



सत्यमेव जयते

PARLIAMENT OF INDIA
RAJYA SABHA

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE
ON TRANSPORT, TOURISM AND CULTURE

TWO HUNDRED SEVENTY SECOND REPORT

**Action Taken by the Government on the Recommendations/Observations
of the Committee contained in its Two Hundred and Thirty Sixth
Report on 'Infrastructure Lending in Road Sector'**

(Presented to the Rajya Sabha on 9th December 2019)

(Laid on the Table of Lok Sabha on 9th December 2019)



Rajya Sabha Secretariat, New Delhi
December, 2019/Agrahayana, 1941 (Saka)

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Hindi version of this publication is also available

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COMPOSITION OF THE COMMITTEE

(2019-20)

(Constituted on 13th September, 2019)

1. Shri T.G. Venkatesh — *Chairman*

RAJYA SABHA

2. Shri Prasanna Acharya
3. Shri Raj Babbar
4. Shri Sambhaji Chhatrapati
5. Dr. Sonal Mansingh
6. Shri Derek O'Brien
7. Kumari Selja
8. Shri Tiruchi Siva
9. Shri Dharmapuri Srinivas
10. Shri Vinay Dinu Tendulkar

LOK SABHA

11. Shrimati Sumalatha Ambareesh
12. Shri Anto Antony
13. Shrimati Veena Devi
14. Shri Tapir Gao
15. Shri Rahul Kaswan
16. Shri Saumitra Khan
17. Ms. Goddeti Madhavi
18. Shri Ramesh Chandra Majhi
19. Shri Sunil Baburao Mendhe
20. Shri K. Muraleedharan
21. Shri S.S. Palanimanickam
22. Shri Chhedi Paswan
23. Shri Kamlesh Paswan
24. Shri Tirath Singh Rawat
25. Shrimati Mala Roy
26. Shri Rajiv Pratap Rudy
27. Shri Rajbahadur Singh
28. Shri Dushyant Singh
29. Shri Ramdas Chandrabhanji Tadas
30. Shri Krupal Balaji Tumane
31. Shri Dinesh Chandra Yadav

SECRETARIAT

Shri J. Sundriyal, *Joint Secretary*

Shri P. Narayanan, *Director*

Shri Dinesh Singh, *Additional Director*

Ms. Catherine John L., *Under Secretary*

Shri K.V. Ramana Rao, *Committee Officer*

Shri Gaurav Singh Gahlain, *Assistant Committee Officer*

INTRODUCTION

I, the Chairman, Department-related Parliamentary Standing Committee on Transport, Tourism and Culture, having been authorized by the Committee to present on its behalf, do hereby present this Two Hundred and Seventy Second Report on Action Taken by the Government on the Recommendations/Observations of the Committee contained in its Two Hundred and Thirty Sixth Report on 'Infrastructure Lending in Road Sector'.

2. The Two Hundred and Thirty Sixth Report of the Department-related Parliamentary Standing Committee on Transport, Tourism and Culture was presented on the 10th August, 2016 to the Parliament.
3. The Action Taken Replies on the recommendations of the Committee contained in its Two Hundred and Thirty Sixth Report were received from the Ministry of Road Transport and Highways on 26th November & 4th December, 2018 and 27th February, 2019.
4. The Committee considered and adopted the Report in its meeting held on the 5th December, 2019.

NEW DELHI;
5 December, 2019

Agrahayana 14, 1941 (Saka)

T.G. VENKATESH
Chairman,
Department-related Parliamentary Standing
Committee on Transport, Tourism and Culture,
Rajya Sabha.

ACRONYMS

AITD	:	Asian Institute for Transport Development
ALS	:	Advanced Life Support
ATM	:	Automated Teller Machine
BLSA	:	Basic Life Support Ambulance
BOT	:	Build, Operate, Transfer
BR	:	Banking Regulation
CALA	:	Competent Authority for Land Acquisition
CBI	:	Central Bureau of Investigation
CCEA	:	Cabinet Committee on Economic Affairs
CCIE	:	Conciliation Committee of Independent Experts
CSR	:	Corporate Social Responsibility
CVC	:	Central Vigilance Commission
DPR	:	Detailed Project Report
EC	:	Environmental Clearance
EI & ISC	:	Economic Importance and Inter-State Connectivity
EPC	:	Engineering, Procurement and Construction
EPFO	:	Employees' Provident Fund Organisation
ETC	:	Electronic Toll Collection
FIs	:	Financial Institutions
GSR	:	General Statutory Rules
HAM	:	Hybrid Annuity Model
HP	:	Himachal Pradesh
IDBI	:	Industrial Development Bank of India
IDC	:	Interest During Construction
IECV	:	Initial Estimated Concession Value
IIFCL	:	India Infrastructure Finance Company Limited
IRC	:	Indian Roads Congress
ISAC	:	Independent Settlement Advisory Committee
LA	:	Land Acquisition

LIC	:	Life Insurance Corporation
M&R	:	Maintenance and Repair
MAIF	:	Macquarie Asia Infrastructure Fund
MCA	:	Model Concession Agreement
MoEF	:	Ministry of Environment & Forest
MoH&FW	:	Ministry of Health and Family Welfare
MoRTH	:	Ministry of Road Transport and Highways
MTN	:	Medium Term Note
NH	:	National Highways
NHAI	:	National Highways Authority of India
NHARSS	:	National Highways Accident Relief Service Scheme
NHBF	:	National Highways Builders Federation
NHIDCL	:	National Highways and Infrastructure Development Corporation Limited
NITI	:	National Institute for Transforming India
NPA	:	Non-Performing Asset
OM	:	Office Memorandum
OMT	:	Operation, Maintenance and Transfer
PCA	:	Prompt Corrective Action
PPP	:	Public Private Partnership
PR	:	Periodic Renewal
PSBs	:	Public Sector Banks
PSU	:	Public Sector Undertaking
PWD	:	Public Works Department
RBI	:	Reserve Bank of India
RE	:	Revised Estimates
RFCTLAR&R	:	Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement
RFID	:	Radio-Frequency Identification
RFP	:	Request for Proposal
RT&H	:	Road Transport and Highways

S4A	:	Sustainable Structuring of Stressed Assets
SAROD	:	Society for Affordable Redressal of Disputes
SBI	:	State Bank of India
SEBI	:	Securities and Exchange Board of India
SOP	:	Standard Operating Procedure
TILR	:	Taluka Inspectors of Land Records
TOT	:	Toll-Operate-Transfer
TPC	:	Total Project Cost
UP	:	Uttar Pradesh
UT	:	Union Territory
VGF	:	Viability Gap Funding

REPORT

The Report of the Department-related Parliamentary Standing Committee on Transport, Tourism and Culture deals with the Action Taken by the Ministry of Road Transport and Highways on the recommendations/ observations as contained in its Two Hundred and Thirty Sixth Report on 'Infrastructure Lending in Road Sector' which was presented to both the Houses of Parliament on 10th August, 2016.

2. The Action Taken Replies were received from the Ministry on 26th November, 2018; 4th December, 2018 and 27th February, 2019 in respect of all the recommendations/ observations contained in the 236th Report. The replies have been categorized as follows:—

Chapter I: Recommendations/Observations which have been accepted by the Ministry:

Paragraph Nos.: 33, 45, 50, 60, 98.

TOTAL: 5

Chapter II: Recommendations/Observations which the Committee does not desire to pursue in view of the replies of the Ministry:

Paragraph Nos.: 29, 36, 40, 48, 52, 54, 56, 62, 65, 76, 83, 84, 88, 99.

TOTAL: 14

Chapter III: Recommendations/Observations in respect of which replies of the Ministry have not been accepted by the Committee:

Paragraph Nos.: 35, 37, 38, 55, 77, 85, 91, 92, 93, 94, 95, 97.

TOTAL: 12

Chapter IV: Recommendations/Observations in respect of which the final replies of the Ministry are still awaited:

Paragraph Nos.: 64, 72, 82, 86, 96.

TOTAL: 5

3. The Committee desires that final replies in respect of those recommendations/ observations which have been categorized as interim replies by the Committee should be furnished at the earliest.

CHAPTER-I

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE MINISTRY

COMMENTS OF RBI ON NPA

Recommendation/Observation

1. *The Committee observes that for IDBI, the NPA percentage is as high as 52% of total loan disbursed for road sector. The Committee wants to know the reasons why this huge amount has turned to be NPA that too to a single concessionaire i.e. Jaypee Infratech Ltd. The Ministry is requested to give full details of the projects awarded to this company. The Committee further observed that State Bank of India has lent ₹ 19,502 crores, out of which 1,986 crores has turned into NPA. The Committee is worried about higher percentage of loan becoming NPA. The Committee suggests that the Banks should take due diligence while disbursing loans to concessionaires.* (Para 33)

Reply of the Ministry

(Ministry of Road Transport and Highways)

1.1 Details of the projects awarded by NHAI to M/s Jaypee Infratech Ltd. is given in tabular form at the Annexure. It can be seen from the table that out of 7 projects, 3 projects have been completed, whereas 4 projects are under implementation.

(Ministry of Finance)

1.2 RBI has apprised that it collects various credit information under Section 27 (2) of the BR Act 1949 and Section 45 (C) of the RBI Act 1934. As per Section 28 of the BR Act, RBI can only disclose information collected under Section 27 (2) of the Act in such consolidated manner as it deems fit. In terms of Section 45 (E) of RBI Act, RBI is prohibited from disclosing credit information except under certain conditions as stated in the Act. RBI has apprised that it doesn't have requisite information regarding projects awarded to Jaypee Infratech Ltd.

1.3 RBI has apprised that the percentage of NPA in SBI's exposure to the Road Sector as on 30.9.2018 is 6.9% as compared to more than 10% on the date of report (i.e. 10.8.2016). Reserve Bank of India has repeatedly emphasised the importance of proper credit appraisal and due-diligence before sanctioning a loan. Detailed guidelines have been issued on Credit Risk Management. More recently, banks have been advised *vide* circular DBOD.BP.BC.No.98/21.04.132/2013-14 dated 26.2.2014 on 'Framework for Revitalising Distressed Assets in the Economy-Refinancing of Project Loans, Sale of NPA and Other objective credit Regulatory Measures' that lenders should carry out their independent and objective credit appraisal in all cases and must not depend on credit appraisal reports prepared by outside consultants, especially the in-house consultants of the borrowing entity. Banks/lenders should carry out sensitivity tests/scenario analysis, especially for infrastructure projects, which should *inter alia* include project delays and cost overruns. Further, enhancement of skills is an area which may require specific attention, especially in case of large infrastructure and core industry project financing. RBI through the Centre for Advanced Financial Research and Learning has taken initiatives to organise capacity building programs for bankers. The RBI had constituted a 'Committee on Capacity Building' (July 2014) under the Chairmanship of former Executive Director, Shri G Gopalakrishna, with the objective of implementing non-legislative recommendations of the Financial

Sector Legislative Reforms Commission, relating to capacity building in banks and non-banks. Some of the recommendations of the Committee for certification of staff have been taken up for implementation and instructions have been issued *vide* circular dated 11.8.2016. Banks have been advised to identify specialised areas for certification of the staff manning key responsibilities. Banks are required to make completing a certification course mandatory for areas like treasury operations, risk management, accounting and credit management. Banks have been advised to ensure that the employees working in the aforementioned areas acquire certifications within a specified period. Banks may choose to require certification for other areas of work also.

Further Recommendation/Observation:

1.4 The Committee takes note of the steps taken by RBI to guide the banks about proper credit appraisal and due diligence before sanctioning any loans in the road infrastructure sector. The Committee is of the view that certificate courses for the bank staff manning key areas like risk analysis and credit management should be made compulsory. Further, in view of the huge NPAs lying with the IDBI Bank, the Committee recommends that guidelines prescribing a limit up to which a bank can lend to a single borrower be framed to minimize the risk involved in lending.

Recommendation/Observation

2. The Committee finds a disconnect between the views of NHAI and the RBI because RBI has said that continuous repeated restructuring is not restructuring and it is also not considered as NPA then the problems prohibiting NHAI on this issue have to be sorted out by NHAI itself. The Committee suggests that NHAI resolve this issue with the Banks under the guidance of RBI. (Para 45)

Reply of the Ministry

2.1 There are regular formal/ informal meetings with the bankers on the issues pertaining to lending by the banks. The last major meeting, chaired by Hon'ble Minister, RT&H, was held in Mumbai on 29th June, 2018 wherein top management officials of the banks/ RBI/ SEBI were present. The discussions included the following major issues:

- (i) RBI has declared 11 banks as Prompt Corrective Action (PCA) banks; five other banks are under consideration of RBI. This has reduced the lending capacity of such banks.
- (ii) The concessionaire should deploy at least 10% of the project cost upfront, followed by NHAI grant and finally the loan disbursement by the banks.
- (iii) The capacity of the Developers to bring in desired Equity for the Project.
- (iv) Gold-plating of Project Cost (Project cost projected by Concessionaire much higher than the NHAI estimated cost), in case of BOT projects.
- (v) Bankers may obtain NHAI's advice at the time of disbursement.
- (vi) Tripartite Agreements on cost overrun and contingencies - Provision as a part of Project Cost.
- (vii) Interest During Construction increases substantially due to delay in Projects.
- (viii) One Bank one project concept to increase the level of responsibility for the Project and speedy decision.

- (ix) Following suggestions have also been received from the bankers:
- (a) One bank one Project model to reduce inter-dependence between the lenders and enabling quick decisions;
 - (b) In case of large Projects, One bank plus one PCA bank model may be adopted;
 - (c) Benchmarking of O&M cost should be made in the bid documents;
 - (d) Inclusion of Road Sector Funding in “Priority Sector Funding”;
 - (e) Broad based financing options and explore different financial instruments;
 - (f) Information sharing between NHAI and bankers;
 - (g) Financial Capabilities of the Concessionaires - the concessionaires project their equity sources from the present cash flows, which are uncertain;
 - (h) Termination payments are delayed by NHAI;
 - (i) Payments on Change of Scope are done mostly after completion of projects;
 - (j) Floating Interest rate system carries a risk on project cash flows;
 - (k) Mismatch between IE’s progress report *vis-à-vis* that of Lender’s Engineer;
 - (l) First Charge in case of One Time Funds Infusion by NHAI;
 - (m) Group Company exposure norms by the banks restricts lending;
 - (n) Project Rating is not good in many Projects;
 - (o) Upper limit for financing only up to 20% of Project cost by IIFCL;
 - (p) Funding by Insurance Companies;
 - (q) Interest During Construction, when the projects get delayed;
 - (r) Issuance of Commercial operation date is delayed;
 - (s) Overstretched contractors / bankers for un-even award of contracts;
 - (t) Problems arising out of old projects on BOT basis, creating hurdles in fresh sanction of loan.
- (x) The issues raised by bankers have been under consideration in the NHAI.

Further Recommendation/Observation:

2.2 The Committee notes the reply.

FUNDING OF SECURITIZATION BY BANKS

Recommendation/Observation

3. *The Committee feels that Bond is a potent weapon which can hit the required target of getting funds from the market. If the maturity period is kept medium i.e. 5-7 years, desired result could be achieved. The Committee appreciates the steps taken by RBI to allow banks to go for credit flow through issuing bonds.*

The Committee recommends that the Government should strive for long-term bonds for a period of 20 to 25 years to commensurate with the concession period which may be able to achieve the set target. (Para 50)

Reply of the Ministry

3.1 NHAI has preferred to raise long term bonds and has, accordingly, raised bonds with maturity period of 25 years amounting to ₹ 20,000 crore from Employees Provident Fund Organisation (EPFO). Upto March 2018, NHAI has raised bonds with maturity period of 30 years amounting to ₹ 7000 crore from the LIC. NHAI has also launched MTN (Medium Term Note) programme for an amount of ₹ 25,000 crore against which NHAI may go to the market depending on the suitability of raising loan with regards to the Coupon rate, quantum and maturity period.

Further Recommendation/Observation:

3.2 **The Committee notes the reply and hopes that the MTN programme will help in meeting the rising fund requirements of NHAI.**

ISSUES RELATED TO INFRASTRUCTURE LENDING IN HIGHWAYS

Recommendation/Observation

4. *From the views of Ministry of Finance, the Committee notes that the Ministry is taking various measures to bring financial institutions into infrastructure lending. The Committee however, does not find any concrete solution from the submission of Ministry of Finance that the financial institutions would come up in near future to rescue the road sector. Till the banks remain the sole lender, the situation will not improve substantially. The Committee recommends that Ministry of Finance should, in consultation with RBI, explore Bond Market more vigorously to generate money for the road sector. (Para 60)*

Reply of the Ministry

4.1 Government is raising funds through EPFO Bonds, Masala Bonds, EC Bonds, Bharatmala Bonds etc.

4.2 Further, Toll – Operate – Transfer (TOT) Model has been approved by the CCEA in August 2016. As per the Model, the right of collection of Toll Fees for operational public funded NH projects is to be assigned for a pre-determined period to concessionaires (developers/ investors) against upfront payment of a lump-sum amount. Operation & Maintenance obligations (O&M) of such projects shall be with the concessionaire till the completion of the period.

4.3 The first round of bids for TOT projects has been completed successfully by the NHAI. It comprises of a bundle of 9 project stretches, with aggregate length of around 680 km in the states of Andhra Pradesh and Gujarat. The bid has been awarded to M/s MAIF Investments India Pte. Ltd. - Ashoka Buildcon Limited Consortium at Bid Concession fee of ₹ 9681.5 cr. (against NHAI estimated IECV of ₹ 6258 cr). Further, TOT Bundle-2 has also been floated in the market and is likely to be awarded during the FY 2018-19 itself.

Further Recommendation/Observation:

4.4 **The Committee notes the reply.**

MAINTENANCE AND OTHER AMENITIES AT HIGHWAYS

Recommendation/Observation

5. *Besides medical facilities, the Committee recommends that places of public amenities like restaurants,*

toilets, petrol pump etc. may be opened at reasonable distance so that commuters should not face any difficulty. (Para 98)

Reply of the Ministry

5.1 NHAI is planning to develop three types of way-side amenities along the National Highways for the benefit of road-users. These amenities will provide adequate rest and refreshment facilities for different highways commuters.

(i) *Highway Village*

To be developed on NHAI land, the wayside amenities would include parking for cars, buses and trucks, restaurants/ food court, dhaba, fuel station, minor repair shop, rest rooms for passengers, dormitories for drivers, kiosks for sale of miscellaneous sundry items etc.

(ii) *Highway Nest*

To be developed by private land-owners on their land along the National Highways.

(iii) *Highway Nest (Mini)*

Being developed near Toll Plazas for convenience of highway users for their safe and comfortable journey. It has toilets, kiosk for sale of dry snacks, tea and coffee vending machine and water ATM etc.

5.2 NHAI has floated tenders and bidding and awarding of projects is in progress.

Further Recommendation/Observation:

5.3 **The Committee notes the reply.**

CHAPTER-II

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DOES NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF THE MINISTRY

BANKS' LIMIT FOR LONG TERM LOAN

Recommendation/Observation

1. *In view of this, the Committee urges RBI to look into the matter and if possible threshold limit should be brought down so that some more projects could also be completed which needs lesser amount.* (Para 29)

Reply of the Ministry

(Ministry of Road Transport and Highways)

1.1 A letter has been written to the Ministry of Finance for taking appropriate action in the matter.

(Ministry of Finance)

1.2 RBI has apprised that it has not specified any maximum tenure or minimum size in respect of loans to infrastructure sector which includes roads or in respect of long term bonds issued by banks for financing of infrastructure and affordable housing. The context in which the comments are stated to have been made by the Deputy Governor, RBI is not clear from the report. While a minimum eligibility of ₹ 500 crore was stipulated for schemes like flexible structuring of project loans and Scheme for Sustainable Structuring of Stressed Assets (S4A), it has not been indicated in the report. Banks are free to take commercial decisions as per their internal policies and regulatory guidelines of RBI. RBI has urged banks to ensure that while granting loans and advances, realistic repayment schedules may be fixed on the basis of cash flows with borrowers. This is expected to facilitate prompt repayment by the borrowers and thus improve the record of recovery in advances.

1.3 RBI has apprised that in order to ensure adequate credit flow to infrastructure sector as also towards the affordable housing needs of the country by encouraging banks to optimally utilize the long-term financing avenues already available to them, banks have been permitted *vide* RBI circular dated 15.7.2014 to issue long-term bonds with a minimum maturity of seven years to raise resources for lending to the above sectors. These bonds will be exempted from computation of net demand and time liabilities and would therefore not be subjected to Cash Reserve Ratio/Statutory Liquidity Ratio requirements. Also, such eligible bonds will also get exemption in computation of Adjusted Net Bank Credit for the purpose of Priority Sector Lending. Further, *vide* circular dated 1.6.2018, banks have been permitted to invest in the long term bonds issued by other banks under the provisions of the above mentioned circular dated 15.7.2014, subject to certain conditions. It is reiterated that there is no ceiling or floor for the quantum of such long term bonds that may be issued by the banks.

Further Recommendation/Observation:

1.4 **The Committee welcomes the steps taken by RBI permitting the banks to raise resources to fund the infrastructure sector with exemptions from the Cash Reserve Ratio/Statutory Liquidity Ratio requirements. The Committee believes that these steps would encourage the banks to provide more loans to the concessionaires of Road sector.**

COMMENTS OF RBI ON NPA

Recommendation/Observation

2. *The overall impression created by the banks is that along with public funding, there should be private participation for the growth of the Indian economy. Highway projects need to be completed in time within the estimated cost. It was also pointed out that the held-up projects should be started immediately and banks and financial institutions may be sufficiently compensated for the NPAs created by them by lending to the infrastructure sector.* (Para 36)

Reply of the Ministry

2.1 Observations of the Committee have been noted. In order to have private participation, Government of India has introduced another model - Hybrid Annuity Mode (HAM) in 2016. This is a new Model, a mix of the EPC (Engineering, Procurement and Construction) and BOT (Build, Operate, Transfer) models. HAM combines EPC (40 per cent) and BOT- Annuity (60 per cent). NHAI releases 40 per cent of the total project cost during the construction period which is given in five installments linked to milestones. The balance 60 per cent is arranged by the Developer. In this model, Bankers are also involved. So, the risk factor has been adequately shared among the stakeholders.

2.2 Further, every effort has been made to revive all the languishing projects. NHAI/ Government has already introduced a number of measures towards rejuvenating the languishing projects like “One time fund Infusion”, “Exit Policy”, “Rationalized compensation”, “Payment of 75% Arbitral award” etc. to save the invested funds from turning into NPAs. As a result, delays apart, there is hardly any project that has been languishing at present.

Further Recommendation/Observation:

2.3 **The Committee understands that as lenders, banks also need to share the risk factor associated with the projects. It appreciates the introduction of HAM model for encouraging private participation in the road infrastructure sector. The Committee would, however, recommend that the NHAI/ Government should appoint a credit rating agency to assess the financial strength of private players and their ability to meet debt repayment obligations. With the endorsement of a credit rating agency, private players would also be able to receive loans from financial institutions/banks at cheaper rates. Even a marginal difference in rates would be extremely helpful.**

CBI AND VIGILANCE

Recommendation/Observation

3. *The Committee finds it bizarre that the banks work under the fear of CBI and CVC. The Committee recommends that the banks should take a decision on their own whether a particular NPA is to be financed or not and it should be done on the bank's own wisdom and under the permissible capacity of the banks. The Committee also suggests that the bank should see viability of the project i.e. whether lending some more money will give their due returns. The Committee recommends that every decision, if taken in a transparent way and approved by a Committee consisting of more than two officials based on laid down principles, there should not be any cause for fear of investigation by CVC, CBI and other enforcement agencies.* (Para 40)

Reply of the Ministry

(Ministry of Road Transport and Highways)

3.1 Observations of the Committee have been noted. However, it is beyond the mandate of the Ministry of Road Transport and Highways to provide for such an environment.

(Ministry of Finance)

3.2 The Public Sector Banks (PSBs) and Financial Institutions (FIs) are the Board governed entities having their own loan policy, approved by its Board of Directors, based on the guidelines issued by the Reserve Bank of India (RBI). Section 8 of the Central Vigilance Commission (CVC) Act, 2003 empowers CVC to exercise its jurisdiction over, *inter-alia*, officers of scale 5 and above of the PSBs. Chapter 8 of the CVC Manual, 2017 contains provisions relating to action to be taken by PSBs in regard to NPAs and frauds including staff accountability and reporting to investigating agencies. These guidelines prescribe that the banks should deal firmly and consistently with any fraud and make a report to the CBI or Police, depending upon the size of the fraud.

3.3 RBI has also circulated to all Scheduled Commercial Banks and Financial Institutions a framework for dealing with frauds *vide* Circular dated 7th May, 2015 (updated on 3 July, 2017). This framework, *inter-alia*, prescribes the concept of red flagging of accounts, timely detection and reporting of frauds in loan accounts, conducting check/investigation during different stages of the loan cycle, determining staff accountability with the prescribed period and adopting penal measures for fraudulent borrowers.

Further Recommendation/Observation:

3.4 **The Committee notes the reply.**

FUNDING OF SECURITIZATION BY BANKS

Recommendation/Observation

4. *The Committee observes that initiatives taken by RBI recently have broadened the scope for borrowers to get more funds on account of enhanced infrastructure finance. It is further heartening to note that banks have been allowed to treat annuities under BOT model in respect of road projects and toll collection rights where there are provisions to compensate the sponsor. Change of norms in PPP projects are also a welcome move where debts due to the lenders has been allowed to be considered as secured. Lenders have got first charge over escrow account and also a right of substitution of concessionaire, if he defaults. The Committee hopes that these changes in existing models will help lenders and it will pave the way for getting the stalled projects completed soon.* (Para 48)

Reply of the Ministry

4.1 MoRTH has been taking all required initiatives to help the Banks to lend to the PPP projects. Details of the measures taken have been brought out in Para 45.

Further Recommendation/Observation:

4.2 **The Committee notes the reply.**

Recommendation/Observation

5. *The Committee finds that the “Standby credit facility” is a very supportive tool for borrower if*

this Clause has been taken into consideration during the initial financial closure to fund the cost overruns. (Para 52)

Reply of the Ministry

5.1 NHAI also believes that “Stand by Credit Facility” shall be useful for borrower (say Concessionaire) to fund the cost overrun, if any. However, any credit exposure is generally done by the Banker taking into consideration the financial health/ performance capability of the Concessionaire. Hence, it is primarily a banker-borrower issue. To some extent, contingencies component in a project cost takes care of it, which may be considered by the bank on case-to-case basis.

Further Recommendation/Observation:

5.2 **The Committee notes the reply.**

ISSUES RELATED TO INFRASTRUCTURE LENDING IN HIGHWAYS

Recommendation/Observation

6. *The Ministry of Road Transport and Highways is involved in development of road sector, which is the life-line of the economy of the country. It supervises projects worth thousands of crore rupees but it does not have its own source or a mechanism of generating revenue, although it gets budgetary support from the Government. But, as we know, that much support is not sufficient. The Committee recommends that RBI and Ministry of Finance may help the Ministry of Road Transport and Highways to set up their own dedicated financial institutions to generate own funds for development of road sector.* (Para 54)

Reply of the Ministry

6.1 NHAI is an autonomous body established by an Act of Parliament. It is responsible for development, maintenance and management of National Highways vested or entrusted to it by the Central Government and for matters connected or incidental thereto. Regarding the committee recommendation to set up dedicated financial institutions to enable MoRTH to generate own funds for development of road sector, it is informed that the NHAI has floated Bonds through which revenue has been generated for highway projects. Further, SBI has also given a loan of ₹ 25,000 crore to NHAI. With these resources, the Government will be able to meet the expenditure on construction of roads.

Further Recommendation/Observation:

6.2 **The Committee notes the reply.**

Recommendation/Observation

7. The Committee appreciates the step taken by the RBI. It is a morale booster for the Concessionaire. But adequate caution should be taken to ensure that the interests of the financial institutions, which have funded the projects, should be protected by all means. (Para 56)

Reply of the Ministry

7.1 There are provisions in the MCA to safeguard the interests of financial institutions. These measures are followed scrupulously in all such situations involving financial institutions. Further, to protect the interests of the stakeholders, regular interactions are held with the Banks. Recently, the Hon’ble Minister, MoRTH had taken a meeting with the Banks in this regard in June 2018.

Further Recommendation/Observation:**7.2 The Committee notes the reply.****Recommendation/Observation**

8. *The Committee appreciates the corrective steps taken by NHAI. The Committee feels that NHAI should learn from its past experience. Many of the projects got held up due to bad-planning and showing haste in awarding the projects to developers. The Committee recommends that before awarding any project to concessionaire the project should be technically examined, cost be estimated and all the clearances, viz. statutory, environment and forest, railways etc. may be obtained first.* (Para 62)

Reply of the Ministry

8.1 Observations of the Committee have been noted. The process of project preparation and award has been considerably streamlined. Now, projects are not awarded by NHAI unless land under possession is 80% in PPP projects and 90% in EPC projects. The statutory clearances are also being secured more or less in time.

Further Recommendation/Observation:**8.2 The Committee notes the reply.****DISPUTE RESOLUTION****Recommendation/Observation**

9. *The Committee feels that this policy shift is a wise decision by the RBI, which has allowed financial institutions to consider loans to Highways projects as secured to the extent covered by termination payment provisions under the concession agreement. The Committee hopes that interest rates also will come down accordingly in such case.* (Para 65)

Reply of the Ministry

9.1 Noted. No further comments are made.

Further Recommendation/Observation:**9.2 The Committee notes the reply.****STATUTORY CLEARANCE****Recommendation/Observation**

10. *The Ministry has informed the Committee that the picture on land acquisition front is more clear now and it has become easier to acquire land from its owners. Environmental clearances are also given in a shorter period.* (Para 76)

Reply of the Ministry

10.1 In order to expedite land acquisition for the National Highways, the Ministry has taken the following policy initiatives:

- (i) *E-governance Initiative-* In order to cut short delays in completion of the land Acquisition process, the Ministry has developed a Web Portal (*BhoomiRashi*), whereby, the land acquisition

procedure for the National Highway Projects, including processing of all Land Acquisition related gazette notifications, is being done through this platform. The Utility is user friendly, error-free and ensures complete transparency in the system.

- (ii) Determination of the amount of compensation, rehabilitation and resettlement for land in consonance with the applicable provisions contained in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLAR&R) Act, 2013, w.e.f. 01.01.2015;
- (iii) In cases where the process of acquisition of land was initiated under the National Highways Act, 1956, but award was not announced by 31.12.2014, the RFCTLAR&R Act, 2013 will apply;
- (iv) Consent Purchase Policy has been allowed for NH Projects as per the respective State Government Policy, subject to consideration amount not being higher than the compensation amount worked out as per the provisions of NH Act, read with the First Schedule to the RFCTLAR&R Act, 2013;
- (v) Monitoring of land acquisition for NH projects by constituting Land Acquisition Cell by engagement of Retired Revenue Officers in the Ministry and Regional Offices;
- (vi) Appointment of additional CALAs and Arbitrators to ease their work load;
- (vii) Single CALA account system put in place;
- (viii) Providing the basic infrastructure facilities to the CALA and Arbitrators and Taluka Inspectors of Land Records (TILR), as the case may be from the project's Contingency;
- (ix) Comprehensive Guidelines issued on 28.12.2017.

Further Recommendation/Observation:

10.2 The Committee notes the reply.

Recommendation/Observation

11. *The Committee notes that there was an economic downturn that took place in the last 3 or 4 years and as we are slowly coming out of this, there is a possibility to use the infrastructure in construction sector as one of the major vehicles for revival of the economy. The Committee, therefore, recommends that the BoT Toll should not be the sole model for awarding the road projects. The Committee recommends that each project length has to be analyzed and examined on its merits and demerits depending on the revenue streams that are possible and determine whether it should be taken up on BOT Toll or BOT annuity or on EPC Model.* (Para 83)

Reply of the Ministry

11.1 The recommendations of the Committee have been noted. NHAI decides mode of implementation of the projects based on financial viability and detailed feasibility studies. The Ministry has developed various modes of execution of NH Projects viz. BoT(Toll), BoT(Annuity), HAM, EPC,OMT and TOT. Depending upon the financial viability of the project, mode of execution of the project is decided. Based on the cost of the project, traffic volumes, fund arrangement and market conditions, the project may or not be viable on

BOT (Toll). NHAI policy circular dated 24.07.2014 provides the procedure for structuring/ restructuring of the projects as under:

- (i) The project proposals may be formulated straightaway on EPC mode for all projects which are prima-facie not viable on BOT (Toll). Based on financial analysis, projects which require Viability Gap Funding (VGF) in excess of 20% of TPC would be deemed to be unviable on BOT (Toll) mode.
- (ii) The projects proposals may be formulated on BOT (Toll) mode for all projects which, based on financial analysis, are prima-facie viable on BOT (Toll) with some estimated premium.
- (iii) The projects proposals may be formulated both on BOT (Toll) as well as EPC mode for all projects which, based on financial analysis, are prima-facie viable on BOT (Toll) with VGF requirement up to 20% of TPC.
- (iv) Subsequently, based on the CCEA approval, the Ministry issued guidelines/ SOP for implementation of Bharatmala Pariyojana wherein following is stipulated with regard to mode of implementation of projects:

“All decisions regarding mode of execution will be taken by the Board of NHAI (Authority) or MoRTH, for their respective roads, subject to availability of funds and other required conditions.”

- (v) Further, NHAI Board decided to issue directions in its 118th Meeting held on 16.11.2017 for approval of projects under Bharatmala Pariyojana as under:

“It was decided that while Executive Committee may decide about the mode of projects based on financial appraisal, it should be seen that the break-up of projects under BOT (Toll), HAM and EPC should be in conformity with the base case scenario. It was also decided that in case the mode is to be changed to EPC from BOT (Toll) or HAM mode, the proposal for the mode change will be put up to NHAI Board.”

- (vi) As far as analysis/ examination of road projects depending upon project length and revenue stream is concerned, the same is being done by the project developers with the help of DPR consultants.

Further Recommendation/Observation:

11.2 The Committee notes the reply.

Recommendation/Observation

12. *The Committee notes that the Government has allocated a huge budget for the road sector but this excessive flow of Government money cannot sustain over a long run. The Committee, therefore, calls upon the Government to devise ways and means and establish appropriate financial institutions and models to encourage the return of the private investment to the road sector. The Committee notes that the new hybrid annuity scheme introduced by the Government is attracting many players in the field but the Committee feels that the players are the same during the various models over a period of time. Therefore, the Government needs to be over cautious and what has happened to the PPP Model in the past should not be repeated in case of Hybrid Annuity Projects also.*

(Para 84)

Reply of the Ministry

12.1 The concerns of the Committee and its observations have been noted. As on 31.03.2018, NHAI has awarded 104 projects under Hybrid Annuity Mode (HAM) covering a length of 6,029 kms. Every care would be taken to avoid such occurrences.

Further Recommendation/Observation:

12.2 **The Committee notes the reply.**

Recommendation/Observation

13. *The Committee finds it strange as to how the concessionaire who has got a project for ₹ 1,000 crore gets ₹ 1,400 crores for the same project. The NHAI has submitted that the banks do their own calculations. The Committee wants to know why there is a big gap between the cost calculated by NHAI and the bank for the same project? The Committee further would like to know whether there is any discussion between NHAI and banks regarding estimation cost for a particular project after awarding the project to a concessionaire? Why the concessionaire has been given a free hand to get the banks' loan as per their wish? The Committee recommends that the NHAI should keep a watch over the excess loan amount over the estimated cost obtained by the concessionaire from the bank. The Committee recommends that the TPC arrived at by the NHAI should be the project cost for all purposes. If at any time the Banks, Financial Institutions or concessionaires feel that the TPC need to be revised then they should approach NHAI for the purpose and NHAI can do it in a transparent way, wherever required. The conditions under which TPC can be revised should be specifically laid down.* (Para 88)

Reply of the Ministry

13.1 Total Project Cost (TPC) is generally estimated through a well-defined procedure and approvals. Generally, the cost estimates of a project are prepared on the basis of Schedule of Rates (SoR) applicable in the concerned state. It passes through different levels of scrutiny including initial Feasibility Report, Detailed Project Report (DPR) and scrutiny by different committees at NHAI & MoRTH, such as Standing Cost Committee and the Standing Finance Committee.

13.2 In case of BOT projects, approved Projects Cost is disclosed in the bid documents for reference of stake-holders. The Concessionaire estimates the project cost considering the technical specifications, design and concession period and bids for the project. Considering that the risk is largely on the Concessionaire, NHAI does not interfere in this process and leave it to the best judgment of the concessionaire's lenders. This assessment of NHAI cost is disclosed for reference purpose.

13.3 It is not the case that the cost estimates worked out by the NHAI hold good in all cases. Even in the EPC mode, bids may be on the higher or the lower side of the estimated costs. Some of these variations depend upon the best assessment of the costs likely to be incurred by the Concessionaire. While considering the financial closure, the lenders also have to take into account the component of Interest During Construction (IDC), which becomes an addition to the NHAI's cost estimates. There are certainly cases where some amount of gold-plating is done by the Concessionaires and the estimated project cost is shown way on the upward side while posing their project proposals for debt financing.

13.4 No formal discussions take place with the lenders. However, the concessionaire submits drafts of all

the project agreements before finalization of financial closure which are examined in NHAI as per the provisions of the concession agreement.

13.5 Loan is disbursed by the lenders as per the Financial Package approved by the bankers. However, NHAI liability is restricted to proportionate debt as per Total Project Cost as defined in article 48 of the MCA.

13.6 As per article 5.2.2 of the MCA, the concessionaire shall submit to the Authority the drafts of all project Agreement, or any amendments or replacements thereto, for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the concessionaire within 15 (fifteen) days of the receipt of such drafts. Thus any amendment in the financing agreement is required to be submitted to NHAI for appraisal.

13.7 As per the Model Concession Agreement, Total Project Cost as defined in concession agreement, is the project cost for all the purposes like calculation of Debt due, payment of Grant and Termination Payments etc.

Further Recommendation/Observation:

13.8 **The Committee notes the reply.**

MAINTENANCE AND OTHER AMENITIES AT HIGHWAYS

Recommendation/Observation

14. *The Committee notes that every company registered under Companies Act is bound to allocate and spend a portion of their profit for Corporate Social Responsibility. The Committee recommends that the road safety should be included as an area for spending the money from the Corporate Social Responsibility. Providing Ambulance, hospitals, emergency services, public amenities such as toilet complexes, etc. can be included in the CSR activities of the companies. In this regard, the Committee recommends that the Ministry of Road Transport and Highways should take up this issue at the appropriate level to implement it.* (Para 99)

Reply of the Ministry

14.1 *“Promotion of Road Safety”* is already covered under CSR under Schedule VII of the Act as per Circular No. 21/2014 dated 18.6.2014 of Ministry of Corporate Affairs, wherein various measures listed are as follows:

(i) **Activities:**

- Educating the masses and promotion of road safety awareness in all facets of road usage;
- Drivers training;
- Training to enforcement personnel;
- Safety traffic engineering and awareness through print, audio and visual media.

(ii) **Special Business Project:**

“giving medical and legal aid, treatment to road accident victims”.

14.2 Further, MoRTH has issued a charter for Good Samaritan, which is as follows:

(a) *Good Samaritan*

A Good Samaritan is a bystander who takes the accident victim to the nearest hospital or helps the victim by informing police or medical emergency. A Good Samaritan has the following rights:

- He shall not be liable for any civil or criminal liability.
- He shall be allowed to leave the hospital immediately.
- He shall not be forced to furnish his personal details.
- He shall not be compelled to deposit money for treatment of the victim.
- Hospital shall provide him an acknowledgement in this regard.
- He shall be suitably rewarded to encourage other citizens.
- He shall be examined for single occasion by the police after his consent.

(b) *Directions for Hospital*

- All private and government hospitals shall publish a charter at their entrance.
- They shall not detain Good Samaritan or ask for depositing money for treatment of the victim unless the bystander is a relative or a family member of the victim.
- They shall not compel the bystander to furnish his personal details.
- Hospital shall provide an acknowledgement to the Good Samaritan in a standard format.
- Lack of response by a doctor in case of emergency situation pertaining to road accident then a disciplinary action shall be taken against such doctor or hospital.

(c) *Directions for Police*

- Any person who makes a phone call to the Police control room or Police Station to give information about any accidental injury or death, except an eyewitness may not reveal personal details such as full name, address, phone number, etc.
- Any Police official or any other person shall not force any Good Samaritan who helps an injured person to become a witness in any manner. The option of becoming a witness shall solely rest with the Good Samaritan.
- The concerned Police official(s) shall allow the Good Samaritan to leave after having informed the Police about an injured person on the road and no further questions shall be asked if the Good Samaritan does not desire to be a witness in the matter.

(d) *Examination of Good Samaritan by the Police*

- In case a Good Samaritan chooses to be a witness, his examination by the investigating officer shall, as far as possible, be conducted at a time of his convenience such as his

place of residence or business and the investigation officer shall be dressed in plain clothes unless the Good Samaritan chooses to visit the police station.

- In case the Good Samaritan chooses to visit the Police Station, he shall be examined in a single examination in any reasonable and time bound manner without causing any undue delay.

Further Recommendation/Observation:

14.3 **The Committee notes the reply.**

CHAPTER-III

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE MINISTRY HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

COMMENTS OF RBI ON NPA

Recommendation/Observation

1. *State Bank of India pleaded before the Committee that the projects may be approved only after ensuring that 90% of land acquisition is completed. All the approvals from the Statutory Authorities and clearances from the Government agencies should be obtained before a particular project is sent for bidding. Another area of discord is the project cost estimated by NHAI and the concessionaires, which results in delay of lending by the financial institutions. In case of disputes, the concessionaires have to approach the NHAI for the redressal in the absence of a dispute settlement mechanism. This is creating undue delay for starting projects and thereby escalating the project cost and time overrun. The representatives of the IDBI bank informed that the promoters of many of the infrastructure projects are not big companies which results in insufficient equity for the promoter companies. This also leads to a situation where the financial institutions are refusing to finance the projects. The Chairman of IFCI informed the Committee that the bids were done without proper study and the high premium for bidding in many cases results in failure of the project itself. Another area of concern pointed out by the banks and the financial institutions is that there is no dedicated agency for infrastructure lending. They argued that Developing Financial Institutions may be created to arrange long time debt funds. Another complaint made by the banks is that when the projects are terminated due to various reasons, the banks are not given an opportunity or any guarantee that the pending loan is repaid. They have demanded that the model concession agreement should be recast in such a way that the protection of the interest of the banks should be an integral part of the agreement. Yet another area of concern is that in many cases, the Government agencies, particularly the authorities of the State Government are intervening and putting obstacles in the smooth implementation of the projects by way of refusing to grant permission to quarry and mines. They have also complained that there was a hurry in awarding the projects without any due diligence which resulted in stalling of the projects and the promoters leaving mid way. In many of the cases, the promoters are forming their equity on the basis of the loan taken from the financial institutions which results in failure of the projects. The banks are typically encouraged to raise money for a period of 5 to 7 years whereas the need of the infrastructure industry is for a longer period of 20 to 25 years. This is acting as a blockage in the entire infrastructure lending. Development of long time bonds is also an option, which can be experimented for financing the projects. In the present regulatory scenario, the insurance funds and the pension funds are not permitted to fund the infrastructure projects. An easing of the regulations may help the industry as a whole. Another suggestion was that the concessionaires may be given an exit clause if they want to. NHAI informed the Committee that out of the 150 projects in the PPP mode during the period 2006-12, only 16 projects were stalled and many of these were due to land acquisition problems, utility shifting, delay in granting permissions by the local authorities and delay in giving formal clearances and various approvals. The representatives of the RBI informed the Committee that the Government is seized of the matter and they are contemplating to ease many of the guidelines applicable to the banks for infrastructure lending.* (Para 35)

Reply of the Ministry

1.1 The concerns raised by bankers in respect of pre-construction activities have already been addressed

by the Ministry by issuing guidelines that no project will be awarded unless 80% of the land is in possession in case of PPP projects and 90% in case of EPC projects. All the statutory clearances are also to be ensured prior to the declaration of Appointed Date (commencement of the project);

1.2 The process of settlement of Commercial disputes between the Authority and the Concessionaires/ Contractors agencies is provided under the Contract Agreements. It also provides for Arbitration under the Arbitration and Conciliation Act.

1.3 Further, the Cabinet Committee on Economic Affairs (CCEA) took a decision on 31.08.2016 for revival of the construction sector, as conveyed *vide* OM dated 05.09.2016 of NITI Aayog, for establishing a system of conciliation of disputes through Conciliation Committees of Independent Experts (CCIEs) to ensure speedy disposal of pending or new cases. Accordingly, NHAI Board approved a revised procedure in its meeting held on 19.05.2017 along with a proposal to set up CCIEs. Accordingly, the Policy Guidelines have been issued on 02.06.2017, placed on the website of NHAI, and two such Committees are operational.

1.4 As regards the contention of the banks that the promoters of many infrastructure projects are not big companies which results in insufficient equity for the promoter companies or that the bids are done without proper study and the high premium for bidding in many cases results in failure of the project itself, it is submitted that the works are awarded on the basis of competitive bidding which is a transparent online system. The bidders are selected on the basis of pre-determined technical and financial criteria. Only the bidders who meet these threshold technical and financial criteria are considered eligible for further evaluation.

1.5 In case of claims where the PSU/ Government has challenged the Arbitral Award already announced, as per NITI Aayog's OM dated 5 September 2016 on the subject "Measures to Revive the Construction Sector", the contractor/ concessionaire is paid 75% of award amount against Bank Guarantee without prejudice to the final order of the court in the matter under challenge. As per the O.M., the payment may be made in the Escrow Account with the stipulation that the amount so released will be used, first for payment of lender's dues, second, for completion of the project and then for completion of other projects of the PSU/ Department, as mutually agreed/ decided. Any balance remaining in the escrow account subsequent to settlement of lender's dues and completion of projects of the PSU/ Department may be allowed to be used by the contractor/ concessionaires with the prior approval of the lead banker and the Department/PSU. The NHAI took the lead in this behalf and the eligible amount of more than ₹ 1000 crore was released in all cases where the parties could submit the Bank Guarantees.

1.6 Regarding re-casting the agreement so that interest of the banks is protected, it is submitted that the Government has made sufficient provisions to balance the risks among the concerned stakeholders. Banks also do business, which cannot be entirely risk-free as some amount of risk has to be taken by the lenders also. Government has introduced Hybrid Annuity Model (HAM) since 2016. In this model, 40% of the Project Cost is provided by the Government as 'Construction Support' and balance 60% is required to be brought in by the Concessionaire in the form of Equity and Debt. The investment by the Concessionaire is recovered through assured half-yearly Annuities on completion of the project. There is a built-in separate provision for O&M payments to concessionaire. The private party does not have to bear the traffic and inflation risks. The model has been widely accepted by the market, and the NHAI has so far awarded 109 Projects under this mode. However, it has been observed that the Public Sector Banks are not showing very enthusiastic response in spite of minimal risks in this model.

1.7 As far as grant of permissions to quarrying in mines is concerned, it has to be appreciated that the Contractor/ Concessionaires have to procure the aggregate from the open market and no assurance is given in the Contract documents that such quarry permits shall be granted, as the mining of minor minerals is within the domain of the States. Yet the Ministry/NHAI keeps taking up the matter with the State Governments and intervene, wherever feasible.

1.8 With an objective to set and achieve higher targets in award and construction, following measures have been taken by the Ministry/NHAI:

- (a) Streamlining of land acquisition;
- (b) Completion of major portion of land acquisition prior to invitation of bids;
- (c) Disputes resolution mechanism revamped;
- (d) Projects to be awarded only after obtaining statutory clearances and after adequate preparation in terms of land acquisition, clearances etc. Process of obtaining clearances from different Ministries/ Departments commences as soon as the alignment is finalized and final feasibility report is submitted.
- (e) Streamlining the system of preparation and approval of estimates for shifting of Utilities (electricity lines and water supply lines etc.) and completion of these works as part of pre-construction activities;
- (f) The process of project appraisal to commence at the earliest on receipt of the Final Detailed Project Report (DPR) and Technical schedules;
- (g) Procedure for approval of GADs for ROBs by Railways simplified and made online. Maintenance charges, which were hampering the progress of many projects, stand waived by railways. Standard designs put on website;
- (h) 100% exit for Equity Investors for BOT projects after 2 years;
- (i) Securitization of toll revenues;
- (j) Group of Infrastructure has been created under the Chairmanship of Hon'ble Minister and its meetings are being conducted regularly for close coordination with other Ministries and State Governments;
- (k) Introduction of a system of Rationalized compensation for delays attributable to the Authority;
- (l) One time fund infusion for languishing projects;
- (m) Harmonious substitution of concessionaire by lenders;
- (n) Premium deferment.

1.9 In the detailed SOP dated 21.12.2017 issued after approval of Bharatmala Pariyojana by the CCEA, following provisions have been made:

- (a) Composition of the Project Appraisal & Technical Scrutiny mechanism shall be decided and approved by the NHAI Board (Authority).

- (b) Composition of the Project Appraisal & Technical Scrutiny Committee at MoRTH - existing PPP Cell under Highways Wing shall continue with reinforcement through addition of Financial Consultant and such other experts as may be required. As per extant mechanism, the PPP Cell solicits views/ comments of NITI Aayog on project proposals.

1.10 Accordingly, all projects implemented by NHAI, NHIDCL or MoRTH, are being technically, financially and economically appraised. The Project Appraisal & Technical Scrutiny Committee for appraisal comprises experts from NITI Aayog, Project and Finance Division and is a dedicated unit which places its recommendations on appraisal of projects to NHAI Board or Secretary, MoRTH, as the case may be, for approval.

Further Recommendation/Observation:

1.11 The Committee would like to know whether the two Conciliation Committees of Independent Experts (CCIEs) set up for speedy disposal of pending or new cases are well equipped to handle the disputes related to projects from all over the country.

1.12 As regards the concern of the banks that the promoters of many projects are not big companies and that the bids are done without proper study, the Committee would like the NHAI to revisit the financial requirements for bidders to ensure their eligibility for bidding process. The Committee is of the view that the onus of the feasibility of the bids made by the concessionaire lies mainly with the banks. The Committee also recommends the NHAI to exercise due diligence while awarding projects to concessionaire with poor performance history. The Committee feels that NHAI could devise a scoring system for contractors wherein they are graded based on their performance in executing a project. This will enable the NHAI to fix threshold scores for determining the eligibility of contractors based on the size of the project, level of interest among bidders and other factors. The Committee also desires to know whether the system of undertaking social audits have been extended to road construction projects.

Recommendation/Observation

2. *The Committee was also informed that the model concession agreement of NHAI is not acceptable to the banks and it needs to be restructured in a way that the banks should not end up in accumulating NPAs.* (Para 37)

Reply of the Ministry

2.1 There is no separate Model Concession Agreement (MCA) for NHAI. The Model MCA for infrastructure projects was issued by the NITI Aayog (erstwhile Planning Commission) in consultation with the Ministry of Finance and the Ministry of Road Transport and Highways (MoRTH) after obtaining approval from Cabinet and same is adopted by NHAI.

2.2 From 2016, Government has introduced Hybrid Annuity Model (HAM). In this model, 40% Project Cost is provided by the Government as 'Construction Support' and balance 60% is to be brought by the Developer through a combination of Debt and Equity, as already explained earlier.

Further Recommendation/Observation:

2.3 The Committee notes the reply. However, the Committee is of the view that concern of banks should be taken care of.

Recommendation/Observation

3. *The Committee recommends that the model concession agreement may be circulated to all the banks and the financial institutions and the input and feedback received from them may be incorporated appropriately. Every effort may be made to ease out the bad debts. It is good that the RBI has already taken steps for converting debts into equity and the contractors are allowed to get out of the projects in case of a default. Need for higher Government allocation is also emphasized and the banks' NPAs may be supported by Government allocation. Making the recovery of bad debts easier by empowering the bank adequately should be considered. For example, in case of a default, the banks may be allowed to take over the entire company. The Committee was informed that as of now, there is a total NPAs of ₹ 2,60,000 crores due to defaulting infrastructure projects. By the end of 2015-16, it is estimated that it may go up to more than ₹ 4 lakh crore. The banks demanded that the money of the loan given to the road sector to be allowed to be restructured for a longer duration may be considered along with proposal for making adequate provisions in the model concession agreement to provide for the cost escalation of the projects. In case of time overrun due to the reasons which are beyond the control of the promoters, the projects may be re-assessed and the project cost may be re-fixed accordingly.* (Para 38)

Reply of the Ministry

3.1 The MCA was last amended in the year 2015. The amendments were made after due interactions with all the stakeholders, including banks and financial institutions. Presently, the MCA is a balanced document with adequate risk sharing/ allocation between the Government and the Concessionaires/ Contractors. Lenders being important stakeholders in the process, cannot and should not expect to be entirely free from the minimal risks associated with the business of lending.

Further Recommendation/Observation:

3.2 **The Committee recommends that the MCA should be reviewed in light of the introduction of the new Hybrid Annuity Model being employed by the Ministry of Road Transport and Highways to attract investments in the road infrastructure sector. The Committee reiterates its recommendation about re-assessment of project costs in case of time overruns due to reasons beyond the control of the concessionaire.**

ISSUES RELATED TO INFRASTRUCTURE LENDING IN HIGHWAYS

Recommendation/Observation

4. *The Committee is aware of the reasons for delayed projects. The Committee recommends that before awarding the project to concessionaire, the Ministry should complete the processes of getting land, environmental clearance, relocation of utilities and rehabilitation issues etc. Such problems not only delay the projects but also enhance the budget of the project. The Committee notes that the lack of dispute resolution is one of the major hurdles in clearing the stressed or delayed projects. It is time consuming and the cost involved is too much in the absence of a formal mechanism for dispute redressal. The Committee, therefore, recommends that the Government needs to put in place a dispute redressal mechanism for resolving the issues related to road projects.* (Para 55)

Reply of the Ministry

4.1 Earlier, there was a system of settlement of disputes in NHAI, known as ISAC (*Independent Settlement*

Advisory Committee). As on date, the disputes relating to 124 contract packages have been resolved under the one time settlement scheme. The amount in dispute amounting to about ₹ 19,424/- crore, was settled for ₹ 1,814/- crores only. There is now only one dispute pending with ISAC. This dispute settlement mechanism has been replaced by another Conciliation & Settlement mechanism, which was introduced *vide* SOP dated 02.06.2017.

4.2 *Conciliation Committees of Independent Experts (CCIEs)*: The Cabinet Committee on Economic Affairs (CCEA) took a decision on 31.08.2016 for revival of the construction sector, as conveyed *vide* OM dated 05.09.2016 of NITI Aayog, for establishing a system of conciliation of disputes through Conciliation Committees of Independent Experts (CCIEs) to ensure speedy disposal of pending or new cases. Accordingly, NHAI Board approved a revised procedure in its meeting held on 19.05.2017 and a proposal to set up CCIEs. Accordingly, the Policy Guidelines were issued on 02.06.2017 and placed on the website of NHAI. Two Conciliation Committees of Independent Experts have been constituted in which eminent persons from the industry (one on each Committee) have also been nominated. The conciliation/ amicable settlement of disputes can be explored through this new mechanism before referring the disputes to arbitration or to settle the disputes pending before the Arbitral Tribunals/ Courts. Till date, around 10 cases have been referred to CCIEs out of which 01 case has been settled, 3 cases could not be settled and 06 cases are under process.

4.3 *Society for Affordable Redressal of Disputes (SAROD)*: SAROD has been incorporated on Oct 2013 by NHAI along with NHBF for settlement of disputes through Arbitration in a cost effective and time bound manner. Main objective of SAROD is to:

- (a) To reduce cost of arbitration;
- (b) For expeditious disposal of disputes in a just and fair manner;
- (c) To reduce pendency of disputes; and
- (d) To evolve subject matter technical experts in arbitration process.

4.4 Accordingly, Supplementary Agreements entered with various Concessionaires by NHAI and about 28 primary and 5 associate members enrolled with SAROD with 347 arbitrators empanelled. As on date, SAROD is handling 34 arbitration cases, out of which 29 are at various stages of adjudication and arbitration awards have already been issued in five cases.

Further Recommendation/Observation:

4.5 **The Committee notes that SAROD has managed to arbitrate in only 5 cases in the 6 years since its incorporation. Similarly, CCIEs have been able to settle only one case out of ten referred to them, three cases could not be settled and six cases still remain unresolved with them. The Committee, therefore, feels that the efficacy of SAROD and CCIEs may be monitored periodically and steps be taken to further reduce the time taken to settle disputes, since the delay in road projects due to pending disputes is substantial in terms of discomfort caused to travelers and the costs involved with the delay.**

STATUTORY CLEARANCE

Recommendation/Observation

5. *The Committee is concerned to note that the concessionaire is short of equity and the bankers are also*

not disbursing the sanctioned loan. The Committee fails to understand the intention of bankers. NHAI too has defaulted in fulfillment of its conditions and has failed in many cases for acquiring land, environment clearance, utility shifting etc. The Committee may be apprised of the reasons for not fulfilling the requirement by the NHAI. The Committee also finds that insistence of NHAI for the first charge on toll/ annuity in the project which is 50% completed is not practical. The Committee recommends that NHAI should offer its help to complete the half built project rather than claiming rights of collecting revenue. The Committee recommends that the NHAI may pay full attention to its duty towards extending all facilities/ help to concessionaire in completing the projects. The Committee notes that if there is a delay in construction from any sides, whether it is NHAI or concessionaire, the cost of interest is going to be high and if it reaches beyond a point, obtaining additional debt is certainly difficult. The Committee recommends that delay from both sides may be avoided so that the amount already infused in incomplete project does not turn into NPA. The Committee notes that the Government and its agencies are under pressure of various limitations imposed by the systemic rules and rigidity in financial regulations. The Committee recommends that the Government should have relook at the various rules and regulations from the overall perspective to ensure that road construction is completed in time. This is not to say that those misusing the financial system should not be punished and brought to book.

(Para 77)

Reply of the Ministry

5.1 It is a fact that there have been delays in securing the environmental clearance (EC) in the past in some of the projects as grant of EC was linked with the forest clearance. Subsequent to NHAI moving the matter before the Hon'ble Supreme Court, the Ministry of Environment & Forest (MoEF) issued modified guidelines and delinked the grant of EC with the forest clearance. In addition, the criteria for obtaining environmental clearance was also modified in 2013, and thereby there is no longer a requirement of EC for a large number of projects. The process of forest clearance has also been streamlined with the introduction of online system by MoEF. MoEF has also delegated powers to their Regional Offices for grant of forest clearance.

5.2 There have also been delays in land acquisition in some projects due to various reasons such as outdated revenue records, disputes in titles, absentee landlords, land owners demanding higher compensation, arbitral cases, and inadequate capacity with the State Government to deal with expanded land acquisition works etc. In order to accelerate the pace of land acquisition, High Powered Committees have been constituted under Chief Secretary in each State to address the pending issues related to pre-construction activities. Regular meetings are held by the Hon'ble Minister, Secretary MoRTH and other senior officials of Ministry/ NHAI with the Hon'ble Chief Ministers and other higher officials of the State Governments for addressing the pending issues. The processes have been further streamlined by issuing detailed guidelines in respect of determination of the compensation amount and introduction of online system for notifying the notifications under NH Act. Measures have also been taken to speed up the disposal of arbitral cases by appointing additional arbitrators in the districts where there are large number of pending arbitral cases. Ministry/ NHAI has also allowed engagement of retired revenue officials/ staff personnel to enhance the capacity of the State Government for undertaking land acquisition (LA) works.

5.3 Regarding the insistence of NHAI on first charge on Toll/Annuity in the project, this applies only in the cases of one-time fund infusion, this is to safeguard the interest of the Government and it is based on a Cabinet decision of May 2015 in respect of One Time Fund Infusion Scheme.

5.4 Further, with an objective to set and achieve higher targets for award and construction, time period for each activity in the planning and execution process of NH projects have been firmed up in order to optimize the project delivery mechanism. Guidelines have been issued and 90% of the land is required for EPC projects and 80% land is required for BOT projects on Appointed Date after award of the projects. Further, various initiatives have also been taken by NHAI/ Government for timely completion of projects, list of which has already been indicated in reply to Para 35.

Further Recommendation/Observation:

5.5 The Committee notes the reply. The Committee further recommends that the Environmental Clearance should be secured before a project is put up for bidding. The Committee is of the view that once a project gets started but stuck up due to lack of environmental clearances, it not only costs the government financially but also the commuters physically.

Recommendation/Observation

6. Yet another complaint the Committee received during its interaction with various stake holders is that the NHAI typically underestimates the project costs and the concessionaires who bid out a project on LI basis approach banks and financial institutions with an inflated project cost for taking loans. The Committee observes that the NHAI should be realistic while calculating the total project cost (TPC) so that the concessionaire may not get opportunity to project the inflated cost and obtain loans from the financial institutions in a nefarious way. The Committee believes that the total project cost should be realistic irrespective of the model of the project. (Para 85)

Reply of the Ministry

6.1 Project cost estimation passes through various layers of scrutiny and verification before approval. The bid price depends on many other factors like, mode of execution (EPC/ HAM), State in which the project is situated, availability of construction material (temporary suspension of mines) etc. which are not ordinarily part of the state SoR, which is followed during estimation of the project cost. Further, as per Ministry's latest circular issued on 25.04.2018, normative costs have been revised for all lanes and structures.

Further Recommendation/Observation:

6.2 The Committee recommends that the NHAI should analyze its project cost estimates in light of the actual costs incurred on road projects completed in the recent past. In case there is a substantial difference between the bid price offered by the concessionaire and the project cost estimates made by the Government, NHAI should review the methodologies it adopts to make its estimations so that the concessionaire is not able to obtain loans on the basis of the inflated cost of the project.

ELECTRONIC TOLL COLLECTION

Recommendation/Observation

7. The Committee recommends that the Government should take adequate measures to sort out the issues such as unwillingness of the public to pay toll, pilferage of toll, political interference in the functioning of toll booths and unauthorized exemption at toll plazas. (Para 91)

Reply of the Ministry

7.1 Government has taken steps to avoid the inconvenience to the user at the toll plazas and in this

endeavor, NHAI has rolled out electronic toll collection (ETC) w.e.f. 25.04.2016 thereby facilitating the vehicles near non-stop movement and seamless travel of users thereby reducing the time and consumption of fuel at a fee plaza and convenience of cashless payments of toll fee with nationwide inter operable Electronic Toll Collection Services. ETC employs RFID technology i.e. FASTag for making toll payments directly from the account linked to it. Online payments shall improve transparency of toll transactions and reduce revenue leakages thus improving overall efficiency and commercial competitiveness. To counter the user fee (toll) pilferage & political interference etc. NHAI/MORTH have adopted competitive bidding based on standard bidding document for selection of user fee collecting agencies for public funded projects. Moreover, for Expressways the mechanism of closed tolling has been adopted. The exemption at toll plazas are available based on the provisions of the National Highways Fee Rules and the Concession Agreement concerned.

Further Recommendation/Observation:

7.2 The Committee takes note of the steps taken by the Ministry with regard to smooth collection of toll fees from users. However, the Committee observes that the impact of these steps is not seen on ground as high waiting time is still witnessed at most toll plazas. Though FASTag is an advantageous mode of toll collection system, certain challenges or drawbacks still persist. For example, vehicles without the FASTag enter the designated lanes while the ones with FASTag wait for their turn. The Committee, therefore, recommends that urgent remedial measures be taken to address the issues plaguing the Electronic Toll Collection. The Committee also recommends that the Ministry should come up with measures to encourage users to shift to the electronic mode of toll collection as soon as possible.

MAINTENANCE AND OTHER AMENITIES AT HIGHWAYS

Recommendation/Observation

8. *The Committee feels that construction of road is a difficult job but to maintain it is rather more difficult. It is a proven fact that condition of road goes from bad to worse in a very short period. The Committee was informed that for maintenance and repair, the budget allocated is ₹ 2846 crore for the financial year 2016-17 which meets only 60% of total requirement. Ministry further submits that maintenance being a non-plan activity there is also a tendency by the Government to apply adhoc cuts in the face of resource constraints.* (Para 92)

9. *The Committee finds that with this budgetary provision, the Ministry is not giving adequate attention to maintenance and repair of highways. The Committee recommends that the maintenance upkeep of the roads should be given higher priority and a higher allocation be made at RE stage.* (Para 93)

Reply of the Ministry

9.1 The Maintenance and Repair (M&R) of National Highways (NHs) is carried out for the stretches not covered under any programme or completed stretches where there are no liabilities of contractors to maintain such stretches. For the NH stretches developed on EPC mode (Engineering, Procurement, Construction), the contractor is responsible for rectification of the defects and concurrent maintenance of project highway during the four years defect liability period after completion of the work. For the NH stretches developed on BOT mode/ HAM, the Concessionaire is responsible for the maintenance of the project highway during the concession period. For some of the developed NH stretches through public funding, maintenance contracts

have been taken up for a definite time period (4 to 9 years) on Operation, Maintenance and Transfer (OMT) basis. The maintenance of the project highway under OMT contracts is the responsibility of the Concessionaire.

9.2 For the remaining NH length, not covered under any programme, the Ministry allocates funds under M&R for their maintenance. The details of estimated fund requirements and outlay is as under:

Sl. No.	Year	Estimated Fund requirement as per Maintenance and Repair Norms (₹ crore)	Outlay (₹ in cr.)
1	2016-17	7,000	2846.53
2	2017-18	8,500	2,966.75
3	2018-19	8,600	3,017.12

9.3 There remains a gap in M&R allocations provided annually over the years as compared to the estimated fund requirement, which leads to the compulsion of thin spreading of available resources. However, efforts are made to keep the NHs in traffic worthy condition within available resources as per inter-se priority and traffic density. The Ministry has been persistently taking up the issue of enhancing budgetary outlay for M&R of NHs with Ministry of Finance. The Ministry will further take up the issue of enhancing budget outlay for M&R of NHs with Ministry of Finance at RE 2018-19 stage.

9.4 Ministry has also issued guidelines for implementation of Hot In-Place Recycling Technology for Periodic Renewal (PR) works. Further, amendment has also been issued recently to strengthen the guidelines for Defect Liability/ Maintenance Period for the National Highways and centrally sponsored Road & Bridges works to be implemented on EPC mode.

Further Recommendation/Observation:

9.5 **The Committee observes that while 40% of the estimated fund requirement was allocated in 2016-17, the percentage for the same fell to around 35% of the actual requirement during the years 2017-18 and 2018-19. The Committee fails to understand as to why road maintenance is not being given its due by the Ministry of Finance. Maintenance of the existing roads should get higher priority than construction of new ones, since poorly maintained roads lead to accidents and traffic delays. A good road network is a critical requirement for rapid growth of our economy and if the economy has to maintain the current level of 7-8 percent growth rate over the next 10-20 years, there is a pressing need to step up investments in road sector. The Committee, therefore, recommends that the Government may consider levying a “maintenance charge” on freight traffic to fund the maintenance and repair of National Highways in order to garner additional internal resources for bridging the gap between the requirement and the availability of resources.**

Recommendation/Observation

10. *Road safety is a major issue in view of increasing road accidents throughout the country. There are many factors responsible for it. According to one report inputs given by National Crime Records Bureau, Ministry of Road Transport and Highways, there are 4.5 lakhs road accidents annually causing 1.4 lakhs death and 4.8 lakhs injured. It is a sad face of our development. The Committee feels that there may be many reasons for road accidents, but road is also a factor. Road’s faulty design, pot holes, absence of signage and speed breaker, blind turn always cause accidents.* (Para 94)

11. *The Committee insists that road design and its maintenance may be given top priority. If road is maintained properly, the chances of accidents minimize.* (Para 95)

Reply of the Ministry

11.1 Ministry of Road Transport and Highways has been making concerted efforts towards improvement of road safety through engineering measures on National Highways. The National Highways are developed and maintained as per the IRC Codes and Ministry's specifications so as to ensure safety of the road users.

11.2 Ministry of Road Transport and Highways deals with development and maintenance of National Highways. Jurisdiction of State Roads rests with the State Government concerned. The Ministry has evolved a protocol vide its OM dated 28.10.2015 for identification of road accident Black Spots on National Highways. It has been making concerted efforts towards improvement of road safety through engineering measure on National Highways. A total of 789 Black Spots have been identified based on number of fatalities during 2011-2014 throughout the country, out of which 506 black spots are under the jurisdiction of NHAI, 144 Black Spots are under the jurisdiction of State PWD (NH), 139 Black Spots are under the jurisdiction of State Governments. Out of the 506 Black Spots under NHAI, 209 have already been rectified, 162 have been awarded and are in progress, 75 are in bidding stage and balance 60 Black Spots are being taken up. Out of the 144 Black Spots under the jurisdiction of PWD (NH), 82 have already been rectified, 52 have been awarded and are in progress and 10 are in bidding stage.

11.3 As investigation and design of rectification measures at the Black Spots is a time consuming process, it was decided to install immediate cautionary measures to alert and caution the road users about the road accident black spot through signs, solar blinkers and speed reduction measures till the Black Spots are rectified through long term permanent measures. Potholes are regularly filled/ attended based on road condition. Guidelines for incorporating road safety features in all the road improvement projects have also been issued by the Ministry.

11.4 Further, Asian Institute for Transport Development (AITD) is an apex body doing following activities for road safety:

- (a) Provision of targeted road safety training to road professionals and developing road safety curricula.
- (b) Facilitating dialogue with key stakeholders by way of workshops and conferences on the issues concerning road safety.
- (c) Strengthening road safety capacity for improving road safety related policy, legislative and regulatory framework, and developing models for enforcement and emergency care
- (d) Supporting mainstreaming of road safety monitoring and evaluation systems, social marketing and educational interventions.

Further Recommendation/Observation:

11.5 **The Committee notes the steps taken by the Ministry and AITD for improving road safety in the country. The Committee, however, expresses its deep concern over higher rate of road accidents compared to other countries. The Committee also notes that although National Highways cover only 2.3% of the entire road length in India, they carry more than 40% of the road traffic.**

Therefore, special emphasis must be laid on ensuring quick response for any mishaps happening on these high traffic roads. The Committee recommends that the Ministry should assist the respective State Departments in ensuring better road safety on State roads by sharing its expertise on the subject.

Recommendation/Observation

12. *The Committee has discussed the availability of medical facilities to accident victims on highways with the Ministry. The Committee recommends that the trauma centres may be opened at every 40-50 Km. on a highway and ambulance should be made available to accident victims. It has been experienced that after an accident many lives could be saved by giving them medical aid during golden hour. Every road accident victim should be given, required medical treatment at nearest place whether they are insured or not.* (Para 97)

Reply of the Ministry

12.1 Subject matter of setting up of Trauma Centres comes under the domain of Ministry of Health and Family Welfare (MoH&FW). Ministry of Health and Family Welfare has been implementing a scheme for establishment of an integrated network of Trauma Centres along with Golden Quadrilateral, North-South and East-West Corridors of the National Highways by upgrading the trauma care facilities in identified State Government Hospitals during 11th Five Year Plan. The Scheme covers entire Golden Quadrilateral, North-South and East-West corridors. During 12th Five-year plan, MoH&FW established Trauma Care Centres in Government Hospitals on National Highways. However, it may kindly be noted that there is acute shortage of medical professionals for manning the trauma centres.

12.2 MoRTH had procured 70 number of Advance Life Support Ambulances (ALS). Out of 70 nos. of ambulances, 64 nos. were provided to District Hospitals & Trauma Care Centres identified by the Ministry of Health & Family Welfare. The balance Six (6) nos. of ambulances were run on the Gurgaon-Jaipur Corridor where cashless treatment scheme was implemented during July, 2013 to March, 2016. Now, these six ambulances have been transferred by the NHAI to State of Jharkhand to run on Ranchi-Jamshedpur NH Corridor.

12.3 Similarly, under the scheme of National Highways Accident Relief Service Scheme (NHARSS), MoRTH transferred the funds in the year 2015-16 to the Governments of J&K, Sikkim and Mizoram for procurement of 172 number of BLSA (136, 31 and 5 respectively) for their deployment/ operation on National Highways on accident prone stretches, having a distance of 50 kms.

12.4 National Highways Authority of India also provides ambulances at every Toll Plaza on the completed corridors of National Highways.

12.5 Currently, as part of incident management under operation and maintenance of the NH stretches, Highway Ambulance/ tow-away cranes are deployed in their respective service areas to extend assistance in case of any emergency on National Highways. There is provision of stationing of Ambulance/tow-away crane at every Toll Plaza in BOT/HAM/O&M/OMT Projects during operation and maintenance phase for the NH stretches to cater to any emergency. There is a toll free Helpline No. 1033 to attend to the needs of road users, which informs the nearest Control Room about the details of any Incident reported.

Further Recommendation/Observation:

12.6 The Committee observes that currently the number of ALS ambulances is very less compared to the large road network throughout the country. The Committee, therefore, recommends that the number of Advance Life Support Ambulances may be augmented further. The Committee also desires to know whether the funds transferred to Jammu & Kashmir, Sikkim and Mizoram for procurement of 172 BLSAs have been utilized for the intended purpose.

CHAPTER-IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH THE FINAL REPLIES OF THE MINISTRY ARE STILL AWAITED

DISPUTE RESOLUTION

Recommendation/Observation

1. *The Committee recommends that the unsettled claims may be settled speedily and it should be ensured that while settling the claim due diligence may be taken of the project, against which the claim has to be settled. Adequate measures should be taken to ensure that unscrupulous elements do not swindle away the Government money.* (Para 64)

Reply of the Ministry

1.1 The Committee's observations and cautionary notes have been noted. Information furnished under reply to para 55 is re-iterated.

Further Recommendation/Observation:

1.2 **The Committee may be apprised of the specific steps taken by the Ministry to ensure timely settlement of claims since this aspect is very crucial for on-time completion of projects. An analysis may be made of the settlement of claims related to all road infrastructure projects under the Ministry and issues frequently causing delay in settlement of claims be identified and resolved. The list of documents needed for settlement of claims may be made available on the website and correspondence regarding any missing documentation may be made electronically in order to ensure timely settlement of claims.**

Recommendation/Observation

2. *The Committee observes that the Ministry of Road Transport and Highways has taken certain steps to strengthen the construction work in road sector. The Committee recommends that the Ministry should keep an eye on toll collection and channelize the surplus money towards stressed projects.* (Para 72)

Reply of the Ministry

2.1 Recommendations of the Committee have been noted.

Further Recommendation/Observation:

2.2 **The Committee may be apprised of the steps taken with regard to monitoring the toll collection and using the surplus money to fund stressed projects.**

STATUTORY CLEARANCE

Recommendation/Observation

3. *The Committee notes observations of the Secretary and recommends that the Government should thoroughly inquire into all the 77 projects, which were languishing in 2014 to understand the quantum of money siphoned away by the unscrupulous contractors in connivance with various agencies of the Government and financial institutions. The quantum of money lost should be quantified and action should be taken to recover the lost money and a report to this effect may be submitted to the Committee.* (Para 82)

Reply of the Ministry

3.1 Public Private Partnership (PPP) Projects undertaken by NHAI are of two types BOT (Toll) and BOT (Annuity). In case of BOT Toll Projects, the RFP Document clearly spells out the estimated Total Project Cost of the particular project highway to be undertaken by the Successful Bidder based on their quote, being the bidder offering lowest-grant / highest- premium through a transparent bidding process.

3.2 The bidders are provided with feasibility report, which also contains the traffic study and project profile with executive summary, as a part of bid documents. Bidders are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. However, the Feasibility Report is provided as a reference and not binding on the Authority nor confer any right on the Bidders, and the Authority have no liability, whatsoever, in relation to or arising out of any or all contents of the feasibility report.

3.3 The entire risk including the Construction risk, Tolling risk, Funding risk etc. rests with the Concessionaire. Funding of the project is through infusion of equity/ Promoter's Contribution and balance through loans from Financial Institutions/ Banks. NHAI leaves it to the best judgment of the lenders to fund the project with the necessary terms and conditions. The responsibility of NHAI is to provide encumbrance free sites and secure statutory clearances as per the Concession Agreement. The Project receipts and expenditures are managed through an Escrow Account, wherein the signatories are the Concessionaire, Lender, NHAI and the Escrow Banker. NHAI has its safeguard provision in the Concession Agreement, in case of non-performance by the concessionaire.

3.4 The disbursements by the lenders are regulated through a proper mechanism and reporting by the Lender's Engineer and Lender's Auditors, appointed by the Lenders, on the money utilized in the project. With regard to the suggestion made by the Committee to enquire into 77 projects where it feels that money may have been siphoned away by the unscrupulous Contractors in connivance with various agencies of the Government and Financial Institutions, the same can be taken up wherever evidence points in this direction.

Further Recommendation/Observation:

3.5 **The Committee may be apprised of the action taken by the Ministry in respect of the 77 languishing projects to understand the extent of nexus between contractors and Government agencies. The Committee also desires to know in how many cases action has been initiated against such unscrupulous contractors/government agencies and methods employed by Ministry to recover the siphoned money.**

Recommendation/Observation

4. *The Committee wants to know the issues on which 19 projects are yet to be solved. The Committee recommends that the impending issues may be solved at the earliest and the projects should be completed in minimum time period. The Committee is aware of the fact that each of the projects will have its own peculiarities and problems specific to it. Therefore, the Committee notes that solution to the problems will also be specific and peculiar to the individual projects. The Committee recommends that these projects may be infused fund by all means so that the languishing projects which are presently NPAs could be made viable by incurring just limited expenditure keeping in view the broader national interest in mind.* (Para 86)

Reply of the Ministry

4.1 MoRTH and the NHAI have taken all possible measures to revive the languishing projects.

Further Recommendation/Observation:

4.2 The Committee may be provided with the details of the specific issues that are causing delays in case of the 19 projects which remain unsold even today.

MAINTENANCE AND OTHER AMENITIES AT HIGHWAYS

Recommendation/Observation

5. *The Committee also recommends that utilizing a part of petrol and diesel Cess on Road Safety may seriously be considered.* (Para 96)

Reply of the Ministry

5.1 The fund requirement would be met from the allocations of Central Road Fund for roads other than rural roads. Within the allocation of Central Road Fund meant for development and maintenance of state roads (other than that meant for EI & ISC), an amount of 10% of the fund (including the past unspent balance if any as on 1.4.2016) would be earmarked every year for Road Safety Engineering Works on State Roads viz. State Highways, Major District Roads and other District Roads. CRF (State Roads) amendment rules 2016 notified vide GSR 619(E) dated 23.6.2016. State/ UT- wise availability of funds would be communicated respectively for each financial year.

Further Recommendation/Observation:

5.2 The Committee is of the view that the reply provided by the Ministry does not address the recommendation in question. The Committee would like to know whether the financial feasibility of allocating a part of petrol and diesel cess for road safety has been looked into or not.

RECOMMENDATIONS/OBSERVATIONS — AT A GLANCE

CHAPTER-I

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE MINISTRY

The Committee takes note of the steps taken by RBI to guide the banks about proper credit appraisal and due diligence before sanctioning any loans in the road infrastructure sector. The Committee is of the view that certificate courses for the bank staff manning key areas like risk analysis and credit management should be made compulsory. Further, in view of the huge NPAs lying with the IDBI Bank, the Committee recommends that guidelines prescribing a limit up to which a bank can lend to a single borrower be framed to minimize the risk involved in lending. (Para 1.4)

The Committee notes the reply and hopes that the MTN programme will help in meeting the rising fund requirements of NHAI. (Para 3.2)

CHAPTER-II

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DOES NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF THE MINISTRY

The Committee welcomes the steps taken by RBI permitting the banks to raise resources to fund the infrastructure sector with exemptions from the Cash Reserve Ratio/Statutory Liquidity Ratio requirements. The Committee believes that these steps would encourage the banks to provide more loans to the concessionaires of Road sector. (Para 1.4)

The Committee understands that as lenders, banks also need to share the risk factor associated with the projects. It appreciates the introduction of HAM model for encouraging private participation in the road infrastructure sector. The Committee would, however, recommend that the NHAI/Government should appoint a credit rating agency to assess the financial strength of private players and their ability to meet debt repayment obligations. With the endorsement of a credit rating agency, private players would also be able to receive loans from financial institutions/banks at cheaper rates. Even a marginal difference in rates would be extremely helpful. (Para 2.3)

CHAPTER-III

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE MINISTRY HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

The Committee would like to know whether the two Conciliation Committees of Independent Experts (CCIEs) set up for speedy disposal of pending or new cases are well equipped to handle the disputes related to projects from all over the country. (Para 1.11)

As regards the concern of the banks that the promoters of many projects are not big companies and that the bids are done without proper study, the Committee would like the NHAI to revisit the financial requirements for bidders to ensure their eligibility for bidding process. The Committee is of the view that the onus of the feasibility of the bids made by the concessionaire lies mainly with the banks. The Committee also recommends the NHAI to exercise due diligence while awarding

projects to concessionaire with poor performance history. The Committee feels that NHAI could devise a scoring system for contractors wherein they are graded based on their performance in executing a project. This will enable the NHAI to fix threshold scores for determining the eligibility of contractors based on the size of the project, level of interest among bidders and other factors. The Committee also desires to know whether the system of undertaking social audits have been extended to road construction projects. (Para 1.12)

The Committee notes the reply. However, the Committee is of the view that concern of banks should be taken care of. (Para 2.3)

The Committee recommends that the MCA should be reviewed in light of the introduction of the new Hybrid Annuity Model being employed by the Ministry of Road Transport and Highways to attract investments in the road infrastructure sector. The Committee reiterates its recommendation about re-assessment of project costs in case of time overruns due to reasons beyond the control of the concessionaire. (Para 3.2)

The Committee notes that SAROD has managed to arbitrate in only 5 cases in the 6 years since its incorporation. Similarly, CCIEs have been able to settle only one case out of ten referred to them, three cases could not be settled and six cases still remain unresolved with them. The Committee, therefore, feels that the efficacy of SAROD and CCIEs may be monitored periodically and steps be taken to further reduce the time taken to settle disputes, since the delay in road projects due to pending disputes is substantial in terms of discomfort caused to travelers and the costs involved with the delay. (Para 4.5)

The Committee notes the reply. The Committee further recommends that the Environmental Clearance should be secured before a project is put up for bidding. The Committee is of the view that once a project gets started but stuck up due to lack of environmental clearances, it not only costs the government financially but also the commuters physically. (Para 5.5)

The Committee recommends that the NHAI should analyze its project cost estimates in light of the actual costs incurred on road projects completed in the recent past. In case there is a substantial difference between the bid price offered by the concessionaire and the project cost estimates made by the Government, NHAI should review the methodologies it adopts to make its estimations so that the concessionaire is not able to obtain loans on the basis of the inflated cost of the project. (Para 6.2)

The Committee takes note of the steps taken by the Ministry with regard to smooth collection of toll fees from users. However, the Committee observes that the impact of these steps is not seen on ground as high waiting time is still witnessed at most toll plazas. Though FASTag is an advantageous mode of toll collection system, certain challenges or drawbacks still persist. For example, vehicles without the FASTag enter the designated lanes while the ones with FASTag wait for their turn. The Committee, therefore, recommends that urgent remedial measures be taken to address the issues plaguing the Electronic Toll Collection. The Committee also recommends that the Ministry should come up with measures to encourage users to shift to the electronic mode of toll collection as soon as possible. (Para 7.2)

The Committee observes that while 40% of the estimated fund requirement was allocated in 2016-17, the percentage for the same fell to around 35% of the actual requirement during the years

2017-18 and 2018-19. The Committee fails to understand as to why road maintenance is not being given its due by the Ministry of Finance. Maintenance of the existing roads should get higher priority than construction of new ones, since poorly maintained roads lead to accidents and traffic delays. A good road network is a critical requirement for rapid growth of our economy and if the economy has to maintain the current level of 7-8 percent growth rate over the next 10-20 years, there is a pressing need to step up investments in road sector. The Committee, therefore, recommends that the Government may consider levying a “maintenance charge” on freight traffic to fund the maintenance and repair of National Highways in order to garner additional internal resources for bridging the gap between the requirement and the availability of resources. (Para 9.5)

The Committee notes the steps taken by the Ministry and AITD for improving road safety in the country. The Committee, however, expresses its deep concern over higher rate of road accidents compared to other countries. The Committee also notes that although National Highways cover only 2.3% of the entire road length in India, they carry more than 40% of the road traffic. Therefore, special emphasis must be laid on ensuring quick response for any mishaps happening on these high traffic roads. The Committee recommends that the Ministry should assist the respective State Departments in ensuring better road safety on State roads by sharing its expertise on the subject. (Para 11.5)

The Committee observes that currently the number of ALS ambulances is very less compared to the large road network throughout the country. The Committee, therefore, recommends that the number of Advance Life Support Ambulances may be augmented further. The Committee also desires to know whether the funds transferred to Jammu & Kashmir, Sikkim and Mizoram for procurement of 172 BLSAs have been utilized for the intended purpose. (Para 12.6)

CHAPTER-IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLY OF THE MINISTRY IS STILL AWAITED

The Committee may be apprised of the specific steps taken by the Ministry to ensure timely settlement of claims since this aspect is very crucial for on-time completion of projects. An analysis may be made on the settlement of claims related to all road infrastructure projects under the Ministry and issues frequently causing delay in settlement of claims be identified and resolved. The list of documents needed for settlement of claims may be made available on the website and correspondence regarding any missing documentation may be made electronically in order to ensure timely settlement of claims. (Para 1.2)

The Committee may be apprised of the steps taken with regard to monitoring the toll collection and using the surplus money to fund stressed projects. (Para 2.2)

The Committee may be apprised of the action taken by the Ministry in respect of the 77 languishing projects to understand the extent of nexus between contractors and Government agencies. The Committee also desires to know in how many cases action has been initiated against such unscrupulous contractors/government agencies and methods employed by Ministry to recover the siphoned money. (Para 3.5)

The Committee may be provided with the details of the specific issues that are causing delays in case of the 19 projects which remain unsold even today. (Para 4.2)

The Committee is of the view that the reply provided by the Ministry does not address the recommendation in question. The Committee would like to know whether the financial feasibility of allocating a part of petrol and diesel cess for road safety has been looked into or not. (Para 5.2)

MINUTES

IV
FOURTH MEETING

The Committee met at 3:00 P.M. on Thursday, the 5th December, 2019 in Room Number 67, First Floor, Parliament House, New Delhi.

MEMBERS PRESENT

1. Shri T.G. Venkatesh — *Chairman*

RAJYA SABHA

2. Shri Sambhaji Chhatrapati
3. Dr. Sonal Mansingh
4. Shri Derek O'Brien
5. Kumari Selja
6. Shri Tiruchi Siva
7. Shri Vinay Dinu Tendulkar

LOK SABHA

8. Shrimati Veena Devi
9. Shri Rahul Kaswan
10. Shri Saumitra Khan
11. Smt Ramesh Chandra Majhi
12. Shri Sunil Baburao Mendhe
13. Shri K. Muraleedharan
14. Shri S.S. Palanimanickam
15. Shri Kamlesh Paswan
16. Shri Tirath Singh Rawat
17. Shrimati Mala Roy
18. Shri Rajiv Pratap Rudy
19. Shri Rajbahadur Singh
20. Shri Dushyant Singh
21. Shri Krupal Balaji Tumane

SECRETARIAT

Shri J. Sundriyal, *Joint Secretary*

Shri P. Narayanan, *Director*

Shri Dinesh Singh, *Additional Director*

Ms. Catherine John L., *Under Secretary*

Shri K.V. Ramana Rao, *Committee Officer*

2. At the outset, the Chairman extended a very warm welcome to the Members of the Committee. He informed them that the agenda for the meeting is to consider and adopt the following Reports:-

- (i) Draft Report on Action Taken by the Government on the Recommendations/ Observations of the Committee contained in its Two Hundred and Thirty Sixth Report on 'Infrastructure Lending in Road Sector'; and

- (ii) * * * * * *; and
 (iii) * * * * * *.

3. The Committee, thereafter, adopted the draft Reports after a brief discussion.

4. The Committee then decided to present/lay the Reports to both the Houses of Parliament on 9th December, 2019. The Committee, accordingly, authorized Shri T.G. Venkatesh, Chairman and in his absence, Shri Tiruchi Siva, M.P. to present the Reports in Rajya Sabha. Shri Kamlesh Paswan, M.P. and in his absence, Shri Saumitra Khan, M.P. were authorized to lay the above mentioned Reports on the Table of Lok Sabha.

5. The Chairman then thanked the Members including Members of previous Committee and Secretariat for their contribution in the preparation of the Reports.

6. * * * * * *;

7. The meeting adjourned at 4:14 P.M.

* Relates to other matters.

ANNEXURE

ANNEXURE

Sr. No.	Project Name/ NH No.	State Name	Length (in km)	Funded by/ Mode of Execution	Cost (₹ in Cr.)	Award Date	Start Date	Completion Date as per Contract	Present Status
1	Delhi-Gurgaon Section (Access Controlled 8/6 Lane)/ 8	Delhi/ Haryana	27.7	BOT	710	April 2002	April 2002	July, 2005	Completed - Jan 2008
2	4-Laning of Biju Para to Kuru/ 75	Jharkhand	21	NHAI/EPC	154.27	March 2017	Dec 2017	June, 2019	Completion Likely by June 2019
3	4-laning of Varanasi- Gorakhpur (Pkg.-III)/ 29	UP	65.38	NHAI/EPC	1396.74	March 2016	Apr 2017	Oct., 2019	Completion Likely by Oct, 2019
4	4-laning of Varanasi- Gorakhpur (Pkg.-IV)/ 29	UP	65.62	NHAI/EPC	1587.49	March 2016	Apr 2017	Oct., 2019	Completion Likely by Oct, 2019
5	Dev. of 6-lane Eastern Peripheral Expressway - Pkg.-III) / NE-II	Haryana/UP	24.5	NHAI/EPC	788.51	Aug. 2015	Sep. 2015	March, 2018	Completed; July 2018
6	Zirakpur- Parwanoo/ 22	Haryana/HP	28.69	BOT	295.00	Feb. 2007	Feb. 2008	Aug., 2010	Completed; Mar, 2012
7	Construction of NH-56: 4-Lane bypass connecting	UP	31.74	NHAI/ EPC	1194.98	Feb. 2018	A.D. yet to be fixed	-	-

NH-56 at Km
17+400 and
terminating near
Behta Village
Road (Bypass
chainage from
km 0.000 to
km 32.000/
31.489)-
(Package-1)/ 56
