

PARLIAMENT OF INDIA
RAJYA SABHA

**DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON TRANSPORT, TOURISM &
CULTURE**

**ONE HUNDRED AND FIRST REPORT
ON**

**THE CARRIAGE BY ROAD BILL, 2005
(PRESENTED TO THE RAJYA SABHA ON 21ST MARCH, 2006)
(LAID ON THE TABLE OF THE LOK SABHA ON 21ST MARCH,
2006)**

**RAJYA SABHA SECRETARIAT
NEW DELHI**

MARCH, 2006/PHALGUNA, 1927(SAKA)

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**COMPOSITION OF THE DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON TRANSPORT, TOURISM AND CULTURE
(2005-2006)**

1. **Shri Nilotpal Basu - *Chairman***

RAJYA SABHA

2. Shri Kamal Akhtar

Prof. Ram Deo Bhandary

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Shri Alok Kumar Mehta

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Shri Dushyant Singh

Shri Madan Lal Sharma

Shri Chengara Surendran

Shri Umakant Yadav

SECRETARIAT

Shri Sham Sher Singh, Joint Secretary

Shrimati Agnes Momin George, Director

Shri Jagdish Kumar, Under Secretary

Shrimati Subhashree Panigrahi, Committee Officer

* Nominated w.e.f. 8.3.2006 *vice* Smt. Ambika Soni.

INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Transport, Tourism and Culture, having been authorised by the Committee to present on its behalf, do hereby present this One Hundred and First Report of the Committee on the Carriage by Road Bill, 2005*.

2. In pursuance of rules relating to the Department-related Parliamentary Standing Committees, the Hon'ble Chairman, Rajya Sabha referred** the Bill as introduced in the Rajya Sabha on the 7th December, 2005 and pending therein, to the Committee on 14th December, 2005 for examination and report within three months. On the request being made by the Chairman of the Committee, the Hon'ble Chairman, Rajya Sabha had granted extension of time upto 30th April, 2006 for the presentation of the Report of the Committee on the aforesaid Bill.

3. The Committee took oral evidence of the Secretary and other officers of the Department of Road Transport & Highways and Ministry of Law and Justice at its meeting held on the 12th January, 2006.

4. In order to get wider views on the subject, the Committee invited the views of individuals, organisations and institutions on the subject through advertisement in all major national dailies and vernacular newspapers all over the country. The advertisement evoked tremendous public response and the Committee received memoranda on the subject for consideration of the Committee. The Committee also heard the views of the representatives of the Centre for Science and Environment, All India Transporters Welfare Association, All India Confederation of Goods Vehicles Owners Association and All India Motor Transport Congress on the provisions of the Bill at its meeting held on the 23rd January 2006.

5. The Committee took up clause-by-clause consideration of the Bill during its meeting held on the 17th March, 2006. The Committee also considered the draft Report on the subject and adopted the same with minor modifications on 17th March, 2006 itself.

6. The Committee wishes to express its thanks to the Secretary and other officers of the Department of Road Transport & Highways and Ministry of Law and Justice for the assistance provided during deliberations on the provisions of the Bill. The Committee also acknowledges the contribution of the representatives of various Associations/Stakeholders who submitted their valuable suggestions on the provisions of the Bill.

NEW DELHI ;
March 17, 2006
Phalgun 26, 1927 (Saka)

NILOTPAL BASU
*Chairman Department-related
Parliamentary Standing
Committee on Transport,
Tourism & Culture.*

* Published in the Gazette of India Extraordinary Part II, Section-2, dated 7.12.2005.

** Rajya Sabha Parliamentary Bulletin Part II, No.42711 dated 14.12.2005.

REPORT

The Carriage by Road Bill, 2005 (**Annexure**) was introduced in the Rajya Sabha on the 7th December, 2005. The Bill was referred to this Committee on the 14th December, 2005 by the Hon'ble Chairman, Rajya Sabha for examination and report. As per that mandate, Committee presents its report as under: -

2. The movement of goods from the place of production to the ultimate consumers through an organized system is an important and an integral part of the economic activity in the country. The movement or transportation of goods is carried by roads through trucks and similar modes, by rail, by air as air cargo and by ships through sea routes as cargo. The proper regulation of such movement of goods and the role of various players in the entire chain of activities is therefore necessary for the economic development of the nation. Road transport for carriage of goods is not only viable but also a popular mode amongst the entrepreneurs and traders of the country.

3. Despite the importance of Road Transport Industry in the economic sector, the Department of Road Transport and Highways has unfortunately no definite information on the estimated number of "common carriers" operating in the country, the estimated percentage of national cargo handled by common carriers, the estimated proportion of taxed and non-taxed cargo being carried by common carriers and the estimated annual freight charge on the cargo being handled by common carriers. On the queries made by the Committee in this context, the Department has informed that it has no information on the number of common carriers operating in the country as the transport industry in the country is un-organized sector and there is no system of registration of common carriers at present. There is also no categorization of operators into 'big' and 'small' as at present 'big' and 'small' operators have not been defined. Further, the Department has also informed the Committee that precise estimate on cargo handled by road sector is not available. However, basing on the freight carried by the railways (for which figures are kept and published by the Ministry of Railways), and the fact that road freight has been gaining ground in terms of larger share of the incremental traffic (evidence for which are the growth in the sale of commercial vehicles, tyres and diesel), it has been estimated that at present road sector accounts for around 65% of the total cargo movement in the country. The percentage of the cargo handled by the common carriers cannot be ascertained, as there is no record for the same. There has been no survey on the subject as per information available with the Ministry. However, feedback from Transporters' Associations indicates that a major part of the transport (almost 80 to 90%) is handled by intermediaries who would be covered under the definition of 'common carrier'. As regards the proportion of taxed and non-taxed cargo being carried by common carriers, this information is also not available with the Department as in the present situation, non-registration of common carriers and non-use of standard documents would make it difficult for the States to collect such information. The information on the estimated annual freight charge on the cargo being handled by common carriers is also not available with the Department.

4. At present, the law relating to the rights and liabilities of the common carrier is contained in the Carriers Act, 1865 which was enacted during the British regime on 14th February 1865. The principal purpose of the Act, as set out in the Preamble, was to define and limit the liability of the common carrier for the loss of or damage to

consignments under their charge owing to their or their servant's/agent's negligence or criminal acts.

5. The existing Act does not define consignor, consignee, consignment, registering authority, etc. It does not contain any requirement for registration of common carrier or provision in respect of documents, which are essential in the context of modern-day commerce like Goods Receipt, Goods forwarding Note, etc. The liability of the common carrier in the Carriers Act was fixed as Rs.100/- at the time of enactment of the Act. This bears no relation to the value of consignments now being carried. The Act does not have any provision pertaining to carriage of dangerous or hazardous goods nor does it contain any provision pertaining to *Force Majeure*.

6. With the passage of time many changes have taken place in the Road Transport Industry and most of the provisions of the Act have become obsolete in meeting the present day requirements of trade and transportation. Further, the Road Transport Industry has grown manifold and middlemen like brokers and agents have come into existence. A need was therefore felt to repeal the Carriers Act, 1865 and to enact a new Act for meeting the present-day requirements of trade and transportation.

7. Accordingly the Carriage by Road Bill, 2005 was introduced in the Rajya Sabha on the 7th December 2005. The long title of the Bill highlights the purpose of the Bill as to provide for the regulation of common carriers, limiting their liability and declaration of value of goods delivered to them to determine their liability for loss of, or damage to, such goods occasioned by the negligence or criminal acts of themselves, their servants or agents and for matters connected therewith or incidental thereto.

8. The Department of Road Transport and Highways has informed the following brief history of the proposed Carriage by Road Bill, 2005: -

8.1 "On the basis of feedback received in the year 2000, from Transport Operator/Association, Ministry of Shipping (now Department of Shipping), All India Motor Transport Congress, General Insurance Corporation, etc., the limitations of the provisions of the existing Carriers Act were examined and a draft legislation was prepared and circulated in May 2001 for comments to various States/UTs. Comments were received from Government of Gujarat, Rajasthan, Mizoram, Chattisgarh, Punjab and U.T. of Chandigarh. These were examined and appropriately incorporated in the draft Bill.

8.2 Thereafter, in October, 2001 comments of the concerned Ministries/Departments of the Central Government namely, Ministry of Civil Aviation, Ministry of Environment & Forests, Ministry of Home Affairs, Ministry of Shipping (now Department of Shipping), Ministry of Railways, Planning Commission, Department of Economic Affairs (Insurance Division), Department of Revenue, Ministry of Heavy Industry & Public Enterprises and Department of Posts on the proposed Carriage by Road Bill were invited. The comments received have been examined and appropriately incorporated in the Bill.

8.3 The Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) have concurred in the proposal to repeal the Carriers Act, 1865 and enact the new Carriage by Road Act, 2005. The Legislative Department, Ministry of Law has prepared the draft Bill in consultation with this Ministry."

9. Some of the changes that have taken place in the Road Transport Industry have been mentioned in the Statement of Objects and Reasons of the Carriage by Road Bill, 2005 as under: -

- “(a) Various modes of transport now have separate enactments, for example, transport by the railways is being regulated by the Railways Act, 1989. It has, therefore, become necessary to re-define the scope and applicability of the Act to road transport industry.
- (b) The transport industry also has undergone a sea change since 1865. A number of players and middlemen like brokers and agents have come into existence and play an increasing role in the movement of goods by road.
- (c) The liability specified in the existing Act at one hundred rupees has also become grossly inadequate and irrelevant.”

10. The need for a comprehensive enactment is indicated in the Statement of Objects and Reasons of the Carriage by Road Bill, 2005 as follows: -

10.1 “A number of deficiencies have been noticed in the course of the enforcement of the provisions of the Carriers Act, 1865. The Act has no provision for registration of Common Carriers. The Act also had not foreseen the sophistication and complexity of the transport trade, as it exists today. The Transporters' Associations have time and again demanded that the existing Act be repealed and new Act be enacted to cater to the present day requirements of transport, trade and commerce.

10.2 The Commission on Review of Administrative Laws constituted by the Central Government under the Chairmanship of Shri P.C. Jain in its Report submitted to the Government in September, 1998 has also recommended review of the Act.

10.3 Keeping in view the fact that other modes of transport are already covered under separate enactments and the need for redefining the common carrier, regulation of the common carriers by the State and provision of a transparent framework of rights and liabilities to govern the transactions between the common carriers and the customers has been felt, the Government set up a Committee under the Chairmanship of Shri M. Koteeswaran, the then Executive Director, Association of State Road Transport Undertakings (ASTRU) comprising members from Central Institute of Road Transport (CIRT), erstwhile Ministry of Surface Transport, representative of All India Motor Transport Congress (AIMTC). The Committee had recommended for repeal of the Carriers Act, 1865 and its re-enactment incorporating the above requirements.”

11. The Statement of Objects and Reasons of the Carriage by Road Bill, 2005 has outlined the objectives sought to be achieved by the Bill as follows: -

- (i) To regulate and limit the liability of the common carriers.
- (ii) To provide for a registration of common carriers.
- (iii) To ensure proper statistical reporting in the transport sector by persons involved in transportation business.

To regulate carriage of hazardous and dangerous goods.

To provide for rule making powers to deal with emerging and changing scenario from time to time.

To repeal the Carriers Act, 1865.

12. The Committee heard the views of the Secretary, Department of Road Transport and Highways on this Bill in its sitting held on the 12th January 2006. Thereafter, the Committee decided to invite the views of individuals, organisations and institutions on

the subject matter of the Bill through advertisement in all major national dailies and vernacular newspapers all over the country. Moreover, the Committee also heard the views of various stakeholders and trade unions on the Bill in its sitting held on 23rd January 2006. In response to the public advertisement, the Committee received 32 memoranda on the subject. The Committee took up Clause-by-Clause consideration of the Bill in its sitting held on 17.3.2006. The Clause-by-Clause consideration of the Bill has been given in the succeeding paragraphs.

Clause 1(3) (Commencement)

13 **Clause 1 (3)** reads– “It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State.”

13.1 This Sub-Clause provides for the commencement of the proposed legislation when it is enacted. As certain preparatory steps are required to be taken before the proposed legislation is brought into force, it is proposed to empower the Central Government to bring it into force from a date to be notified by it.

13.2 The stakeholders have demanded that the new enactment should come into force all over India on the same date. In response to a query by the Committee regarding the preparatory steps required prior to bringing into force the proposed legislation and the reasons for this provision for appointing different dates of its commencement in different States, the Department of Road Transport and Highways has informed as under: - “The Central Government would not require much preparation to bring the legislation into force. The enforcement machinery for the Act is the same as that for the Motor Vehicles Act, 1988. This is already in place in all the States/UTs. The Central Government has to merely notify in the Gazette Notification the date of commencement of the legislation.

The power to specify different dates is with the Central Government and this is only an enabling provision to deal with unforeseen developments preventing bringing the legislation into force in some of the States, while the rest of the country is ready for the legislation. The Motor Vehicles Act, 1988 also had an identical provision.”

13.3 The Committee notes that the Department has not detailed the probable impediments in bringing the legislation into force in some of the States, while it is enforced in the rest of the country. Moreover, the Department has categorically stated that the enforcement machinery for the proposed enactment, which is same as that for the Motor Vehicles Act, 1988, is already in place in all the States/UTs. The Committee, therefore, feels that the commencement date of the proposed legislation should be same throughout the country, otherwise the basic purpose of the enactment to bring uniformity in matters connected to common carriers will be defeated. The Committee recommends that Sub-Clause (3) of Clause 1 may be modified accordingly.

Clause 2 (Definitions)

14. **Clause 2** reads - In this Act, unless the context otherwise requires, -

(a) "common carrier" means a person engaged in the business of collecting, storing, forwarding or distributing goods to be carried by goods carriages under a goods receipt or transporting for hire of goods from place to place by motorised transport on

road, for all persons indiscriminately and includes a goods booking company, contractor, agent, broker and courier agency engaged in the door-to-door transportation of documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles, but does not include the Government.

14.1.1 The Committee was informed that the present definition of the common carrier under the Carriers Act, 1865 is as under: -
“ “common carrier” denotes a person other than the Government, engaged in the business of transporting property under multinodal transport document or of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately;
“person” includes any association or body of person, whether incorporated or not.”

14.1.2 The Committee was further informed that the definition of common carrier has now been modified and expanded to include all the players providing the transportation service by road through motorized transport.

14.1.3 The Committee feels that the above explanation furnished by the Department is satisfactory. The Sub-Clause (a) of Clause 2 was considered and adopted by the Committee without suggesting any change.

14.2 **Sub-Clause 2(b)** reads- "consignee" means the person named as consignee in the goods forwarding note;

14.2.1 The stakeholders have suggested that the definition may be made clearer by specifying that “consignee” means the nominated recipients of the goods on behalf of the consignor.

14.2.2 The Committee considered the suggestion and feels that the proposed definition of “consignee” as contained in Sub-Clause (b) of Clause 2 is sufficient. The Sub-Clause (b) of Clause 2 was considered and adopted by the Committee without suggesting any change.

14.3 **Sub-Clause 2(c)** reads - "consignment" means goods entrusted by the consignor to the common carrier for carriage, the description or details of which are given in the goods forwarding note.

14.4 **Sub-Clause 2 (d)** reads - "consignor" means a person, named as consignor in the goods forwarding note, by whom or on whose behalf the goods covered by such forwarding note are entrusted to the common carrier for carriage thereof.

14.4.1 The stakeholders have pointed out to the Committee that the definition is insufficient as the common carrier, as defined in Sub-Clause 2 (a) includes agencies involved in door-to-door transportation of documents, goods or articles. It has been suggested that the definition of consignment may be modified as - “consignment” means documents, goods or articles entrusted by the consignor to the common carrier for carriage, the description or details of which are given in the goods forwarding note.

14.4.2 The Committee finds that definition of 'consignment' is incomplete as it does not reflect properly all the goods to be carried/transported by the common carrier which has been included in Sub-Clause (a) of Clause 2 relating to the definition of "common carrier". Therefore, the Committee recommends that the definition of 'consignment' may be modified as under: -
"consignment" means documents, goods or articles entrusted by the consignor to the common carrier for carriage, the description or details of which are given in the goods forwarding note.

14.4.3 The Committee further recommends that in Sub-Clause (d) of Clause 2 also, for the words "goods covered by such forwarding note" the words "documents, goods or articles covered by such forwarding note" may be substituted.

14.5 Sub-Clause 2 (e) reads - "goods" includes--

- (i) containers, pallets or similar articles of transport used to consolidate goods; and
- (ii) animals or livestock.

14.6 Sub-Clause 2 (f) reads - "goods forwarding note" means the document executed under section 8.

14.7 Sub-Clause 2 (g) reads - "goods receipt" means the receipt issued under section 9.

14.8 Sub-Clause 2 (h) reads - "person" includes any association or body of persons, whether incorporated or not, a road transport booking company, contractor and an agent or a broker carrying on the business of a common carrier.

14.9 Sub-Clause 2 (i) reads - "prescribed" means prescribed by rules made under this Act.

14.9.1 The Committee feels that the above Clauses are self-explanatory. The Sub-Clauses (e) to (i) of Clause 2 were considered and adopted by the Committee without suggesting any changes.

14.10 Sub-Clause 2 (j) reads - "registering authority" means a State Transport Authority or a Regional Transport Authority constituted under section 68 of the Motor Vehicles Act, 1988.

14.10.1 The stakeholders viz. Transporters Associations, demanded that there should be one central regulatory authority on the lines of TRAI etc., under the Department of Road Transport and Highways for all registration and control over the transport operators under this proposed legislation. They have argued that the registering authority or motor tribunals etc. under Motor Vehicles Act, 1988 have a totally different domain and expertise as issues before them are totally different and therefore they are not at all equipped to handle the responsibilities under this enactment.

14.10.2 The Committee feels that in view of the countrywide network of common carriers, the setting up of a central regulatory authority would give rise to practical difficulties in the working of the proposed legislation. Further, it would be easier to enforce the provisions of the new enactment through the enforcement machinery already in place under the Motor Vehicles Act, 1988. The Committee, therefore, considers that the proposed Clause needs no modification.

14.10.3 The Sub-Clause (j) of Clause 2 was accordingly considered and adopted by the Committee without suggesting any change.

14.11 Sub-Clause 2 (k) reads - "registration" means the registration granted or renewed under sub-section (5) of section 4.

14.11.1 The Committee feels that the above Clause is self-explanatory. The Sub-Clause (k) of Clause 2 was considered and adopted by the Committee without suggesting any change.

Clause 3 (Persons not to engage in business of common carrier without registration)

15. **Clause 3** reads - **(1)** No person shall engage in the business of a common carrier, after the commencement of this Act, unless he has been granted a certificate of registration.

(2) Any person who is engaged, whether wholly or partly, in the business of a common carrier, immediately before the commencement of this Act, shall,

(a) apply for a registration within ninety days from the date of such commencement;

(b) cease to engage in such business on the expiry of one hundred and eighty days from the date of such commencement unless he has applied for registration and the certificate of registration has been granted by the registering authority.

15.1 The Committee observes that this Clause provides that after the commencement of the proposed legislation, no person will engage, whether wholly or partly, in the business of common carrier without obtaining a registration under the proposed legislation.

15.1.1 The Sub-Clauses (1), (2)(a) and (2)(b) of Clause 3 were considered and adopted by the Committee without suggesting any change.

15.2 **Sub-Clause 3(3)** reads - The registering authority shall take decision on the application for registration within ninety days from the date of receipt of the application.

15.2.1 This provision makes it mandatory for the registering authority to "take decision" on the application for registration within ninety days from the date of receipt of the application. In response to a specific query, the Committee was informed by the Department as under:-

"The decision on application does not necessarily mean grant of certificate of registration. However, the registering authority has to decide whether to grant certificate of registration or not within 90 days from the date of receipt of the application. In case, the decision is in the negative, he has to indicate in writing the reasons for refusal and he

has to provide an opportunity to the applicant of being heard. This has to be done within 60 days from the receipt of the application.

A period of 90 days is the outer-most limit for the registering authority to take a decision. It does not mean that the decision can not be given before this period.”

15.2.2 The Committee notes that as per the proviso to Sub-Clause (5) of Clause 4 of the Bill, no application for the grant or renewal of a certificate of registration shall be refused by the registering authority unless the applicant has been given an opportunity of being heard and reasons for such refusal are given in writing by the registering authority within sixty days from the date of receipt of such application. It is quite clear that the procedure for dealing with an application for registration provided in the proposed enactment makes it incumbent on the registering authority to take a decision to refuse an application for grant or renewal of registration much before the period of sixty days from the receipt of the application. The registering authority has to take such decision to refuse the grant/renewal of registration and thereafter give the applicant an opportunity of being heard and give reasons for refusal in writing within sixty days from the date of receipt of the application. Therefore, if sixty days have elapsed from the date of receipt of an application without any speaking orders regarding refusal of registration, the only course of action left for the registering authority is to grant the certificate of registration to the applicant.

15.2.3 The Committee further notes that the basic objective of Clause 3 as indicated in notes on Clauses is that after the commencement of the proposed legislation no person will engage, whether wholly or partly, in the business of common carrier without obtaining a registration under the proposed legislation. It is the Clause 4, which sets out the procedure for application for grant or renewal of registration by issuance of appropriate certificate for carrying on the business of common carrier. The Committee, therefore, recommends that Sub-Clause (3) of Clause 3 should be omitted. However, Sub-Clause (5) of Clause 4 should be modified to make it mandatory for the registering authority to grant a certificate of registration or renew it within ninety days of receipt of such application.

Clause 4 (Application for grant or renewal of registration)

16. **Clause 4** reads - **(1)** Any person, who is engaged or intends to engage in the business of a common carrier, shall apply for the grant or renewal of a certificate of registration for carrying on the business of common carrier to the registering authority.

16.1 The Committee feels that the above Clause is self-explanatory. The Sub-Clause 4 (1) was considered and adopted by the Committee without suggesting any change.

16.2 **Sub-Clause 4(2)** reads - An application under sub-section (1) shall be made, to the registering authority having jurisdiction in the area in which the applicant resides or has his principal place of business in such form and manner and accompanied by such fees payable to the registering authority as may be prescribed.

16.2.1 The stakeholders have suggested that the maximum amount of fees for registration and renewal of registration should be prescribed in the enactment itself.

16.2.2 The Committee feels that such matters, as per the normal practice, is best left to subordinate legislation. The Committee, however, expects that while making rules, a reasonable amount of fees will be fixed for the purpose of registration. The Committee also desires that keeping in view the increasing use of Internet in today's trade and commerce, the electronic submission of application for registration may also be encouraged by making provisions therefor in the rules.

16.2.3 The Sub-Clause (2) of Clause 4 was considered and adopted by the Committee without suggesting any change subject to the above observations.

16.3 **Sub-Clause 4(3)** reads - An application for grant or renewal of registration for carrying on the business of a common carrier from a branch office which is outside the jurisdiction of the registering authority referred to in sub-section (2) shall be made to such registering authority in whose jurisdiction the branch office is situated in such form and manner and accompanied by such fees as may be prescribed.

Explanation. For the removal of doubts, it is hereby declared that where an applicant intends to have two or more branch offices or main office and branch office or offices within the jurisdiction of a single State or Union territory he shall be required to make only one application for registration of such offices.

16.3.1 The stakeholders have submitted that the concept of multiple registrations for carrying out business of common carrier from branch offices is undesirable. It has been suggested that there should be only one registration, i.e., for the principal place of business and the details of the branch offices, if any, should be endorsed on the Certificate itself or the Registration Certificate should have an Annexure showing the list of branches, if any. Further, the application for registration of a branch office/offices should be made to the registering authority in respect of the principal place of business itself. The stakeholders have contended that the relevant provision in the Bill as it exists at present would result in cumbersome procedure and unnecessary harassment and they feel that the suggestions made above would simplify the procedure.

16.3.2 The Committee apprehends that the provision for multiple registrations would make the procedure unnecessarily lengthy and cumbersome, which can be easily avoided. Moreover, as provided in the proviso to Sub-Clause (6) of Clause 4, the validity of the registration in respect of branch offices is restricted to the validity of the registration granted in respect of the main office. The Committee, therefore, recommends that there should be only one registration, i.e., for the principal place of business and the details of the branch offices, if any, should be endorsed on the Registration Certificate itself and such endorsement should be made by the registering authority which issued the Registration Certificate.

16.3.3 The Committee recommends that Sub-Clause (3) of Clause 4 and the explanation thereunder may be modified in the light of the above observations.

16.4 **Sub-Clause 4(4)** reads - A registering authority shall, before granting or renewing a certificate of registration, satisfy itself that-

- (a) where the applicant is an individual, he has not been convicted of any offence involving moral turpitude;
- (b) the applicant has intimate knowledge of goods or freight business;
- (c) the office of the applicant is either owned by the applicant or is taken on lease by him or it or is hired in his or its name and the premises has adequate space and facilities for warehousing of goods and to handle the loading, unloading, storage and transhipment of goods;
- (d) the financial resources of the applicant are sufficient to meet the liability for any loss of, or damage to, consignment and for the efficient management of business of the common carrier;
- (e) the applicant fulfils such other conditions as may be prescribed.

16.4.1 The stakeholders have pointed out that the criteria/conditions specified in the Bill to be verified by the registering authority prior to grant or renewal of a certificate of registration are vague and gives discretionary power to the officials thereby making the entire processes susceptible to corruption. Further, the present language of the provision would result in multiple legal interpretations, which will lead to unnecessary and avoidable litigations. They have suggested that the criteria for grant or rejection of application for Certificate for Registration should be clearly defined. The suggestions put forward by the stakeholders in respect of the conditions specified in sub-Clause (4) of Clause 4 are as under: -

- (i) The Sub-Clause 4(4)(a) has nothing to do with the business of common carriers and is totally discretionary and it also amounts to unwanted moral policing. Therefore, this Clause should be omitted.
- (ii) In Sub-Clause 4(4)(b), the words “intimate knowledge of goods or freight business” should be defined as having at least 2 officials having more than one year experience in any transport organization or 2 officials having diploma/degree in transportation or logistics courses.
- (iii) With reference to Sub-Clause 4(4)(c), the office of a common carrier and its warehouse for storing the goods may be different premises and therefore, these two distinct premises should be reflected in the Clause. The present language of the Clause requires that the office of the applicant itself should have adequate warehousing facilities. Further, the “adequate space and facilities for warehousing of goods” needs to be clearly defined as it could become a bone of contention at the time of registration. It has been suggested that adequate space can be minimum of 500 sq. ft. on road not less than 20 ft. wide and adequate facility can be one weighing machine, one fire extinguisher and one official with table and chair and necessary documents.
- (iv) In Sub-Clause 4(4)(d), the meaning of sufficient financial resources needs to be clearly defined, otherwise it lead to confusion and therefore, it would be appropriate to quantify the “financial resources” in some objective manner. It has been suggested that it should be refined as the applicant being the owner of atleast one truck in the name of the company or partner or director and/or having a working capital of atleast Rupees Five lacs.
- (v) In Sub-Clause 4(4)(e), the conditions should be prescribed only in consultation with the transport organizations and these conditions should be clear, well defined and practically enforceable.

16.4.2 It has also been requested by the stakeholders that suitable provisions should be added to facilitate the initial registration of the existing common carriers overriding the conditions specified in sub-Clause (4) of Clause 4. In this context, it has been suggested that if any existing common carrier fulfills any one of the following conditions, it should be granted the Certificate of Registration, overriding any other criteria mentioned in Sub-Clause (4) of Clause 4:

Existing Transportation work with any organization on the date of commencement of this act.

Owner of at least one registered goods vehicle in name of the transport company or in name of its proprietor, partner or director etc.

(iii) Member of All India Transporters Welfare Association or any other registered transport association.

16.4.3 The Committee agrees that the terms used in Sub-Clause (4) of Clause 4, namely, offence involving moral turpitude; intimate knowledge of goods or freight business; adequate space and facilities for warehousing and sufficient financial resources are vague and allows unbridled powers and unrestricted discretion to the registering authority. The conditions are also susceptible to varied legal interpretations and thereby inciting avoidable litigation. The Committee also notes that no rule making power has been given to the Central Government to cover these aspects and Clause 20 empowers the Central Government only to frame rules prescribing the “other conditions” as mentioned at Sub-Clause (4)(e) of Clause 4. The Committee, therefore, recommends that Sub-Clause (4) of Clause 4 should be modified by omitting Sub-Clauses (4)(a) to (4)(d) of Clause 4 as under: -

4(4) A registering authority shall, before granting or renewing a certificate of registration, satisfy itself that the applicant fulfils such conditions as may be prescribed.

16.4.4 The Committee expects that while making the rules under this Clause, unambiguous conditions will be prescribed in future.

16.4.5 As regards the suggestion for a new Clause for easy initial registration for the existing common carriers, the Committee feels that the purpose of the Bill to provide for regulation of common carriers will be defeated if the process of registration of persons already engaged in the business of common carrier is allowed without ensuring the compliance of the rules proposed to be framed under the enactment.

16.5 **Sub-Clause 4(5)** reads - The registering authority may, on receipt of an application under sub-section (2) or sub-section (3) and after satisfying itself that the applicant fulfils the requirements of sub-section (4), grant the certificate of registration or renew it, as the case may be, for carrying on the business of a common carrier, in such form and subject to such conditions as may be prescribed:

Provided that no application for the grant or renewal of a certificate of registration shall be refused by the registering authority unless the applicant has been given an opportunity of being heard and the reasons for such refusal are given in writing by the registering authority within sixty days from the date of receipt of such application.

16.5.1 As already recommended by the Committee at para 15.2.3 above, Sub-Clause (5) of Clause 4 should be modified to make it mandatory for the registering

authority to grant the certificate of registration or renew it within a period of ninety days from the date of receipt of the application.

16.6 **Sub-Clause 4(6)** reads - A certificate of registration granted or renewed under sub-section (5) shall be valid for a period of ten years from the date of such grant or renewal, as the case may be:

Provided that in the case of registration in respect of branch offices referred to in sub-section (3), the validity of such registration shall be restricted to the validity of the registration granted in respect of the main office.

16.6.1 The Committee feels that the above Clause is self-explanatory. The Sub-Clause (6) of Clause 4 was considered and adopted by the Committee without suggesting any change.

16.7 **Sub-Clause 4(7)** reads - The holder of a certificate of registration shall-
(a) maintain a register in such form and manner as may be prescribed;
(b) not shift the main office mentioned in the certificate of registration without the prior approval in writing of the registering authority which granted the registration;
(c) submit to the registering authority under whose jurisdiction the main office is located and the Transport Research Wing of the Ministry or Department of the Central Government dealing with road transport and highways such information and return as may be prescribed within one hundred and twenty days after the thirty-first day of March every year;
(d) display at a prominent place in his or its main office or branch offices, the certificate of registration in original or certified copy thereof attested by the concerned registering authority.

16.7.1 The Sub-Clause (7) (a) of Clause 4 was considered and adopted by the Committee without suggesting any change.

16.7.2 With reference to Sub-Clause (7)(b) of Clause 4, the Committee feels that it will be prudent to specify a time frame within which the registering authority has to give its approval for the shifting of the main office. Therefore, the Committee recommends that Sub-Clause (7)(b) of Clause 4 should be modified on the lines indicated below:

submit an application for shifting the main office mentioned in the certificate of registration to the registering authority which granted the registration and such registering authority shall grant or refuse permission for the same within thirty days from the date of receipt of such application:

Provided that no application for shifting the main office shall be refused unless the applicant has been given an opportunity of being heard and reasons for such refusal are given in writing by the registering authority.

16.7.3 The Sub-Clause 4 (7)(c) was considered and adopted by the Committee without suggesting any change subject to the observation that the rules to be framed thereunder should encourage electronic submission of the information/returns.

16.7.4 With reference to Sub-Clause (7)(d) of Clause 4, the Committee is of the view that the Certification of Registration should be displayed in the main office and in each branch office, if any. The requirement of the certified copy to be attested by the concerned registering authority can be waived and instead it may be provided that the copy of the Certification of Registration should be attested by the concerned registering authority or by a notary or by a gazetted officer of the Government. The Committee, therefore, recommends that at Sub-Clause (7)(d) of Clause 4 may be modified on the lines indicated below: -

(d) display at a prominent place in his or its main office and each branch office, if any, the certificate of registration in original or certified copy thereof attested by the concerned registering authority or a notary or a gazetted officer of the Government.

Clause 5 (Suspension or cancellation of registration)

17. Clause 5 reads - (1) If the registering authority is satisfied that the holder of a certificate of registration has failed to comply with any of the provisions of sub-section (7) of section 4 or a complaint is made against such holder by any consignee or consignor, it may give a notice by registered post or through electronic media or by any other verifiable means to the holder of the registration to rectify the same within a period of thirty days and in case such holder fails to do so, it may-

(i) suspend the registration for a specified period pending an inquiry; or

(ii) revoke the registration of the main office or of a particular branch office in case there are five or more complaints in succession which are proved to be true after an inquiry: Provided that when the registration is suspended or revoked, the holder of the registration shall surrender the certificate of registration to the registering authority.

(2) No registration shall be suspended or revoked under sub-section (1) unless the holder of the registration is given an opportunity of being heard in the inquiry and the reasons for such suspension or revocation, as the case may be, are given in writing by the registering authority.

(3) The holder of a registration may, at any time, surrender the registration to the registering authority which granted the registration, and on such surrender the registering authority shall, after obtaining declaration from the holder of the registration that no liability is outstanding against him and, he would discharge such liability if he is held liable, revoke the registration.

17.1 With reference to Sub-Clause (1)(i) of Clause 5, the Committee is of the opinion that the common carriers should also be penalized for contravention of the provisions pertaining to axle load and gross vehicle weight, as contained in Section 113 and 114 of the Motor Vehicles Act, 1988. The Committee desires that the Department should not let go off the opportunity presented through the proposed legislation to tackle the menace of overloading. The Committee would like to draw the attention of the Department towards the judgment of the Supreme Court of India in the matter of persistent overloading by trucks and the undesirable compounding of offences by the various State Governments. The Committee, therefore, recommends that Sub-Clause (1)(i) of Clause 5 should be modified to include the failure of the common carrier to comply with the provisions of Sections 113 and 114 of the Motor Vehicles Act, 1988 as a ground for the suspension or revocation of registration.

17.2 In this context, the Committee feels that despite improvement in the quality and network of roads and technical upgradation of vehicles, the load bearing capacity of the trucks has not been revised since independence, which is restricting the ton per K.M. capacity. Further, if the Registered Laden Weight (RLW) is increased by amending the Motor Vehicles Act, 1988, there would be an increase in Government revenue. The Committee, therefore, recommends that the Department should consider enhancing the axle weight/RLW for goods carriers.

17.3 With reference to Sub-Clause (1)(ii) of Clause 5, the Committee sought specific clarification from the Department that if four successive complaints have been proved true upon enquiry and the fifth complaint is proved as not established, whether the registration is liable to be revoked if the sixth complaint is also proved to be true. In response, the Department informed the Committee that by a strict reading of the provision as it stands, the registration is not to be revoked if five complaints do not occur in succession and that perhaps the words 'in succession' in the present formulation needs to be deleted.

17.4 The Committee is of the view that the proposed procedure of having five valid complaints in succession may defeat the spirit of the legislation which stipulates the regulations of common carrier and even may encourage erring operators. The Committee, therefore, recommends that the words "in succession" appearing in Sub-Clause (1) (ii) of Clause 5 may be deleted. The Committee also desires that the Department may also review the proviso under said Sub-Clause and consider whether in a time frame should be included for the surrender of the registration certificate after the registration is suspended or revoked.

17.5 The Committee feels that Clause 5, Sub-Clause (2) is self-explanatory. The Sub-Clause (2) of Clause 5 was considered and adopted by the Committee without suggesting any change.

17.6 In the context of suspension/revocation of registration provided at Sub-Clause (3) Clause 5, the Committee asked the Department whether the holder of registration can carry on the business of a common carrier from another branch office if the registration in respect of a particular branch office is revoked by the concerned registering authority. The Department informed that since the certificate of registration is common for a State, the common carrier cannot carry on business in the State in which the certificate of registration has been revoked. However, it is possible that he may not have committed any breach of the legislation in other States, and therefore he could carry on business in other State till the State Authorities similarly prosecute the common carrier and revoke the certificate of registration of common carrier.

17.7 It was also enquired by the Committee whether a common carrier, whose certificate of registration has been revoked, can again apply for registration with the same or different registering authority. The Department has replied that this is not specifically covered in the Bill and that it is proposed that in the rules to be made under the Act [under Section 4(4)(e)] disclosure of revocation and the reasons therefor would be obtained from the applicant in the application form, which would enable the registering authorities to take appropriate decision in terms of Clause 4(4) of the Bill.

17.8 The Committee finds that the situation, wherein a common carrier prosecuted in one State being allowed to carry on the business in other State, to be anomalous as an offender can use the shield of multiple registrations to carry on the

business. As recommended by the Committee, this situation can also be tackled if there is only one registration, i.e., in respect of the principal place of business and the branch offices are endorsed in the certificate of registration. In this manner, if a common carrier is found to have contravened any of the provisions of the enactment or if five or more complaints against it are found to be established, the common carrier can be made to stop his business altogether as his registration certificate will be surrendered to the concerned registering authority. The Committee, therefore, recommends that suitable provisions should be inserted in the proposed legislation to ensure that offenders are dealt with strictly and put out of business altogether.

17.9 The Committee also expects that while framing rules, the disclosure of revocation and the reasons therefor would be obtained from the applicant in the application form.

17.10 With reference to Sub-Clause (3) of Clause 5, the Committee has already recommended at para 16.3.2 above that registration in respect of branch office/offices should be endorsed in the certificate of registration for the main office itself. The Committee recommends that a proviso should be added to Sub-Clause 5(3) to provide for the deletion of an endorsement in respect of a branch office also.

Clause 6 (Appeal)

18. **Clause 6** reads - (1) Any person aggrieved by an order of the registering authority refusing to grant or renew a certificate of registration or suspending or revoking a registration under this Act, may, within sixty days from the date of such order, appeal to the State Transport Appellate Tribunal constituted under sub-section (2) of section 89 of the Motor Vehicles Act, 1988.

(2) An appeal under sub-section (1) shall be preferred in duplicate in the form of a memorandum setting forth the grounds of objection to the order of the registering authority and shall be accompanied by such fee as may be specified by the State Government by notification in the Official Gazette.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the provisions of sub-sections (1) and (2) of section 89 of the Motor Vehicles Act, 1988, as in force immediately before the commencement of this Act, with regard to appeal, shall, as far as may, apply to every appeal as if the provisions aforesaid were enacted by this Act subject to the modification that any reference therein to the "permit" shall be construed as a reference to the "registration".

18.1 With reference to Sub-Clause (1) of Clause 6, the Committee feels that the business of common carrier, the nature of disputes likely to arise etc. would be alien to tribunals set-up under the Motor Vehicles Act, 1988. Therefore, the Committee has reasonable doubts about the expertise available in the tribunals to deal with the cases under the proposed enactment. The Committee desires that the Department should duly consider this aspect and recommends that the Department should take adequate steps to equip the tribunals with necessary competence to handle all the issues of common carriers likely to be brought before it under the proposed enactment.

18.2 As regards Sub-Clauses (2) and (3) of Clause 6, the Committee feels that the same are self-explanatory. The Sub-Clauses (2) and (3) of Clause 5 were considered and adopted by the Committee without suggesting any changes.

Clause 7 (Submission of annual return)

19. **Clause 7** reads - The State Transport Authority in respect of each State or Union territory shall submit annually to the Ministry or Department of the Central Government dealing with road transport and highways a consolidated annual return giving the details of the goods carried by the common carriers in that State or the Union territory, as the case may be, on the basis of the returns received from the holders of the registration as specified under Clause (c) of sub-section (7) of section 4.

19.1 The Committee notes that a provision for submission of annual returns to the Ministry or Department of the Central Government dealing with road transport and highways already exists in the proposed enactment [Sub-Clause (7) (c) of Clause 4]. Further, Clause 7 also neither provide for prescription of any format for submission of annual returns nor stipulates any time frame therefor, as mentioned at Sub-Clause (7) (c) of Clause 4. The Committee feels that the information / returns envisaged under Sub-Clause (7) (c) of Clause 4 would be voluminous and the additional annual returns sought under Clause 7 would be repetitive in nature. This situation can be avoided by prescribing suitable formats under Sub-Clause (7)(c) of Clause 4 itself and omitting Clause 7 altogether. The Committee, therefore, recommends that Clause 7 may be omitted and the information proposed to be collected under that Clause may be obtained by prescribing suitable formats under Sub-Clause (7)(c) of Clause 4. The Committee also recommends that the succeeding Clauses namely, Clauses 8 to 22 may be renumbered as Clauses 7 to 21.

Clause 8 (Goods forwarding note)

20. **Clause 8** reads - (1) Every consignor shall execute a goods forwarding note, in such form and manner as may be prescribed, which shall include a declaration about the value of the consignment.

(2) The consignor shall be responsible for the correctness of the particulars furnished by him in the goods forwarding note.

(3) The consignor shall indemnify the common carrier against any damage suffered by him by reason of incorrectness or incompleteness of the particulars on the goods forwarding note.

20.1 In respect of Sub-Clause (1) of Clause 8, the Committee notes that the goods forwarding note, to be prescribed by the rules, executed by the consignor will give details of the consignment. The Committee recommends that the goods forwarding note should also contain a declaration whether the goods are of dangerous or hazardous nature to human life. The consignor, who deals with the goods, would be in a better position to declare the nature of the goods and it would not be appropriate to shift the burden of verifying the nature of goods to the common carriers. The Committee, therefore, recommends that Sub-Clause (1) of Clause 8 may be modified on the lines indicated below: -

8. (1) Every consignor shall execute a goods forwarding note, in such form and manner as may be prescribed, which shall include declarations about the value of the consignment and goods of dangerous or hazardous nature to human life.

20.2 The Committee feels that Sub-Clauses (2) and (3) of Clause 8 are self-explanatory. The Sub-Clauses (2) and (3) of Clause 8 were considered and adopted by the Committee without suggesting any changes.

Clause 9 (Goods receipt)

21. **Clause 9** reads- (1) A common carrier shall, -
(a) in case where the goods are to be loaded by the consignor, on the completion of such loading; or
(b) in any other case, on the acceptance of the goods by him,
Issue a goods receipt in such form and manner as may be prescribed.
(2) The goods receipt shall be issued in triplicate and the original shall be given to the consignor.
(3) The goods receipt shall be *prima facie* evidence of the weight or measure and other particulars of the goods and the number of packages stated therein.

21.1 The Committee feels that the above Clause is self-explanatory. The Sub-Clauses (1)(a), (1)(b), (2) and (3) of Clause 9 were considered and adopted by the Committee without suggesting any changes.

21.2 The stakeholders have requested that in the interest of free trade and commerce, the liability of the common carrier for loss of or damage of any consignment or delay in delivery thereof should be allowed to be settled between the consignor and the common carrier. They have, therefore, raised objections to the Clause 10 of the proposed legislation, which fixes liability at a maximum of ten thousand rupees. They have also submitted that if the freedom to settle the liability is allowed to the interested parties viz. the consignor and common carrier, there would be no need for the provisions contained in Clause 11 which provide for payment of higher rate of charge or undertaking higher risk.

21.3 The Committee feels that in order to ensure formal agreements between the parties in the matter of liability of the common carrier for the loss of or damage of any consignment or delay in delivery thereof, suitable provision needs to be added in Clause 9. The Committee, therefore, recommends that a new Sub-Clause may be added under Clause 9 on the following lines:

(4) The goods receipt shall include an undertaking by the common carrier about the amount of its liability for the loss of or damage of any consignment or delay in delivery thereof.

21.4 The attention of the Committee was also drawn by the stakeholders to the existing use by the common carriers of goods note/consignment note approved by the Indian Bank Association (IBA). They have demanded that such notes should henceforth be not applicable to transporters and that the transactions of transporters should be governed by the format of goods forwarding note and goods receipt as proposed in the Bill.

21.5 The Committee expects that the Department will take suitable measures to stop all formal and informal arrangements existing in the transport industry at present and

will strictly implement the provisions of the proposed enactment uniformly throughout the country.

Clause 10 (Liability of common carrier)

&

Clause 11 (Rates of charge to be fixed by common carrier for carriage of consignment at a higher risk rate)

22. **Clause 10** reads - (1) The liability of the common carrier for loss of, or damage to any consignment, shall be limited to ten thousand rupees or the value of consignment declared in the goods forwarding note, whichever is less, unless the consignor or any person duly authorised in that behalf have expressly undertaken to pay higher risk rate fixed by the common carrier under section 11.

(2) The liability of the common carrier in case of any delay up to such period as may be mutually agreed upon by and between the consignor and the common carrier and specifically provided in the goods forwarding note including the consequential loss or damage to such consignment shall be limited to the amount of freight charges where such loss, damage or delay took place while the consignment was under the charge of such carrier:

Provided that beyond the period so agreed upon in the goods forwarding note, compensation shall be payable in accordance with sub-section (1) or section 11:

Provided further that the common carrier shall not be liable if such carrier proves that such loss of, or damage to, the consignment or delay in delivery thereof, had not taken place due to his fault or neglect or that of his servants or agents thereof.

23. **Clause 11** reads - Every common carrier may require payment for the higher risk undertaken by him in carrying a particular consignment at such rate of charge as he may fix and correspondingly, his liability would be in accordance with the terms as may be agreed upon with the consignor:

Provided that to entitle such carrier to claim payment at a rate higher than his ordinary rate of charge, he should have exhibited a printed or written notice, in the vernacular language of the State, of the higher rate of charge in the place or premises where he carries on the business of common carrier.

23.1 In addition to the observation made in respect of Clause 9, the Committee was informed by the stakeholders that there is no necessity for fixing any limit on the liability of the common carrier as the common carrier is fully liable for safe and timely delivery of the cargo irrespective of its cost/value against charging certain freight. It has also been pointed out that already there is free play of market forces and freight rates can vary from one consignment to another, from one consignor to another depending upon the freight size, distance and other services rendered to the consignor. This position has also been supported by the Indian Foundation of Transport Research and Training (IFTRT), and independent body engaged in the field of research and analysis in transport and automotive sector. This organization has submitted that the bill has unnecessarily dragged the linkage of liability and risk with freight rates and that this should be left to the mutual understanding of the common carrier and consignor as is being practiced today. It has been contended that nothing new has happened to segregate liability and

risk in relation to freight charge in the bill. The stakeholders are also unanimous in their request for the omission of Clause 11 in toto. It has been submitted that the deletion of any high risk rate is most equitable and appropriate and that the competition in the market can take care of the so called high risk or low risk situation.

23.2 The Committee also enquired from the Department the rationale for limiting the liability to ten thousand rupees under Sub-Clause (1) of Clause 10 as the liability of the common carriers for loss/damage to any consignment or delay in delivery thereof can be determined by contract between the parties. In reply, the Department informed as under: -

“It is envisaged that in most cases, there may not be a formal contract between consignor and the common carrier. In such cases, the ‘goods forwarding note’ would constitute the sole contract document. The consignor may settle for lower limits to carriers’ liability in case the value of the consignment carried is not more than Rs.10,000/- or there is lower probability of loss or damage and lower freight rates are to be obtained. The rationale for limiting liability at Rs.10,000/- is that Rs.100/- in the existing Act is too low and that there is a need to strike a balance between the right of the consignor and the responsibility of the common carrier to provide for an acceptable middle-ground for low freight rates in the country. In case, the consignment is of a high-value nature or the consignor is risk-averse, he could go for higher compensation, under Clause 11”.

23.3 The Committee is not convinced with the reply of the Department and feels that the amount and extent of liability of the common carrier for the loss of or damage of any consignment or delay in delivery thereof can be regulated by an agreement/undertaking to be reflected in the goods receipt as already recommended by the Committee. It is therefore recommended that Sub-Clauses (1) and (2) of Clause 10 and proviso thereunder should be substituted by a modified Clause 10 on the following lines:

10. The liability of the common carrier for the loss of, or damage of any consignment or delay in delivery thereof shall be limited to the amount mutually agreed upon by and between the consignor or any person duly authorised in that behalf and the common carrier or any person duly authorised in that behalf and expressly undertaken by the common carrier, as specifically mentioned in the goods receipt:

Provided that the common carrier shall not be liable if such carrier proves that such loss of, or damage to the consignment or delay in delivery thereof, had not taken place due to his fault or neglect or that of his servants or agents thereof.

23.4 The Committee also recommends that Clause 11 may be omitted in view of the observations/recommendations of the Committee regarding the provision for mutual agreement between the consignor and the common carrier on the amount and extent of liability for the loss of, or damage of any consignment or delay in delivery thereof. The Committee further recommends that the subsequent Clauses may be renumbered accordingly.

Clause 12 (Conditions limiting exonerating the liability of the common carrier)

24. **Clause 12** reads - (1) Every common carrier shall be liable to the consignor for the loss or damage to any consignment in accordance with the goods

forwarding note, where such loss or damage has arisen on account of any criminal act of the common carrier, or any of his servants or agents.

(2) In any suit brought against the common carrier for the loss, damage or non-delivery of consignment, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the common carrier, or any of his servants or agents.

(3) Where any consignment has been detained for examination or scrutiny by a competent authority and upon such examination or scrutiny it is found that certain prohibited goods have been entrusted to the common carrier by the consignor which have not been described in the goods forwarding note, the cost of such examination or scrutiny shall be borne by the consignor and the common carrier shall not be liable for any loss, damage or deterioration caused by such detention of the consignment for examination or scrutiny:

Provided that the onus of proving that such incorrect description of goods in the goods forwarding note was received from the consignor shall be on the common carrier.

Explanation- For the purposes of this section, "competent authority" means any person or authority who is empowered to examine or scrutinize goods by or under any law for the time being in force to secure compliance of provisions of that law.

24.1 The Committee feels that in Clause 12, Sub-Clauses (1) and (2) are self-explanatory. The Sub-Clauses (1) and (2) of Clause 12 were considered and adopted by the Committee without suggesting any changes.

24.2 In respect of Sub-Clause (3) of Clause 12, the stakeholders have pointed out that it is quite common for the consignor to hand over such goods to the common carrier on which due taxes like Sales Tax, Excise or Customs Tax are unpaid or insufficiently paid. It has been requested that sub-Clause (3) of Clause 12 should be modified to shift the burden of such goods on the consignor.

24.3 The Committee agrees that a common carrier should not be penalized for the fault of a consignor and therefore recommends that Sub-Clause (3) of Clause 12 may be modified on the following lines:

(3) Where any consignment has been detained for examination or scrutiny by a competent authority and upon such examination or scrutiny it is found that certain prohibited goods *or goods on which due tax was not paid or insufficiently paid* have been entrusted to the common carrier by the consignor which have not been described in the goods forwarding note, the cost of such examination or scrutiny shall be borne by the consignor and the common carrier shall not be liable for any loss, damage or deterioration caused by such detention of the consignment for examination or scrutiny:

Provided that the onus of proving that such incorrect description of goods in the goods forwarding note was received from the consignor shall be on the common carrier.

Explanation- For the purposes of this section, "competent authority" means any person or authority who is empowered to examine or scrutinize goods by or under any law for the time being in force to secure compliance of provisions of that law.

Clause 13 (Provision for carriage of goods of dangerous or hazardous nature to human life)

25. **Clause 13** reads - (1) No goods of dangerous or hazardous nature to human life shall be carried by a common carrier except in accordance with such procedure and after complying with such safeguards as may be prescribed.
(2) The Central Government may, by rules made in this behalf, specify the goods of dangerous or hazardous nature to human life and the label or class of labels to be carried in, or displayed on, the motor vehicle or such goods in the course of transportation.
(3) Notwithstanding anything contained in any other law for the time being in force, every common carrier shall scrutinise and ensure before starting transportation of any consignment containing goods of dangerous or hazardous nature to human life that the consignment is covered by, one or more insurance policies under a contract of insurance in respect of such goods providing relief in case of death or injury to a person or damage to any property or the consignment, if an accident takes place.

25.1 In connection with the provisions of Clause 13, during the oral evidence of the Director, Centre for Science and Environment (CSE) held on the 23rd January 2006, it was submitted before the Committee as under:

“Currently, the transportation of hazardous material is covered under:

1. The Environment Protection Act 1986 and the Hazardous Waste (Management and Handling) Amendment Rules, 2000;
2. The Motor Vehicle Act 1988;
3. The Public Liability Insurance Act 1999.

Under the Central Motor Vehicle Rules 1989, the responsibility of the transporters or owner of goods carriage is clearly defined (see section 132). It says that “it shall be the responsibility of the owner of the goods carriage transporting any dangerous or hazardous goods to ensure the following; namely:

- a. That the goods carriage has a valid registration to carry the said goods and the said vehicle is safe for the transport of the said goods, and
- b. The vehicle is equipped with necessary first aid, safety equipment, toolbox and antidotes as may be necessary to contain any accident.

Every owner of the goods carriage shall, before undertaking the transportation satisfy himself that the information given by the consignor is full and accurate in all respects and corresponds to the classification of such goods specified in rule 137.

The owner has to ensure that the driver is given all relevant information in writing and has sufficient understanding of the nature of such goods and is capable of taking appropriate action in case of emergency.

The owner of the goods carriage and the consignor shall lay down the route for each trip; and timetable for each trip to the destination and back.

In addition, section 129 of the Central Motor Vehicles Rules, lays down the conditions which need to be complied with by the owner of the goods carriage transporting any dangerous or hazardous goods.

It is important to note that the Motor Vehicles Act clearly stipulates that “provided that in the case of a vehicle carrying or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Act 1991.”

The Public Liability Insurance Act 1991, says: “Every owner shall take out, before he starts handling hazardous substances, one of more insurance policies.” In addition, that no insurance policy taken out or renewed by an owner shall be for an

amount less than the amount of paid-up capital of the undertaking handling any hazardous substance and owned or controlled by that owner, and more than the amount, not exceeding fifty crore rupees, as may be prescribed.”

This act also provides for the verification and publication of any accident by the Collector and the award of relief. It is stipulated and the award to the affected parties will be given expeditiously and within 15 days from the date of the award. The award will be paid by the insurance company within 30 days and from the Relief Fund (set up through compulsory contributions from owners of hazardous material). The act also provides for strict liability of the owners, specifying that in case of default by the insurer or owner, the amount shall be recovered from the owner or as the case may be, the insurer as arrears of land revenue or of public demand.

. It is therefore, necessary that at the very least the relevant provisions of these existing acts are specified in the proposed Bill.”

25.2 The attention of the Committee was also drawn to the fact that the proposed legislation does not address the emerging concerns about hazardous waste. It was submitted before the Committee that Government regulations for transportation of hazardous substances are beginning to require end-use certificates from the consignor to ensure that the destination of the hazardous waste is clearly stipulated. This is to make sure that the consignor or transporter does not dump the hazardous waste or dispose off it in manners that can lead to health and safety concerns. It was therefore requested that such a provision should be added to the Bill.

25.3 It was also submitted by the stakeholders before the Committee that owner of goods i.e., the consignor, is knowledgeable about all the intricacies of carriage of dangerous/hazardous goods as he is exclusively dealing and using such goods while the common carriers is not qualified to scrutinise such goods and decide about all the precautions needed for the transport of such goods. It has therefore been requested that the consignor should be made responsible to suitably inform the common carrier about the nature of the goods and the precautions to be taken while transporting such goods.

25.4 The Committee agrees with the suggestions mentioned in the above paras about the need to tread more cautiously in respect of the carriage of goods of dangerous or hazardous nature to human life. The Committee is also of the opinion that suitable linkages with the provisions relating to carriage of such goods in the existing Acts need to be made in the proposed enactment. The new enactment should in fact aim to strengthen the existing legal machinery to erase the threat to human lives by the handling and carriage of goods of dangerous or hazardous nature. The Committee, therefore, recommends that Clause 13 may be redrafted and made comprehensive taking into account the existing Acts which contain provisions for regulating to handling, carriage and insurance of goods of dangerous or hazardous nature to human life.

25.5 The Committee has already recommended that the consignor should give an undertaking about the goods of dangerous/hazardous nature to human life in the Goods Forwarding Note. It is further recommended that while redrafting Clause 13, the Department should also include a provision that where a consignor has declared about the presence of dangerous/hazardous goods in the consignment, he should also inform in writing, in vernacular language, the precautions required to be taken while handling/transporting the goods.

Clause 14 (Power of Central Government to prohibit carriage of certain class of goods)

26. **Clause 14** reads - The Central Government may, by notification in the Official Gazette, specify, in public interest, the goods or class or classes of goods which shall not be carried by a common carrier.

26.1 The Committee feels that the above Clause is self-explanatory. Clause 14 was considered and adopted by the Committee without suggesting any change.

Clause 15 (Right of common carrier in case of consignee's default)

27. **Clause 15** reads - (1) If the consignee fails to take delivery of any consignment of goods within a period of thirty days from the date of notice given by the common carrier, such consignment may be deemed as unclaimed:

Provided that in case of perishable consignment, the period of thirty days shall not apply and the consignment shall be deemed unclaimed after a period of twenty-four hours of service of notice or any lesser period as may be mutually agreed to by and between the common carrier and the consignor.

(2) In the case of an unclaimed consignment under sub-section (1), the common carrier may,

(a) if such consignment is perishable in nature, have the right to sell the consignment; or
(b) if such consignment is not perishable in nature, cause a notice to be served upon the consignee or upon the consignor if the consignee is not available, requiring him to remove the goods within a period of fifteen days from the date of receipt of the notice and in case of failure to comply with the notice, the common carrier shall have the right to sell such consignment without any further notice to the consignee or the consignor, as the case may be.

(3) The common carrier shall, out of the sale proceeds received under sub-section (2), retain a sum equal to the freight, storage and other charges due including expenses incurred for the sale, and the surplus, if any, from such sale proceeds shall be returned to the consignee or the consignor, as the case may be.

27.1 The Committee was apprised by the stakeholders about the need to incorporate suitable provisions, which will expressly provide that the common carrier shall have a lien on goods entrusted to it for carriage. The stakeholders have submitted that the road transport industry is facing serious problems of delayed payments/non-payment of freight by service users. The Railways have a system of commercial restrictions in case of non-payment of freight. When the commercial restriction is imposed then Railways gets the lien on all goods of the party in transit. Therefore, a similar provision for road transport industry is required and the proposed enactment should allow for lien on goods for non-payment of freight.

27.2 As regards the goods of perishable nature, the Committee specifically sought clarification from the Department as to whether the goods of perishable nature are required to be specified in the 'goods forwarding note' or the 'goods receipt' by the consignor or the common carrier respectively. In response, the Department has informed

the Committee that if the goods are of perishable nature, the same are to be mentioned in the goods forwarding note. This is proposed to be taken care of while prescribing format of goods forwarding note and goods receipt under the Rules.

27.3 The Committee recommends that suitable additions should be made in the Bill to specifically provide for lien on goods in favour of the common carrier on the goods that are entrusted by the consignor to it for carriage.

27.4 The Committee considered and adopted Sub-Clauses (1), (2)(a), (2)(b) and (3) of Clause 15 without suggesting any change subject to the observations and recommendations made above.

Clause 16 (Notice for institution of a suit)

28. **Clause 16** reads - No suit or other legal proceeding shall be instituted against a common carrier for any loss of, or damage to, the consignment, unless notice in writing of the loss or damage to the consignment has been served on the common carrier before the institution of the suit or other legal proceeding and within one hundred and eighty days from the date of booking of the consignment by the consignor.

28.1 The Committee feels that the above Clause is self-explanatory. Clause 16 was considered and adopted by the Committee without suggesting any change.

Clause 17 (General responsibility of common carrier)

29. **Clause 17** reads - Save as otherwise provided in this Act, a common carrier shall be responsible for the loss, destruction, damage or deterioration in transit or non-delivery of any consignment entrusted to him for carriage, arising from any cause except the following, namely: -

(a) act of God;

(b) act of war or public enemy;

(c) riots and civil commotion;

(d) arrest, restraint or seizure under legal process;

(e) order or restriction or prohibition imposed by the Central Government or a State Government or by an officer or authority subordinate to the Central Government or a State Government authorised by it in this behalf;

(f) fire, explosion or any unforeseen risk:

Provided that the common carrier shall not be relieved of its responsibility for the loss, destruction, damage, deterioration or non-delivery of the consignment if the common carrier could have avoided such loss, destruction, damage or deterioration or non-delivery had the common carrier exercised due diligence and care in the carriage of the consignment.

29.1 The Committee notes that this Clause seeks to list out the *force-majeur* conditions under which the common carrier would be exonerated from liabilities. These conditions include acts of God, acts of war or public enemy, fire, explosion, riots or civil commotion and orders of restriction or prohibition by Government. The Clause 17 was considered and adopted by the Committee without suggesting any change.

Clause 18 (Punishment for contravention in relation to non-registration, carrying goods of dangerous or hazardous nature, or prohibited goods)

30. **Clause 18** reads - (1) Whoever contravenes the provisions of section 3, section 13 or a notification issued under section 14 shall be punishable for the first offence with fine which may extend to one thousand rupees, and for the second or subsequent offence with fine which may extend to five thousand rupees.

(2) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be proceeded against and punished accordingly.

Explanation. - For the purpose of this section,--

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

30.1 With reference to Clause 18, where punishment with fine is provided, the Committee enquired from the Department whether the proposed amounts of fine would serve the purpose or is there any need to enhance the fine to serve as a useful deterrent. In reply, the Department informed that-

“the purpose of the Act is to move transport industry from its present un-organized State to an organized State. Thus, the provisions for penalties have to be devised in such a manner that they achieve the legislative goal without scaring the common carrier. It is envisaged that a common carrier who is to be penalized, irrespective of the quantum of the punishment, would feel that such punishment is reputation-harming event and therefore, would be careful to avoid such a fate. Enhancement of the fine could be taken up subsequently based on such experience.”

30.2 It was also felt by the Committee that contravention of the provisions of Clause 13 and notification issued under Clause 14 is of serious nature in comparison to that of Clause 3. The provision of fine of Rs. 1000/- for the first offence and Rs. 5000/- for second or subsequent offences is not commensurate to the offence. Therefore, it is felt that more stringent punishment may be prescribed. The views of the Department thereon was sought and they have informed as under:

“The quantum of punishment was decided in consultation with Ministry of Law. The Judicial Magistrate of First Class at the level of Sub-division of District Headquarter and Metropolitan Magistrate can impose fine up to Rs. 5,000/- whereas Judicial Magistrate of Second Class sanctioned in the different areas of the State Territory and also Special

Magistrates appointed for different areas by the Government in consultation with High Courts can impose fine not exceeding Rs. 1,000/-. The above limit has been fixed keeping in view the powers of the trial Magistrates to avoid piling up of cases at Sr. Magistrates/Judges level and also to avoid delay in hearing of such cases. Enhancement of the fine could be taken up subsequently based on such experience.”

30.3 **The** Committee is of the opinion that the fines contemplated in the proposed enactment should have real deterrent value, which should override any other consideration albeit, legal convenience. The Committee desires that the Department should reconsider the need to prescribe higher amount of fine for the contravention of the provisions of Clause 13 and notification issued under Clause 14 as compared to the fine for contravention of Clause 3. The Committee, therefore, recommends that Sub-Clause (1) of Clause 18 may be modified accordingly. Sub-Clauses (2) and (3) of Clause 18 and the Explanation thereunder were considered and adopted by the Committee without suggesting any changes.

Clause 19 (Composition of offences)

31. **Clause 19** reads - (1) Any offence committed under section 18, may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify.

(2) Where an offence has been compounded under sub-section (1), the offender shall be discharged and no further proceedings shall be taken against him in respect of such offence.

31.1 The stakeholders pointed out to the Committee that the power conferred to compound an offence of overloading under the Motor Vehicles Act 1988 has been misused. The Supreme Court had to step in to highlight the menace of overloading by trucks and has ordered that the State Governments cannot allow trucks and other goods transport vehicles to carry excess weight on roads and highways. The apex Court directed States that had issued notifications under Section 200 of the Motor Vehicles Act, 1988 condoning the offence of overloading to withdraw such notifications forthwith. In this Bill also the State Governments are proposed to be empowered to compound the offences committed under Clause 18.

31.2 In view of the past experience, the Committee feels that adequate provisions have to be incorporated in the proposed enactment to curb the tendency to compound offences without restriction. The Committee, therefore, recommends that the Department should review the Clause 19 in the light of the Supreme Court judgment.

Clause 20 (Power to make rules)

32. **Clause 20** reads - (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the form and manner of making an application for grant or renewal of a certificate of registration and the fee which shall accompany such application under sub-section (2) or sub-section (3) of section 4;

(b) the other conditions which are required to be fulfilled by an applicant under Clause (d) of sub-section (4) of section 4;

(c) the form in which and the conditions subject to which certificate of registration or renewal may be granted under sub-section (5) of section 4;

(d) the form and manner of maintaining a register under Clause (a) of sub-section (7) of section 4;

(e) the information and return which may be furnished to the registering authority and the transport research wing under Clause (c) of sub-section (7) of section 4;

(f) the form and manner in which a goods forwarding note shall be executed by the consignor under sub-section (1) of section 8;

(g) the form and manner in which a common carrier shall issue goods receipts under sub-section (1) of section 9;

(h) the procedure and safeguards to be complied with for carrying goods of dangerous or hazardous nature to human life under sub-section (1) of section 13;

(i) the specification of the goods of dangerous or hazardous nature to human life and the label or class of labels to be carried or displayed in or on the motor vehicle or on such goods in the course of their transportation under sub-section (2) of section 13;

(j) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section and every notification issued under section 14 shall be laid, as soon as may be after it is made or issued, 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 making any modification in the rule or the notification, or both Houses agree that the rule or the notification should not be made or issued, the rule or the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

32.1 There is a typographical error in Sub-Clause (2) (b) of Clause 20. In line 20 of page 8 of the Bill, the words "Clause (d)" should be read as "Clause (e)". Subject to this observation, Clause 20 was adopted by the Committee without suggesting any changes.

Clause 21 (Power to remove difficulties)

33. **Clause 21** reads - (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

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

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of Parliament.

33.1 The Committee notes that this Clause empowers the Central Government to issue orders for removing difficulties in giving effect to the provisions of the proposed legislation. Such orders can be issued only within two years from the date of commencement of the proposed legislation. Every order made under this Clause is required to be laid before Parliament. Clause 21 was considered and adopted by the Committee without suggesting any change.

Clause 22 (Repeal and saving)

34. **Clause 22** reads - (1) The Carriers Act, 1865, is hereby repealed.
(2) Notwithstanding the repeal of the Carriers Act, 1865, anything done or any action taken under the said Act shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

(3) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeals.

34.1 **Clause 22 was considered and adopted by the Committee without suggesting any change.**

Clause 1 (1) & (2) (Short title, extent)

35. **Clause 1** reads - (1) This Act may be called the Carriage by Road Act, 2005.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

35.1 This Clause provides for the short title and extent of the proposed legislation. The proposed legislation will not be applicable to the State of Jammu and Kashmir.

35.2 The Committee adopts the Title and Enacting Formula with slight changes, which are of consequential or drafting nature, namely, in the Title, the figure “2005” to be changed to “2006”, so is the case in Sub-Clause (1) of Clause 1 and in the Enacting Formula the words “Fifty-sixth” to be substituted by “Fifty-seventh”, respectively.

36. The Committee recommends that the Bill be passed after incorporating necessary official amendments of formal nature and taking into account its recommendations in respect of Clauses 1 (1), 1(3), 2(c), 2(d), 3(3), 4(2), 4(3), 4(4), 4(5), 4(7)(b), 4(7)(c), 4(7)(d), 5(1)(i), 5(1)(ii), 5(3), 6(1), 7, 8(1), 9, 10, 11, 12(3), 13, 15, 18(1), 19 and 20(2)(b) above.

OBSERVATIONS / CONCLUSIONS/RECOMMENDATIONS AT A GLANCE
CLAUSE 1(3)

The Committee notes that the Department has not detailed the probable impediments in bringing the legislation into force in some of the States, while it is enforced in the rest of the country. Moreover, the Department has categorically stated

that the enforcement machinery for the proposed enactment, which is same as that for the Motor Vehicles Act, 1988, is already in place in all the States/UTs. The Committee, therefore, feels that the commencement date of the proposed legislation should be same throughout the country, otherwise the basic purpose of the enactment to bring uniformity in matters connected to common carriers will be defeated. The Committee recommends that Sub-Clause (3) of Clause 1 may be modified accordingly.

(Para 13.3)

CLAUSE 2

The Committee feels that the above explanation furnished by the Department is satisfactory. The Sub-Clause (a) of Clause 2 was considered and adopted by the Committee without suggesting any change.

(Para 14.1.3)

The Committee considered the suggestion and feels that the proposed definition of “consignee” as contained in Sub-Clause (b) of Clause 2 is sufficient. The Sub-Clause (b) of Clause 2 was considered and adopted by the Committee without suggesting any change.

(Para 14.2.2)

The Committee finds that definition of ‘consignment’ is incomplete as it does not reflect properly all the goods to be carried/transported by the common carrier, which has been included in Sub-Clause (a) of Clause 2 relating to the definition of “common carrier”. Therefore, the Committee recommends that the definition of ‘consignment’ may be modified as under: -

“consignment” means documents, goods or articles entrusted by the consignor to the common carrier for carriage, the description or details of which are given in the goods forwarding note.

(Para 14.4.2)

The Committee further recommends that in Sub-Clause (d) of Clause 2 also, for the words “goods covered by such forwarding note” the words “documents, goods or articles covered by such forwarding note” may be substituted.

(Para 14.4.3)

The Committee feels that the above Clauses are self-explanatory. The Sub-Clauses (e) to (i) of Clause 2 were considered and adopted by the Committee without suggesting any changes.

(Para 14.9.1)

The Committee feels that in view of the countrywide network of common carriers, the setting up of a central regulatory authority would give rise to practical difficulties in the working of the proposed legislation. Further, it would be easier to enforce the provisions of the new enactment through the enforcement machinery already in place under the Motor Vehicles Act, 1988. The Committee, therefore, considers that the proposed Clause needs no modification.

The Sub-Clause (j) of Clause 2 was accordingly considered and adopted by the Committee without suggesting any change.

(Paras 14.10.2 and 14.10.3)

The Committee feels that the above Clause is self-explanatory. The Sub-Clause (k) of Clause 2 was considered and adopted by the Committee without suggesting any change.

(Para 14.11.1)

CLAUSE 3

The Committee observes that this Clause provides that after the commencement of the proposed legislation, no person will engage, whether wholly or partly, in the business of common carrier without obtaining a registration under the proposed legislation.

(Para 15.1)

The Sub-Clauses (1), (2)(a) and (2)(b) of Clause 3 were considered and adopted by the Committee without suggesting any change.

(Para 15.1.1)

The Committee notes that as per the proviso to Sub-Clause (5) of Clause 4 of the Bill, no application for the grant or renewal of a certificate of registration shall be refused by the registering authority unless the applicant has been given an opportunity of being heard and reasons for such refusal are given in writing by the registering authority within sixty days from the date of receipt of such application. It is quite clear that the procedure for dealing with an application for registration provided in the proposed enactment makes it incumbent on the registering authority to take a decision to refuse an application for grant or renewal of registration much before the period of sixty days from the receipt of the application. The registering authority has to take such decision to refuse the grant/renewal of registration and thereafter give the applicant an opportunity of being heard and give reasons for refusal in writing within sixty days from the date of receipt of the application. Therefore, if sixty days have elapsed from the date of receipt of an application without any speaking orders regarding refusal of registration, the only course of action left for the registering authority is to grant the certificate of registration to the applicant.

The Committee further notes that the basic objective of Clause 3 as indicated in notes on Clauses is that after the commencement of the proposed legislation no person will engage, whether wholly or partly, in the business of common carrier without obtaining a registration under the proposed legislation. It is the Clause 4, which sets out the procedure for application for grant or renewal of registration by issuance of appropriate certificate for carrying on the business of common carrier. The Committee, therefore, recommends that Sub-Clause (3) of Clause 3 should be omitted. However, Sub-Clause (5) of Clause 4 should be modified to make it mandatory for the registering authority to grant a certificate of registration or renew it within ninety days of receipt of such application.

(Paras 15.2.2 and 15.2.3)

CLAUSE 4

The Committee feels that such matters, as per the normal practice, is best left to subordinate legislation. The Committee, however, expects that while making rules, a reasonable amount of fees will be fixed for the purpose of registration. The Committee also desires that keeping in view the increasing use of Internet in today's trade and commerce, the electronic submission of application for registration may also be encouraged by making provisions therefor in the rules.

The Sub-Clause (2) of Clause 4 was considered and adopted by the Committee without suggesting any change subject to the above observations.

(Paras 16.2.2 and 16.2.3)

The Committee apprehends that the provision for multiple registrations would make the procedure unnecessarily lengthy and cumbersome, which can be easily avoided. Moreover, as provided in the proviso to Sub-Clause (6) of Clause 4, the validity of the registration in respect of branch offices is restricted to the validity of the registration granted in respect of the main office. The Committee, therefore, recommends that there should be only one registration, i.e., for the principal place of business and the details of the branch offices, if any, should be endorsed on the Registration Certificate itself and such endorsement should be made by the registering authority which issued the Registration Certificate.

The Committee recommends that Sub-Clause (3) of Clause 4 and the explanation thereunder may be modified in the light of the above observations.

(Paras 16.3.2 and 16.3.3)

The Committee agrees that the terms used in Sub-Clause (4) of Clause 4, namely, offence involving moral turpitude; intimate knowledge of goods or freight business; adequate space and facilities for warehousing and sufficient financial resources are vague and allows unbridled powers and unrestricted discretion to the registering authority. The conditions are also susceptible to varied legal interpretations and thereby inciting avoidable litigation. The Committee also notes that no rule making power has been given to the Central Government to cover these aspects and Clause 20 empowers the Central Government only to frame rules prescribing the “other conditions” as mentioned at Sub-Clause (4)(e) of Clause 4. The Committee, therefore, recommends that Sub-Clause (4) of Clause 4 should be modified by omitting Sub-Clauses (4)(a) to (4)(d) of Clause 4 as under: -

4(4) A registering authority shall, before granting or renewing a certificate of registration, satisfy itself that the applicant fulfils such conditions as may be prescribed.

The Committee expects that while making the rules under this Clause, unambiguous conditions will be prescribed in future.

(Paras 16.4.3 and 16.4.4)

As regards the suggestion for a new Clause for easy initial registration for the existing common carriers, the Committee feels that the purpose of the Bill to provide for regulation of common carriers will be defeated if the process of registration of persons already engaged in the business of common carrier is allowed without ensuring the compliance of the rules proposed to be framed under the enactment.

(Para 16.4.5)

As already recommended by the Committee at para 15.2.3 above, Sub-Clause (5) of Clause 4 should be modified to make it mandatory for the registering authority to grant the certificate of registration or renew it within a period of ninety days from the date of receipt of the application.

(Para 16.5.1)

The Committee feels that the above Clause is self-explanatory. The Sub-Clause (6) of Clause 4 was considered and adopted by the Committee without suggesting any change.

(Para 16.6.1)

The Sub-Clause (7) (a) of Clause 4 was considered and adopted by the Committee without suggesting any change.

(Para 16.7.1)

With reference to Sub-Clause (7)(b) of Clause 4, the Committee feels that it will be prudent to specify a time frame within which the registering authority has to give its approval for the shifting of the main office. Therefore, the Committee recommends that Sub-Clause (7)(b) of Clause 4 should be modified on the lines indicated below: submit an application for shifting the main office mentioned in the certificate of registration to the registering authority which granted the registration and such registering authority shall grant or refuse permission for the same within thirty days from the date of receipt of such application:

Provided that no application for shifting the main office shall be refused unless the applicant has been given an opportunity of being heard and reasons for such refusal are given in writing by the registering authority.

(Para 16.7.2)

The Sub-Clause 4 (7)(c) was considered and adopted by the Committee without suggesting any change subject to the observation that the rules to be framed thereunder should encourage electronic submission of the information/returns.

(Para 16.7.3)

With reference to Sub-Clause (7)(d) of Clause 4, the Committee is of the view that the Certification of Registration should be displayed in the main office and in each branch office, if any. The requirement of the certified copy to be attested by the concerned registering authority can be waived and instead it may be provided that the copy of the Certification of Registration should be attested by the concerned registering authority or by a notary or by a gazetted officer of the Government. The Committee, therefore, recommends that at Sub-Clause (7)(d) of Clause 4 may be modified on the lines indicated below: -

(d) display at a prominent place in his or its main office and each branch office, if any, the certificate of registration in original or certified copy thereof attested by the concerned registering authority or a notary or a gazetted officer of the Government.

(Para 16.7.4)

CLAUSE 5

With reference to Sub-Clause (1)(i) of Clause 5, the Committee is of the opinion that the common carriers should also be penalized for contravention of the provisions pertaining to axle load and gross vehicle weight, as contained in Section 113 and 114 of the Motor Vehicles Act, 1988. The Committee desires that the Department should not let go off the opportunity presented through the proposed legislation to tackle the menace of overloading. The Committee would like to draw the attention of the Department towards the judgment of the Supreme Court of India in the matter of persistent overloading by trucks and the undesirable compounding of offences by the various State Governments. The Committee, therefore, recommends that Sub-Clause (1)(i) of Clause 5 should be modified to include the failure of the common carrier to comply with the provisions of Sections 113 and 114 of the Motor Vehicles Act, 1988 as a ground for the suspension or revocation of registration.

(Para 17.1)

In this context, the Committee feels that despite improvement in the quality and network of roads and technical upgradation of vehicles, the load bearing capacity of the trucks has not been revised since independence, which is restricting the ton per K.M. capacity. Further, if the Registered Laden Weight (RLW) is increased by amending the

Motor Vehicles Act, 1988, there would be an increase in Government revenue. The Committee, therefore, recommends that the Department should consider enhancing the axle weight/RLW for goods carriers.

(Para 17.2)

The Committee is of the view that the proposed procedure of having five valid complaints in succession may defeat the spirit of the legislation which stipulates the regulations of common carrier and even may encourage erring operators. The Committee, therefore, recommends that the words “in succession” appearing in Sub-Clause (1) (ii) of Clause 5 may be deleted. The Committee also desires that the Department may also review the proviso under said Sub-Clause and consider whether in a time frame should be included for the surrender of the registration certificate after the registration is suspended or revoked.

(Para 17.4)

The Committee feels that Clause 5, Sub-Clause (2) is self-explanatory. The Sub-Clause (2) of Clause 5 was considered and adopted by the Committee without suggesting any change.

(Para 17.5)

The Committee finds that the situation, wherein a common carrier prosecuted in one State being allowed to carry on the business in other State, to be anomalous as an offender can use the shield of multiple registrations to carry on the business. As recommended by the Committee, this situation can also be tackled if there is only one registration, i.e., in respect of the principal place of business and the branch offices are endorsed in the certificate of registration. In this manner, if a common carrier is found to have contravened any of the provisions of the enactment or if five or more complaints against it are found to be established, the common carrier can be made to stop his business altogether as his registration certificate will be surrendered to the concerned registering authority. The Committee, therefore, recommends that suitable provisions should be inserted in the proposed legislation to ensure that offenders are dealt with strictly and put out of business altogether.

The Committee also expects that while framing rules, the disclosure of revocation and the reasons therefor would be obtained from the applicant in the application form.

(Paras 17.8 and 17.9)

With reference to Sub-Clause (3) of Clause 5, the Committee has already recommended at para 16.3.2 above that registration in respect of branch office/offices should be endorsed in the certificate of registration for the main office itself. The Committee recommends that a proviso should be added to Sub-Clause 5(3) to provide for the deletion of an endorsement in respect of a branch office also.

(Para 17.10)

CLAUSE 6

With reference to Sub-Clause (1) of Clause 6, the Committee feels that the business of common carrier, the nature of disputes likely to arise etc. would be alien to tribunals set-up under the Motor Vehicles Act, 1988. Therefore, the Committee has reasonable doubts about the expertise available in the tribunals to deal with the cases under the proposed enactment. The Committee desires that the Department should duly consider this aspect and recommends that the Department should take adequate steps to

equip the tribunals with necessary competence to handle all the issues of common carriers likely to be brought before it under the proposed enactment.

(Para 18.1)

As regards Sub-Clauses (2) and (3) of Clause 6, the Committee feels that the same are self-explanatory. The Sub-Clauses (2) and (3) of Clause 5 were considered and adopted by the Committee without suggesting any changes.

(Para 18.2)

CLAUSE 7

The Committee notes that a provision for submission of annual returns to the Ministry or Department of the Central Government dealing with road transport and highways already exists in the proposed enactment [Sub-Clause (7) (c) of Clause 4]. Further, Clause 7 also neither provide for prescription of any format for submission of annual returns nor stipulates any time frame therefor, as mentioned at Sub-Clause (7) (c) of Clause 4. The Committee feels that the information / returns envisaged under Sub-Clause (7) (c) of Clause 4 would be voluminous and the additional annual returns sought under Clause 7 would be repetitive in nature. This situation can be avoided by prescribing suitable formats under Sub-Clause (7)(c) of Clause 4 itself and omitting Clause 7 altogether. The Committee, therefore, recommends that Clause 7 may be omitted and the information proposed to be collected under that Clause may be obtained by prescribing suitable formats under Sub-Clause (7)(c) of Clause 4. The Committee also recommends that the succeeding Clauses namely, Clauses 8 to 22 may be renumbered as Clauses 7 to 21.

(Para 19.1)

CLAUSE 8

In respect of Sub-Clause (1) of Clause 8, the Committee notes that the goods forwarding note, to be prescribed by the rules, executed by the consignor will give details of the consignment. The Committee recommends that the goods forwarding note should also contain a declaration whether the goods are of dangerous or hazardous nature to human life. The consignor, who deals with the goods, would be in a better position to declare the nature of the goods and it would not be appropriate to shift the burden of verifying the nature of goods to the common carriers. The Committee, therefore, recommends that Sub-Clause (1) of Clause 8 may be modified on the lines indicated below: -

8. (1) Every consignor shall execute a goods forwarding note, in such form and manner as may be prescribed, which shall include declarations about the value of the consignment and goods of dangerous or hazardous nature to human life.

(Para 20.1)

The Committee feels that Sub-Clauses (2) and (3) of Clause 8 are self-explanatory. The Sub-Clauses (2) and (3) of Clause 8 were considered and adopted by the Committee without suggesting any changes.

(Para 20.2)

CLAUSE 9

The Committee feels that the above Clause is self-explanatory. The Sub-Clauses (1)(a), (1)(b), (2) and (3) of Clause 9 were considered and adopted by the Committee without suggesting any changes.

(Para 21.1)

The Committee feels that in order to ensure formal agreements between the parties in the matter of liability of the common carrier for the loss of or damage of any consignment or delay in delivery thereof, suitable provision needs to be added in Clause 9. The Committee, therefore, **recommends that a new Sub-Clause may be added under Clause 9 on the following lines:**

(4) The goods receipt shall include an undertaking by the common carrier about the amount of its liability for the loss of or damage of any consignment or delay in delivery thereof.

(Para 21.3)

The Committee expects that the Department will take suitable measures to stop all formal and informal arrangements existing in the transport industry at present and will strictly implement the provisions of the proposed enactment uniformly throughout the country.

(Para 21.5)

CLAUSES 10 and 11

The Committee is not convinced with the reply of the Department and feels that the amount and extent of liability of the common carrier for the loss of or damage of any consignment or delay in delivery thereof can be regulated by an agreement/undertaking to be reflected in the goods receipt as already recommended by the Committee. It is therefore recommended that Sub-Clauses (1) and (2) of Clause 10 and proviso thereunder should be substituted by a modified Clause 10 on the following lines:

10. The liability of the common carrier for the loss of, or damage of any consignment or delay in delivery thereof shall be limited to the amount mutually agreed upon by and between the consignor or any person duly authorised in that behalf and the common carrier or any person duly authorised in that behalf and expressly undertaken by the common carrier, as specifically mentioned in the goods receipt:

Provided that the common carrier shall not be liable if such carrier proves that such loss of, or damage to the consignment or delay in delivery thereof, had not taken place due to his fault or neglect or that of his servants or agents thereof.

(Para 23.3)

The Committee also recommends that Clause 11 may be omitted in view of the observations/recommendations of the Committee regarding the provision for mutual agreement between the consignor and the common carrier on the amount and extent of liability for the loss of, or damage of any consignment or delay in delivery thereof. The Committee further recommends that the subsequent Clauses may be renumbered accordingly.

(Para 23.4)

CLAUSE 12

The Committee feels that in Clause 12, Sub-Clauses (1) and (2) are self-explanatory. The Sub-Clauses (1) and (2) of Clause 12 were considered and adopted by the Committee without suggesting any changes.

(Para 24.1)

The Committee agrees that a common carrier should not be penalized for the fault of a consignor and therefore recommends that Sub-Clause (3) of Clause 12 may be modified on the following lines:

(3) Where any consignment has been detained for examination or scrutiny by a competent authority and upon such examination or scrutiny it is found that certain prohibited goods *or goods on which due tax was not paid or insufficiently paid* have been entrusted to the common carrier by the consignor which have not been described in the goods forwarding note, the cost of such examination or scrutiny shall be borne by the consignor and the common carrier shall not be liable for any loss, damage or deterioration caused by such detention of the consignment for examination or scrutiny: Provided that the onus of proving that such incorrect description of goods in the goods forwarding note was received from the consignor shall be on the common carrier.

Explanation- For the purposes of this section, "competent authority" means any person or authority who is empowered to examine or scrutinize goods by or under any law for the time being in force to secure compliance of provisions of that law.

(Para 24.3)

CLAUSE 13

The Committee agrees with the suggestions mentioned in the above paras about the need to tread more cautiously in respect of the carriage of goods of dangerous or hazardous nature to human life. The Committee is also of the opinion that suitable linkages with the provisions relating to carriage of such goods in the existing Acts need to be made in the proposed enactment. The new enactment should in fact aim to strengthen the existing legal machinery to erase the threat to human lives by the handling and carriage of goods of dangerous or hazardous nature. The Committee, therefore, recommends that Clause 13 may be redrafted and made comprehensive taking into account the existing Acts which contain provisions for regulating to handling, carriage and insurance of goods of dangerous or hazardous nature to human life.

(Para 25.4)

The Committee has already recommended that the consignor should give an undertaking about the goods of dangerous/hazardous nature to human life in the Goods Forwarding Note. It is further recommended that while redrafting Clause 13, the Department should also include a provision that where a consignor has declared about the presence of dangerous/hazardous goods in the consignment, he should also inform in writing, in vernacular language, the precautions required to be taken while handling/transporting the goods.

(Para 25.5)

CLAUSE 14

The Committee feels that the above Clause is self-explanatory. Clause 14 was considered and adopted by the Committee without suggesting any change.

(Para 26.1)

CLAUSE 15

The Committee recommends that suitable additions should be made in the Bill to specifically provide for lien on goods in favour of the common carrier on the goods that are entrusted by the consignor to it for carriage.

(Para 27.3)

The Committee considered and adopted Sub-Clauses (1), (2)(a), (2)(b) and (3) of Clause 15 without suggesting any change subject to the observations and recommendations made above.

(Para 27.4)

CLAUSE 16

The Committee feels that the above Clause is self-explanatory. Clause 16 was considered and adopted by the Committee without suggesting any change.

(Para 28.1)

CLAUSE 17

The Committee notes that this Clause seeks to list out the *force-majeur* conditions under which the common carrier would be exonerated from liabilities. These conditions include acts of God, acts of war or public enemy, fire, explosion, riots or civil commotion and orders of restriction or prohibition by Government. The Clause 17 was considered and adopted by the Committee without suggesting any change.

(Para 29.1)

CLAUSE 18

The Committee is of the opinion that the fines contemplated in the proposed enactment should have real deterrent value, which should override any other consideration albeit, legal convenience. The Committee desires that the Department should reconsider the need to prescribe higher amount of fine for the contravention of the provisions of Clause 13 and notification issued under Clause 14 as compared to the fine for contravention of Clause 3. The Committee, therefore, recommends that Sub-Clause (1) of Clause 18 may be modified accordingly. Sub-Clauses (2) and (3) of Clause 18 and the Explanation thereunder were considered and adopted by the Committee without suggesting any changes.

(Para 30.3)

CLAUSE 19

In view of the past experience, the Committee feels that adequate provisions have to be incorporated in the proposed enactment to curb the tendency to compound offences without restriction. The Committee, therefore, recommends that the Department should review the Clause 19 in the light of the Supreme Court judgment.

(Para 31.2)

CLAUSE 20

There is a typographical error in Sub-Clause (2) (b) of Clause 20. In line 20 of page 8 of the Bill, the words "Clause (d)" should be read as "Clause (e)". Subject to this observation, Clause 20 was adopted by the Committee without suggesting any changes.

(Para 32.1)

CLAUSE 21

The Committee notes that this Clause empowers the Central Government to issue orders for removing difficulties in giving effect to the provisions of the proposed legislation. Such orders can be issued only within two years from the date of commencement of the proposed legislation. Every order made under this Clause is required to be laid before Parliament. Clause 21 was considered and adopted by the Committee without suggesting any change.

(Para 33.1)

CLAUSE 22

Clause 22 was considered and adopted by the Committee without suggesting any change.

(Para 34.1)

CLAUSES 1(1) & 1(2)

The Committee adopts the Title and Enacting Formula with slight changes, which are of consequential or drafting nature, namely, in the Title, the figure “2005” to be changed to “2006”, so is the case in Sub-Clause (1) of Clause 1 and in the Enacting Formula the words “Fifty-sixth” to be substituted by “Fifty-seventh”, respectively.

(Para 35.2)

The Committee recommends that the Bill be passed after incorporating necessary official amendments of formal nature and taking into account its recommendations in respect of Clauses 1(1), 1(3), 2(c), 2(d), 3(3), 4(2), 4(3), 4(4), 4(5), 4(7)(b), 4(7)(c), 4(7)(d), 5(1)(i), 5(1)(ii), 5(3), 6(1), 7, 8(1), 9, 10, 11, 12(3), 13, 15, 18(1), 19 and 20(2)(b) above.

(Para 36)

MINUTES
X
TENTH MEETING

The Committee met at 2.00 p.m. on Tuesday, the 27th December 2005 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

Shri Nilotpal Basu – Chairman

RAJYA SABHA

Shri Janardhana Poojary

Shri Rama Muni Reddy Sirigireddy

LOK SABHA

Shri Sartaj Singh Chhatwal

Dr. Dhanaraju

Dr. Ramkrishna Kusmaria

Shri Samik Lahiri

Shri Alok Kumar Mehta

Shri Umakant Yadav

SECRETARIAT

Shri Jagdish Kumar, Under Secretary

Shrimati Subhashree Panigrahi, Committee Officer

2. At the outset, the Committee held preliminary discussion on (i) the Carriage by Road Bill, 2005 and (ii) the Inland Vessels (Amendment) Bill, 2005, which had been referred to the Committee for consideration and report. After some discussion the Committee decided to hear the Secretaries of the Departments of Road Transport & Highways and Shipping, respectively, on the said Bills in its next meeting to be held on 12th January 2006. The Committee also decided to invite comments/suggestions from interested individuals/organisations on the above Bills and directed the Secretariat to issue Press Communiqués accordingly.

3. * * *

4. * * *

5. The meeting of the Committee then adjourned at 2.30 P.M.

* Relates to other matters.

XI
ELEVENTH MEETING

The Committee met at 12.30 p.m. on Thursday, the 12th January 2006 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Nilotpai Basu – *Chairman*

RAJYA SABHA

Shri Kamal Akhtar

Shri S.S. Chandran

Shri Janardhana Poojary

Shri Shatrughan Sinha

Shri Rama Muni Reddy Sirigireddy

Shrimati Ambika Soni

LOK SABHA

Shri Ramdas Athawale

Shri Sartaj Singh Chhatwal

Shri Adhir Chowdhury

Shri Ravindra Naik Dharavath

Shri Vijay Kumar Khandelwal

Shri Samik Lahiri

Shri Alok Kumar Mehta

Shri Manabendra Shah

SECRETARIAT

Shri Sham Sher Singh, Joint Secretary

Smt. Agnes Momin George, Director

Shri Jagdish Kumar, Under Secretary

Smt. Subhashree Panigrahi, Committee Officer

I. (i) **Representatives of the Department of Shipping:**

Shri A.K. Mohapatra, Secretary

Shri C. Balakrishanan, Additional Secy. & F.A.

Shri Sushil Kumar, J.S. (S&IWT)

Shri S.C. Srivastava, Member (Cargo)

(ii) **Ministry of Law and Justice (Legislative Department):**

Shri P.B. Singh, Joint Secretary & Legal Counsel

(iii) **Ministry of Law and Justice (Department of Legal Affairs):**

Shri R. Ragupathi, Joint Secretary & Legal Advisor

II. (i) **Representatives of the Department of Road, Transport and Highways:**

Shri L.K. Joshi, Secretary

Shri S.K. Das, Joint Secretary (T&A)

Shri S.K. Mishra, Director (RT)

(ii) **Ministry of Law and Justice (Legislative Department):**

Dr. Sanjay Singh, Joint Secretary & Legal Counsel

(iii) **Ministry of Law and Justice (Department of Legal Affairs):**

Shri R.L. Koli, Joint Secretary & Legal Advisor

2. * * *
3. * * *
4. The Committee again assembled at 1.50 p.m. for consideration of the Carriage by Road Bill, 2005. The officials of the Department of Road Transport and Highways made a Power Point presentation on the said Bill. A hard copy of the presentation was kept. The Chairman and the Members raised several queries and the Secretary, Department of Road, Transport and Highways responded thereto.
5. The Chairman of the Committee also directed the Secretariat to prepare a Questionnaire on each of the above two bills and send it to the respective Departments for obtaining replies thereto.
6. A verbatim record the proceedings was kept.
7. The meeting of the Committee then finally adjourned at 3.00 P.M. to meet again on the 23rd January, 2006.

* Relates to other matters.

**XII
TWELFTH MEETING**

The Committee met at 2.00 p.m. on Monday, the 23rd January 2006 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Nilotpal Basu – *Chairman*

RAJYA SABHA

Shri Kamal Akhtar

Shri Janardhana Poojary

Shri Shatrughan Sinha

LOK SABHA

Shri Anil Basu

Shri Sartaj Singh Chhatwal

Dr. K. Dhanaraju

Shri Ravindra Naik Dharavath

Shri W. Wangyuh Konyak

Shri Samik Lahiri
Shri Alok Kumar Mehta
Shri Madan Lal Sharma
Shri Chengara Surendran
SECRETARIAT

Shri Sham Sher Singh, Joint Secretary
Smt. Agnes Momin George, Director
Shri Jagdish Kumar, Under Secretary
Smt. Subhashree Panigrahi, Committee Officer

I. REPRESENTATIVE FROM CENTRE FOR SCIENCE AND ENVIRONMENT,
NEW DELHI:

Smt. Sunita Narain, Director,

II. REPRESENTATIVES FROM ALL INDIA TRANSPORTERS WELFARE
ASSOCIATION:

Shri O.P. Agarwal, President
Shri R.D. Bansal, President
Shri Ramesh Agarwal, Sr. Vice President
Shri Pradeep Singal, General Secretary
Shri S.M. Jalan, Vice President (NC)
Shri Mahendra Arya, Vice President (WZ)

III. REPRESENTATIVES FROM ALL INDIA CONFEDERATION OF GOODS
VEHICLES OWNERS ASSOCIATION:

Shri B. Channa Reddy, President
Shri Chittranjan Dass, Vice President
Shri S.P. Singh

IV. REPRESENTATIVE FROM ALL INDIA MOTOR TRANSPORT CONGRESS:

Sardar Gurinder Pal Singh, President
Shri O.P. Agarwal, Chairman
Shri J.M. Saksena, Advisor
Shri M.P. Sarawagi, President, Calcutta Goods Transporter's
Association & Member, Managing Committee of AIMTC
Shri R.S. Chadha, Member, Managing Committee
Shri Inder Bir Singh, Member, Managing Committee

2. The Committee heard the views of the above-mentioned representatives and various stakeholders on the Carriage by Road Bill, 2005. The representatives have submitted written Memoranda on the said Bill for consideration of the Committee. The

Members raised queries on various provisions of the Bill and the stakeholders explained their position thereon.

3. A verbatim record of the proceedings of the Meeting was kept.
4. The meeting of the Committee then adjourned at 3.30 P.M. to meet again on the 1st February, 2006.

XV FIFTEENTH MEETING

The Committee met at 10.00 a.m. on Friday, the 17th March 2006 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Nilotpal Basu – *Chairman*

RAJYA SABHA

Shri Kamal Akhtar

Prof. Ram Deo Bhandary

Shri Janardhana Poojary

Shri Rama Muni Reddy Sirigireddy

LOK SABHA

Shri Raj Babbar

Shri N.S.V. Chitthan

Shri Ravindra Naik Dharavath

Shri W. Wangyuh Konyak

Shri Madan Lal Sharma

Shri Umakant Yadav

SECRETARIAT

Shri Sham Sher Singh, Joint Secretary

Shrimati Agnes Momin George, Director

Shri Jagdish Kumar, Under Secretary

Shrimati Subhashree Panigrahi, Committee Officer

2. * * *
3. The Committee then took up clause-by-clause consideration of the Admiralty Bill, 2005; the Inland Vessels (Amendment) Bill, 2005; and the Carriage by Road Bill, 2005. The Committee also considered the draft Report on the said Bills and adopted the same with minor modifications.
4. The Committee also authorized the Chairman to nominate the Members for presentation of all the four reports to the Parliament on 21st March, 2006.
5. * * *
6. The meeting of the Committee then adjourned at 10.30 a.m.

* Relates to other matter.