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STANDING COMMITTEE ON FINANCE

THIRTEENTH LOK SABHA

MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

THE INDUSTRIAL DEVELOPMENT BANK (TRANSFER OF UNDERTAKING AND REPEAL) BILL, 2002

FORTY SIXTH REPORT

LOK SABHA SECRETRIAT
NEW DELHI

June, 2003/Jyaistha, 1925 (Saka)

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Presented to Hon'ble Speaker on 30 June, 2003
Laid in Lok Sabha on 22 July, 2003
Laid in Rajya Sabha on 22 July, 2003

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NEW DELHI

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3. Shri Raashid Alvi
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41. Shri Prem Chand Gupta
42. Shri Palden Tsering Gyamtso
43. Shri Raj Kumar Dhoot

44. **Shri Praful Patel**
45. **Shri Dinesh Trivedi**

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*Nominated to this Committee vice Sh. Mukhtar Abbas Naqvi w.e.f. 26.3.2003
** Nominated to this Committee w.e.f. 07.04.2003

SECRETARIAT

1.	Shri P.D.T. Achary	-	Additional Secretary
2.	Dr. (Smt.) P.K. Sandhu	-	Joint Secretary
3.	Shri R.K. Jain	-	Deputy Secretary
4.	Shri S.B. Arora	-	Under Secretary

INTRODUCTION

I, the Chairman, Standing Committee on Finance having been authorised by the Committee to submit the Report on their behalf present this Forty Sixth Report on the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002.

2. The Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002 introduced in Lok Sabha on 04 December, 2002 was referred to the Committee on 09 December, 2002 for examination and report thereon, by the Hon'ble Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. Written notes/memoranda were received from (a) All India Industrial Development Bank Employees' Association (AIIDBEA), Kolkata forwarded by Shri Priya Ranjan Dasmunshi, MP, (b) Shri Ramji Lal Suman, MP, Lok Sabha, (c) All India Industrial Development Bank Employees' Association (AIIDBEA), Chennai (d) Planning Commission, (e) Reserve Bank of India, (f) Confederation of Indian Industry, (g) All India IDBI Officers' Association and (h) Sh. S.H. Khan, Ex Chairman, IDBI. Post evidence replies were also received from All India Industrial Bank Employees Association, Chennai and Reserve Bank of India, Mumbai.

4. The Standing Committee on Finance at their sitting held on 27 January, 2003 heard the views of representatives of the (a) IDBI Workers' Union; (b) IDBI Management and (c) Ministry of Finance and Company Affairs.

5. At their sitting held on 10 February, 2003, the Committee took evidence of Governor, Reserve Bank of India; on 10 March, 2003, Shri S.H. Khan, Ex. Chairman, IDBI and representatives of All India IDBI Officers' Association and on 21st May, 2003, the Committee heard the views of the representatives of Confederation of Indian Industry.

6. The Committee considered and adopted the draft report at their sitting held on 20 June, 2003.

7. The Committee wish to express their thanks to (i) Shri Priya Ranjan Dasmunshi, MP and representatives of All India Industrial Development Bank Employees Associaiton, Kolkata and Chennai, (ii) Shri Ramji Lal Suman, MP, (iii) Governor, Reserve Bank of India, (iv) Shri S.H. Khan, Ex Chairman, IDBI (v) Ministry of Finance (Department of Economic Affairs), (vi) Planning Commission (vii) IDBI management, (viii) All India IDBI Officers' Association and (ix) Confederation of Indian Industry for the co-operation

extended in placing before them their considered views and perceptions on the subject and for furnishing written notes and information that the Committee had desired in connection with the examination of the Bill.

8. For facility of reference, recommendations/observations of the Committee have been printed in thick type.

NEW DELHI;
June, 2003
Asadha, , 1925 (Saka)

(N. JANARDHANA REDDY)
Chairman,
Standing Committee on Finance

REPORT

Background

Industrial Development Bank of India (IDBI) was established in 1964 under the Industrial Development Bank of India Act, 1964 to provide credit and other facilities for the development of industry in various forms and to function as the principal financial institution for co-ordinating the working of institutions engaged in financing, promoting or developing industry and assisting the development of such institutions. Initially, IDBI was set up as a wholly-owned subsidiary of Reserve Bank of India. In 1976, the entire share-holding of IDBI was transferred to the Central Government. The IDBI Act was amended in 1994 which, inter-alia enabled the IDBI to enlarge its shareholder's base and access the capital market for resources. Due to enlargement of shareholder's base, the shareholding of the Central Government has become 58.5%.

2. With the changes in economic environment in the last decade, the flow of funds to FIs from RBI's National Industrial Credit Long Term Operations (NIC-LTO) and allocation of Statutory Liquidity Ratio (SLR) bonds dried up and it became necessary for the FIs to raise funds mainly from the markets. Simultaneously, commercial banks also began to provide project finance and these commercial Banks have lower cost of funds than FIs. With lower cost of funds for banks, the business model of FIs came under strain. Thus, the average cost of borrowing for IDBI which was below 10% at the beginning of the last decade has gone up to 11.5% during 2001-2002 while average return has gone down from 14% to 10.4% over the same period.

3. The Ministry of Finance & Company Affairs in their written replies furnished to the Committee have shown the state of financial health of IDBI as under :

"The financial performance of IDBI in the last three years and for the six-month period ended on September 30, 2002 is given below :

Financial Performance of IDBI (Audited)				
FY ended March 31	**2000**	**2001**	**2002**	**Sept. 2002**
Sanctions	23713	25418	16034	754
Disbursements	17063	17474	11158	1257
Total Assets	72285	71783	66643	65417
Income	7860	7835	7176	3316
Profit Before Tax	1027	734	415	146
Profit After Tax	947	691	424	152
Profit After Tax to Average Net Worth (%)	10.7	7.3	5.4	4.5
Profit After Tax to Average Assets (%)	1.3	1	0.6	0.5
Debt Equity Ratio @	6.8	6.7	8.6	7.8
Capital Adequacy Ratio (%)	14.5	15.8	17.9	17.9
Dividend (Amt)	303	294	98	-
%	45	45	15	-

@ including Outstanding Deferred Payment Guarantees.

Sanctions of the Bank under all schemes have declined by 32.4% from Rs. 23,713 crore during 1999-00 to Rs. 16,034 crore in 2001-02. Similarly, disbursements of the Bank under all schemes declined by 34.6% from Rs. 17,063 crore during 1999-00 to Rs. 11,158 crore in 2001-02. During the last 6 months ending September 30, 2002, the sanctions have declined to Rs. 754 crore and disbursements were only Rs. 1154 crore. The drop in sanctions and disbursements has taken place mainly because of economic recession and over-capacity in some of the industrial sectors.

As on March 31, 2002 the net NPAs of IDBI were Rs. 6,501 crore constituting 11.7% of the net assets. In addition there were stressed assets of Rs. 4,543 crore taking the total of NPAs/stressed assets to Rs. 11,044 crore."

4. Narsimhan Committee II suggested that the FIs should convert ultimately into commercial banks or non banking financial companies. The Khan Working Group set up by the RBI also recommended that development financial institutions should be allowed to convert into banks at the earliest. Accordingly, the Finance Minister in his speech on the Budget for the financial year 2002-2003 proposed to make legislative changes to corporatise the IDBI within the coming year to provide its flexibility.

5. Hence, a Bill namely the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002 which proposes to provide for the transfer and vesting of the undertaking of the Industrial Development Bank of India to, and in, the

Company to be formed and registered as a Company under the Companies Act, 1956 to carry on banking business and for matters connected therewith or incidental thereto and also to repeal the Industrial Development Bank of India, Act, 1964 was introduced in Lok Sabha on 4 December, 2002.

The Bill seeks to provide :

(a) repealing the Industrial Development Bank of India Act, 1964;

(b) transferring and vesting of the undertaking of the Industrial Development Bank of India to the Company to be formed and registered under the Companies Act, 1956;

(c) allowing such Company to carry on banking business in accordance with the provisions of the Banking Regulation Act, 1949;

(d) exempting the Company from obtaining license under section 22 of the Banking Regulation Act, 1949;

(e) exempting from maintaining for a period of five years from the appointed day the percentage of assets required to be maintained under section 24 of the Banking Regulation Act, 1949;

(f) conferring power upon the Central Government to direct in consultation with RBI, by notification, that provisions of the Banking Regulation Act, 1949 shall not apply or apply with exceptions, modifications and adaptations and such notification shall be required to be placed in draft before each House of Parliament.

6. Written views/memoranda were received from (a) All India Industrial Development Bank Employees' Association (AIIDBEA) forwarded by Shri Priya Ranjan Dasmunshi, MP, (b) All India Industrial Development Bank Employees' Association (AIIDBEA), (c) Planning Commission, New Delhi, (d) Reserve Bank of India, Mumbai, (e) Shri Ramji Lal Suman, MP, Lok Sabha, (f) Confederation of Indian Industry, New Delhi, (g) All India IDBI Officers' Association.

7. Spelling out the objectives of the present Bill, the Ministry of Finance have furnished their written submission as under :

> "The concept behind the restructuring of the IDBI is that the country is still in need of a development financing institution and the IDBI by virtue of its past experience, is eminently suited to continue to function as one. Further, since Government has the responsibility for development, IDBI would continue to be a Government institution. Hence, IDBI would continue in corporate financing by providing credit

and other facilities to its clients. By becoming a banking company, IDBI will get access to retail deposits, which would enable it to mobilise funds in a cost effective manner. The banking activity of the restructured IDBI would be limited in Character to niche corporate clientele with a small branch network. IDBI would not become a bank along the lines of existing banks. The main problem for the IDBI has been its inability to access fund from retail investors. Banks can get the deposits from retail investors at comparatively low rates of interest today. The Bill under consideration is intended to provide the facility for IDBI to access financing from retail investors. At the same time, five years moratorium on SLR deposits as well as relaxation from priority sector lending gives it the advantage enabling it to utilise its funds for development lending. IDBI has developed expertise in project financing, funding of infrastructure projects and providing facilities to a wider range of industry. These skills and past relationships would improve IDBI's capacity to compete with other banks and IDBI shall retain its position in providing finance for industry."

8. The Ministry of Finance further submitted how the survival of IDBI as a banking company is visualised as below :

"By virtue of the proposed Bill, IDBI will be able to access low cost retail funds, which will bring down its average cost of funds to a considerable level and higher level of liquidity. IDBI's proposed Business Model upon conversion to a bank is based on the under noted major assumptions –

i) Start with existing 36 branches and add some more over next two to three years.

ii) These branches shall be able to mobilise about 5000 crore p.a. by way of savings/Current account and fixed deposits.

iii) IDBI is also expected to mobilise an additional Rs. 4500 crore p.a. by way of bonds.

iv) After providing for CRR & Debt Servicing requirements, IDBI proposes to advance Rs. 5,000 crore in the first full year of its operations.

Based on the above, IDBI shall remain profitable even after conversion from the first year itself. IDBI's projected Profit & Loss Account for five years starting FY 2004 shall be as under :

(Rs. crore)

FY ending March 31	**2004**	**2005**	**2006**	**2007**	**2008**
Total income	6427	5769	5337	5066	5130
Total expenses	5003	4254	3873	3642	3663
PBT	524	615	639	674	692
PAT	493	583	607	653	671

9. The Committee sought further clarification and took oral evidence of the representatives of (a) IDBI Workers' Union ; (b) IDBI Management and (c) Ministry of Finance and Company Affairs on 27th January, 2003; (d) Governor, Reserve Bank of India on 10th February, 2003; (e) Shri S.H. Khan, Ex. Chairman, IDBI, (f) All India IDBI Officers Association on 10th March, 2003 and (g) Confederation of Indian Industry on 21st May, 2003.

10. All India Industrial Development Bank Employees' Association, (AIIDBEA) have submitted their views in writing as below :

"i) IDBI Act 1964 should not be repealed as proposed since the new Corporate entity will not be viable without Government's support;

ii) IDBI should be allowed to function as a Development Finance Institution in the national interest as it is the last DFI in the Country. IFCI, other DFI which was corporatised in 1993 is in a much worse condition as compared to IDBI thereby proving that Corporatisation is no solution. The move will only result in coming out of the control of the Government of India, Parliament and Reserve Bank of India. All developed and developing countries world-wide do have DFIs for development of industry and employment generation. It is significant to point out that Japan has created a Govt. owned DFI in October 1999 to contribute to implementation of economic and social policy.

iii) The existing IDBI Act can be amended suitably to enable it to raise cheap funds;

iv) IDBI will be able to raise more funds as a Govt. institution of being a corporate entity since investors have greater faith in Government owned institutions rather than in Corporate. This is evident from the fact that recently there was run on ICICI Bank and Reserve Bank of India had to step in and reassure the investors to stop the run;

v) The problem of Non Performing Assets cannot be solved by Corporatisation as may be seen from the fact that the Net incremental NPAs of New Private Sector Banks during the year 2001-2002 was Rs. 273 crores as compared to Rs. 468 crores in respect of Nationalised Banks;

vi) IDBI may be able to raise at best Rs. 716 crores approximately in a year and the expectation that it would be able to raise Rs. 5000-7000 crores per year is far fetched and is not related to existing realities;

vii) The new model proposed in the Act will not be able to solve the problems of IDBI but would create a new set of problems."

11. The IDBI Workers Unions are of the opinion that IDBI may not be able to sustain itself even though regulatory forbearance is given to them for 5 years on CRR and SLR after becoming a banking company. During evidence they have made their submission as below :

> "SLR and CRR work out to about Rs. 5,000 crore per year. Waiving of this by the Government may perhaps allow the bank to utilise it, but they will have to make it up after the five years of exemption period are over and at the end of the fifth year when the exemption is withdrawn, the total requirement of CRR and SLR will be around Rs. 25,000 crore. This figure of Rs. 25,000 crore in the sixth year is totally unattainable as far as the new commercial bank is concerned. So, if it is allowed to do so, perhaps the bank may vanish because it will not be able to meet its obligations. We are opposed to dismantling of IDBI. The Government has come forward to give certain concessions to the proposed commercial bank. We see no reason why the same concessions cannot be extended to IDBI in its existing capacity. If they are given those concessions, perhaps it may be able to come up."

12. They further stated :

> "……. since a commercial bank or a company is profit-oriented whereas a development finance institution is not profit-oriented, IDBI has got only a social objective. The social objective was to develop industries, generate employment and distribute industrial development equitably in different States of the country. These things may not be possible for a company or a commercial bank which is mainly profit-oriented. IDBI also earns profit, but it is incidental. Its motivation is not profit-oriented; its motivation is social objective."

13. Replying to a query regarding term lending/project finance by commercial bank, representatives of IDBI workers' Unions has stated as under :

> "…. there will also be a mismatch because duration for which a loan is raised and the duration for which it is lent has to match. These two factors have not permitted any commercial bank to go in for term financing. Otherwise they would have done this function. They had been allowed to do so for the last ten years but this is what has stopped them from doing this."

> "it is only the IDBI which is having expert knowledge in this field. IDBI has been doing this work for the last thirty years. The other banks are not doing it now, they will not do it, and they cannot do this work.

14. While deposing before the Committee, Chairman IDBI has stated/explained the circumstances that has led IDBI to seek for conversion into a banking company as below :

> " From 1991-92, two things happened. Reform process started. Licensing was demolished. The Indian industry started facing competition from abroad because of tariff wall getting progressively reduced. So, there was more competition and the banks were permitted to do term lending which they were not permitted to do so far. We were not permitted to do the working capital. That created unequal level-playing field, because the cost of borrowing of the banks and DFIs was different. Banks can have a Savings Bank Account, Current Account and term Deposit. So, the average borrowing rate of banks at all times will be lower as compared to the borrowing rate of the DFIs in general and IDBI in particular.
>
> One more thing started happening was the process of dis-intermediation. A triple 'A' borrower found it cheaper to go to the market directly and access the fund. IDBI today is double 'A' plus. Even if we were triple 'A' our requirement of fund is wholesale in nature. So, it comes minimum Rs. 5000-7000 crore every year whereas a company would require Rs. 200-500 crore. It can go to the market and access at a cheaper rate. Today, 10 years government security paper, the market rate is about 5.90 per cent or so. A triple 'A' borrower will get 40-50 basis point more or that. So, it can get borrowing at 6.40-6.50% for 10 years. Even if we were triple 'A' we cannot borrow at 6.5% because our requirement is wholesale in nature. We would be borrowing at not less than 7.5 per cent or so, to which if we add our spread, it would be uneconomical for triple 'A' and double 'A' plus to borrow from us leaving riskier business with us and good business to go either directly to the market or to go to the commercial banks. So, there has been second unequal level playing field.
>
> There is more risk in term lending because there is a single product business. You have to appraise the project to find out its viability, whether it will succeed or not. Whereas, a lending company's working capital is always easy to determine whether it will succeed or not. From that angle, instead of having single product a multi-product business will still be better so that you can have diversification and their could be cross-subsidisation and we can have a financial super market giving all the products under one umbrella."

15. The Finance Secretary has clarified before the Committee the role of IDBI proposed after becoming a banking company as below :

"……. In a way it becomes a specialized bank, a niche bank and it should focus on development lending. By calling it a bank you are not forbidding it from retail lending but by making the requirement of priority sector lending not necessarily for five years, you are making the finance available for project financing. This is broadly the structure of this. The structure is – governmental company, owned by Government, a bank which can access retail with facility for creating capital so that it can finance development funding intended only for development banking finances…."

16. He further added :

" I think, in a way the concerns of Parliament and of the Government institution in development financing are sought to be achieved by this Bill. Now, the sooner that Bill, with your kind approval, becomes a reality, the sooner we will be able to put it into force; because for the last several years this has been stressed because of the want of this restructure."

17. Replying to specific question on development financial institutions in other countries during evidence before the Committee, Governor, Reserve Bank of India has stated as under :

" This is very interesting as to what is happening in the rest of the world. While you had in Japan, or in Korea or in Thailand a direct kind of lending or Government supervised lending, they ran into tremendous financial problems. Many of the banks and the financial institutions while they were provided support were in the private sector. After 1997 they all became bankrupt and the Government had to step in to rescue them. The same thing happened in Japan. The whole thing is in a fervent. In our country also it is in the fervent. It is not correct to say that in these countries, the old style development financial institutions are continuing. They are not. They had private sector institutions supported by the Government. One or two countries had Government supported institutions but their record has also been very bad. After the Asian crisis the Government had to step in to rescue the banks and meet their liabilities."

18. Shri S.H. Khan Ex- Chairman, IDBI has given the following oral submission on the Bill before the Committee during evidence:

" It deserves the support of everybody. I support it. Let me start with that statement. It is not because we had recommended the universal banking that a part of the report at that time became a matter of lot of debate and controversy, to some extent, later on. But I believe that for DFIs and particularly IDBI, in the shape in which these are today, I think, this Bill has not come too soon.

I have gone through the Bill as well as the statement of intents and reasons that set out why this Bill is needed. It is aptly described that after the direction of reforms, the business model of DFIs has become unsustainable today. It has not become unsustainable only today. I think, the day those dispensations were withdrawn from these DFIs, it was quite clear to everybody that the DFIs without those dispensations could not continue on a viable basis. In fact, as Chairman, IDBI and other co-Chairman at that time, we have been ventilating these views at various fora within the Government, not outside, that you must bring level field play between the banks and institutions because virtually the banks are doing the same job which the institutions are doing. Therefore, there must be a level playing field between the two."

19. On the difference between development banking and commercial banking he stated as under :

"….., the basic difference between development banking and commercial banking is that development banking provides finance for industry, medium and long-term needs of the industry, mainly for what you call green field projects, new projects and also for expansion and modernization. But a very large part of the assistance goes for green field projects. Green field projects carry a very large risk, firstly of the construction risk."

20. Denying that DFIs have 'outlived' their utility, he further stated before the Committee as below :

" Some institution must perform development function in the Country. I think these institutions, IDBI in particular, are ideally suited for their purpose. But …..in no country the development institution functions without the Government support."

" ….. that this Bank must perform the developmental activities side by side its commercial banking role. In fact, that is the pattern, which is now emerging. All the developmental banks, which were pure developmental banks like ours in the South-Eastern countries today, they are not pure in that sense. There was started a commercial banking and different types of other activities with a view to support their operations. Therefore, I am supporting the Bill in its present form. This is essential even for supporting the developmental activities of the IDBI. But I feel that today it is true that banks are able to meet the needs of the industry, but there is a fallacy in that. Firstly, the banks because of the liabilities cannot mismatch of a very large magnitude for a long time. There will be a limit on which they will be able to take that mismatch."

21. Ministry of Finance (Department of Economic Affairs) has submitted the following reply in regard to incentive, prospects and advantages that IDBI should gain if it is registered as a Banking Company :-

"After IDBI becomes a Banking Company under Banking Regulation Act, it will be able to raise adequate resources at lower cost. At present IDBI has to raise resources mainly at the long end of the market. There were restrictions on borrowings by way of bonds (minimum 3 year duration), and fixed deposits (minimum 1 year duration). IDBI is also finding it difficult to raise resources from the institutional segment as most of them have reached their exposure limits. By becoming a Bank, IDBI would be in a position to raise resources from retail investors by way of fixed deposits as well as by way of savings deposits. It will also give IDBI the flexibility to raise resources by way of current deposits. IDBI ACT does not allow IDBI to undertake a number of banking activities. By becoming a bank it will be able to offer working capital advances including cash credit, line of credit, foreign currency and guarantee related business, bills financing, etc. to niche corporate clientele. Therefore, IDBI would be in a position to lower its cost of funds, raise adequate resources, have a diversified lending portfolio and earn more fee-based income. With this, IDBI would be in a position to continue to provide project finance to the industry, which would otherwise become difficult due to problems in resource raising, since IDBI has to continue as a DFI.

22. In reply to a query as to why IDBI was not declared an infrastructure undertaking for the purposes of Section 10(23)(g) of the Income-tax Act, 1961, the Finance Secretary gave oral reply as below :

> "For 10(23(g) it has to be wholly an infrastructure organisation, whereas only 40 to 45 per cent of the total loan portfolio of IDBI is on infrastructure. But, that is a matter for the Parliament to decide because it is an income tax exemption. It is for Parliament to decide whether institutions should be eligible for 10(23) (g). So far as Section 54(e)© is concerned, they are already eligible for Section 54(e)(a) and Section 54(e)(b). Now they are asking for extension to cover under Section 54(e)(c) also. But most of their benefits are coming out of 54(e)(a) and 54(e)(B)."

23. When asked about the fate of small investors who have invested heavily in IDBI taking it as a Government institution, the Finance Secretary replied as under :-

> "Firstly, certainly, the retail investor fund is guaranteed. I must submit that even where it was not guaranteed, not technically guaranteed, in terms of US-64, the Government has come into to take on the responsibility to guarantee. There is no question that these funds will not be guaranteed. The point is that the Government will stand by the small investor. Your second question is, what will be the status. The status is that it is a bank, it falls under the banking rules and regulations, but it will be unique in terms of these two features – the first is five-year SLR forbearance, and the other one is priority sector forbearance."

24. Confederation of Indian Industry (CII) submitted their views on the Bill as stated below :

> "In the early years of planned economic development, most specialists advocated the use of "directed" lending. The Directed Credit Paradigm

(DCP) relies on donors and governments to supply cheap funds to be used in pursuit of a variety of development objectives such as easing poverty, boosting production and stimulating investment. However, increasing criticism of projects designed under the DCP led to its gradual decline in the 1980s and 1990s. It was noticed that loan recovery became a serious problem in these projects, institutions handling these loans became subsidy dependent or collapsed and the effectiveness of these projects in achieving the objective of poverty reduction was questioned. This led to the gradual decline of the DCP as a development instrument and the emergence of the Financial Market Paradigm (FMP).

The FMP avoids the use of subsidised credit and focuses on building an efficient financial market. The role of the financial market is to mobilise funds from households and firms with surpluses and allocate these funds to creditworthy borrowers, i.e. financial intermediation. It advocates policy changes that help reduce transaction costs such as the high cost of doing business with widely dispersed rural borrowers. Governments in developing countries have largely adopted the FMP though disagreements within governments and development organisations persist. The following Table summarises the arguments on either side :

	Directed Credit	Financial Market
Source of funds	Government and donors – “outside” money- Assumption : most people in low-income countries are too poor to save	Public deposits – “inside” money – Assumption: more poor people will use deposit services if they find it attractive
Users	Borrowers are the beneficiaries of government directed credit programmes	Both borrowers and depositors are valued clients who demand high-quality service
Role of financial market	Implement plans, stimulate production, help the poor	Financial intermediation
Primary problem to be addressed	Market imperfections: government should intervene, as loan allocations should be fairer than those resulting from market operations	High transaction costs: a policy environment that encourages new technologies and innovations would take care of these problems
Subsidies and taxes	Many	Few
Information systems	For planners: large amounts of information about characteristics of borrowers and loans are collected to satisfy the mandates of funding agencies	For managers: data reveals more about the operational performance of the financial institutions, to be used by managers and prudential regulators

Source: Old and New Paradigms in Development Finance : should Directed C4redit be resurrected? Robert C. Vogel and Dale W. Adams, CAER Discussion Paper, April 1997

It is often argued that development banks are still prevalent in most developing countries. In Asia, for example, Japan, Korea, China, Indonesia, Philippines, Singapore and Thailand each have a development bank. In practice, however, most of these have restructured themselves to become universal banks that are more in tune with the FMP rather than DCP. Directed lending has fallen out of favour particularly since the Asian financial crisis when many of the leading development banks of the region were found to be lending to government favoured clients, who were not always creditworthy. IDBI must also make the transition from being a government aided provider of directed credit to a financial intermediary run on sound financial principles.

One concern is that this may hurt the availability of funds for long-term investment. However, the fact that this is not the case is apparent when one looks at the demand-supply situation in the financial sector. While medium-term funds (5 to 7 years) are widely available, most banks and financial institutions are unable to find profitable avenues to deploy them. Good projects do not find it difficult to get funding. Take the case of infrastructure financing. Projects in sectors such as roads that have a very long pay back period have recently been able to tie up their financing, without the help of government guarantees or subsidies. In any case, given that IDBI does not have access to long-term funds, its presence in term lending could enhance its asset-liability mismatch."

25. They further listed the benefits from the corporatisation of IDBI as under :

"Benefits to IDBI: IDBI will be able to lower its cost of borrowing by accessing public deposits. This will help reverse its decline in profitability. Certain provisions in the Bill allow concessions to IDBI during the first five years of its operations as a bank, such as exemption from the requirement of holding SLR. While this may be questioned from an equity point of view, this will certainly be beneficial to IDBI.

Will IDBI's corporatisation aggravate or solve its NPA problem? Two things will determine the trend in NPAs: one, whether there is an improvement in the bankruptcy procedures so that creditors find it easier to recover their money from defaulters and second, whether the IDBI management is more vigilant and uses better credit risk procedures before giving out loans. IDBI's conversion to a universal bank will have no impact on the NPA issue.

Benefits to the economy: The restructuring of IDBI will improve the health of the financial system. Given the asset size of IDBI, its failure could have economy-wide repercussions. However, corporatisation can only be a first step; much more is needed to be done for proper restructuring.

Benefits to industry: Industry has little to gain, though the restructuring of a lender as large as IDBI would be welcome. IDBI has sharply cut down its lending in recent years due to its financial problems.

Benefits to the government: An improvement in IDBI's financial viability will reduce the pressure on the government to come to its aid in times of financial distress."

26. The Planning Commission have submitted their views on the provisions of the Bill as below :

" The bill under examination has two aspects. First is the repeal of the IDBI Act, 1964 and the second is the conversion of the existing institution into a bank.

The need for restructuring DFIs (including IDBI) has been recognised in the draft Tenth Five Year Plan document, which was considered and approved by the National Development Council on 21 December 2002 (TFP Vol. I, pp. 71, para 2.152 to 2.156). The Planning Commission is of the view that repeal of the IDBI statute may be a necessary step towards providing the flexibility required to restructure IDBI.

The decision to convert IDBI into a commercial bank will therefore need to be taken in tandem with measures to improve the financial health of the resulting organization and as a part of a strategy to augment the availability of long-term capital to the industry especially for infrastructure, small and medium enterprises.

27. Commenting on the present health of IDBI and position of DFIs in several countries, the All India IDBI Officers' Association (AIIOA) submitted the following written submission in favour of the conversion of IDBI into a commercial bank, before the Committee as stated below :

- IDBI will be able to offer a wide range of products and services both in asset as well as liability sides.
- Have access to cheaper retail funds of a wider maturity spectrum (though not of longer tenure).
- IDBI can continue to perform its term lending activity along with commercial banking business.
- Taking into account IDBI's past as well as future DFI activities, IDBI would need some Govt. support for restructuring its long term loan assets especially in steel, power, textile, petrochemicals sectors for a few more years.
- In these 5-6 years, economy is also expected to show good growth whereby the industrial sector is expected to perform better leading to lower NPAs and better recovery."

28. However, they also expressed their apprehension about their future as below :

- There is a disquiet among the Officers' regarding job security if IDBI continues in its present form. Some officers are also concerned about IDBI undertaking transformation without sufficient reorientation and training which might result in making them redundant in the changed set up.
- AIIOA feels that the exit option under the Repeal Bill for Officers who have apprehension of their capacity to work under the changed environment has not been properly provided for."

29. The Committee, after having examined the provisions of the Bill and after having heard the views for and against the Bill from various quarters such as Ministry of Finance, RBI, Employees/officers unions of IDBI and CII are convinced of the objects and reasons of the Bill. However, the Committee are constrained to observe that mere conversion of the Industrial Development Bank of India into a universal bank to take up banking operations like any other banking company will not by itself bring the desired results. They feel that it will merely add one more Bank to the list of existing 97 Banks in the country. No useful purpose is likely to be served from this conversion. They are sceptical about achieving the targeted deposits by the converted entity. In their view, the original mandate given to IDBI is being negated.

30. The Committee take note of the role played by IDBI in providing development finance to the industry for the last 40 years, hence, they recommend that IDBI even after becoming a banking company should continue to provide development financing so that industrial financing do not suffer any set back. The Committee are unable to agree to the views of Govt., RBI, Officers Forum of IDBI and CII that IDBI even after conversion will continue to provide term lending to industry. They feel that once the IDBI Act of 1964 has been repealed, the alternative envisaged in the Bill would come in place and there is no specific provision in the Bill providing for the converted entity to act as a development Bank. Rather, they find that in the present Bill the reference to development Bank is being substituted by the new IDBI Banking Company. In such circumstances they are not sure if the converted bank will act as a development Bank in future. Hence, in order to avoid any ambiguity in this regard, suitable provisions should be incorporated in the Bill to ensure that the new banking company also continues to be a development Bank which will provide term lending to industry – large, medium and small.

31. The Committee take note of the fact that the new converted banking Company will enjoy forbearance from Banking regulations such as SLR and CRR for 5 years. But they feel that it will not be sufficient for ensuring the survival of the IDBI. When the exemption is withdrawn in the 6th year, SLR and CRR requirements will mount to whopping Rs. 25,000 crores

and such a huge amount may not be attainable by a new Bank in just 5 years. Hence, the Committee recommend to the Govt. to impress upon the management of IDBI to make concerted efforts to realise the NPAs which has grown to the alarming sum of Rs. 15,000 crores. They want that the IDBI should make full use of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Debt Recovery Tribunals for recovering its NPAs.

32. The Committee are given to understand that IDBI was enjoying certain tax exemptions which have been withdrawn. They are of the opinion that when the Govt. is coming out with a special package for restructuring IDBI there is no harm if the tax exemptions are restored and hence want that Govt. should accord necessary exemptions from income tax to IDBI at least for 5 years during which moratorium on SLR and CRR requirements continues which may include capital gains exemption under section 54 EC of the Income Tax Act, 1961.

33. The Committee are given to understand that there is huge investment of Rs. 10,000 crores by general public in IDBI which is not secured. They are of the opinion that this dispensation holds good so long as IDBI is a Government owned banking company, but the day the Government holding in converted IDBI comes below 51% there will be chaos – like situation in the country making investors panicky. Hence, they recommend that the Government should make provisions which will ensure that Government's shareholding in IDBI do not come below 51%.

34. Taking note of the present state of the financial health of IDBI and also taking note of the challenges that lie ahead before the new IDBI as it has to take up both banking operations and development financing, the Committee desire that management of the new banking entity should be in efficient hands, which could ensure greater operational transparency and accountability. Hence, the Committee recommend the Government to make necessary provisions in this regard.

35. The Committee are deeply concerned to find that the adequate provisions to protect the welfare of the employees are absent in the present Bill. When IDBI becomes a banking company, its employees/staff may be required to possess specific professional skills and they may also be

required to be posted to new locations as the bank expands its network. Some employees may not be able to cope with such situations or requirements. This would compel them to "opt not to be in service/employment of the company" which in pursuance of the provisions of the Bill will be considered as if they have resigned. The Committee find this provision too harsh and hence they recommend that a special VRS package should be launched for the present employees of the IDBI so that no employee of any category is aggrieved due to its conversion into a banking company.

36. With these suggestions, the Committee approve the Bill for enactment.

NEW DELHI;	**N. JANARDHANA REDDY,**
June, 2003	**Chairman,**
Asadha, 1925 (Saka)	**Standing Committee on Finance**

MINUTES OF THE SECOND SITTING OF STANDING COMMITTEE ON FINANCE

The Committee sat on Monday, 27 January, 2003 from 1100 to 1200 hours, 1230 to 1400 hours and again at 1530 to 1715 hours.

PRESENT

Shri. N. Janardhana Reddy – Chairman

MEMBERS

LOK SABHA

46. Shri Omar Abdullah
47. Shri Raashid Alvi
48. Shri Sudip Bandyopadhyay
49. Shri Surender Singh Barwala
50. Shri Trilochan Kanungo
51. Shri Rattan Lal Kataria
52. Capt. Jai Narain Prasad Nishad
53. Shri Rupchand Pal
54. Shri Prakash Paranjpe
55. Shri Raj Narain Passi
56. Shri Pravin Rashtrapal
57. Shri S. Jaipal Reddy
58. Shri T.M. Selvaganapathi
59. Shri Kirit Somaiya
60. Shri Kharbela Swain

RAJYA SABHA

61. Dr. Manmohan Singh
62. Shri Murli Deora
63. Shri Prithviraj Chavan
64. Shri M. Rajasekara Murthy
65. Dr. Biplab Dasgupta
66. Shri Prem Chand Gupta
67. Shri Palden Tsering Gyamtso
68. Shri Raj Kumar Dhoot
69. Shri Praful Patel
70. Shri Dinesh Trivedi

SECRETARIAT

1. Shri R.K. Jain - Deputy Secretary
2. Shri S.B. Arora - Under Secretary

WITNESSES

Part - I

Workers Unions of IDBI **Time at 1100 to 1200 hours**

1. Shri A. Natarajan, President
2. Shri D.V. Kadam, General Secretary
3. Shri J. Raymandal, Vice-President

4. Shri M.P. Singh, Vice President
5. Shri S. Sakpal, Vice-President
6. Shri K. Sathyanarayan, Secretary

Part-II

Representatives of IDBI **Time at 1230 to 1400 hours**

1. Shri P.P. Vora, CMD
2. Shri A.K. Doda, Executive Director
3. Shri S.G. Gulati, Executive Director
4. Shri R.J. Iyer, Executive Director,
5. Shri R.S. Loona, Chief General Manager (Legal)

Part-III

Representatives of Ministry of Finance & Company Affairs **Time at 1530 to 1715 hours**

1. Dr. S. Narayan, Finance Secretary
2. Smt. Vineeta Rai, Secretary (Banking & Insurance)
3. Shri K.B.L. Mathur, Economic Advisor (Banking Division)
4. Shri Vinod Rai, Joint Secretary (IF)
5. Shri P.P. Vora, CMD, IDBI, Mumbai
6. Shri Atul Kumar Rai, Director (EA.IF.1)

Part – I

2. At the outset, the Chairman welcomed the representatives of the workers unions of Industrial Development Bank of India to the sitting of the Committee and invited their attention to the provisions contained in Direction 55 of the Directions by the Speaker, Lok Sabha and asked them to introduce themselves to the Committee.

3. Thereafter, the representatives of the Workers' Unions introduced themselves to the Committee.

4. The Committee then took evidence of the representatives of Workers' Unions on the provisions of the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002.

5. The evidence was concluded.

6. A verbatim record of proceddings has been kept.

The witnesses then withdrew.

The Committee then adjourned to meet again at 1230 hours.

Part – II

2. At the outset, the Chairman welcomed the representatives of the Management of Industrial Development Bank of India to the sitting of the

Committee and invited their attention to the provisions contained in Direction 55 of the Directions by the Speaker, Lok Sabha and asked them to introduce themselves to the Committee.

3. Thereafter, the representatives of the Management of Industrial Development Bank of India introduced themselves to the Committee.

4. The Committee then took evidence of the representatives of Management of Industrial Development Bank of India on the provisions of the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002.

5. The evidence was concluded.

6. A verbatim record of proceddings has been kept.

The witnesses then withdrew.

The Committee then adjourned to meet again at 1530 hours.

Part – III

2. At the outset, the Chairman welcomed the representatives of the Ministry of Finance & Company Affairs (Deptt. of Economic Affairs) to the sitting of the Committee and invited their attention to the provisions contained in Direction 55 of the Directions by the Speaker, Lok Sabha and asked them to introduce themselves to the Committee.

3. Thereafter, the representatives of the Ministry of Finance & Company Affairs introduced themselves to the Committee.

4. The Committee then took evidence of the representatives of the Ministry of Finance & Company Affairs (Deptt. of Economic Affairs) on the provisions of the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002.

5. The evidence was concluded.

6. A verbatim record of proceddings has been kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE SIXTH SITTING OF STANDING COMMITTEE ON FINANCE

The Committee sat on Monday, 10 March, 2003 from 1500 to 1630 hours.

PRESENT

Shri. N. Janardhana Reddy – Chairman

MEMBERS

LOK SABHA

2. Shri Rattan Lal Kataria
3. Dr. C. Krishnan
4. Shri Rupchand Pal
5. Shri Prabodh Panda
6. Shri Raj Narain Passi
7. Shri Ramsinh Rathwa
8. Shri Kirit Somaiya
9. Shri Kharbela Swain

RAJYA SABHA

10. Shri Murli Deora
11. Shri M. Rajasekara Murthy
12. Dr. Biplab Dasgupta
13. Shri Palden Tsering Gyamtso
14. Shri Raj Kumar Dhoot
15. Shri Dinesh Trivedi

SECRETARIAT

1.	Shri P.D.T. Achary	-	Additional Secretary
2.	Dr. (Smt.) P.K. Sandhu	-	Joint Secretary
3.	Shri R.K. Jain	-	Deputy Secretary
4.	Shri S.B. Arora	-	Under Secretary

WITNESSES

Part I

AT 1500 HOURS

EXPERT

Shri S.H. Khan, Ex Chairman IDBI

Part II

AT 1600 HOURS

All India IDBI Officers' Association

1. Shri R.K. Bansal
2. Shri A.D. Ayare,
3. Shri B.W. Ramteke,
4. Shri N.S. Venkatesh,
5. Shri V. Gourishanker

Part I

2. At the outset, the Chairman welcomed Shri S.H Khan to the sitting of the Committee and invited his attention to Direction 55 of the Directions by the Speaker, Lok Sabha.

3. The Committee then heard the views of Shri S.H. Khan on the provisions of the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002.

4. The evidence was concluded.

5. A verbatim record of proceedings has been kept.

The witness then withdrew.

Part II

2. At the outset, the Chairman welcomed the representatives of the All India IDBI Officers' Association to the sitting of the Committee and invited their attention to the provisions contained in Direction 55 of the Directions by the Speaker, Lok Sabha and asked them to introduce themselves to the Committee.

3. After introduction the Committee took evidence of the representatives of All India IDBI Officers' Association on the provisions of the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002.

4. The evidence was concluded.

5. A verbatim record of proceedings has been kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE ELEVENTH SITTING OF STANDING COMMITTEE ON FINANCE

The Committee sat on Wednesday, 21 May, 2003 from 1100 to 1215 hours.

PRESENT

Shri. N. Janardhana Reddy – Chairman

MEMBERS

LOK SABHA

2. Shri Omar Abdullah
3. Shri Raashid Alvi
4. Shri Sudip Bandyopadhyay
5. Shri Trilochan Kanungo
6. Shri Rattan Lal Kataria
7. Dr. C. Krishnan
8. Capt. Jai Narain Prasad Nishad
9. Shri Rupchand Pal
10. Shri Prabodh Panda
11. Shri Raj Narain Passi
12. Shri Pravin Rashtrapal
13. Shri Ramsinh Rathwa
14. Shri Chada Suresh Reddy
15. Shri S. Jaipal Reddy
16. Shri T.M. Selvaganapathi
17. Shri Lakshman Seth
18. Shri Kharabela Swain

RAJYA SABHA

19. Dr. Manmohan Singh
20. Dr. T. Subbarami Reddy
21. Shri Prithviraj D. Chavan
22. Shri S.S. Ahluwalia
23. Shri M. Rajasekara Murthy
24. Shri Prem Chand Gupta
25. Shri Dinesh Trivedi

SECRETARIAT

1. Shri P.D.T. Achary - Additional Secretary
2. Dr. (Smt.) P.K. Sandhu - Joint Secretary
3. Shri R.K. Jain - Deputy Secretary

WITNESSES

Confederation of Indian Industry (CII)

1. Shri Sanjay Sakhuja, Managing Director, Lazard India Ltd.
2. Shri Rohit Bhasin, Executive Director, Pricewaterhouse Coopers (P.) Ltd.

2. At the outset, the Chairman welcomed the representatives of the Confederation of Indian Industry (CII) to the sitting of the Committee and invited their attention to Direction 55 of the Directions by the Speaker, Lok Sabha.

3. The Committee, then heard the views of the representatives of CII on the provisions of the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002.

4. Thereafter, the Members raised queries which were replied to by the witnesses.

5. The evidence was concluded.

6. Since the representatives of FICCI could not appear before the Committee in the sitting held today i.e. 21st May, 2003, due to circumstances beyond control, the Committee decided to take evidence of the representative of FICCI at later date.

7. A verbatim record of proceedings has been kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE TWELFTH SITTING OF STANDING COMMITTEE ON FINANCE

The Committee sat on Friday, 20 June, 2003 from 1100 to 1220 hours.

PRESENT

Shri. N. Janardhana Reddy – Chairman

MEMBERS

LOK SABHA

2. Shri Raashid Alvi
3. Shri Trilochan Kanungo
4. Shri Rattan Lal Kataria
5. Dr. C. Krishnan
6. Shri Sudarsana E.M. Natchiappan
7. Capt. Jai Narain Prasad Nishad
8. Shri Rupchand Pal
9. Shri Prabodh Panda
10. Shri Raj Narain Passi
11. Shri Ramsinh Rathwa
12. Shri Chada Suresh Reddy
13. Shri Jyotiraditya Madhavrao Scindia

RAJYA SABHA

14. Dr. Manmohan Singh
15. Shri Prithviraj D. Chavan
16. Shri M. Rajasekara Murthy
17. Dr. Biplab Dasgupta
18. Shri Amar Singh
19. Shri Prem Chand Gupta
20. Shri Raj Kumar Dhoot
21. Shri Praful Patel
22. Shri Dinesh Trivedi

SECRETARIAT

1. Shri P.D.T. Achary - Additional Secretary
2. Shri R.K. Jain - Deputy Secretary
3. Shri S.B. Arora - Under Secretary

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee and requested them to consider the draft Reports on (i) the Financial Companies Regulation Bill, 2000 and (ii) the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002.

3. XX XX XX XX

4. XX XX XX XX

5. The Committee then took up for consideration the draft report on the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002. The Committee, after deliberation adopted the draft report with modifications/amendments as shown in the ***Annexure***.

6. The Committee, thereafter, authorised the Chairman to finalise the reports in the light of suggestions received from the Members in writing and also to make consequential verbal changes and present the same to the Parliament.

The Committee then adjourned

<u>Annexure</u>

[Modifications/Amendments made by Standing Committee on Finance in their draft Report on the Industrial Development Bank (Transfer of Undertaking and Repeal) Bill, 2002 at their sitting held on 20 June, 2003]

Page 15, Para 30

For	"The Committee are given to understand that all the commercial banks have started project financing to the industrial sector and they have been able to meet 42% of the requirement of industry during the year ending 31st March, 2002 which is stated to be one of the reasons that has strained the health of DFIs in general and IDBI in particular. They are of the opinion that commercial banks do not really have the right set up and expertise for project financing and appraisal of the same. The commercial banks have the problems of mismatch between their borrowing and lending and their persistent involvement in term lending would only result in accumulation of their NPAs. In order to avoid such a scenario, these banks will have to go for selected lending which can in no way match the role being played by IDBI. As such, in the opinion of the Committee, IDBI is the only bank in the country which has the required expertise in term lending. Therefore,"
Substitute	"The Committee take note of the role played by IDBI in providing development finance to the industry for the last 40 years, hence,"

Page 15, Para 30, Line 15

After	"new banking company"
Insert	"also"

Para 33, Line 6

For	"Hence, they recommend that the Government should make it mandatory for IDBI to meet all the prudential regulations of the Banking Regulation Act in case the Government holding in the institution comes below 51%. Necessary amendment may be made in the Bill itself to this effect"
Substitute	"Hence, they recommend that the Government should make provisions which will ensure that Government's shareholding in IDBI do not come below 51%."

Page 16 after para 33

Add/insert new para	*"*Taking note of the present state of the financial health of IDBI and also taking note of the challenges that lie ahead before the new IDBI as it has to take up both banking operations and development financing, the Committee desire that management of the new banking entity should be in efficient hands, which could ensure greater operational transparency and accountability. Hence, the Committee recommend the Government to make necessary provisions in this regard."

THE INDUSTRIAL DEVELOPMENT BANK (TRANSFER OF UNDERTAKING AND REPEAL) BILL, 2002

A

BILL

to provide for the transfer and vesting of the undertaking of the Industrial Development Bank of India to, and in, the Company to be formed and registered as a Company under the Companies Act, 1956 *to carry on banking business and for matters connected therewith or incidental thereto and also to repeal the Industrial Development Bank of India Act,* 1964.

BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. Short title and commencement.-(*1*) This Act may be called the Industrial Development Bank (Transfer of Undertaking and Repeal) Act, 2002.

(*2*) It shall come into force on such date as the Central Government may, by notification, appoint.

2. Definitions.-In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means such date as the Central Government may, by notification, appoint under section 3;

(*b*) "Company" means the Industrial Development Bank of India Limited to be formed and registered under the Companies Act, 1956 (1 of 1956);

(*c*) "Development Bank" means the Industrial Development Bank of India established under sub-section (*1*) of section 3 of the Industrial Development Bank of India Act, 1964 (18 of 1964;

(*d*) "notification" means a notification published in the Official Gazette;

(*e*) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934).

CHAPTER II

TRANSFER AND VESTING OF THE UNDERTAKING OF DEVELOPMENT BANK IN COMPANY

3. Undertaking of Development Bank to vest in Company.-(*1*) On such date as the Central Government may, by notification, appoint, there shall be transferred to, and vest in, the Company, the undertaking of Development Bank.

(*2*) Notwithstanding anything contained in the Banking Regulation Act, 1949 (10 of 1949), the Company referred to in sub-section (*1*) shall be deemed to be a banking company within the meaning of clause (*c*) of section 5 of the Banking Regulation Act, 1949 and as such shall carry on banking business in accordance with the provisions of that Act:

Provided that such Company shall not be required to—

(*a*) obtain licence under section 22 of the Banking Regulation Act, 1949 (10 of 1949);

(*b*) maintain for a period of five years from the appointed day the percentage of assets required to be maintained under section 24 of the said Act.

(*3*) The provisions of the Banking Regulation Act, 1949 (10 of 1949) shall, as far as may be, to the extent they are not repugnant to any provision of this Act, apply to such Company.

(*4*) Notwithstanding anything contained in the Banking Regulation Act, 1949 (10 of 1949), the Central Government may, in consultation with the Reserve **Bank** of India, by notification, direct that any of the provisions of that Act specified in the notification —

(*a*) shall not apply to the Company; or

(*b*) shall apply to the Company, only with such exceptions, modifications and the adaptations as may be specified in the notification.

(*5*) A copy of every notification proposed to be issued under sub-section (*4*), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

4. General effect of **transfer** and vesting of **undertaking**.-(*1*) The Central Government, being the shareholder of the **Development Bank** and every other shareholder of the **Development Bank** immediately before the appointed day shall be deemed to be registered on and from the appointed day as a shareholder of the Company to the extent of the face value of the shares held by such shareholder.

(*2*) The **undertaking** of the **Development Bank** which is transferred to, and which vest in, the Company under section 3 shall be deemed to include all business, assets, rights, powers, authorities and privileges and all properties, movable and immovable, real and personal, corporeal and incorporeal, in possession or reservation, present or contingent of whatever nature and wheresoever situate including lands, buildings, vehicles, cash balances, deposits, foreign currencies, disclosed and undisclosed reserves, reserve fund, special reserve fund, benevolent reserve fund, any other fund, stocks, investments, shares, bonds, debentures, security, management of any **industrial** concern, loans, advances and guarantees given to any person or **industrial** concern, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the **Development Bank** in relation to its **undertaking**, within or without India, all books of account, registers, records and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind within or without India then subsisting of the **Development Bank** in relation to its respective **undertaking**.

(*3*) All contracts, deeds, bonds, guarantees, powers of attorney, other instruments and working arrangements subsisting immediately before the appointed day and affecting the **Development Bank** shall cease to have effect or to be enforceable against the **Development Bank** and shall be of as full force and effect against or in favour of the Company in which the **undertaking** of the **Development Bank** has vested by virtue of this Act and enforceable as fully and effectually as if instead of the **Development Bank**, the Company had been named therein or had been a party thereto.

(*4*) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the **Development Bank** in relation to its **undertaking** may, as from the appointed day, be continued and enforced by or against the Company in which the **undertaking** of the **Development Bank** has vested by virtue of this Act as it might have been enforced by or against the **Development Bank** if this Act had not been enacted and shall cease to be enforceable by or against the **Development Bank**.

5. Provisions in respect of officers and other employees of **Development Bank**.-(*1*) Every officer or other employee of the **Development Bank** (except a director of the Board or the chairman and managing director or any whole-time director) serving in the employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the **undertaking** which has vested in the Company by virtue of this Act, become, as from the appointed day, an officer or, as the case may be, other employee of the Company and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the **Development Bank** if its **undertaking** had not vested in the Company and shall continue to do so as an officer or, as the case may be, other employee of the Company or until the expiry of a period of six months from the appointed day, if such officer or other employee opts not to continue to be the officer or other employee of the Company within such period.

(*2*) Where an officer or other employee of the **Development Bank** opts under sub-section (*1*) not to be in employment or service of the company, such officer or other employee shall be deemed to have resigned.

(*3*) Notwithstanding anything contained in the **Industrial** Disputes Act, 1947 (14 of 1947) or in any other law for the time being in force, the **transfer** of the services of any officer or other employee of the **Development Bank** to the Company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(*4*) The officers and other employees who have retired before the appointed day from the service of the **Development Bank** and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Company.

(*5*) The trust of the provident fund or the gratuity fund of the **Development Bank** and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Company as was being done hitherto in the **Development Bank** and any tax exemption granted to the provident fund or the gratuity fund or pension fund would continue to be applied to the Company.

(*6*) Notwithstanding anything contained in this Act or in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force or in the regulations of the **Development Bank**, no director of the Board, chairman and managing director or any whole-time director or any other person entitled to manage the whole or substantial part of the business and affairs of the **Development Bank** shall be entitled to any compensation against the **Development Bank** or the Company for the loss of office or for the premature termination of any contract of management entered into by him with the **Development Bank**.

CHAPTER III

MISCELLANEOUS

6. Concession, etc., to be deemed to have been granted to Company.-With effect from the appointed day, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the **Development Bank**, in connection with the affairs and business of the **Development Bank** under any law for the time being in force shall be deemed to have been granted to the Company.

7. Tax exemption or benefit to continue to have effect.-(*1*) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to the **Development Bank** under the Income-tax Act, 1961 (43 of 1961), such exemption, assessment or benefit shall continue to have effect in relation to the Company.

(*2*) Where any payment made by the **Development Bank** is exempted from deduction of tax at source under any provision of the Income-tax Act, 1961 (43 of 1961), such exemption will continue to be available as if the provisions of the said Act made applicable to the **Development Bank** were operative in relation to the Company.

(*3*) The **transfer** and vesting of the **undertaking** of the **Development Bank** or any part thereof in terms of section 3 shall not be construed as a **transfer** within the meaning of the Income-tax Act, 1961 (43 of 1961) or any other law for the time being in force.

8. Guarantee to be operative.-Any guarantee given for or in favour of the **Development Bank** with respect to any loan, lease, finance or other assistance shall continue to be operative in relation to the Company.

9. Shares, bonds and debentures to be deemed to be approved securities.-Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deemed to be approved securities for the purposes of the Indian Trusts Act, 1882 (2 of 1882) and the Insurance Act, 1938 (4 of 1938).

10. **Act to have overriding effect.-The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.**

11. **Application of other laws not barred.-The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.**

12. Amendment to certain enactments.-The enactments specified in the Schedule to this Act shall be amended in the manner provided therein.

13. **Substitution in Acts, rules, regulations or notifications by Company in place of** Development Bank**.-In every Act, rule, regulation or notification in force on the appointed day,—**

(*a*) for the words "**Industrial Development Bank** of India", wherever they occur, the words "**Industrial Development Bank** of India Limited referred to in clause (*b*) of section 2 of the **Industrial Development Bank** (**Transfer** of **Undertaking** and **Repeal**) Act, **2002**" shall be substituted;

(*b*) for the words "Development Bank", wherever they occur, the words "Industrial Development Bank of India Limited referred to in clause (*b*) of section 2 of the Industrial Development Bank (Transfer of Undertaking and Repeal) Act, 2002" shall be substituted;

(*c*) for the words and figures " the **Development Bank** means the **Industrial Development Bank** of India, established under section 3 of the **Industrial Development Bank** of India Act, 1964 (18 of 1964)", the words, brackets letter and figures "the **Industrial Development Bank** of India Limited referred to in clause (*b*) of section 2 of the **Industrial Development Bank** (**Transfer** of **Undertaking** and **Repeal**) Act, **2002**" shall be substituted.

(*d*) for the words and figures "the **Industrial Development Bank** of India, established under section 3 of the **Industrial Development Bank** of India Act, 1964", the words, brackets, letter and figures "the **Industrial Development Bank** of India Limited referred to in clause (*b*) of section 2 of the **Industrial Development Bank** (**Transfer** of **Undertaking** and **Repeal**) Act, **2002**" shall be substituted.

14. **Power to remove difficulties.-(*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:**

Provided that no such order shall be made after the expiry of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

15. Repeal and saving of Act 18 of 1964.-(*1*) On the appointed day, the **Industrial Development Bank** of India Act, 1964, shall stand repealed.

(*2*) Notwithstanding the **repeal** of the **Industrial Development Bank** of India Act, 1964, the provisions of section 30A of the Act so repealed will continue to be applicable in respect of the arrangement entered into by the **Development Bank** with an **industrial** concern up to the appointed day and the Company will be entitled to act upon and enforce the same as fully and effectually as if this Act has not been enacted.

THE SCHEDULE

(*See* section 12)

AMENDMENTS TO CERTAIN ENACTMENTS

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

AMENDMENTS

1. **In section 2, clause (*bvii*) shall be omitted.**
2. **In section 17, —**

   (*a*) in sub-sections (*4G*) and (*4H*), the words "the Development Bank or" shall be omitted;

   (*b*) in sub-sections (*4-I*), (*8A*) and (*12B*), the words "the Development Bank" shall be omitted.

3. **In section 42, in sub-section (*1*), in the *Explanation*, in clause (*c*), in sub-clause (*ii*), the words "or from the Development Bank" shall be omitted.**
4. **In section 45-I, in clause (*bb*), in sub-clause (*iv*), the item (*a*) shall be omitted.**
5. **In section 46C, in sub-section (*2*), clauses (*a*) and (*b*) shall be omitted.**

PART II

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

(10 OF 1949)

AMENDMENTS

1. **In section 5, clause (*ffa*) shall be omitted.**
2. **In section 34 A, in sub-section (*3*), the words "the Development Bank" shall be omitted.**
3. **In section 36AD, in sub-section (*3*), the words "the Development Bank," shall be omitted.**

PART III

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947

(14 OF 1947)

AMENDMENT

In section 2, in clause (*bb*), the words " the Industrial Development Bank of India" shall be omitted.

PART IV

AMENDMENTS TO THE SMALL INDUSTRIES **DEVELOPMENT BANK** OF INDIA ACT, 1989

(39 OF 1989)

AMENDMENTS

In section 2,—

(*a*) for clause (*h*), the following clause shall be substituted, namely:—

'(*h*) "**industrial** concern in the small scale sector" means any concern engaged or to be engaged in,—

(*i*) the manufacture, preservation or processing of goods;

(*ii*) shipping;

(*iii*) mining including **development** of mines;

(*iv*) the hotel industry;

(*v*) the transport of passengers or goods by road or by water or by air or by ropeway or by lift;

(*vi*) the generation, storage or distribution of electricity or any other form of energy;

(*vii*) the maintenance, repair, testing or servicing of machinery or equipment of any description or vehicles or vessels or motor boats or trailers or tractors;

(*viii*) assembling, repairing or packing any article with the aid of machinery or power;

(*ix*) the setting up of, or **development** of, an **industrial** area or an **industrial** estate;

(*x*) fishing or providing shore facilities for fishing or maintenance thereof;

(*xi*) providing special or technical knowledge or other services for the promotion of **industrial** growth;

(*xii*) providing engineering, technical, financial, management, marketing or other services or facilities for industry;

(*xiii*) service industry such as altering, ornamenting, polishing, finishing, oiling, washing, cleaning or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;

(*xiv*) providing medical, health or other allied services;

(*xv*) providing services relating to information technology, telecommunication or electronics;

(*xvi*) leasing, sub-leasing or giving on hire-purchase of **industrial** plants, equipments, machinery or other assets including vehicles, ships and aircraft;

(*xvii*) such other activity as the Central Government may, having regard to the objects of this Act, by notification in the Official Gazette, specify in this behalf; or

(*xviii*) the research and **development** of any concept, technology, design, process or product whether in relation to any of the matters aforesaid, including any activities specified under sub-clause (*xvii*), or any other matter and which is regarded as a small-scale **undertaking** under section 11B of the Industries **Development** and Regulation Act, 1951;

Explanation.— The expression "processing of goods" includes any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation.';

(*b*) after clause (*la*), the following clauses shall be inserted, nemely:—

‘(*lb*) “Reserve **Bank**” means the Reserve **Bank** of India constituted under the Reserve **Bank** of India Act, 1934 (2 of 1934);

(*lc*) “scheduled **bank**” means a **bank** for the time being included in the Second Schedule to the Reserve **Bank** of India Act, 1934;

(*c*) Clause (*q*) shall be omitted.’

STATEMENT OF OBJECTS AND REASONS

The **Industrial Development Bank** of India (IDBI) was established in 1964 by the **Industrial Development Bank** of India Act, 1964 (IDBI Act) as the principal financial institution (FI) for co-ordinating, in conformity with national priorities, the working of institutions engaged in financing, promoting or developing industry, for assisting the **development** of such institutions for providing credit and other facilities for the **development** of industry and for matters connected therewith. The IDBI was a subsidiary of the Reserve **Bank** of India (RBI) until 1976 when the Central Government subscribed to its entire share capital.

2. The IDBI Act was amended in 1994 which, *inter-alia,* enabled the IDBI to enlarge its shareholder's base and access the capital market for resources. Due to enlargement of shareholder's base, the shareholding of the Central Government has become 58.5%.

3. With the changes in economic environment in the last decade, the flow of funds to FIs from RBI's National **Industrial** Credit Long Term Operations (NIC-LTO) and allocation of Statutory Liquidity Ratio (SLR) bonds dried up and it became necessary for the FIs to raise funds mainly from the markets. Simultaneously, commercial banks also began to provide project finance and these commercial Banks have lower cost of funds than FIs. With lower cost of funds for banks, the business model of FIs came under strain. Thus, the average cost of borrowing for IDBI which was below 10% at the beginning of the last decade has gone up to 11.5% during 2001-**2002** while average return has gone down from 14% to 10.4% over the same period.

4. The Narsimhan Committee II suggested that the FIs should convert ultimately into commercial banks or non banking financial companies. The Khan Working Group set up by the RBI also recommended that **development** financial institutions should be allowed to convert into banks at the earliest. Accordingly, the Finance Minister in his speech on the Budget for the financial year **2002**-2003 proposed to make legislative changes to corporatise the IDBI within the coming year to provide it flexibility.

5. In pursuance of the announcement, it is now proposed to **repeal** the **Industrial Development Bank** of India Act, 1964 by a **Bill**. The **Bill** contains the provisions which have been incorporated after deliberating the available options to give effect to the proposal to corporatise the IDBI and to give the emerging corporate entity the appropriate flexibility and leeway to structure itself into a viable and effective organisation. The salient features of the **Bill** are as follows :—

(*a*) repealing the **Industrial Development Bank** of India Act, 1964;

(*b*) transfering and vesting of the **undertaking** of the **Industrial Development Bank** of India to the Company to be formed and registered under the Companies Act, 1956;

(*c*) allowing such Company to carry on banking business in accordance with the provisions of the Banking Regulation Act, 1949;

(*d*) exempting the Company from obtaining license under section 22 of the Banking Regulation Act, 1949;

(*e*) exempting from maintaining for a period of five years from the appointed day the percentage of assets required to be maintained under section 24 of the Banking Regulation Act, 1949;

(*f*) confering power upon the Central Government to direct, in consultation with RBI, by notification, that provisions of the Banking Regulation Act, 1949 shall not apply or apply with exceptions, modifications and adaptations and such notification shall be required to be placed in draft before each House of Parliament.

6. The **Bill** seeks to achieve the above objects.

NEW DELHI; JASWANT SINGH.

The 27th November, 2002.

ANNEXURE

EXTRACTS FROM THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

* * * * *

2. Definitions.-In this Act, unless there is anything repugnant in the subject or context,—

* * * * *

(*bvii*) "Development Bank" means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964;

* * * * *

17. Business which the Bank may transact.-The Bank shall be authorised to carry on and transact the several kinds of business hereinafter specified, namely:—

* * * * *

(*4G*) the making of loans and advances to, and the purchasing of bonds and debentures of, the Development Bank or the Exim Bank out of the National Industrial Credit (Long Term Operations) Fund established under section 46C;

* * * * *

(*4H*) the making to the Development Bank or the Small Industries Bank of loans and advances—

(*a*) repayable on demand or on the expiry of fixed periods not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or

(*b*) against the security of bills of exchange or promissory notes, arising out of *bona fide* commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance;

(*4-I*) the making to scheduled banks, the Development Bank, the Exim Bank, the Reconstruction Bank or the Small Industries Bank, the Industrial Finance Corporation and any other financial Institution as may, on the recommendation of the Bank, be approved in this behalf by the Central Government of loans and advances repayable on demand or otherwise and against such security and on such other terms and conditions as may be approved in this behalf by the Central Board for the purpose of enabling such banks, or financial institution, as the case may be, to purchase foreign exchange from the Bank for the purpose of financing the import of capital goods or for such other purposes as may be approved by the Central Government;

* * * * *

(*8A)* the purchase and sale of shares in, or the capital of the National Bank, the Deposit Insurance Corporation, the Development Bank, the State Bank or any other bank or financial institution notified by the Central Government in this behalf;

* * * * *

(*12B*) the making of loans and advances in foreign currencies to scheduled banks, the **Development Bank**, the Exim **Bank**, the Reconstruction **Bank** or the Small Industries **Bank**, the **Industrial** Finance Corporation, any State Financial Corporation and any other financial institution as may, on the recommendation of the **Bank**, be approved by the Central Government and on such terms and conditions as may be specified by the Central Board in this behalf, against promissory notes of such **bank** or financial institution, as the case may be:

* * * * *

42. Cash reserves of scheduled banks to be kept with the **Bank**.-(*1*) Every **bank** included in the Second Schedule shall maintain with the **Bank** an average daily balance the amount of which shall not be less than three per cent. of the total of the demand and time liabilities in India of such **bank** as shown in the return referred to in sub-section (*2*):

Provided that the **bank** may, by notification in the Gazette of India, increase the said rate to such higher rate as may be specified in the notification so however that the rate shall not be more than twenty per cent. of the total of the demand and time liabilities.

* * * * *

Explanation.—For the purposes of this section,—

* * * * *

(*c*) "liabilities" shall not include—

* * * * *

(*ii*) the amount of any loan taken from the **Bank** or from the **Development Bank** or from the Exim **Bank** or from the Reconstruction **Bank** or from the National Housing **Bank** or from the National **Bank** or from the Small Industries **Bank**;

* * * * *

45-I. Definitions.-In this Chapter, unless the context otherwise requires,—

* * * * *

(*bb*) "deposit" includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form, but does not include,—

* * * * *

(*iv*) any amount received from,—

(*a*) the **Development Bank**,

* * * * *

46C. National **Industrial** Credit (Long Term Operations) Fund.-*(1)* * * * * *

(*2*) The amount in the said fund shall be applied by the **Bank** only to the following objects, namely:—

(*a*) the making to the **Development Bank** of loans and advances for the purpose of the purchase of, or subscription to, stocks, shares, bonds or debentures issued by the **Industrial** Finance Corporation of India, a State Financial Corporation or any other financial institution which may be notified by the Central Government in this behalf, or for the purposes of any other business of the **Development Bank**;

(*b*) the purchasing of bonds and debentures issued by the **Development Bank**.

* * * * *

EXTRACT FROM THE INDUSTRIAL DISPUTES ACT, 1947

(14 OF 1947)

* * * * *

2. Definitions.-In this Act, unless there is anything repugnant in the subject or context,—

* * * * *

(*bb*) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949 (10 of 1949), having branches or other establishments in more than one State, and includes the Export-Import **Bank** of India, the **Industrial** Reconstruction **Bank** of India, the **Industrial Development Bank** of India, the Small Industries **Development Bank** of India established under section 3 of the Small Industries **Development Bank** of India Act, 1989 (39 of 1989), the Reserve **Bank** of India, the State **Bank** of India, a corresponding new **bank** constituted under section 3 of the Banking Companies (Acquisition and **Transfer** of Undertakings) Act, 1970 (5 of 1970), a corresponding new **bank** constituted under section 3 of the Banking Companies (Acquisition and **Transfer** of Undertakings) Act, 1980 (40 of 1980), and any subsidiary **bank** as defined in the State **Bank** of India (Subsidiary Banks) Act, 1959 (38 of 1959);

* * * * *

EXTRACTS FROM THE BANKING REGULATION ACT, 1949

(10 OF 1949)

* * * * *

5. Interpretation.-In this Act, unless there is anything repugnant in the subject or context,—

* * * * *

(*ffa)* "**Development Bank**" means the **Industrial Development Bank** of India established under section 3 of the **Industrial Development Bank** of India Act, 1964 (18 of 1964);

* * * * *

34A. Protection of documents of confidential nature.-(*1*) * * * * *

(*3*) For the purposes of this section "banking company" includes the Reserve **Bank**, the **Development Bank**, the Exim **Bank**, the Reconstruction **Bank**, the National Housing **Bank**, the National **Bank**, the Small Industries **Bank**, the State **Bank** of India, a corresponding new **bank**, a regional rural **bank** and a subsidiary **bank**.

* * * * *

PART IIB

PROHIBITION OF CERTAIN ACTIVITIES IN RELATION TO BANKING COMPANIES

36AD. Punishments for certain activities in relation to banking companies.-(*1*) * * * * *

(*3*) For the purposes of this section "banking company" includes the Reserve **Bank**, the **Development Bank**, the Exim **Bank**, the Reconstruction **Bank**, the National Housing **Bank**, the National **Bank**, the Small Industries **Bank**, the State **Bank** of India, a corresponding new **bank**, a regional rural **bank** and a subsidiary **bank**.

* * * * *

EXTRACT FROM THE SMALL INDUSTRIES **DEVELOPMENT BANK** OF INDIA ACT, 1989

(39 OF 1989)

* * * * *

2. Definitions.-In this Act, unless the context otherwise requires,—

* * * * *

(*h*) "**industrial** concern in the small-scale sector" means an **industrial** concern as defined in clause (*c*) of section 2 of the **Industrial Development Bank** of India Act, 1964 (18 of 1964), and which is regarded as a small-scale **undertaking** under section 11B of the Industries (**Development** and Regulation) Act, 1951 (65 of 1951);

* * * * *

(*q*) words and expressions used herein and not defined but defined in the **Industrial Development Bank** of India Act, 1964 (18 of 1964), shall have the meanings respectively assigned to them in that Act.

* * * * *