cost of the imported product was sought. This was, for instance, true of the Hindustan Shipyard which established the UK parity.
7. *Subsidised Prices:* Some enterprises which enjoy the benefit of a subsidy from the government sell their products below the cost of production. An example was the price of the contraceptive produced by the Hindustan Latex.

In India, public enterprises are placed under the control of different functional ministries. The ministries have the responsibility to ensure that enterprises under their administrative control function effectively and in a manner conducive to the achievement of the objectives underlying their formation. For this purpose, they lay down, in consultation with the management of the enterprises, their annual targets of production/turnover, and carry out a periodical appraisal of their performance at review meetings.

Baveja [31]points out that although the government is empowered to issue directives to enterprises to conform to its policies, this is not the normal practice followed except in certain very special cases. The compliance by the enterprises with the policies of the government is achieved by the issue of instructions which are in the nature of guidelines or model rules, and it is left to the judgement of individual enterprises to adopt the suggested course of action with or without adjustments. The guidelines issued by the government relate to various matters, such as personnel and wage policies, general conditions of the service of employees, model conduct rules, economy in the field of construction, and provision of amenities in townships, etc.

Parliamentary Control and Public Accountability

Parliamentary control is a very important aspect of the performance appraisal of public enterprises in India. One of the former Speakers of the Lower House of Parliament, Shri G. V. Mavalankar, once observed: "Merely because the system makes them autonomous, it does not follow that the system can take away the jurisdiction of Parliament for having a full probe into the administration of the autonomous body."[32]

There are three important methods by which Parliamentary control over public enterprises is exercised in India.

*1. **Holding Debates in Parliament:*** A debate on the performance or some other issue pertaining to public enterprises may be initiated during the budget debates, or on a discussion of the President's address, or by moving resolutions on any topic, by raising an half-hour discussion on a public undertaking, by moving a motion for adjournment on a matter of public importance, by short discussions on matters of urgent public importance, or "calling the attention" of the House to some urgent matter during discussions on reports of enquiries, or while introducing or amending the statutes of a corporation, or on a presentation of the annual reports.

*2. **By Interpellation:*** This means interrupting the proceedings in Parliament and demanding a statement or explanation from the Minister.

There is a practice of setting apart one opening hour of Parliament's meeting time for questions and answers. Members of the House give due notice of their questions to the Ministers and the Ministers concerned give the House the answers which they may prepare with the help of civil servants.

*3. **By Parliamentary Committees:*** Special Committees of Parliament, consisting of the members belonging to various parties, examine the various aspects of the functioning of public enterprises.

The CPU

In the earlier years, the Public Accounts Committee and the Estimates Committee of Parliament examined the working of public enterprises. But as these committees were overburdened with work, and also because the criteria for the appraisal of performance of public enterprises had to be different

from those applied to the work of the government departments with which these committees were concerned, the Committee on Public Undertakings was set up in 1964. The members of the CPU are drawn from both the Houses of Parliament. The terms of reference of the Committee are as follows.

(i) To examine the reports and accounts of public enterprises.

(ii) To examine the reports, if any, of the Comptroller and Auditor General of India on public enterprises.

(iii) To examine, in the context of the autonomy and efficiency of public enterprises, if their affairs are managed in accordance with sound business principles and prudent commercial practices, and to exercise such other functions in relation to public enterprises as may be allotted to it by the Speaker from time to time.

At the beginning of each financial year, the Committee on Public Undertakings selects for examination-in-depth some 8 to 10 enterprises. These studies cover in great depth every aspect of the working of the enterprises. The secretaries of the administrative ministries, the chief executives of public enterprises and other senior officials are required to appear before the Committee to give oral evidence. The reports of the Committee are presented to the Parliament. An examination of the working of an enterprise by the Parliamentary Committee is essentially in the nature of an evaluation of the performance of that enterprise, and it enables the Committee to make recommendations on how the working of that enterprise may be improved to enable it to discharge more effectively the role assigned to it.[33]

Apart from examining the working of individual enterprises, the CPU undertakes horizontal studies affecting public enterprises as a whole. Some of the horizontal studies of the Parliamentary Committee conducted include foreign collaboration in the public enterprises, financial management, public relations and publicity, personnel policies and the role and achievements of public undertakings.

There is a mechanism available with the Committee to follow up the implementation of its recommendations. The government is required to furnish the Committee within six months the replies showing the action taken on its recommendations. The replies are further processed by the Committee and a report is submitted to Parliament with the Committee's comments on the government's replies. In the words of Jyotirmoy Basu, over the years, this Committee, like its counterpart, the Select Committee on Nationalised Industries in Britain, has become an effective watchdog of Parliament to oversee the functioning of public undertakings and to ensure that they play a stabilising role in the economy of the country."[33]

The annual reports and balance sheets of all the enterprises are required to be laid on the table of both Houses of Parliament within a period of nine months from the close of the accounting year. This provision is contained in the enactments relating to the setting up of statutory corporations as well as in the Companies Act. A consolidated annual report of the working of industrial and commercial undertakings of the Central Government is also required to be placed on the table of the House. It must, however, be noted that Parliament, as a matter of principle, does not generally extend its supervision to matters of day-to-day administration."[36]

The accountability of enterprises is also ensured by a systematic appraisal of their performance by the Audit Boards functioning under the Comptroller and Auditor-General. The accounts of the enterprises are subject to audit by commercial auditors (firms of chartered accountants) appointed

5. To protect the interests of consumers.
6. To take the necessary action for the development of the concerned industry or business.

We may recall here some of the important nationalisations, that took place after independence.

The banking sector witnessed four important nationalisations, including the nationalisation of the Reserve Bank of India in 1949. The Imperial Bank of India was nationalised and the State Bank of India was established in 1955. In 1969, fourteen major commercial banks in the private sector were nationalised. With the nationalisation of another six banks in 1980, more than 90 per cent of the commercial banking business came in the public sector.

The government has also established monopoly in the insurance business. In 1956, life insurance companies and in 1972 general insurance companies were nationalised.

The government acquired the Mazgaon Docks, Bombay, and the Garden Reach Workshop, Calcutta, in 1960, and the Hindustan Shipyard in 1961.

The coking coal mines were taken over in 1972 and the non-coking mines in 1973. The next three years witnessed the nationalisation of foreign oil companies.

Apart from the nationalisation of certain industries, wholly or partially, individual undertakings in some other industries had also been nationalised to protect the interests of the workers and consumers to fulfil certain other objectives. The National Textile Corporation (NTC), set up in 1968, took over many sick mills. Under the Industries (Development and Regulation) Act, 1951, the government had taken over the management of a number of sick units. Thirteen sick units, earlier managed under the IDRA, were nationalised in 1980.

State governments, too, have been showing interest in the nationalisation of certain important sectors. Road transport was a common area of nationalisation. Some States like Kerala had nationalised private forests and plantations owned by foreign companies.

A lot of criticisms have been directed against the performance of the nationalised sectors and undertakings. The nationalised business, by and large, failed to rise up to expectations.

As part of the economic reforms ushered in 1991, Government is trying to correct the past mistake by privatisation. (Also refer to the new public sector policy described elsewhere in this chapter).

PRIVATE SECTOR

In a mixed economy, the private sector, too, has an important role to play. Indeed, it is because of the appreciation of the positive role the private sector can play, and certain limitations of the public sector, that many socialists advocate a mixed economic system. The Industrial Policy Resolution of 1956, which still remained the core of India's industrial policy and which assigned a dominant role to the public sector in a number of vital industries, has made it very clear that, *as an agency for planned national development, in the context of the country's expanding economy, the private sector will have the opportunity to develop and expand.* It is, thus, clear that the adoption of the principle of the socialist pattern of society did not mean the end of the private sector. Instead the private sector was assigned, and was expected to play, a very important role.

According to the Industrial Policy Resolution, 1956, it was expected that the development of the industries outside the Schedules A & B would be undertaken ordinarily through the initiative

and enterprise of the private sector, though it was open to the state to start any industry even in this category. It was "the policy of the state to encourage the development of these industries in the private sector, in accordance with the programmes formulated in successive Five Year Plans, by ensuring the development of transport, power and other services, and by appropriate fiscal and other measures. The state will continue to foster institutions to provide financial aid to these industries, and special assistance will be given to enterprises organised on co-operative lines for industrial and agricultural purposes." While shortcomings still exist, it must be said to the credit of the government that a remarkable progress has been achieved on these lines. It may also be pointed out here that a number of private sector enterprises that already existed in the industries included in the Schedule A have been allowed to develop further.

The Industrial Policy Resolution of 1956 has also made it clear that, "industrial undertakings in the private sector have necessarily to fit into the framework of the social and economic policy of the state and will be subject to control and regulation in terms of the Industries (Development and Regulation) Act and other relevant legislation. The Government of India, however, recognises that it would, in general, be desirable to allow such undertakings to develop with as much freedom as possible, consistent with the targets and objectives of the national plan. When there exist in the same industry both privately and publicly-owned units, it would continue to be the policy of the state to give fair and non-discriminatory treatment to both of them."

The preceding paragraphs give some idea of the government's policy towards the private sector and the industrial spheres open to that sector. Even in the areas where the private sector has been allowed, its operations and development have been regulated by the government in the public interest. The large industrial houses and foreign concerns, particularly, had been subject to a number of checks and controls. Their role had been confined to certain important areas like the heavy investment sector, the core sector, the export sector and backward areas development. The government's policy was to prefer small and new entrepreneurs to large industrial houses in the private sector, wherever possible.

The private sector has been dominant in most of the consumer goods industries. It plays an important role in a number of capital goods industries, too. In a number of important industries, it functions side by side with the public sector.

The joint sector also reflects to some extent the importance of the role of the private sector.

With the new industrial policy announced on July 24, 1991, and modifications introduced thereafter, the role of the private sector has been substantially expanded. Now private enterprises are allowed in all but two industries. Only a very small number of industries are now industrial licensing (*i.e.*, except in these industries there are no entry and growth restrictions on the private sector). The scope of private sector is increased by the withdrawal of the State from many industries and privatization (See the section on the new public sector policy).

JOINT SECTOR

The term *joint sector* refers to the enterprise owned and managed jointly by the private sector and the government/public sector undertakings. The Dutt Committee (Industrial Licensing Policy Inquiry Committee) has defined the concept of the joint sector in the following terms: "The joint

sector would, in our view, include units in which both public and private investments have taken place and where the state takes an active part in direction and control."

Formation of Joint Sector Enterprises

Joint sector enterprises may be brought into being by any one of the following ways.

1. The Central Government and private entrepreneurs may jointly set up new enterprises. Sometimes, the Central Government and one or more State Governments together may set up enterprises in partnership with the private sector. (It may be pointed out that the public may also hold shares in joint sector enterprises).
2. State governments or their industrial development corporations may set up new companies jointly with private partners, involving equity participation by both the partners.
3. Public financial institutions may, through equity participation or conversion of loans or debentures into equity, transform enterprises promoted by private entrepreneurs into joint sector companies.
4. The existing private enterprises may be transformed into joint sector enterprises by the government or government companies acquiring a part of the equity or converting debt into equity or by contributing to an increase in the share capital.
5. The existing public sector companies may be transformed into joint sector enterprises through the sale of some equity shares to private entrepreneurs or the general public. The disinvestments policy of the Government has been resulting in the transformation of several PSEs to joint sector enterprises.

Industrial investment corporations and industrial development corporations in a number of states have actively promoted joint sector enterprises. In a number of these cases, 26 per cent of the equity is held by the SIIC/SIDC, 25 per cent by private promoter(s) and 49 per cent of the shares are offered to the public.

In pre-independence days, the Princely States of Mysore and Hyderabad had established several industrial enterprises in which equity participation by the general public was permitted. In the years following Independence, a number of companies were floated by the government in collaboration with the private sector by sharing ownership, management and control with them. This form of industrial organisation was found appropriate for the import of foreign technology and capital, as in Cochin Refineries (1963), Madras Refineries (1965), and Madras Fertilisers (1966); for the utilisation of indigenous entrepreneurial and managerial resources, as in Air-India (1947); for the use of organisational capabilities of existing industrial houses, such as the Bird Heilgers group in Bolani Ores (1957); and the mobilisation of financial resources from the public, as in the Gujarat State Fertiliser Company (1965).[39]

Rationale of Joint Sector

The joint sector is conceived as a marriage between the managerial expertise of the private sector and the financial resources and social orientation of the public sector. It has been viewed as an effective means of achieving a mixed economy. "In a sense, joint sector enterprises represent an application of the concept of mixed economy at the micro level."

The main objectives and advantages of the joint sector are the following.

1. Curbing Concentration of Economic Power: The Dutt Committee advocated the joint sector, viewing it as an important means of curbing the increasing concentration of economic power.

The Committee even regarded the joint sector as possibly more effective than licensing in achieving this objective. This was regarded as a very important rationale of the joint sector in the past.

2. ***Social Control of Industry:*** Government participation in equity and management is expected to give a social orientation to the enterprise. The joint sector would ensure that the management of industry is conducted according to the overall policies laid down by the government, and that public interest and not merely private profit would guide the operations of the enterprises. "Used effectively and with care, the joint sector can be a more useful instrument than all rules and regulations and penal powers of the state in ensuring that development is according to plan. The concept of the joint sector has thus the potential, if properly used, to get the best advantages out of the mixed economy which has been accepted in our country as a matter of state policy."[40]

3. ***Acceleration of Economic Development:*** The joint sector, by mobilising and augmenting the productive resources, can accelerate the pace of economic development. It enables private entrepreneurs and the state agencies to promote or invest in a greater number of projects than would otherwise be possible. "The resources of the private sector in savings, investments and entrepreneurship can be harnessed in the joint sector with active state help to supplement the efforts made by the state in the public sector without the private profit motive being allowed to vitiate the effort."[41]

4. ***Promotion of Mixed Economy:*** It is also expected that the joint sector will promote the mixed economy and help achieve development objectives. "The basic justification of the idea of mixed economy is to harness all the productive forces of society, state as well as private, to the task of economic development with a view to accelerating the process. By allowing the private sector to play its part in the process, the state is able to develop entrepreneurship outside the government, and enlist it to supplement its entrepreneurial role. *Similarly,* a mixed economy allows the state to take advantage of voluntary savings in society for purpose of investment to supplement the resources it is able to mobilise for this purpose."[42]

5. ***Broadbasing of Entrepreneurship:*** Another advantage of the joint sector is that it helps broadbase entrepreneurship by encouraging new and small entrepreneurs. The joint sector enables potential entrepreneurs with small financial resources and less experience to participate in large enterprises as the public sector shares investment and the risk. "Many private entrepreneurs, whose means are not comparable with those of large companies, may come forward and take advantage of joint sector opportunities because the government's support and facilitating roles that are assured to them. There is some evidence of this at the state level, where the industrial development corporations seem to be playing the role of broadbasing entrepreneurship."[43]

Evolution of Government Policy

The concept of *the joint sector* became very popular after the Report of the Industrial Licensing Policy Inquiry Committee was submitted in 1969. However, this was not a new idea. The industrial policy pronouncements even before the Dutt Committee Report had conceived the idea of the joint sector. Indeed, the joint sector as a form of business existed in India even before Independence.

The idea of the joint sector was implicit in the Industrial Policy Resolutions of 1948 and 1956. The Industrial Policy Resolution of 1948 indicated the possibility of the state securing the co-operation of private enterprise for the establishment of new units even in the six industries where only the state was to have the right to set up new units, subject to such control and regulation as the Central Government might prescribe. The Industrial Policy Resolution of 1956 indicated "the

possibility of the state securing the co-operation of private enterprises in the establishment of new units when the national interest so requires" in the industries listed in Schedule A (*i.e.*, industries, the future development of which had been exclusively reserved for the state). The Resolution also made it clear that, "whenever co-operation with private enterprise is necessary, the state will ensure, either through majority participation in the capital or otherwise, that it has the requisite power to guide the policy and control the operations of the undertaking". It was stated that when the state granted financial assistance to the private sector, "such assistance, especially when the amount involved is substantial, will preferably be in the form of participation in equity capital, though it may also be, in part, in the form of debenture capital."

Some laconic references to the joint sector concept are found in the Five Year Plan documents, beginning with the First Five Year Plan. The Second Plan (1956-61) observed, for instance, that "public ownership, partial or complete, and public control or participation in management are specially required in those fields in which technological considerations tend towards concentration of economic power and wealth".

The Companies Act, 1956, contains provisions relating to government companies under which equity in such companies can be shared by Central and State Governments and private parties. The Companies Act defines a government company as a company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary of a Government company thus defined. The Companies Act, by the definition of the government company, recognises the possibility of joint participation in the equity of a company by the state and private parties (including general public) in the proportion of 51:49 respectively in extreme cases.

The concept of the joint sector received greater attention after the Industrial Licensing Policy Inquiry Committee's (ILPIC) Report. The Dutt Committee, in its Report, which followed the unpleasant disclosures made by the Monopolies Inquiry Commission and Professor Hazari, viewed the joint sector as an important means of curbing the increasing concentration of economic power.

The ILPIC recommended that public financial institutions should have the option to convert the whole or part of their financial assistance to private enterprises into equity so as to bring such enterprises in the joint sector in the mainstream of social interest. Following the guidelines issued by the government in 1971, the all-India industrial financial institutions had been reserving the right of converting a part of their loans into equity. With the economic liberalization, the conversion loans in to equity clause was given up.

In February 1970, the government accepted the joint sector concept, taking into consideration the recommendations of the Dutt Committee. Accordingly, the joint sector was expected to function in two broad areas, *viz.*, the *core sector* (consisting of basic, critical and strategic industries), excluding those industries illustrated in 'Schedule A' of the Industrial Policy Resolution, and the *heavy investment sector*, with investment exceeding Rs. 5 crores. Government clarified that "the joint sector will not be permitted to be used for the entry of larger houses, dominant undertakings and foreign companies in industries in which they are otherwise precluded on their own. In all the different kinds of joint sector units, the government will ensure for itself an effective role in guiding policies, management and operations, the actual pattern and mode being decided as appropriate in each case."

The Concept of National Sector

In early 1975, T. A. Pai, the then Union Minister for Industries, suggested the replacement of the public sector by that of the national sector. For the establishment of the national sector, Pai proposed that the public sector undertakings might sell 49 per cent of their shares to the public. He advocated that the shares should be sold, as far as possible, to workers and middle-income groups.

This proposal came in for scathing criticism on the ground that it would facilitate the penetration of private capitalists into the public sector. But a national sector in which workers and the middle class have a considerable stake might be expected to work more efficiently than the public sector. This concept, however, is gaining much acceptance now.

CO-OPERATIVE SECTOR

In India, the co-operative sector has been assigned an important role in the development of many sectors. The First Five Year Plan envisaged the cooperative sector to cover a number of vital areas like agriculture, rural and small-scale industry, retail distribution, housing etc.

The important objectives of the development of the co-operative sector are prevention of concentration of economic power, wider dispersal of ownership of productive resources, active involvement of people in development programmes, augmentation of the productive resources and speedier economic development, liquidation of unemployment and poverty, etc.

One of the important aspects of the development of the co-operative sector in India, as in a number of the other countries, is *state participation.*

According to Weerman, the following are the main background factors or influences which lead to a relationship between the state and co-operatives in developing countries.[44]

1. The need to give legal recognition to co-operative societies and to provide for their proper management and supervision in the interest of the movement.
2. The need to safeguard the rights of the people *vis-a-vis* these societies.
3. The need to prevent any abuse or privileges accorded to co-operatives.
4. The need to promote the movement because:

(a) It *is, per se,* desirable and nobody other than the government is likely to take the initiative in promoting it.

(b) It is the best means of national development.

(c) It solves the problem of lack of leadership and local personnel for the diffusion of new ideas and techniques.

The important ways in which the state patronises the co-operative movement in India are:

State partnership in the share capital of co-operatives; loans to societies; subsidies and grants; guarantees; contribution to risk fund; tax concessions; legal concessions and sanctions; training and education; help from the Reserve Bank and other banking organisations that help the cooperatives; and supply of government officers on deputation.

The co-operative idea took a concrete shape in India for the first time in 1904, when the Co-operative Credit Societies Act — a measure designed to combat rural indebtedness and provide for

SUMMARY

On the basis of the ownership pattern, the industrial sector of India consists, broadly, of public, private, joint and cooperative sectors. The development of these sectors was directed by the Industrial policy. The industrial policy until 1991 was characterized by a dominant role assigned to the public sector.

The *Industrial Policy Resolution of 1948* reserved eight industries to the public sector. The *Industrial Policy Resolution of 1956* enlarged the role of the public sector by increasing this list to seventeen and earmarking twelve industries to be progressively state-owned and in which the state would, therefore, generally take the initiative in establishing new units.

The four decades until 1991 witnessed a substantial growth and expansion of the public sector in India. Nationalizations also contributed to the growth and expansion of the public sector. The public sector gained control over the commanding heights of the economy. The performance of the public sector, however, was far from satisfactory. The industrial policy announced in 1991 which heralded the economic liberalization substantially contracted the role of the public sector. The number of industries reserved for the public sector was reduced to eight and by 2001 May, all industries except atomic energy and railway transport was thrown open to the private sector. Privatisation of public sector units is also an important aspect of the new policy. In short, the industrial development of the country is now left mostly to the private sector.

Besides the public sector, the joint sector and cooperative sectors had been promoted by the Government as a strategy to prevent concentration of economic power in the private sector. With almost all industries open to the private sector without any entry and growth restrictions, the current industrial policy has no specific tenets in favour of the public, joint or cooperative sectors.

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of economic rejuvenation. Referring to the ...
"The crisis of the state sector is usually linked (in particular, during ideologically tinged debates) with the 20-year-old idea of "people's capitalism." It is attributed to the then West German Chancellor Ludwig Erhard, who advocated the principle of increasing the number of owners as a way towards economic democratisation and social progress. Apparently, others also lay claim to the idea. However, more importantly, the idea has had followers: Margaret Thatcher, Jacques Chirac and lesser known politicians. It is very significant that although they have been labelled "conservative" at least in their life time, these politicians, more than anybody else, sought to change the existing economic machinery, and not to preserve it. Besides, they tried to do so not by returning to the "early days of capitalism," when property was concentrated in the hands of select few, but by distributing shares among ordinary people.[4]

The article referred to above exalted: "When hundreds, thousands and even millions of people ... they will be able to see for themselves how the Western

"It is going to be a real surprise to many, but this is precisely what we have been looking forward to — the right to voice one's opinion and the right to leave."[5]

It may be noted that as a result of privatisation the number of people owning shares in Britain almost tripled from 7 to 20 per cent of the adult population between 1978-89. Interestingly, in 1988 Britain experienced a symbolic cross over— for the first time in history more British citizens were holders of shares than were members of unions.[6] Further, as the proportion of shareholders in the total population increases and as the economic lot of the workers and the poor improves, leftist parties increasingly lose their ground. In 1988, for instance, the Labour Party in Britain lost 8 per cent of its members, the biggest exodus since 1981.[7]

Ways of Privatisation

There are different ways of achieving privatisation. "Each country has its own gimmicks. In Britain, the staff of the privatised company have a priority in buying shares, and are entitled to a discount. For instance, 96 per cent of British telecom employees took a share in their company in defiance of the trade union opposition. Although some of them later sold them (at a higher rate), they derived certain benefits (at least financial ones) from privatisation. The use of the U.S. ESOP (Employees' Share Ownership Plan) practices is another interesting example. ESOP provides for forming special fund which takes bank credit to buy a company's shares and distribute them among employees at the real value or free of charge. The credit is paid back out of the company's profit."[8]

One of the important ways of privatisation is *divestiture,* or privatisation of ownership, through the sale of equity. In countries where there are well functioning capital markets, this entails selling stock to the public. In industrial countries, privatisation has come mainly through divestiture of government economic activities. Among the developing countries, Bangladesh, Chile, Jamaica, Brazil, Peru, Zaire, Pakistan, the Philippines and Sudan offer examples of divestiture.

Japan has a century-old history of divestiture. After an initial attempt to promote industrialisation through state ownership, the Japanese government in the 1880s sold many state firms, including 52 factories, 10 mines and 3 shipyards. Privatisation has assumed importance in Japan in 1980s too. On the recommendations made by an administrative reforms committee consisting of experts and businessmen, Japan has made a legislation which enables the privatisation of two of the most lucrative state enterprises, namely, Nippon Telegraph and Telephone and Japan Tobacco and Salt Corporation. The objective is to reduce government expenditure and raise administrative efficiency by withdrawing government presence from areas which can be managed better by private people. Divestiture has become so common in the Western Europe that "hardly a week or month goes by without some new evidence of sale of state enterprise by such Western European countries as France, Italy, Sweden, the Federal Republic of Germany, and, of course, the champion industrial company privatizer, Britain."[9]

.In the Republic of Korea, the government pioneered the establishment of basic industries such as oil refining, steel, and machine tools and then sold them to the private sector once their profitability was established, using the funds raised to pioneer other industries: Brazil created a commission for divestiture in 1981 and Jamaica set up a divestiture committee.

There are a large number of cases where privatisation has taken the form of *denationalisation or reprivatisation.* A considerably large number of enterprises were denationalised in countries like Chile, Bangladesh and Pakistan.