

42nd SESSION OF THE STANDING LABOUR COMMITTEE (NEW DELHI)

ITEM - I : ACTION TAKEN REPORT ON THE CONCLUSIONS OF THE 41st SESSION OF THE INDIAN LABOUR CONFERENCE HELD ON 27 – 28 APRIL, 2007

The Action Taken Report on the conclusions of the 41st Session of the Indian Labour Conference held on 27 – 28 April, 2007 is as given below:-

1. STRENGTHENING OF LABOUR LAWS AND ITS EFFECTIVE IMPLEMENTATION TO PREVENT VIOLATIONS

CONCLUSION

1. The existing labour laws have to be implemented effectively.
2. There is a need for consolidation of labour laws, which would help in their effective implementation.
3. The employers' felt that for the purpose of consolidation, simplification and rationalization of labour laws is imperative. The trade unions felt that in the name of simplification and rationalization, the exercise should not lead to the dilution of protection of workers.
4. The implementation of labour laws should be overseen by bodies of tripartite nature both at the Central and State levels.

ACTION TAKEN NO. (1) to (4)

A Tripartite Working Group has been constituted by Ministry of Labour and Employment under the chairpersonship of Secretary (L&E) to suggest ways of moving forward in important labour matters. One of the issues deliberated by the Working Group relates to "Laying down a framework for effective implementation of labour laws". The consensus mentioned at conclusion (3) above was considered by the Working Group as a part of the agenda note in its meeting held on 12.10.2007. The Report of the Working Group when available will help in formulating an action plan on points (1) to (4).

CONCLUSION No.(5)

The implementation machineries both in the Central and State Government need to be strengthened. They may be provided with adequate manpower, modern gadgets and there should be suitable training/reward/motivation to facilitate them.

ACTION TAKEN No.(5)

The Organisation of Chief Labour Commissioner (Central) also known as Central Industrial Relations Machinery, is an apex Organisation in the country responsible for maintaining harmonious industrial relations mainly in the sphere of Central Government namely central public undertakings like air transport services, telecommunications, Oil Sectors, Banks, Insurances, Railways, Financial Institutions, Cantonments, etc.

2. In order to secure better conciliation, preventive mediation and more effective enforcement of Labour Laws, a scheme to further strengthening the Central Industrial Relations Machinery was approved in the Sixth Five Year Plan. As a result, three more Regions at Guwahati, Chandigarh and Bangalore were created during 1981-82. Three more new Regions with headquarters at Ahmedabad, New Delhi and Cochin were created under the Seventh Five Year Plan in 1987-88. Two more regions with Headquarters at Patna and Nagpur and one post of Deputy Chief Labour Commissioner (Central) at Bombay with supporting staff were created during the financial year 1988-89 under the Seventh Five Year Plan. During 1990-91, one post of Deputy Chief Labour Commissioner (Central) at Bangalore with supporting staff was created. Consequent on Cadre Review of CLS Officers two more Regions with headquarters at Dehradun and Raipur were created in the year 2005 by adjusting the existing Staff and Officers without creating any new post.

3. Out of 20 Regions at present 10 big regions have been upgraded and are headed by Deputy Chief Labour Commissioners (Central) and the rest are headed by Regional Labour Commissioners (Central). The Organisation has a complement of 268 Officers including 162 Labour Enforcement Officers (Central) out of which 37 plan posts viz. 2 Deputy Chief Labour Commissioners (Central), 5 Regional Labour Commissioners (Central), 11 Assistant Labour Commissioners (Central) & 19 Labour Enforcement Officers (Central) are temporary and their continuance is ensured on year to year basis by obtaining concurrence of IFD by continuing the plan scheme in the current plan period also.

4. During the cadre review in 2004 11 posts of ALCs (C) were upgraded. However, resultant posts of 11 ALCs were abolished. ALCs (C) function as conciliation officers under I.D. Act, controlling authority under Payments of Gratuity Act, 1972; Authority under Equal Remuneration Act, 1976; Registering and Licensing Officer under Contract Labour (Regulating and abolition) Act, 1970 and Building & other Construction Workers Act. They also function as inspector of about a dozen labour enactments. Due to reduction in the number of post of ALCs(C), it is becoming increasingly difficult for the existing ALCs(C) to perform all the work effectively. These functions being quasi-judicial in nature can not be discharged by any officer. The basic executive unit of this organization i.e. LEO (C) Offices consist of one LEO, one LDC and one Peon. Presently most of LEO (C) offices do not possess even this minimum strength because of restrictions imposed by the screening committee. So far this office has lost 73 sanctioned post(s). The shortage of staff has become so acute that we may have to close down some of the offices, which will adversely affect the implementation of labour laws. LEO (C) and ALC(C) are the cutting edge of the

Organisation. Unless their number is augmented with supporting staff, it is very difficult to cope up with the new challenges in industrial relation and enforcement of labour laws posed by liberalization, globalization and privatization. There is, therefore, a need for creation of at least 20 posts of ALCs (C), 30 post of LEOs (C), 25 stenographers, 20 UDCs, 80 LDCs, 30 Drivers and 85 Peons in the organisation.

5. Training of CIRM Officers

In order to improve/enlighten the CIRM Officers with latest developments in labour laws on the basis of orders passed by various courts, Training Division of CLC (C)'s Organization, in collaboration with V.V.Giri. NLI and ISTM, conduct customized training programmes for officers belonging to CLS. This organisation is also in touch with IIM, Ahmedabad, Administrative Staff Collage Hyderabad and Lal Bahadur Shashtri Administrative Academy, Mussorie for higher training of CIRM Officers. To further fine-tune the training programme by the department, augmentation of infrastructure like ALC(C), LEO(C) with supporting staff is necessary.

6. Office Aids

In order to equip the officers of this organization to discharge their duties and responsibilities more effectively and professionally, it is of paramount importance to provide modern gadgets including latest computers and fast mode of communications viz., scanners and means of transport. At present this organization possesses 1 vehicle at Head Quarters and 43 vehicles at Field Offices. Out of the said 44 vehicles, 20 vehicles purchased in year 1995 or earlier have outlived their life and lost their utility. These vehicles require immediate replacement by new ones. But, due to ban on purchase of new vehicles the same could not be done. Besides, one RLC(C) and 12 ALCs (C) posted in small towns and far-flung areas, where hiring of vehicles is not possible, though require to cover large areas under them, have not been provided with any vehicle. Thus, there is a need for 33 vehicles and 15 drivers immediately. Similarly, it is not possible for the 90 LEOs (C) posted in far-flung areas to hire any vehicle. They may be provided motorcycles to carry out their normal duties of inspection of the establishments in remote areas and conduct court cases filed in the different courts of Judicial Magistrate in their territorial jurisdiction.

Under Plan schemes, so far we have provided 75 computers, 15 photocopiers and 2 fax machines in the Head Office of the CLC(C) Organisation. All the officers upto the level of Section Officer have been provided with computers. 294 computers, 71 photocopiers and 19 fax machines have been provided to different field offices under this Organisation. Computers have been provided to all the officers including almost all the LEOs(C).

CONCLUSION No. (6)

In the present era of IT, E-Governance to facilitate the entire process of labour administration needs to be encouraged.

ACTION TAKEN No.(6)

Ministry of Labour and Employment has initiated/completed the following steps:-

- *Information regarding various labour laws/acts and other important information have been posted on the Ministry's website which is being updated on a regular basis.*
- *All Attached/Subordinate Offices and Autonomous Bodies have their own web sites which are co-linked with the Ministry's website. Necessary instructions/guidelines regarding security postures and updating of the website have been issued from the Main Secretariat from time to time.*
- *Networking of various offices under the jurisdiction of Directorate General of Labour Welfare has been initiated.*
- *Recently, installation of Video Conferencing has been completed and the use of these facilities is being encouraged.*
- *The Government of India has launched the National e-Governance Action Plan (NeGP) with the intent to support the growth of e-governance within the country. DGE&T is taking necessary steps to fulfill this project for Employment Exchanges, which has been taken up as a Mission Mode.*
- *Various Sections of the Ministry have been computerized and LAN (Local Area Net Work) system is working properly. Software has also been installed and training-cum-awareness programmes are being carried out to promote its use in our offices.*
- *A citizen can contact by an e-mail to the Central Public Information Officer and Public Grievances Officer of this Ministry for seeking information and his grievances respectively.*
- *This is a continuous process, which is being upgraded/expanded regularly.*

2. PAYMENT OF BONUS ACT, 1965

CONCLUSION

1. Central Trade Unions are of the firm view that there should be higher rates of payment of bonus for those organizations, who are in a position to pay and there should no ceiling either on coverage or on the calculation. However, with a view to reach a consensus the Central Trade Unions expressed their acceptance to the calculation ceiling on the rate of Rs.3,500/- per month in place of Rs.2,500/- per month and the coverage to Rs.10,000/- per month in place of Rs. 3,500/- per month.

2. The Central and State Government representatives have also suggested for enhancing the eligibility ceiling to Rs.10,000/- per month and calculation ceiling to Rs.3,500/- per month.
3. Employers' representatives have agreed for the calculation limit to be enhanced to Rs. 3,500/- per month and emphasized for increasing the eligibility ceiling to Rs.7,500/- per month limit as recommended by the 2nd National Commission on Labour. However, Employees' Organisations agreed that the increase in eligibility ceiling further from Rs. 7,500/- per month to a suitable level or to Rs.10,000/-, as agreed by the Central Trade Unions and the Central/State Governments, may be decided by Hon'ble MOS(IC), Labour & Employment.
4. It was agreed that the Contract Workers engaged at Building constructions, who are not covered now, should be covered under the Payment of Bonus Act.
5. It was also agreed that the amendment to the Payment of Bonus Act, 1965 should not be made applicable retrospectively.

ACTION TAKEN NO. (1) to (5)

As per the deliberations held in the "Conference Committee on the Payment of Bonus Act, 1965, action was taken to amend the Payment of Bonus Act, 1965. Accordingly, the Payment of Bonus (Amendment) Ordinance, 2007 (No.8 of 2007) was promulgated on 27th October, 2007. The Ordinance contained the following amendments:-

- (i) Amendment to clause (13) of Section 2 of the Payment of Bonus Act, 1965 to raise the eligibility limit for payment of bonus from the salary or wage of Rs.3,500/- per month to Rs.10,000/- per month;*
- (ii) Amendment to Section 12 of the Payment of Bonus Act, 1965 to raise the ceiling for calculation purpose from the salary or wage of Rs.2,500/- per month to Rs.3,500/- per month;*
- (iii) Deletion of clause (vi) of Section 32 of the Payment of Bonus Act, 1965 so as to cover the employees employed through contractors on building operations.*

Thus the employees, including those employed through contractors on building operations will be entitled to receive bonus as per the revised ceilings, for the year 2006-07 and onwards.

The Ordinance shall be deemed to have come into force on 1st April, 2006. Action is being taken to replace the Ordinance by an Act in the ensuing Session of Parliament.

CONCLUSION

The following items have been suggested for further discussions:-

1. Recovery procedures for minimum bonus payment to be simplified.
2. All employees to be covered under the Payment of Bonus Act without any ceiling for eligibility.
3. Bring in amendment to include all industries irrespective of the number of employees.
4. The linking of the applicability of the Payment of Bonus Act, 1965 in respect of micro and small scale industries / establishments with investments up to Rs. 25 lakh and Rs. 150 lakh respective instead of 20 or more workers as at present as per the views expressed by Laghu Udyog Bharti.
5. Suggestion to include non-competitive Public Sector Undertakings under the purview of the Payment of Bonus Act by amending Section 20 of the Act.

ACTION TAKEN

The suggestions have been noted for consideration and appropriate action.

3. CONTRACT LABOUR (R&A) ACT, 1970

CONCLUSION No.1

After deliberating on a number of issues relating to the Contract Labour (Regulation & Abolition) Act, 1970, the Group came to the consensus that there was a crying need to prevent exploitation of contract labour. It was felt that the provisions of the Contract Labour Act and Rules made thereunder should be implemented in letter and spirit and the regulatory mechanism further strengthened to ensure that the provisions of the Act are not flouted.

ACTION TAKEN NO.1

The EPFO, ESIC & Office of CLC (C) have been directed to take effective measures to enforce the Acts in letter & spirit.

CONCLUSION NO.2

It was pointed out that there were a number of specific locations where conditions of contract labour was pathetic. It was also pointed out that in some other locations, the contract labour and their interests were being looked after very well. The Group came to the conclusion that the Government should document such cases and, if possible, sensitize representatives of

stakeholders to such situations so that further constructive progress could be made.

ACTION TAKEN NO.2

The Employers Organisation have been requested to convey specific instances/cases so that such instances could be documented and disseminated.

CONCLUSION NO.3

All the contract workers who are eligible to be covered under the EPF and ESIC Act should be so covered and it may be stipulated that principal employers may deduct appropriate amount of the contractor's bills and pay directly to the authorities concerned to ensure that the contractor does not have any temptation to hold back or delay in deposit of the requisite amount.

ACTION TAKEN NO.3

- a) *In so far as ESI Act is concerned, all employees, whether employed directly by the principal employer or through an immediate employer (contractor) on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily the part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment, whether such work is done by the employee in the factory or establishment or elsewhere, are covered under the ESI Act. They enjoy all social insurance benefits available under the Scheme from the day of their joining the insurable employment except sickness and maternity benefits entitlement which is subject to certain qualifying conditions. As such, there is no discrimination between permanent, regular or contract workers under the ESI Act.*
- b) *As per the provisions of Section 39 & 40 of the Act read with Regulation in 31 of the ESI (General) Regulations, 1950, the employer is required to pay both the employers' and employees' contribution in respect of all coverable workers including contract workers within 21 days after the end of the month to which the contribution relate. In case of delay in payment of contribution, interest and damages as per the provisions of Section 39 and 85B of the Act is levied. In addition, penal action under Section 85 is also initiated. There is also provision for recovery through the recovery machinery of the Corporation, as provided under Section 45-C to 45-I of the Act.*
- c) *With regard to extension of benefits to contract employees, it has been stated that as per the provisions of Regulation 14 of ESI (General) Regulations, employer is required to get all the employees registered with the appropriate office of the Corporation within 10 days. These workers are then issued temporary identity cards during the first three months of their employment and permanent identity cards thereafter, based on which they can avail medical care and cash benefits available under the Act.*

Therefore, adequate mechanism already exists under the ESI Act for collection of contribution in respect of contract workers as well as for extending cash and medical benefits to them, as envisaged under the ESI Scheme.

- d) In so far as EPF is concerned Section 6 of the EPF & MP Act, 1952 read with para 30 of the EPF Scheme, 1952 inter-alia sets up the arrangement for recovery of payments from employees of a contractor. Under the existing arrangement, the employer has to first make payment of the contribution both for himself, and his contractor employees and then recover the same from the contractor. Sub para 3 of para 30 casts the responsibility on the principal employer to pay both the contribution by himself in respect of the employees directly employed by him and also in respect of employees employed by or through a contractor.*
- e) A contractor who employs 20 or more persons and who is in a industry that has been notified or is running a factory, which is included in the Schedule Head, falls within the ambit of the Act on its own right.*
- f) Further, to ensure the extension of the social security benefits to contract workers including those who are working for such establishments which are otherwise not coverable or covered under the Act, a proposal for amendment to EPF & MP Act, 1952 is under the consideration of the Government. The amendment proposal provides for deduction of PF contribution at source out of payments being made to contractors and sub-contractors, which is in consonance with the conclusions of the Conference Committee on Contract Labour (Regulation & Abolition) Act, 1970.*

The Employers' Organisations have also been requested to initiate action on this aspect and to deliberate it in their various fora for appropriate implementation of this recommendation.

CONCLUSION NO.4

In order to examine the issue relating to grant of gratuity to contract workers, the Group recommended constitution of a Tripartite Committee.

ACTION TAKEN NO.4

The contract workers are already covered under the related Act and hence there was no need to constitute a Tripartite Committee.

4. MEASURES TO IMPROVE EMPLOYABILITY OF THE YOUTH

CONCLUSION No.1

More than 50% population of the country is below the age of 25 years. India is said to be the youngest country while the rest of the world has either aged or

aging population. We must, therefore, make maximum use of this demographic dividend.

ACTION TAKEN No.1

DGE&T has taken up various new schemes for qualitative & quantitative enhancement of vocational training.

For quality improvement in training, following major schemes have been taken up:-

- *Upgradation of 500 Government ITIs;*
- *Upgradation of 1396 Govt. ITIs in PPP mode;*
- *Centrally sponsored scheme “Establishment of Industrial Training Institutes (ITIs) in North-Eastern States, Sikkim and Strengthening / Modernization of ITIs in the state of Jammu & Kashmir”*

The main objective of these Schemes is to improve the quality of vocational training in the country and make it demand driven so as to ensure better employability of the graduates.

For quantitative improvement in training, following major schemes have been taken up:-

Skill development Initiative (SDI) - SDI scheme is a five-year project during which one million persons would be trained or their existing skills tested and certified under Modular Employable Skills (MES) framework.

Apart from above, as per announcement of Hon'ble PM, 1500 new ITIs in districts with uncovered blocks in PPP mode are proposed to be opened by Govt. in next five years.

In order to provide vocational training to a minimum of 10 million persons per annum, Government has proposed to set up 50,000 Industrial Training Centres (ITCs) based Skill Development Centres in the country.

CONCLUSION NO.2

Make youth productive by providing employable skills both for wage and self-employment.

ACTION TAKEN No.2

The aim of the Scheme - Skill Development Initiative is to equip the youth with employable skills both for wage and self-employment. MES for 211 modules have already been developed. Some of the State Governments have started training under SDI at State level.

CONCLUSION NO.3

Vocational training must start right from the school level. Centre, State Govts. and industry must come forward together to accomplish this task. Effective PPP model / tripartite model must be developed.

ACTION TAKEN NO.3

As the school level education is subject matter of State Govt., therefore, M/o HRD has been requested to take up the issue of inclusion of Vocational Training at school level.

CONCLUSION NO.4

Include emerging employment potential trades in vocational training fold – Hospitality, Tourism, Retail, Food Processing, Nursing, Construction, Textile, etc., which provide the maximum number of jobs. Increase the number of trades under Craftsmen Training Scheme (CTS) from 107 to as many as feasible.

ACTION TAKEN NO.4

Trades / courses in Hospitality, Tourism, Retail, Food Processing, Construction and Textile have already been covered in all schemes of DGE&T.

Recently Curricula of Broad Based Basic Training (BBBT) of Textile Sector has been developed & circulated to NCVT for comments/Approval.

CONCLUSION NO.5

Review the Apprentices Act, 1961 to make it demand responsive. Increase the number of trades for apprenticeship training and number of establishments to as many as possible.

ACTION TAKEN NO.5

Action has been initiated to invite comments/suggestions from various industries and concerned ministries for reviewing of Apprentices Act, 1961.

CONCLUSION NO.6

Modular approach should be adopted for multi-skilling of workers.

ACTION TAKEN NO.6

Under Multiskill courses implemented in ITIs upgraded as Centres of Excellence modular approach is being adopted for imparting training. Training is designed in three parts i.e. Broad Based Basic Training during first year of Training, Training in Advanced modules & Specialized Modules each of 6 months duration, during second year of training. Trainees can join training as per their convenience; the scheme has multi entry and multi exit provision.

Modular approach has also been adopted under the scheme SDI. Demand driven short-term training courses based on Modular Employable Skills (MES) would be offered and open to all workers.

CONCLUSION NO.7

Quality improvement in training must be made by augmenting existing infrastructure in the ITIs.

ACTION TAKEN NO.7

DGE&T has taken up two schemes for upgradation of Government ITIs i.e. upgradation of 500 Government ITIs & upgradation of 1396 ITIs. These schemes would ensure quality improvement in training in ITIs.

Upgradation of 500 Government ITIs:

100 ITIs are being upgraded through domestic resources & upgradation of remaining 400 ITIs is covered under World Bank funded 'Vocational Training Improvement Project (VTIP)'. The total Project cost has been estimated as Rs. 1,581.25 crore. Apart from upgradation of ITIs, the other major activities to be taken up under VTIP are Training of Trainers, Curricula development, Instructional Media Development, Reform studies and support for innovation-pilot projects.

Upgradation of 1396 ITIs :

Under the Scheme, an Industry Partner will be associated with each Government ITI to lead the process of upgradation. An Institute Management Committee will be constituted/ reconstituted with Industry Partner or its representative as its Chairperson and registered as a Society. Interest free loan up to Rs. 2.5 cr. will be given directly to the IMC Society for upgrading the training infrastructure of the ITI. Financial and academic autonomy will be granted to the IMC to manage the affairs of the ITI, which would ensure quality improvement in training.

CONCLUSION NO.8

Develop system of forecasting of employment opportunities at micro level through demand mapping.

ACTION TAKEN NO.8

These studies are being commissioned in consultation with professional agencies.

CONCLUSION NO.9

Develop large number of training institutions by creating a suitable policy mix and improve quality of training to the international standards.

ACTION TAKEN NO.9

To meet the huge demand for training following has been proposed:-

- *As per announcement of Hon'ble PM, 1500 new ITIs in districts with uncovered blocks in PPP mode are proposed to be opened by Govt. in next five years.*
- *In order to provide vocational training to a minimum of 10 million students per annum, Govt. has proposed to set up 50,000 ICT based Skill Development Centres in the country.*

CONCLUSION NO.10

Develop training courses for the trades in the informal sector.

ACTION TAKEN NO.10

- *Ministry of Labour & Employment has developed MES framework for skill development for early school leavers and existing workers, especially in the un-organized sector in close consultation with industry, micro enterprises, State Governments, experts and academia. Under the Scheme, Skill Development Initiative, 211 MES courses have been developed to cater to the need of informal sector.*
- *13 trades in informal sector are also covered under ATS.*

CONCLUSION No.11

Make training demand responsive in consultation with the industry and trade bodies.

ACTION TAKEN NO.11

- *Curricula are revised regularly to take care of technological changes taking place in industry. Obsolete trades are deleted and new trades in emerging area are introduced.*

- *DGET initiated formation of Institute Managing Committee (IMC) for all Government ITIs. An IMC comprises members from State Government, Industry, ITI and academic experts. The chairperson is a representative of the local industry, which will ensure that training is demand responsive.*
- *DGE&T is also proposing to set up a sub-committee of NCVT for curriculum development. Representatives from industry and trade bodies would be made members in this committee. One of the functions of this committee would be to review the trades from time to time to ensure that training is demand driven.*

CONCLUSION NO.12

Increase the number of institutions for training of Instructors to take care of the emerging needs and improve their quality.

ACTION TAKEN NO.12

Government has approved implementation of externally aided project for Reforms and Improvement in Vocational Training Services rendered by Central and State Governments” with total cost of Rs 1581 crore for upgradation of 400 ITIs with WB assistance.

Funds have been allocated for instructor training under the Project. The infrastructure for Instructor Training Program is proposed to be established/strengthened, which will increase training capacity of instructors and fulfill the emerging needs.

DGE&T has proposed four new Instructor Training Institutes in XI Plan Period.

CONCLUSION NO.13

Training in soft skills, like communications, attitudinal development, entrepreneurial development and computerization, etc.

ACTION TAKEN NO.13

Soft skill has already been incorporated for trainees of CoE in a module “Entrepreneurship & Communication skills”. Efforts are being made to include these skills in other courses with approval from NCVT

CONCLUSION NO.14

Make NCVT and CAC more effective and assign them the task of monitoring the quality of vocational training. They should meet more frequently.

ACTION TAKEN NO.14

Six meetings of sub-committee of NCVT dealing with affiliation were held during last year to consider affiliation cases. Various issues of quality improvement of Vocational Training were also taken up in these meetings and recommendations were implemented.

CONCLUSION NO.15

Role of Ministry of Labour & Employment must be strengthened. It must be made nodal Ministry for Vocational Training and Employment.

ACTION TAKEN NO.15

Ministry of Labour & Employment is a nodal Ministry to deal with issues relating to Vocational Training. The ministry is also being strengthened to take up new schemes to enhance skill building capacity in the country

CONCLUSION NO.16

Policy should be evolved for employment of those workers who are skilled but unemployed for some reason or the other.

ACTION TAKEN NO.16

Employment Exchanges are being recommended to function as counseling-cum-guidance centres to help youth as well as industry to match each other's requirement.

CONCLUSION NO.17

Investment in the agriculture sector as well as in informal sector must be made in a big way in order to create more employment opportunities to stop migration to urban areas

ACTION TAKEN NO.17

Ministry of Agriculture has been requested to invest in a big way in order to create more employment opportunities in rural areas to stop migration to urban areas.

CONCLUSION NO.18

Part of 3% cess on education should be defrayed to pre employment / vocational institutional training.

ACTION TAKEN NO.18

Ministry of Finance has been requested to defray part of 3% cess on education to pre employment / vocational institutional training. However there is no shortage of resources for various schemes.

CONCLUSION NO.19

Seating capacity in different trades in ITIs may be increased by 25%.

ACTION TAKEN NO.19

The issue is being taken up with NCVT for approval

CONCLUSION NO.20

Serious efforts must be made to upgrade the quality of Instructors.

ACTION TAKEN NO.20

As indicated in para 12 above, DGE&T has already taken initiative to upgrade the quality of instructors by way of opening new instructor training facilities.

CONCLUSION NO.21

Occupational Safety and Health (OSH) may also be included in the course curriculum of ITIs.

ACTION TAKEN NO.21

Occupational Safety and Health (OSH) has already been included in curricula of different trades.

CONCLUSION NO.22

Review of trades under CTS/ATS be done regularly, and trades which are not relevant should be deleted.

ACTION TAKEN No.22

Review of trades under CTS/ATS is being done regularly and trades, which are not relevant, are deleted.

42nd SESSION OF THE STANDING LABOUR COMMITTEE (NEW DELHI)

ITEM – II FINALISATION OF AGENDA FOR THE 42nd SESSION OF THE INDIAN LABOUR CONFERENCE.

The Standing Labour Committee traditionally approves the Agenda for the Indian Labour Conference. The Workers' and Employers' Organisations were requested to furnish their suggestions in this regard. A gist of items suggested by the Workers' Organisation and the Employers Organisations is enclosed as **Annexure-II**. Based on their suggestions, the following four items have been short-listed and the Committee is requested to consider inclusion of any two of these items in the Agenda for the 42nd Session of the Indian Labour Conference scheduled to be held later.

- 1) Issues concerned with Contractualisation of Labour
- 2) Role of Social Partners in appropriate skill development for employability.
- 3) Corporate Social Responsibility.
- 4) Migrant Labour (domestic & abroad) – Problems and Remedies.

A brief note on each of these items is as under:-

1. ISSUES CONCERNED WITH CONTRACTUALISATION OF LABOUR

BACKGROUND

1. Contract Labour is a significant and growing form of employment. It is prevalent in almost all industries, in agriculture and allied operations and in service sector. It generally refers to workers engaged through an intermediary and is based on a triangular relationship between the user enterprises, the contractor including the sub contractor and the workers. These workers are millions in number and generally belong to the unorganised sector. They have very little bargaining power, have little or no social security and are often engaged in hazardous occupations endangering their health and safety. They are often denied minimum wages and have little or no security of employment. On the other hand, reasons like uncertainty of work, difficulty in ensuring closer supervision by the employer or higher output by the workers, cost effectiveness, flexibility in manpower deployment, concentration in core competencies etc. justify the system of contract labour.

2. Recognizing the need for protecting the interest of contract labour, the Contract Labour (Regulation and Abolition) Act, 1970 was brought on the Statute Book to regulate the employment of Contract Labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

3. The Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour (Regulation and Abolition) Central Rules, 1971 came into force on 10.2.71. The constitutional validity of the Act and the Central Rules were challenged before the Supreme Court in Gammon India Limited Vs. Union of India 1974-I-LLJ-480. The Supreme Court upheld the constitutional validity of the Act & Rules and held that there is no unreasonableness in the measure. The Act & Rules were enforced w.e.f. 21.03.1974.

PROVISIONS OF THE ACT & THE PRESENT STATUS

4. The Act applies to every establishment/contractor in which 20 or more workmen are employed or were employed on any day on the preceding 12 months as contract labour and to every contractor who employs or who employed on any day of the preceding 12 months 20 or more workmen. It does not apply to establishments where the work performed is of intermittent or seasonal nature. An establishment wherein work is of intermittent and seasonal nature will be covered by the Act if the work performed is more than 120 days and 60 days in a year respectively. The Act also applies to establishments of the Government and local authorities as well.

Appropriate Government

5. The jurisdiction of the Central and State Government has been laid down by the definition of the 'Appropriate Government' in Section 2(1)(a) of the Act, as amended in 1986. The Appropriate Government, in respect of an establishment under the Contract Labour (Regulation and Abolition) Act, 1970 is the same as that in the Industrial Disputes Act, 1947.

The Central and State Advisory Boards

6. The Central Government and State Governments are required to set up Central and State Advisory Contract Labour Boards to advise the respective Governments on matters arising out of the administration of the Act as are referred to them. The Boards are authorized to constitute Committees as deemed proper.

7. The Central Advisory Board- a tripartite Body was reconstituted on 24th June 2002 and the non-official members hold office for a term of three years. The Chairman of the Board was appointed on 10th June 2005 for a period of three years. Sixty-seven meetings of the Central Advisory Contract Labour Board (CACLB) have been held so far. The last meeting was held on 30th-31st October, 2006.

8. The existing Central Advisory Contract Labour Board has held three meetings during 2006-2007 under report and considered various issues relating to abolition of contract labour system in certain establishments. The working of the Act was also reviewed in this meeting.

Registration

9. The establishments covered under the Act are required to be registered as principal employers with the appropriate authorities. Every contractor is required to obtain a licence and not to undertake or execute any work through contract labour except under and in accordance with the licence issued in that behalf by the licensing officer. The licence granted is subject to conditions relating to hours of work, fixation of wages and other essential amenities in respect of contract as prescribed in the rules.

Facilities for Contract Labour

10. The Act has laid down certain amenities to be provided by the contractor to the contract labour for establishment of Canteens and rest rooms; and arrangements for sufficient supply of wholesome drinking water, latrines and urinals, washing facilities and first aid facilities and have been made obligatory. In case of failure on the part of the contractor to provide these facilities, the Principal Employer is liable to provide the same.

Payment of Wages

11. The contractor is required to pay wages and a duty is cast on him to ensure disbursement of wages in the presence of the authorized representative of the Principal Employer. In case of failure on the part of the contractor to pay wages either in part or in full, the Principal Employer is liable to pay the same. The contract labour who performs same or similar kind of work as regular workmen, will be entitled to the same wages and service conditions as regular workmen as per the Contract Labour (Regulation and Abolition) Central Rules, 1971.

Penal Provisions

12. For contravention of the provisions of the Act or any rules made thereunder, the punishment is imprisonment for a maximum term upto 3 months and a fine upto a maximum of Rs.1000/-.

Other Provisions

13. The Act makes provisions for the appointment of Inspecting staff, for maintenance of registers and records and making of Rules for carrying out the purpose of the Act. In the central sphere, officers of the CIRM have been appointed as Inspectors.

Prohibition

14. Apart from the regulatory measures provided under the Act for the benefit of contract labour, the 'appropriate government' under section 10(1) of the Act is authorized, after consultation with the Central Board or State Board, as the case may be, to prohibit, by notification in the official gazette, employment of contract labour in any establishment in any process, operation or other work.

Sub-section (2) of Section 10 lays down sufficient guidelines for deciding upon the abolition of contract labour in any process, operation or other work in any establishment. The guidelines are mandatory in nature and relate to: -

- Conditions of work and benefits provided to the contract labour.
- Whether the work is of a perennial nature.
- Whether the work is incidental or necessary for the work of an establishment.
- Whether the work is sufficient to employ a considerable number of whole-time workmen.
- Whether the work is being done ordinarily through regular workman in that establishment or a similar establishment.

15. The Central Government on the recommendations of the Central Advisory Contract Labour Board, have prohibited employment of contract labour in various operations/ category of jobs in various establishments. So far 73 notifications have been issued since inception of the Act.

Exemption

16. The 'appropriate government' is empowered to grant exemption to any establishment or class of establishments or any class of contractors from applicability of the provisions of the Act or the Rules made thereunder on such conditions and restrictions as may be prescribed. Eleven notifications granting exemption to establishments in exercise of this power in the Central sphere have been issued.

Enforcement

17. In the Central sphere, the Central Industrial Relations Machinery (CIRM) has been entrusted with the responsibility of enforcing the provisions of the Act and the Rules made thereunder, through Inspectors, Licensing Officers, Registering Officers and Appellate Authorities appointed under the Act.

18. Regular inspections are being conducted by the Field Officers of the CIRM and prosecutions are launched against the establishments, whenever violations of the Act/Rules/notifications prohibiting employment of contract

labour are detected. In order to ensure compliance with the labour laws from time to time, instructions/directions have been issued to the field officers of CIRM and State Governments for proper implementation of the Act.

19. A number of complaints alleging violation of contract labour Act especially the notifications prohibiting the employment of contract labour are being received. These complaints are being investigated and remedial action taken in accordance with the provisions of the law by launching prosecutions if considered necessary. References are received for regularisation of the contract labour or abolition of the contract labour system on the ground of perennial nature of work/ ordinarily done through regular workmen etc. Writ Petitions are also being filed by Union/Workers seeking absorption where the contract labour system has been abolished or pleading that the contract is sham. The requests for abolition of contract labour system are examined in consultation with the Central Advisory Contract Labour Board and notifications abolishing contract labour system in various establishments in different jobs have been issued. So far as the regularisation of the workers are concerned, no such provision, either express or implied, exists in the Act. This has also been affirmed by the Constitution Bench of the Supreme Court in the matter of Steel Authority of India Limited Versus Water Front Worker's Union on 30th August, 2001.

20. A statement indicating the number of inspections carried out, prosecutions launched, licences issued, establishments registered, and number of cases received during the last three years under rules 25(2)(v)(a)&(b) of the Contract Labour (R&A) Central Rules, 1971 relating to payment of wages is annexed (***Annexure-I***).

EMERGING ISSUES/PROBLEMS

21. In the context of globalisation, privatization and liberalization, in March 2000, a GOM was constituted to examine the proposal of the Ministry to suitably amend the provisions of the Act with a view to facilitating outsourcing of activities to specialized firms having professional experience and expertise in the relevant area and at the same time to provide for a safety net to contract labour in such outsourced activities. Such a measure, it was felt, would generate employment growth. The GOM held a series of meetings in the years 2000, 2001 and 2003. After in-depth deliberations on the issues involved, it was agreed that certain activities which form support services of an establishment be excluded from the application of Section 10 of the existing Act, which provides for prohibition of employment of contract labour in certain circumstances. However, the same could not be finalized.

22. While the trade unions have demanded that the Act should be amended to provide for automatic absorption of contract labour in the event of prohibition of employment of contract labour, the employers' organizations are vehemently opposed to it. According to them such a step would lead to capital-intensive measures like mechanisation, automisation, etc. and fall in employment. Their view is that the employers should be given flexibility to determine the composition of the workforce for the industry to survive in the competitive

environment. Further, according to them, contract labour should not be abolished in non-core activities of an establishment and should be allowed to be parcelled out to specialized agencies, which have grown rapidly, for better time management, better operational efficiency and high percentage of consumer satisfaction.

23. Some of the State Governments, in tune with the changing times, have proposed measures to liberalize the Act to spur growth of industry, as for example, grant of exemption to Special Economic Zones and Export Oriented Units from the applicability of the Act to boost exports. The Government of Andhra Pradesh have amended the Contract Labour Act with a view to prohibiting employment of contract labour in the core activities of an establishment and to allow engagement of contract labour in non-core activities of an establishment such as watch and ward, sanitation, cleaning works, etc. The Government of Goa has introduced a bill in the legislature to abolish contract labour in core activities of an establishment.

ISSUES FOR CONSIDERATION

24. There is, no doubting the fact that contractualisation is on the increase as more and more jobs are being outsourced. This is apparently in tune with the practice that is being adopted globally. The key issues, therefore, are:

- (a) Whether the trend towards contractualisation be aborted through more stringent measures, legislative or otherwise, or
- (b) Recognising contractualisation as a part of the process of increasingly integrating Indian economy with the global one, regulate and protect the interest of contract workers.

The existing legislation lays emphasis on curbing contractualisation rather than focussing on protecting the interest of contractual workers.

Is there a need to revisit this issue? The 41st Session of the Indian Labour Conference deliberated upon this issue but could not come to a definitive conclusion.

Annexure-I

ENFORCEMENT OF CONTRACT LABOUR (R & A) Act, 1970

Sl. No.	Item	2003-04	2004-05	2005-06
1.	No. of Registration Certificates issued to principal employers.	720	590	675
2.	No. of Licences issued to contractors	6,788	7,277	6,973
3.	No. of Inspections conducted.	4,991	4,540	5,663
4.	No. of Irregularities detected.	71,632	59,301	59,298
5.	No. of prosecutions launched.	3,896	3,356	2,914
6.	No. of convictions.	2,072	2,018	1,000
7.	No. of contract labourers covered by licences	8,53,690	9,68,792	9,71,570
8.	No. of Licences revoked/cancelled.	4,014	6,601	7,578
9.	No. of registration certificates revoked.	52	08	211

No. of cases received/disposed of during the last five years under Rule 25(2)(v)(a)&(b) of the Contract Labour (Regulation and Abolition) Central Rules, 1971 relating to payment of wages.

Year	No. of cases received under Rule 25(2)(v)(a)&(b)			Order	
	B/F	Received	Total	<i>Issued</i>	Pending
2003-04	33	1	34	18	16
2004-05	16	2	18	12	06
2005-06	06	-	06	04	02

2. ROLE OF SOCIAL PARTNERS IN APPROPRIATE SKILL DEVELOPMENT FOR EMPLOYABILITY

(1) Need for Appropriate Skill Development

1.1. Globalization and technological advancement have increased the importance of skills and knowledge in production and services, with significant effects on employment. New technologies, including Information & Communications Technologies (ICTs), have allowed enterprises to achieve significant gains in productivity, innovation and delivery, which are needed to compete in the current business environment. However, the effective use of these technologies depends largely on the skills that workers possess. The situation tends to favour the employment of more educated workers who can learn and utilize effectively and efficiently these technologies, while it reduces the employment prospects of unskilled and low-skilled workers. The ability of countries to take part in and take advantage of globalization depends in large part on workforce skills.

1.2. The country is facing a strange paradox today. On the one hand, there is a large fleet of unemployed youth in the country while on the other hand; there is huge shortage of skilled work force in many sectors of the economy. The higher growth rate of Indian economy has also created an upsurge of demand in the economy for skilled labour in the manufacturing sectors like Power, Chemical & Petrochemicals, IT, Textiles, Steel etc. Also in services sector, there is a huge demand for trained manpower where the growth rate is 11.2% for the year 2006-07.

1.3. Skill shortage is a major challenge today. As per survey conducted by National Sample Survey Organization during 2004-05, only 5% of the Indian Labour force in the age group of 20-24 had received vocational training through formal institutes whereas this percentage in industrialized countries is much higher, varying between 60% to 96%. While on the one hand, the level of educational attainment of the existing work force is very low, the educated without employable professional skills on the other hand constitute 61% of the total unemployed. Skill shortage is now regarded as a main obstacle to sustain the high rate of growth of Indian industry and, for the majority of the workforce, low education and skill levels severely limit their chance of gaining decent employment. Thus there is a strong need for skilling the youth of the country and make India skill capital of the world.

1.4. What is crucially important for skills and training to be effective for growth and employment is that skills and training strategies and programmes must be an integral part of economic and employment growth strategies and programmes. Promoting enterprises to be more competitive and seek higher value added output will encourage a greater demand for skills, which in turn will encourage enterprises and workers to invest and participate in skills training. In addition, broad-based access to skills training can contribute to employment generation that is socially inclusive and equitable.

(2). ILO convention C142 concerning vocational Guidance and Vocational Training in the Development of Human Resources

2.1. Following are the articles of ILO convention C142 concerning vocational Guidance and Vocational Training in the Development of Human Resources –

Article 4: “Each Member shall gradually extend, adapt and harmonies its vocational training systems to meet the needs of vocational training throughout life of both young persons and adults in all sectors of the economy and branches of economic activity and at all levels of skill and responsibility.”

Article 5: “Policies and programmes of vocational guidance and vocational training shall be formulated and implemented in co-operation with employers and workers organizations and, as appropriate and in accordance with national law and practice, with other interested bodies.”

(3) Social Partners in Skill Building programmes

3.1. Central Government & State Governments, Employers and Workers Organizations, Industries Educational Authorities (for supply of trainers) & Vocational training providers (Private managements as well as NGOs) may be considered as Social Partners in Skill Building Programme of a country.

3.2. Social partners have roles in skill training, continual life long learning, creating learning organizations and learning society. Social partners can create learning network where there is a learning connecting both horizontal and vertical, between individual and individual, individual and organization and organization and organization. This learning network will create a knowledge society, which will have an important role in knowledge economy. This connectivity will be in a position to transfer learning into economic gains.

(4) Role of Social Partners in Skill Building programmes of DGE&T, Ministry of Labour & Employment

4.1 Directorate General of Employment & Training (DGE&T) in the Ministry of Labour & Employment (MoLE) is the nodal agency responsible for conducting vocational training programs to meet the skilled manpower requirement of industry. Vocational training is a concurrent subject. The Central Government is responsible for laying down norms, standards, policies, conducting of trade tests, and award of certificates. Other major responsibilities of DGE&T include research in vocational training, development of instructional material and affiliation of Industrial Training Institutes (ITI) whereas State Governments / Union Territories are responsible for actual implementation of schemes and day to day administration of ITIs

4.2 Government of India lay strong emphasis on the role of social partners by establishing effective public private partnership in skill building. In order to make effective Public private partnerships, following initiatives have been taken by DGE&T.

4.3 Govt. of India has set up two tripartite advisory bodies, viz Central Apprenticeship Council (CAC) and National Council for Vocational Training (NCVT), which advise it on formulation of policy, set norms & procedures on issues relating to Vocational Training. To involve industry at every stage of formulation of policy, norms & procedures. Both the bodies have proper representation of Industry & Worker Associations.

4.4 In India at present there are 5,465 Vocational Training Institutes, out of which 3,552 have been set up by private sector, indicating active participation of Private sector in imparting vocational training.

4.5 The course curricula are developed by Trade Expert Committees constituted for each trade, which comprise of experts drawn from the relevant Industry & Technical Institutes involved in imparting skill training.

4.6 Institute Managing Committee (IMCs) has been formed for ITIs' in consultation with apex Industry bodies to improve cooperation between Industry and Industrial Training Institutes (ITIs). Under this concept, Industry is associated as partner rather than as advisor. An IMC is formed at the ITI level, which manages activities of the ITI. An IMC comprises members from Industry, State Government, ITI and others. The Chairperson of the Committee is a representative of the industry. The primary objective of IMC is to have the active involvement of industry in the training conducted in ITIs. Responsibilities of IMCs, inter-alia, include their involvement in all aspects of training viz., from assessing of the training needs to curricula development, training of trainers, testing and Certification. The experience so far is that an actively functioning IMC brings about significant improvement in the functioning of the ITI.

(5) Recent initiatives taken by DGE&T for qualitative & quantitative improvement in Vocational training – role of social partners

5.1 DGE&T has taken up various new schemes for qualitative & quantitative enhancement of vocational training. Objective of these Schemes is to improve the quality of vocational training in the country and make it demand driven so as to ensure better employability of the graduates. In all these schemes, role of social partners has been clearly indicated for their proper involvement in skill building programmes of the country.

For quality improvement in training, following major schemes have been taken up

5.2 *Up gradation of 500 ITIs into Centres_of Excellence. (Multi skill Courses in Training Institutes)*

Union Finance Minister in his Budget Speech 2004-05 and 2005-06, had announced measures for up-gradation of 500 ITIs in the country. Subsequently, as per the advice of Ministry of Finance, action has been initiated for up-gradation of 100 ITIs from domestic resources. World Bank is assisting with a credit of Rs.1,231 crore for upgradation of 400 Govt. ITIs under Vocational Training Improve Project (VTIP).

Accordingly, scheme on upgradation of ITIs into “Centers of Excellence (CoE)” is taken up by providing infrastructural facilities, introduction of multi-skill courses catering to the need of a particular cluster of industry around an ITI to produce multi-skilled workforce of world standard.

The salient features of the Multi-Skill Courses are:

- Introduction of Broad Based Basic Training (BBBT) courses of one year followed by 6-month duration advanced modular courses.
- Specialized modules mainly in Industry (shop floor training).
- multi-entry and multi-exit provisions.
- Industry wise cluster approach.
- Industry representation in the form of Institute Management Committee (IMC) to ensure their greater and active involvement in all aspects of training.

An effective PPP in the form of IMC has been envisaged in the scheme to ensure greater & active involvement of industry in all aspects of training including identification of sectors, development of curricula etc. Under the above scheme training in specialized modules would mainly be organized by the industry & certification for this module will be done jointly by the State Government & Industry.

Out of the 400 ITIs to be upgraded under VTIP, 100 ITIs were taken up for upgradation during 2006-07 with retroactive financing. Remaining 300 ITIs are to be selected competitively for up-gradation in years 2007-08 and 2008-09.

The State Governments are required to enter into Memorandum of Understanding (MoU) to empower the Institute Management Committee (IMC), enhance powers of the Principals of the ITIs and have commitment for implementation / sustainability of the scheme during the Project period and beyond. A National Steering Committee (NSC), an apex body to oversee the implementation of the project, has been constituted. State Steering Committee (SSC) is constituted by the respective States. The selection and ranking of ITIs is done by the respective SSCs based on the Institutional Development Plan (IDP) submitted by the Principal of the ITI and the respective IMC. 118 ITIs have been identified, so far, on recommendation by respective SSCs and approved by National Steering Committee (NSC)

5.3. Upgradation of 1396 Govt. ITIs in PPP mode

In the Budget Speech 2007-08 Union Finance Minister announced a Scheme for Upgradation of 1396 Government ITIs into Centres of Excellence through Public Private Partnership. In pursuance of this announcement, a Scheme has been formulated. Under the Scheme, an Industry Partner will be

associated with each Government ITI to lead the process of upgradation. An Institute Management Committee will be constituted/ reconstituted with Industry Partner or its representative as its Chairperson and registered as a Society. Interest free loan upto Rs. 2.5 cr. will be given directly to the IMC Society for upgrading the training infrastructure of the ITI. Financial and academic autonomy will be granted to the IMC to manage the affairs of the ITI. The State Government will retain the ownership of the ITI and will continue to regulate the admissions and fees except 20% seats, which will be determined. The Memorandum of Agreement to be signed among different stakeholders has been finalised in consultation with the Finance and Legal Departments of Government of India and circulated recently. A majority of the State Governments has identified the ITIs and corresponding Industry Partner to be covered under the Scheme during the year 2007-08 and others are in the process of doing so by the IMC.

The total cost of the scheme at a rate of Rs. 2.5 crore / ITI and Rs 175 crore for Project management, monitoring and evaluation, will be Rs. 3,665 crore. The EFC, in its meeting held on 26.07.2007, has recommended the scheme, in principle, for the XI Five Year Plan period and agreed to financial sanction for one year, for the first batch of 300 ITIs at a total cost of Rs. 774.50 crore. Cabinet Committee on Economic Affairs approved the scheme on 25th October 2007.

Role of the Industry Partner

The Industry Partner will be required to lead the ITI in the entire process of upgradation under this scheme. The Chairman of the IMC will be the Industry Partner or his representative. Four more members of the IMC will be nominated by the Industry Partner in such a way that the IMC is broad based.

The IMC will be required to prepare an Institute Development Plan (IDP) under the leadership of the Industry Partner. The IDP shall define the long-term goals of the institute, the issues and challenges facing the institute and the strategies for dealing with them. It will set targets for institutional improvement, define Key Performance Indicators (KPIs) and detail the financial requirement with year-wise break up to meet the needs. The IDP should be developed in such a way that it leads to upgradation of the ITI as a whole. Simultaneous upgradation in a particular trade sector may also be taken up.

Financial contribution is not a prerequisite for the Industry Partner to participate in this scheme but it is a desirable condition. The Industry Partner may contribute machinery and equipment, which may be instrumental in furthering the objectives of this Scheme. It shall arrange to provide training to faculty members and on-the-job training to the students of the ITI in the industrial establishments.

Role of the State Government

The administrative control on the staff of the ITI will remain with the State Government and it will continue to pay their salaries and other

emoluments. It will have to ensure provision of funds to meet office, administrative and other recurring expenses. However, it is free to provide funds for any additional activities recommended by the IMC for upgradation of the ITI.

The State Government will be required to ensure that the sanctioned strength of the instructors in the ITI is always filled up and in no case shall the vacancies exceed 10% of the sanctioned strength at any point of time. It will be required to ensure that all additional positions required by the ITI in accordance with its IDP are sanctioned and filled up on priority. The State Government, as the owner of the ITI, shall continue to regulate admissions and fees.

5.4 **For quantitative improvement in training, following major schemes have been taken up**

Skill development Initiative (SDI) –

SDI scheme is a five-year project during which one million persons would be trained or their existing skills tested and certified under Modular Employable Skills (MES) framework. Ministry of Labour & Employment has developed MES framework for skill development for early school leavers and existing workers, especially in the un-organised sector in close consultation with industry, micro enterprises, State Governments, experts and academia.

Salient features of the scheme are:

Courses and Curricula: Demand driven short term training courses based on Modular Employable Skills (MES) are decided in consultation with Industry. MES is the 'minimum skills set', which is sufficient for gainful employment. Emphasis in the curricula will also be on soft skills. So far, NCVT has approved 211 courses in 22 sectors. Courses would also be available for persons having completed 5th standard and attained the age of 14 years.

Training: Central government will facilitate and promote training while industry, private sector and State Governments will train the persons. Optimum utilization of existing infrastructure to make training cost effective. Flexible delivery mechanism (part time, weekends, full time, onsite/ offsite) to suit needs of various target groups is envisaged.

Testing & certification of skills acquired informally: Testing of skills of trainees will be done by independent assessing bodies, which are not involved in training delivery, to ensure that it is done impartially and high standards of quality are maintained.

Target : One million persons would be trained or their existing skills tested and certified, over a period of five years and thereafter one million every year.

5.5. P.M's Announcement

The Hon'ble Prime Minister in his Independence Day address on 15th August 2007 announced the following:

- (i) Setting up 1,500 new ITIs in PPP mode; Setting up 50,000 Skill Development Centres in PPP mode.
- (ii) In order to train additional 10 million persons every year, a National Skill Development Mission is being set up in order to accomplish this task in a Mission Mode.

5.6. Issues & Challenges

(i) There is a need for setting up a labour market intelligence system for better matching of demand and supply of marketable skills. This system should forecast the demand of skill requirement in various industrial sectors. It should also be applicable for forecasting of marketable skills in both, the organized and unorganized sectors. This system would take into consideration existing and emerging business opportunities in India and abroad.

Industry, Industry Associations & entrepreneurs can work jointly with Govt. for establishing such a system on a continuous basis by indicating future skill demands of industry.

(ii) Industry does not see expenditure on Vocational Training as an investment because of which expansion in VT is not at desired level. Industry therefore, needs to be involved in large-scale training of youth in that establishment.

(iii) Industry and entrepreneurs need to be encouraged to take up Vocational Training as commercial ventures and impart world class training in different emerging disciplines.

(iv) Need for participation of India in World Skills Competition – Role of Industry & Industry Associations to be enhanced.

(v) There is a need for training of instructors by industry in new areas of technologies, which are not available in Instructor Training Institutes.

(vi) A large number of training institutions need to be set up to meet the training requirement of large number of persons.

(vii) A credible system of assessment needs to be developed.

(viii) Quality of training needs to be benchmarked to international standards to ensure that the youth are not only employable within the country but also outside.

3. CORPORATE SOCIAL RESPONSIBILITY (CSR)

- In a country like India, which faces challenges of inclusiveness, ecological fragility etc. threatening to undermine the stability of economic growth, no single organ of the society possesses the resources to address them. The solution lies in harnessing combined efforts of all participants like workers, employers, governments, and civil society.
- Earlier detractors of CSR used to view CSR as a needless drag on the owners of capital in the absence of direct financial reward.
- Corporates presently view CSR as an instrument, which benefits all, including themselves, while effecting transformation of the society.
- Powerful incentives will emerge when an enlightened society finds mechanisms to reward enterprises that integrate social and environmental concerns into their business models.
- Corporates can play a significant role, as they possess managerial talent in abundant measure.
- Public-Private-Partnership (PPP) has become a buzzword, which in a way reflects CSR.
- Employers and their organizations are taking various pro-active measures by way of discharging CSR.
- For example, the ITC e-Choupal which leverages the power of internet to empower the small and marginal farmers with a host of services related to know-how, best practices, prices, etc., and the ITC Chopal Saagar – which functions as a hub for a cluster of villages by providing warehouses, hyper markets etc., become an efficient delivery channel for rural development, increasing thereby both self and wage employment opportunities and an instrument for converting village populations into vibrant economic organization.
- Public Sector Corporates are also required to discharge CSR. If their resources and expertise can be leveraged with requirements on labour front such as imparting vocational training to produce skilled manpower, some of whom can also be employed in the PSUs themselves, it will create a win-win situation.
- For example, Project Swabalamban – a CSR Initiative of HPCL with the CII Skills Development Initiative is a perfect example of Skills Development as an actionable CSR agenda. Initiated to make the marginalized employable and capable of being self-employed, HPCL provides the funding as well as employment opportunities to those trained under the project, in the company or at its outlets. The skilling

programme is conducted at internationally benchmarked standards of City & Guide, CII's implementation partner. Successful candidates are awarded a Career Smart Card through joint certification by CII and HPCL. About 1100 candidates have been trained in 2006 and 900 more are being skilled in 2007.

4. MIGRANT LABOUR (DOMESTIC & ABROAD) – PROBLEMS AND REMEDIES

(a) MIGRANT LABOUR (*DOMESTIC*)

Background

- Accelerated movement of people originating mainly from the rural and backward areas in search of employment.
- Exploitative system of employment for inter-state migrant labour.
- Migrant labours are recruited from various parts of a particular State through contractors or agents for work outside that State in large construction and other projects.
- Generally no working hours are fixed and are made to work on all the days in a week under extremely harsh conditions.
- The provisions of the already available labour laws are not observed and wages are not paid under the Minimum Wages Act (1948).

Magnitude

- As per census 2001, 314.54 million persons moved for various reasons within the country.
- Out of these, 29.90 million migrated for reasons of employment.

Provisions of Inter state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

- Government enacted the Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 to safeguard the economic and other interests of the migrant labourers.
- Registration of all principal employers/contractors employing migrant labour.
- Licensing of contractors – no contractor can recruit any migrant labour without obtaining license from the appropriate government.
- Issue of passbook affixed with a passport-sized photograph of the workman indicating the name and the place of the establishment where the workman is employed, the period of employment, rates of wages, etc. to every inter-state migrant workman.
- Payment of minimum wages fixed under the Minimum Wages Act, 1948.

- Payment of equal wages for inter-state migrant workmen performing similar nature of work along with the local labourers.
- Payment of journey allowance including payment of wages during the period of journey.
- Payment of displacement allowance.
- Providing for suitable residential accommodation.
- Providing for medical facilities free of charge.
- Providing for protective clothing.
- Every contractor should report to the specified authorities in case of fatal accident or serious bodily injury of such workman.
- Principal employer to nominate a representative to be present at the time of disbursement of wages.

Enforcement Machinery

- Responsibility for enforcement of the provisions of the Act in establishments where the Central Government is the appropriate govt. lies with the office of the Chief Labour Commissioner (Central)
- Responsibility for enforcement of the provisions of the Act in establishments located under the states sphere lies with the respective State Governments.
- Central Government has been advising the State Governments from time to time to enforce the Act in both letter and spirit in their jurisdiction.

Problems in implementation of the Act

- Difficulties experienced by Inspectors in obtaining permission to enter the premises for inspection to ensure that the provisions of the Act are implemented.
- Reluctance of migrant workmen in giving full information about their living and working conditions.
- Lack of awareness regarding rules and regulations.
- Inadequacy of enforcement machinery.
- Low level of literacy.
- Fear of employer/his agents and limitation caused by the presence of their families at the work place.

- Lack of confidence in the local enforcement machinery, etc.

Remedies

- Need to create general awareness about the Inter-State Migrant Workmen (RECS) Act, 1979 among the workers.
- Proper guidance and assistance in registering workers with the Government to get all the benefits under various Labour Laws.
- State Governments have to come forward for such a step and persuading the workers for appropriate procedures.
- Workers who are unaware of the rules and regulations will be required to be aware of various laws.
- State Governments will have to take proactive approach towards this direction.
- Enforcement Machinery may have to be strengthened in States so as to watch the interests of migrant workers.
- Need for creating healthy atmosphere at the work place of the migrant workers as they may be under fear of local contractor/employer.
- Need to have a check and control on employers/contractors so that migrant workers are not denied their legitimate benefits.

(b) MIGRANT LABOUR (*ABROAD*)

There are about 4.5 million emigrant workers from India in the Gulf Cooperation Council (GCC) countries and Malaysia etc. During 2006 about 6.77 lakh workers emigrated from India on Emigration Clearance Required (ECR) passport after obtaining Protector of Emigrants (POE) clearance. More than 90% of these workers have emigrated to the GCC countries and Malaysia, which remain the most popular destination for our workers. Most of them emigrate from Tamil Nadu, Kerala, Andhra Pradesh, Uttar Pradesh, Rajasthan and Punjab.

Problems of emigrant workers

2. Complaints are received from emigrant workers regarding non-payment or delayed payment of wages, denial of contractual facilities by the employer, non-grant of leave or leave salary, alteration or substitution of contract, retention of passport, poor working and living conditions etc. Sometimes, complaints are received about harassment, ill-treatment, exploitation and physical abuse also. Workers in the informal sector are most vulnerable for abuse and exploitation particularly the women who migrate as household service workers (HSW).

Problem- solving mechanism

3. Prompt action, is therefore, taken by the Protector General of Emigrants against the recruiting agents in India and the foreign employers concerned. It is the responsibility of the recruiting agent to ensure that the foreign employer complies with the terms of the contract. If the recruiting agent does not get the matter resolved to the satisfaction of the worker, the registration certificate of the recruiting agent is suspended or cancelled. The recalcitrant employer is black-listed.

4. The illegal recruiters are prosecuted with the help of the State Police. During 2006, registration certificates of 28 recruiting agents were cancelled. At the moment 330 foreign employers are on the blacklist. During 2006 we received 78 complaints of illegal recruitment. Prosecution sanctions were issued in 21 cases based on police report.

5. The Indian Mission plays an important role in resolution of the problem. Proceedings in the labour courts are initiated against the employer, if the conciliation efforts fail. If it becomes necessary, the Indian Mission provides humanitarian support to the distressed worker and arranges his repatriation. The Indian community lends a helping hand to the Missions in carrying out these tasks. However, there was no institutionalized system in the Indian missions for undertaking on-site welfare activities for the emigrant workers.

Remedies

6. After the transfer of the subject of emigration from the Labour Ministry in December 2004, Ministry of Overseas Indian Affairs (MOIA) immediately recognized the need for proactive preventive measures to improve the system and strengthen the protection and welfare of emigrants by appropriate interventions at various levels. The Ministry has initiated action at three levels - national, bilateral and multilateral - to make emigration of workers from India an orderly and humane economic activity for the benefit of all stakeholders.

7. At the national level, the Ministry is taking action for implementing emigration reforms. The reform initiative consists of several components:

- (i) The Ministry has critically examined the provisions of the Emigration Act, 1983 and is in the process of comprehensively amending the Act to provide for a legislative basis for promotion of overseas employment for Indian workers, better protection and welfare of emigrants, more rigorous regulation of recruiting agents, enhancement of penalties for violation of the provisions of the Act and providing an effective grievance redressal mechanism.
- (ii) We are implementing e-governance in emigration to make the process simple, transparent, efficient and accountable. Emigration process has been automated in the POE offices. The system will be linked to the Indian missions in the ECR countries and the immigration counters to

- prevent chances of manipulation of the system through forgery and misrepresentation. A comprehensive e-governance project is envisaged for networking all stakeholders to enforce greater responsiveness and accountability through use of information and communication technology.
- (iii) A Sub-Committee under the chairmanship of Secretary, MOIA was constituted by the Cabinet Secretary with representatives from the Ministry of External Affairs and the Cabinet Secretariat for streamlining of the ECR process. The Sub-committee made useful recommendations, which have been implemented as under:
- a) The number of ECNR countries has been increased from 53 to 174 recently. Now emigration check is required only for 18 countries, out of which emigration is banned for Iraq because of the uncertainty about protection and welfare of our workers in that country.
 - b) We have relaxed the eligibility criteria for Emigration Clearance Not Required (ECNR) passport. Now anybody who is class 10 passed or above can proceed on overseas employment without any emigration check.
 - c) Detailed instructions have been issued to the Protectors of Emigrants in order to make the emigration clearance system simple, fast and convenient to the workers.
- (iv) The Ministry after obtaining the approval of the Committee of Secretaries has abolished ECRs to save the ECR passport holders to go abroad for purposes other than employment from inconvenience and harassment and to attack the corruption prevailing in emigration system. The ECRs system led to lot of corruption and was incapable of meeting its objective of preventing misuse of visit visa for seeking overseas employment.
- (v) Special measures have been taken in consultation with Ministry of External Affairs, Ministry of Home Affairs, Ministry of Women and Child Development, the National commission for Women and other relevant Ministries for better protection and welfare of our workers especially the vulnerable sections like women emigrants. These include:
- a) Installation of a 24x7 Helpline in the host countries;
 - b) Application of the age restriction of 30 years to all women emigrating on ECR passports;
 - c) Defining a minimum wage for emigrants;
 - d) Stipulation of a security deposit of 2500 USD per worker from the foreign employer directly hiring Indian worker;

- e) Compulsory attestation of employment documents for all women emigrants with ECR passport;
 - f) Opening of Overseas Indian Workers Resource Centre in host countries to serve as a one stop service outlet for addressing the information and assistance needs of emigrants;
 - g) Operating shelters for distressed emigrants;
 - h) Putting diplomatic pressure on host countries to extend the protection of labour laws to the workers in the informal sector;
- (vi) The Ministry believes that the ultimate protection of workers depends upon their empowerment through skills and awareness. The Ministry has launched a programme for skill upgradation of potential emigrants. The programme is being implemented in partnership with State Governments and Ministry of Micro, Small and Medium Enterprises. Industry Organizations and NGOs will also be involved in its implementation;
 - (vii) The Ministry is going to introduce a pre-departure orientation programme for emigrants to equip them with the knowledge of laws, language and culture of the host countries before their departure;
 - (viii) The Ministry has launched a massive multimedia campaign for educating intending emigrants about the risks involved in irregular migration and the precautions to be taken;
 - (ix) The Ministry has submitted a proposal to the Cabinet to establish a welfare fund for emigrants to implement a contributory monthly sustenance allowance scheme, payment of subsidy for the returnee rehabilitation projects, implement on-site welfare measures in host countries and to provide humanitarian assistance to emigrants in distress;
 - (x) Approval of the Cabinet has been obtained for constituting a Council for Promotion of Overseas Employment, which will function as think tank for the Government on emigration matters and will devise medium term strategies for enabling Indian workers to avail the emerging opportunities in the international labour market. The Council will be set up shortly as a Society under the Societies Registration Act;
 - (xi) The Ministry is taking steps to revamp the recruiting agent system to ensure better enforcement of the emigration laws on ground and curb illegal recruitments. Under this initiative, the eligibility criteria for registration of recruiting agents will be made stringent, performance standards will be prescribed and monitoring will be strengthened. The Emigration Rules will be shortly amended to implement this initiative;
 - (xii) A draft Cabinet Note has been circulated for inter-ministerial consultations to outsource the public interface of the POE offices with

respect to grant of emigration clearance on the lines of outsourcing of visa services.

8. At the bilateral level, the Ministry has been actively pursuing signing of formal MOUs with the major labour receiving countries to secure their commitment towards the protection and welfare of Indian workers. In the 1980s bilateral labour agreements were signed with Qatar and Jordan.

9. In the last two years the Ministry has made substantial progress in this area. In December, 2006 an MOU was signed with the United Arab Emirates. In April, 2007 another MOU was signed with Kuwait. We have already signed an Additional Protocol with Qatar to update the 1985 Agreement on 20th November, 2007 during the visit of the Qatari Minister of Labour and Social Affairs to India. We have concluded negotiations with Malaysia and Oman and the MOU s with them will be signed soon. Efforts are on to sign the MOU with Bahrain and Saudi Arabia as well. We have sent a draft to Yemen. The Ministry has proposed to update the existing agreement with Jordan.

10. The bilateral labour MOUs have been designed to protect the rights of the workers in the host countries and to promote their welfare. They are aimed at streamlining the deployment procedures and remove loopholes in the system. The MOUs provide for a standing joint committee to meet twice a year to discuss bilateral issues relating to Indian workers and find solutions. We have already constituted this joint committee with UAE and its first meeting was held in May 2007 in Dubai. The bilateral MOUs also provide for protection to the Indian workers in the informal sector and enactment of appropriate laws for this purpose. These bilateral instruments will go a long way in ensuring the well being of our workers abroad.

11. The Ministry proposes to sign MOUs with important receiving countries of the Central and Eastern Europe and Asia to forge bilateral partnerships to expand the overseas employment market for Indian workers particularly for the skilled category. We are already in talks with Poland and have sent a draft MOU to South Korea.

12. At the Multilateral level, the Ministry has signed an MOU with the International Organisation for Migration (IOM) for implementing the Asia-EU Project for regional dialogue and program for facilitating legal migration between Asia and the EU countries. The project is already under implementation and will give us an opportunity for capacity building towards migration management and to develop overseas employment market in the strategically important European countries and upgrade the Indian workers in the wage chain.

Annexure-II

S. No.	Items	Suggested by
1.	Contractualisation of Labour – Trends and ways to stop	BMS, CITU, AITUC, HMS, UTUC & UTUC (LS)
2.	Impact of creation of Special Economic Zones on Labour and remedies thereof	-do-
3.	Setting up of a permanent Tripartite Committee to monitor implementation of the conclusions of ILC	-do-
4.	Consumer Price Index – 2001, Review and Revision, being defective	-do-
5.	Migrant Labour (Domestic & Abroad) – Problems and remedies	-do-
6.	Criteria for recognition of Central Trade Unions	INTUC
7.	Prohibition of Contract Worker in permanent nature of job	INTUC
8.	Fixation of National Minimum Wage	INTUC
9.	Corporate Social Responsibility	INTUC
10.	Right of entrepreneur, specially in Micro and Small Industry, to adjust his workforce (increase or decrease) as per marketing requirements.	LUB
11.	Separate and simplified Single Industrial Act for Micro and Small Scale Industries	LUB
12.	Social Security for workers as well as Self Employed Entrepreneurs	LUB
13.	Recognising and compensating Micro and Small Scale Entrepreneurs for imparting technical skills/employable skills to new rural based workforce.	LUB
14.	Recognising and subsidizing NGOs like Laghu Udhog Bharati in establishing and conducting Vocational training courses to rural youth.	LUB
15.	Notice of Change	CII
16.	The Contract Labour (Regulation & Abolition) Act, 1970	CII
17.	Prohibition of employment of Contract Labour	CII
18.	Role of the State	CII
19.	Flexicurity – Combining both flexibility and security (On the pattern of European Union)	ASSOCHAM
20.	Role of Social Partners in appropriate skill development for employability	ASSOCHAM
21.	Employment Generation and Strengthening & reviewing legislative framework to facilitate it	CIE
22.	Strengthening ways and means to promote skill development, reviewing institutional framework and creating additional facility	CIE
23.	Formalisation of informal sector activities through appropriate interventions.	CIE
24.	Enabling organized sector to promote Human Resource Development	CIE